

## Recollections of early territorial days and legislation /

W. P. Murray

### **RECOLLECTIONS OF EARLY TERRITORIAL DAYS AND LEGISLATION.\***

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BY HON. WILLIAM P. MURRAY.

### **MINNESOTA TERRITORY AT ITS BEGINNING.**

I do not flatter myself that the paper I read tonight will be deemed a statesmanlike paper, and it may be possible that matters and things have been written there that would be more appropriate elsewhere than in an address before the Historical Society, but I have only written of things which I have seen and of which I have been a part.

The present generation, as they gaze upon that magnificent structure, the new State Capitol, hardly realize what changes a little over fifty years have wrought in the development of our state. On the third day of March, 1849, when James K. Polk, then president, placed his signature to the bill to establish the Territorial government of Minnesota, no one even dreamed what Minnesota's future would be. The new territory was more remote from settlement and civilization than the most distant part of our country today.

It was little more than a wilderness, a vast waste of prairie and pine lands; its entire white population scarcely exceeded one thousand persons. When the census was taken four months later, after many immigrants had arrived, there were only four thousand six hundred and eighty. Three hundred and seventeen of these were connected with the army; and six hundred and thirty-seven were at Pembina, but only a small fraction of these

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latter were white. Nearly the entire white population was in the villages of St. Paul, St. Anthony Falls, Stillwater, and Mendota, and at Ft. Snelling. West of the Mississippi river the land belonged to the Indians, not having 104 yet been ceded to the United States by treaty, and from the southern boundary of the territory to St. Paul there were not more than two or three habitations of white men. There were only a few acres of land under cultivation, and these in garden patches, around St. Paul, St. Anthony Falls, Stillwater, Marine, Mendota, and Fort Snelling; and at Cottage Grove some half a dozen farms had been opened up by pioneer farmers from Maine.

St. Paul had a population of some two hundred, a majority of whom were Indian traders, French, and half breeds; its buildings were nearly all of logs, the construction of the cheapest kind. St. Anthony Falls and Stillwater had each about the same population as St. Paul; the inhabitants of these villages were mostly from the lumber districts of Maine. It was said at the time, that to procure employment at the Falls you had to show a certificate signed by the pastor of the church that you attended, or by a justice of the peace, to the effect that you were born and grew up to manhood in Maine,—without this you need not have applied.

Everything in the way of food, except what few vegetables were raised in the Territory and wild game, was brought up the Mississippi river from Galena. Not a newspaper was published north of Dubuque; not a railroad had been built west of Chicago, which was not much more than a village then. The editor of the St. Paul Pioneer, in one of his editorials, said, "There are men now living who will see a railroad built from St. Paul to St. Louis, one to Lake Superior, and perhaps one to Winnipeg;" and this was from a man who predicted greater things for Minnesota than any other man. The pioneers would sit around on store boxes in corner groceries and in offices, smoking their clay pipes, and would swear that the editor was a great liar for predicting what would never come to pass; but he was apologized to, for such editorials brought immigration.

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Wagon roads leading to the states south of Minnesota there were none. Mails were irregular, and sometimes, after the close of navigation and winter had set in, only at long intervals,—none until the ice was of sufficient thickness to 105 carry a dog sledge or an Indian pony and sled. In the summer time the mail was carried by men on foot, and now and then on a tramp steamer. The news of the election of Zack Taylor as president did not reach St. Paul until the fifteenth of January; and of the passage of the organic act by Congress on the fifteenth of April.

In Minnesota everything looked dark and gloomy for any bright future. Quite a number of the leading newspapers of the East ridiculed the idea of ever making a state out of the Territory of Minnesota, that would amount to anything, either in population or wealth. It was the home of the buffalo and fur-bearing animals, and as such would ever remain. As late as when Governor Isaac Stevens of Washington Territory made his exploration as to the feasibility of constructing a railroad from the head of Lake Superior to the Pacific coast, all the newspapers under the control and influence of the Union Pacific and many others sent up a wail as to the absurdity of such a proposition. What! a railroad through arid lands that could never be cultivated, a land of blizzards that would never be settled, a land through which, even if a railroad was built, it could never be operated six months in the year on account of snow,—in fact, a country where no white man could live and prosper!

That little band of pioneers on that April night in 1849, as they stood upon the shore of the Mississippi river, in the pelting rain and raging storm, waited for the little steamer to land after they had heard its whistle. All was expectation. What would the tidings be? When the steamer landed and the word came ashore that Minnesota was an organized territory, a shout of joy went up that was heard to the village's most remote cabin. To them the agony was over, the future of Minnesota was assured.

### **THE FIRST TERRITORIAL GOVERNOR.**

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A week prior to the receipt of the news of the organization of the Territory in St. Paul, "Old Rough and Ready," the hero of Buena Vista, had commissioned Alexander Ramsey as governor of the new territory, and in all of his appointments 106 he never made a better one. Late in May Governor Ramsey arrived in St. Paul. For a while he must have been disappointed, finding the capital of the new territory a small village of log houses and little frame shanties, with a population not much in excess of two hundred, and with no house where he could be entertained or stop. It was like the story of old, "The birds of the air have their nests, but the son of man knew not where to lay his head." Afterwards and for nearly a month he was entertained at the home of Henry H. Sibley at Mendota.

A day or two after his arrival in Minnesota, Governor Ramsey succeeded in renting a one and one-half story frame building situated on the south side of Third street, between Jackson and Robert streets, which was in course of erection, but not ready for occupation until near the last of June. This building became the governor's home and office. A large room facing on Third street, which had been intended for a saloon, was the governor's receiving room and office and Mrs. Ramsey's reception room and parlor. Sometimes might be seen on one side of the room Mrs. Ramsey entertaining some lady friends, on the other the governor with a half dozen or more of Indians, he being superintendent of Indian Affairs in addition to being governor, or there would be a squad of Indian traders who no doubt were advising him how to discharge the duties of his office. To his great honor, he ran it to suit himself.

There was no delay in the governor's movements. A proclamation was issued on the first day of June, 1849, declaring the Territory to be organized and established, and all persons were enjoined to obey, conform to, and respect the law accordingly. On the eleventh day of June he issued an order for the taking of the census, a return of which was made on the fourth day of July. On the seventh day of July a proclamation was issued organizing the Territory into seven council districts for legislative purposes, defining their boundaries, and ordering an election on the first day of August for a delegate to represent the people

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of Minnesota in the House of Representatives of the United States, and for nine members 107 of the Council of the Territorial Legislature and eighteen members of its House of Representatives.

### **GROWTH BY IMMIGRATION DURING 1849.**

Immigration grew in volumes during the year. Many immigrants came to the Territory, men of all occupations and trades, among whom, and more than was necessary, were doctors, lawyers, real estate sharks, and men who, although not sent out by missionary societies or Young Men's Christian Associations, claimed they were the benefactors and friends of the people, although in fact the disciples of the devil, and who would not only take what they could carry but anything they could lay their hands on, money loaners who wanted five per cent a month, with ten per cent after due, sometimes requiring six months' interest in advance.

During the summer three weekly newspapers were started, the Pioneer, the Chronicle, and the Register. After a few issues the Chronicle was sold out to the Register, which was afterward the Chronicle and Register. These newspapers did much to bring immigration to the Territory.

The steamers came loaded with immigrants seeking a new home. Buildings went up as if by magic, not of marble, stone, or brick, but small frame tenements, something that for the time being would keep out the rain and wind. It looked as if Minnesota might amount to something after all.

### **THE FIRST TERRITORIAL JUDGES.**

“Old Rough and Ready” was not as fortunate in his appointments of Territorial judges as in that for governor. They were not great lawyers, nor did they become eminent as jurists, but they had a pull, as the politicians would say. B. B. Meeker was a nephew of Senator

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Trueman Smith, of Connecticut; David Cooper was a brother of Senator James Cooper, of Pennsylvania; Aaron Goodrich, a protégé of William H. Seward, of New York.

Cooper, perhaps the best lawyer of the three, spent much of his time out of the Territory during his term of office. He was the Beau Brummell of Minnesota, always appearing in 108 full dress with a ruffled shirt and low shoes with silver buckles. However, it might be said of the judge, after he left the bench, that he adopted to a certain extent the dress of a pioneer.

Goodrich, not having a very high opinion of his associates on the bench, always waited to hear what their views were on any legal proposition, and then took the opposite side of the question, spending a good part of the time writing dissenting opinions. He was always tenacious in regard to the dignity of the Court, and always liked to be spoken to as the Court. Even at his meals, if he desired anyone at the table to hand him something, he would say, "Will the gentleman be so kind as to hand the Court the beans, the pickles, the bread?" or whatever he might want. On more than one occasion he stopped counsel while addressing a jury, and said that the remarks of the attorney reminded him of an affair down in Tennessee; then he would proceed to tell some amusing story, and by the way he was a first-class story-teller. The judge was removed by the president before the expiration of his term of office. One of the charges against him was that he was too fond of the women.

Judge Meeker made himself famous as a judge of great learning and research by reason of a decision he made at a term of the District Court held at Sauk Rapids, where a demurrer had been interposed to an indictment, on the ground that the law under which it had been found had never been published. Notwithstanding the fact that the law had been published in the newspapers and distributed in unbound copies in book form, the judge held that, to make a legal publication, the law not only had to be printed but published in bound volumes. In justice to his memory, I must say that he did not insist upon their being bound in calf.

### **THE FIRST SECRETARY AND THE FIRST MARSHAL.**

Charles K. Smith was the first Secretary of the Territory. The appointment was made at the request of Tom Corwin of Ohio, who was a relative. Nepotism existed in those days as now. When a man got an appointment to office, the first hard work he did was to attempt to secure a position, not 109 only for all his own relatives, but his wife's relatives also, on the tailboard of the official wagon. The appointment was an unfortunate one. While Mr. Smith was a man of ability, he was endowed with a disposition that led him into antagonism with everyone. Like the man in Texas, who believed that he was a greater man than old Grant, he believed that he was the greatest man in the Territory, and that he ought to have been appointed governor. During the few months he held office, it was a continual warfare between him and his associates in office and the people. Yet he was active and labored for many things that were for the betterment and advancement of the Territory. He was the founder of this Society, and for the first few months of its history he may be said to have been the Historical Society. It was one of his hobbies. He was one of the active promoters in securing legislation and organizing the district school system of the Territory, and was the first Territorial Secretary of Schools, an office answering now to our Superintendent of Public Instruction. It may be said also that he was the father of freemasonry in Minnesota. He was removed from office in October, 1851, leaving the Territory between two days, and of the opinion, perhaps, that with his departure the days of the Historical Society were numbered. Nearly all the contributions which were of any value, he took with him.

A. M. Mitchell, in place of Joshua. L. Taylor, who declined the appointment, was appointed United States Marshal. It will be seen that Ohio, even at that early day, had a pull on federal patronage, as Mr. Mitchell was the second appointed from that state. He held the office until September, 1851, notwithstanding the fact that he was a candidate for delegate to Congress in one of the most memorable congressional campaigns Minnesota has ever had. He was seldom in the Territory while in office, and discharged the duties of his office

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by deputy and mail. He was one of the men Goodhue wrote against with all the ferocity of his pen, for his absentness from the Territory.

110

### **THE FIRST LEGISLATURE.**

The first session of the Territorial Legislature convened on the third day of September, 1849. There were nine members of the Council and eighteen members of the House of Representatives. The place of meeting was in the Central House, a hotel situated on the northeast corner of Second (or Bench) and Minnesota streets. The secretary of the Territory, whose duty it was to secure rooms, was unable to get them elsewhere. The main building was a two-story log house, weatherboarded and painted, with a frame addition in the rear. The House of Representatives met in the dining room, and the Council upstairs, in what was known as the ladies' parlor.

The hours of meeting were adapted to the rules of the hotel in regard to its meal hours. After breakfast the dining room was cleared of its table and dishes, the desks of the members were brought in, and the business of the day began. About 11.30 notice was served upon the speaker that the dining room was wanted; the members would then pick up their desks and pile them up in what was known as the office; their papers they generally put in their pockets. The tables and dishes would then be brought into the dining room for dinner. After the dinner the room would again be cleared and become the hall of the House of Representatives. When supper time came, notice was again served to the House to vacate, which was done. The room used by day for a council chamber was converted at night into a sleeping room. The desks and chairs were piled up at one side of the room, and the vacant part of the floor was covered with straw ticks and Indian blankets, upon which some of the members would sleep. This was a little different from what it will be in the new capitol.

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Alexander Ramsey, in his message as governor to this First Territorial Legislature, among other things said: "I would advise, therefore, that your legislation should be such as will guard equally the rights of labor and the rights of property, without running into ultraisms on either hand; as will recognize no social distinctions, except those which merit and knowledge, religion and morals, unavoidably create; as will repress crime, encourage virtue, give free scope to enterprise 111 and industry; as will promptly, and without delay, administer to and supply all the legitimate wants of the people,—laws, in word, in the formation of which will be kept steadily in view the truth, that this Territory is destined to be a great State, rivalling in population, wealth and energy, her sisters of the Union. \* \* \* \*

\* Thus you will see, gentlemen, that yours is a most interesting and responsible position, and that in your hands, more than in that of any future Legislative Assembly, will be the destinies of Minnesota." Well and honestly did they discharge the trust reposed in them by the old pioneers of Minnesota.

The men who composed that first legislature, though they may have worn moccasins and buffalo coats in season, were a class that would compare most favorably with the men who now represent Minnesota in the legislature of the State. They were men of more than ordinary intelligence, energetic and industrious, men of character, men who had thrown away the comforts of other homes and sought homes on the frontier of civilization to better their condition in life.

Among these men were Morton S. Wilkinson, who afterward became a member of Congress and a United States senator; William R. Marshall, a governor of Minnesota and a general in the Civil war; David Olmsted, first mayor of St. Paul, and whose first message to the common Council after fifty years might be read with profit by that distinguished body of men, the present common council; Lorenzo A. Babcock, afterward attorney general of the Territory; William H. Forbes, quartermaster in the army and Indian agent; and Gideon H. Pond, the devoted missionary. Then there were David B. Loomis, Martin McLeod, Mahlon Black, Henry N. Setzer, and Joseph W. Furber. In fact, there was not a man

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among them who did not become more or less prominent in the early history of Minnesota, as among those who aided materially in every effort and scheme which started Minnesota on her way to a great future. All the members of that first legislature have passed into the great unknown, except Parsons K. Johnson, who resides at Brainerd, Minnesota, and in his eighty-ninth year lives to interestingly tell the story of pioneer days.

112

All the laws passed at the first session were good laws. There was no wildcat legislation or boodling. The boodlers were among the later arrivals, for, as Governor Ramsey used to say, "The old settlers were honest, if nothing else." Among the laws passed were those establishing courts, organizing counties, laying out territorial roads, granting ferry charters, incorporating the Minnesota Historical Society, licensing groceries (I believe they call them saloons now), and one act in which the people of St. Paul were very much interested, incorporating the town of St. Paul. Among other acts of legislation was a class that grew so rapidly in later years that, had it not been for the constitutional prohibition, it would have taken up a large part of the time of the legislators, as it does now of our district courts, namely, divorce cases.

An attempt was made at this session to locate the permanent seat of government at St. Paul, but it failed. St. Anthony, with almost the population of St. Paul, thought it had some claims, and its members fought the bill to a finish. Stillwater, with not much less population, while it hardly thought lightning would strike the banks of the St. Croix, like some of our politicians, was in the market.

One day during this first session, while William R. Marshall was addressing the House, a member in a seat in front of him called him a liar. Marshall, with the agility of a cat, jumped over his seat and before anyone realized what was going on knocked the member out of his seat to the floor; returning to his seat, he apologized to the House and proceeded with his remarks. The matter dropped there and was never heard of again. This was pioneer ethics.

### **THE SECOND LEGISLATURE AND PARTY FEUDS.**

On the first day of January, 1851, the Second Legislature assembled in the Rice house, a three-story brick building, situated on the north side of Third street, near Washington street.

During the year 1850 there had been an election for delegate to Congress in which there was nearly as much lying and meanness as in the late brotherly contest between Robert C. Dunn and Judge Collins. It was not a party contest, however. It was one of cliques, factions, and clans. Although one of 113 the candidates was a Democrat and the other a Whig, the Whig administration, of which Governor Ramsey was the head, supported the Democrat, while Henry M. Rice, a Democrat, and his political friends, supported the Whig. There was an immense amount of bitterness manifested during the campaign. The Pioneer, in one of its editorials, speaking of the interest created, said that quite a number of citizens had been seen upon the streets without shirts, they having bet their last one on the result of the election. The same feeling manifested in the canvass for delegate was soon seen in the legislature.

Goodhue, the editor of the Pioneer, who had been elected Territorial printer a few days after the legislature convened, had an editorial in his paper in which he attacked Judge David Cooper with unparalleled ferocity, he belonging to the opposing political faction. Cooper was absent from the territory at the time. A brother of the judge took up the cudgel in his behalf. Joseph Cooper, the brother, gave it out that Goodhue was to be shot on sight. He armed himself with a revolver and a dirk knife. Goodhue, having heard of Cooper's threats, armed himself with a revolver and a small pistol that he carried in his pants' pocket.

The next day after the publication of the article, shortly after noon and upon the adjournment of the House, Cooper and Goodhue both being present in the House, Cooper came out first and took position on the sidewalk, and Goodhue a moment later. When

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Goodhue reached the street Cooper advanced, drawing his revolver and exclaiming: "You d—, I will blow your d—d brains out" Goodhue drew his revolver also. By this time the members of the House and those in the lobby had reached the street. Some four or five shots were fired, but, as the combatants kept dodging around and through the crowd, others were more likely to be shot than either of them. By this time the sheriff reached the scene of action, caught the parties, and disarmed them as he supposed, taking from each his revolver. Cooper still had his knife, and Goodhue his small pistol. A party, whose name it is not necessary to mention, sprang to Goodhue and threw his arms around him from his back and held him, while Cooper stabbed him 114 several times in the abdomen. Goodhue, when released, drew the small pistol from his pocket and shot Cooper in the groin, from the effects of which he afterwards died. Surgeon McLaren, of Fort Snelling, who attended Goodhue and dressed his wound, said that not one man in a hundred, cut as he was, would have lived.

### **TRIBUTE TO JAMES M. GOODHUE.**

There is no doubt but that there was a conspiracy to murder Goodhue. He was an able writer and aggressive. He never hesitated to write and print what he thought, and with his foes he had no mercy. He was a thorn in the side of the opposition, and they made the Cooper article a pretext to put him out of the way. The affair intensified the feeling in the legislature, and from then until the close of the session it may be said that the members went armed to the teeth.

James M. Goodhue died on the 27th of August, 1852. Many men have lived in Minnesota that could have been better spared. St. Paul today would be a more beautiful city had he lived. One of the things he labored for was, that the bank of the Mississippi should be boulevarded from Robert street to Hill street, so that no buildings should ever be erected whose rear would border on the river, giving those traveling by water and rail a display of clothes-lines, garbage barrels, etc. Though Goodhue was not a member of any church, there has never been a newspaper editor in Minnesota that has taken higher ground in

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favor of the church, morality, and everything that tended to the betterment of the people, than he did. To him, more than any one else, the friends of temperance were indebted for the passage of the Maine liquor law, of 1852; he wrote vigorously and much in favor of its passage, claiming that Minnesota should have a statute that would aid in making people more temperate. A Democratic paper today advocating prohibition would be a novelty. His paper was the foe of gambling and prostitution. Before the organization of the Territory, gambling was a public amusement; in Goodhue's day it was hidden behind closed doors, and much less public than in the present day. No house of prostitution was ever permitted to exist within the corporate limits of the village. 115 Goodhue has had only two peers in Minnesota as an editor and conductor of a public journal, and these men are Joseph A. Wheelock and Earle S. Goodrich.

### **A MOCK SESSION.**

James Vincent, a wag and a joker, suggested a few days after the shooting affair, to some of his chums, that at a noon hour they gather up a crowd and take possession of the hall of the House of Representatives, and give out the word that there should be no more meetings of the members of the House of Representatives in that building. The boys thought it a good suggestion. The next day some sixty or seventy men marched into the House and took seats, Vincent occupying the speaker's chair, declaring the House open for business. They then commenced in a mock way to legislate, repealing laws they thought obnoxious, passing laws they thought desirable.

It was soon noised over the village that a mob had taken possession of the capitol. The public was excited. Ames, speaker of the House, called upon Governor Ramsey and demanded that some soldiers be sent for from Fort Snelling to clean out the mob. The demand was complied with. A courier was dispatched to the fort, and in a short time it was announced that a company of soldiers was on the way to St. Paul. Vincent, having heard the news, waited until they were within a short distance of the village, when he announced that the hour of adjournment had arrived. With that he ran his hand in his pocket and drew

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out some forty or fifty half dollars, which he threw broadcast among the crowd, saying, "The laborer is worthy of his hire; Gentlemen, the enemy is in sight, get!" and he "got." It was quite a while before the governor and the speaker of the House heard the last of the scare.

### **THE ORIGINAL CAPITAL FIGHT.**

There were not many bills introduced at this session which became laws. There were two, however, which led to much discussion and a very considerable amount of bad blood among the members. These provided for the location of the Territorial 116 capital at St. Paul and "for the apportionment of representation of the Territory." As to the first, it has been asserted and stated from time to time that the location of the capital at St. Paul was the result of a trade between St. Paul, St. Anthony, and Stillwater, by which St. Paul was to have the capital, St. Anthony the university, and Stillwater the prison. The story has been told so often that nearly everyone in the state believes it to be true. Some old settlers have asserted that the compact was made as early as 1848 at Stillwater, before the organization of the Territory. If that had been true, why was the capital not located at the first session? Now there is not a word of truth in the statement. The St. Anthony members, both in the Council and House, fought the bill at every stage, from its introduction until its passage, and died like men in the trenches. John Rollins represented St. Anthony in the Council, and Edward Patch and John W. North in the House. The St. Anthony members, however, did make a bargain, not with St. Paul, but with David Olmsted and William R. Sturgis, members of the Council from the sixth district, that, if they would vote with them to defeat the location of the capital at St. Paul, they would use their influence to secure from Congress a grant of a township of land to aid in the construction of county buildings in Benton county. In fact, they did secure the passage of a memorial to Congress asking for the grant.

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The St. Anthony combine, even after the passage of the bill, to show the blood that was in them, proposed to get the title of the bill amended so as to read, "A bill to provide for carrying out a magnificent scheme of log rolling."

It may be said that in 1857, when an attempt was made to remove the capital from St. Paul, had it not been for the St. Anthony delegation in the House of Representatives, the capital of Minnesota would be on Nicollet Island instead of in St. Paul. When the St. Paul members, realizing that the fight was a hopeless one, and preferring St. Anthony to St. Peter, made a motion to strike out the words St. Peter in the bill and insert St. Anthony, the motion came within one of being carried, the St. Anthony members voting against it. They preferred St. Peter to St. Anthony. They were a modest set with small heads.

117

### **LOCATING THE UNIVERSITY.**

The most exciting subject before the legislature of 1851 was the apportionment bill. It was claimed by one side that it was unfair, because it gave the territory west of the Mississippi river an undue proportion of representatives, as its only inhabitants, except soldiers and Indian traders, were Indians. Pembina county, with only seventy acres under cultivation, had twice the representation of Benton county, which had 4,000 acres of cultivated land. After the passage of the bill by the House, seven members who refused to vote upon its third reading handed in their resignations as members, which were promptly accepted. The fight on this bill was the aftermath of the bill locating the capital. After it had become evident that St. Anthony had no show for the capital, St. Paul joined in with St. Anthony to secure the university. As St. Anthony was in Ramsey county at that time, they were as anxious for its location at the Falls of St. Anthony as the members representing that village, and at their request Gen. George L. Becker, of St. Paul, drafted the bill which was afterwards introduced into the legislature by Mr. North, of St. Anthony, and became a law.

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It may be possible that the St. Paul members thought that the granting of a charter for a university was kind of mythical, as there had been no appropriation in money or a grant of land to aid in its erection. In fact, the people were more interested in claims, town sites, pine lands, furs, and the wherewith to get daily bread, than in universities. I am inclined to think that, had St. Paul realized the situation, the university might have been located somewhere else. I am willing to admit that, notwithstanding all the shrewdness, cunning, and political manipulation of St. Paul, with the growth and development of the state during a period of little over half a century, it is evident that the city at the Falls of St. Anthony received the largest piece of pie.

During this second session of the legislature there were other laws passed which it is unnecessary to refer to. It may be said, however, that they were mostly for ferry charters, laying out territorial roads, the building of booms, and divorcing 118 people who had come to Minnesota to take a fresh start. The session finally closed on the night of March 31, which was a day and night of excitement, such as we have never seen since in St. Paul and never desire to. Hundreds of citizens were about the streets and public places, armed to the teeth and ready, upon the slightest provocation, to shoot down their fellow citizens who opposed them. Feelings of enmity, bitterness, and hatred, were engendered between citizens during the session, and particularly during its last days, which extended even into family relations and were not eradicated for months.

### **THE THIRD LEGISLATURE.**

The third session of the Legislative Assembly convened on the seventh day of January, 1852, in a brick building which had been erected for commercial purposes on Third street, on part of a lot now covered by the Merchants' Hotel, and which was known as the Goodrich building, having been erected by Judge Goodrich. The Council elected William H. Forbes as president, and the House of Representatives elected John D. Ludden as speaker.

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Mr. Ludden then was a resident on the St. Croix, but now for many years he has been a resident of St. Paul, and is one of the oldest and most honored members of your society. While he was successively a member of the Territorial Legislature in the House and in the Council, he was always a friend of St. Paul, and his vote was never wanted when it did not come as loyally as if he had been a representative of St. Paul. This city can never do too much honor to Mr. Ludden for the stand he took in our capital fights.

This session was the first in which Pembina was represented in the Territorial legislature. Norman W. Kittson, who afterward became one of St. Paul's most public-spirited and prominent citizens, was the member of the Council. Joseph Rolette, who a few years later became famous as a man who could defeat legislation of which he did not approve, and Antoine Gingras, were the members of the House of Representatives. Kittson, Rolette, and Gingras, each had his cariole drawn by three dogs, in which they came to St. Paul from 119 Pembina. They were eighteen days on the way, two of which they did not travel, owing to the inclemency of the weather. Pembina is now reached in twelve hours from St. Paul by rail. For the first few days of the session it was hard to tell whether it was the dogs or the honorable members who represented Pembina, as the dogs were first in the legislative halls and the last to leave, and it was only when the sergeant at arms was ordered to put the dogs out and keep them out, as Pembina was not entitled to double representation, that the two houses were relieved of their presence, and then there was not an entire riddance of them, for they hung around the outer doors and manifested a disposition to let no one in or out of the halls, as was the case in the late strike at South St. Paul by the strikers.

### **THE INDIAN TREATIES OF 1851.**

Governor Ramsey delivered his third annual message on January 13, 1852, in the Baptist church, a small frame building, which stood upon a hill known as Baptist hill, long since

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dug wholly away, the ground now being occupied by some of our largest wholesale houses. In his message he said, in part, as follows:

To the people of Minnesota, the most interesting political event that has occurred since the organization of the Territory is the extinction, by the treaties of Traverse des Sioux, Mendota, and Pembina, of the Sioux and Chippewa title to immense tracts of land upon the western side of the Mississippi. These treaties bridge over the wide chasm, which could alone obstruct the advance of Minnesota to the lofty destination evidently reserved for her.

By the two former treaties, the Dakota Indians relinquish to the government their right of usufruct to all the country previously claimed by them east of the Sioux Wood and Big Sioux rivers, extending over four degrees of latitude and five of longitude, and covering a superficial extent of 45,000 square miles. This vast district nature has marked out for exalted destinies.

Of the 37,000,000 square geographical miles of territorial surface which the globe, according to Malte Brun, contains, probably no tract of equal extent embraces a fewer number of acres doomed to eternal sterility. Within its extreme limits, it may be safely asserted that there is hardly a rood that is not arable; for the wet and swampy lands are easily drained, and eventually will be the most eagerly sought for agricultural purposes. Rapid streams, fed from rich 120 prairies, and shaded by noble forests; clear lakes, stocked with fish; a soil enriched with the spoils of the decayed vegetation of several thousand years, are features common to the entire region. Rich veins of mineral wealth, and an inexhaustible command of water power, point it out as the future abode of manufacturing greatness; while the boundless plains, subdued by the voluntary toil of freemen, will become the chosen abiding place of pastoral republicanism. (The governor had no reference to modern republicanism.) \* \* \* \* \* These various rivers in great part navigable, each with their own set of tributary streams, some fed by rills which gush from fertile highlands, others draining lakes of transparent clearness, form a chain of inland

## Library of Congress

communication, which, as a natural feature, is unknown in the physical geography of the Eastern hemisphere. Over all, and through all, pervades a climate which stimulates exertion and is eminently favorable to health.

Although the treaties to which the governor refers had not yet been ratified by the Senate of the United States, and were not ratified until June and August of that year 1852, while the treaty in 1851 with the Ojibways at Pembina failed of ratification, the mere fact that the treaties had been made satisfied the people. By the time the Sioux treaties were ratified, many thousand immigrants had come to Minnesota, settled upon the land, made claims, laid out town sites, and opened up farms, villages, and cities. It was the dawn of a new day in the history of Minnesota, and from that date on till now she has grown in population and wealth.

It may be said that while Governor Ramsey and Luke Lea, United States Commissioners, have always been credited with the making the Indian treaties of Traverse des Sioux, Mendota, and Pembina, and properly so, yet had it not been for such men as Henry H. Sibley, Martin McLeod, Norman W. Kittson, William H. Forbes, and Alexis Bailly, these treaties would never have been made. They were the power behind the throne, for they were all Indian traders, had been in the country for many years, spoke the languages of the Dakotas and Ojibways, and had their confidence. It was to their interest that these treaties should be made, as the Indians were largely in debt to them, and hence they used all of their influence to assist in the making of a treaty. The commissioners did not do much more than feed the Indians and indicate what they wanted; the traders did the rest.

121

### **PROHIBITION LAW.**

There was but little general legislation at this session of 1852, and the only bill that gave rise to any special discussion was one entitled: "A bill for the restriction of the sale of intoxicating liquors, and for other purposes." As previously mentioned, the villages of St.

## Library of Congress

Anthony Falls and Stillwater were almost exclusively settled by people from the state of Maine. After Neal Dow in 1851 had secured the passage of what was known as the Maine liquor law, the settlers from Maine in Minnesota, under the impression that anything done in Maine was all right, started out to secure a similar liquor law in Minnesota. Though the people did not take seriously to the proposition at first, they finally succeeded. Section 19 of the act provided for a submission of the law to the electors, before it went into effect. It was voted upon April 5, 1852, and the unexpected happened, a majority of the electors voted in favor of the law. What may seem strange, even Ramsey county gave a majority in favor of prohibition, a thing that would hardly occur in this age of religious and temperance reform; the old settlers were of a better class and with less pretensions. The law, however, was held to be in violation of the Organic Act of the Territory and therefore void.

Before this decision was rendered by the court, an attempt was made to enforce a seizure of a quantity of liquor found in the warehouse of William Constans. A riot appeared to be imminent, as those opposed to the law were out in force to resist the arrest and seizure. The sheriff had been active and had sworn in some fifty deputies determined to enforce the law. While the riot was in its incipient stages, the Rev. Edward D. Neill appeared upon the scene, armed with a Bible, and, taking a position on the head of a whisky barrel, advised the crowd to let the law take its course. After some discussion and quite a number of warlike threats, a compromise was effected. Mr. Constans agreed not to sell or in any manner dispose of the liquor he had on hand, until the question of the constitutionality of the act would be passed upon by the court. If the validity of the act was sustained, he agreed to turn the same over to the sheriff.

122

At the session of the legislature in 1853, an attempt was made to re-enact the law, eliminating the unconstitutional sections of submitting it to the electors of the Territory for their approval. It passed the Council, but failed in the House of Representatives by one

## Library of Congress

vote. Another attempt to pass a prohibitory law was made at the session of 1854, but it never came to a vote in the House of Representatives.

As the territory grew in population, and immigrants came pouring in from the Old World, bringing with them the habits and customs of their fatherland, the sentiment in favor of prohibition became less every day, until now the passage of such an act is not seriously entertained.

### **THE FOURTH LEGISLATURE.**

The fourth session of the Territorial Assembly met on the 5th day of January, 1853, in a brick building on the southeast corner of Third and Minnesota streets. Martin McLeod was elected president of the Council, and Dr. David Day, of Long Prairie, speaker of the House of Representatives. Dr. Day was afterward, for many years, one of St. Paul's leading and most influential citizens.

Notwithstanding the fact that a speaker had not been elected until the twentieth day of the session, and then not until sixty-four ballots had been taken, this session was quiet and uneventful, having none of the bitterness of some of the former sessions. It is true that the Whigs, having control of the national administration, and having filled all the Indian agencies and postoffices with men of that faith, began to think that the Whig party in Minnesota amounted to something after all, and that they could do business on their own account; but, generally speaking, they got so mixed up with the opposition that it was difficult to tell which was which. They did not know much more about party principles than a great many men in our day, and, to be frank, that is very little.

123

### **TERRITORIAL AND PRESENT LEGISLATIVE METHODS COMPARED.**

During the sessions of 1853–4, one of the legislative pastimes was the introduction of bills to incorporate plank road companies. Some became laws, others fell by the wayside. A

## Library of Congress

history of these bills was amusing. They were drawn in the office of the Territorial printer, and were introduced in the legislative assembly by some of his friends. As a matter of fact, it was not thought that any plank roads would ever be built, but the bills were introduced to swell the printer's account. All bills were ordered printed, the printer receiving as compensation one dollar per thousand ems. Bills being fat work, they may be said to have been a perquisite. Later on, many bills incorporating railroad companies were introduced for the same purpose.

Members of the legislature at the present time have become more enlightened as to legislative rascality. Instead of adding to the bank account of the printer, they look out for number one. At every session of the legislature, bills are introduced attacking railroads and other corporations, not with the expectation that they will become laws, but that the members introducing them will be seen. If the sight is sufficiently large to pay off a mortgage on the homestead, or to buy an additional forty acres of land, or to cover the expenses of a trip to Europe, the passage of the bill will not be pressed, and the member introducing it will tell you that upon further investigation he found he was wrong.

On the adjournment of the legislature, from seed time to harvest, and from harvest to the election in the fall, you will find the member going around among his constituents, explaining his votes and actions. Perhaps the explanation may be satisfactory, he may be returned as a member, and, with his experience and education the previous session, he may so enrich himself as to be willing to retire to private life, or to take a nomination for governor or member of Congress at the close of the session. On the other hand, if public sentiment is such that he dare not risk a canvass, he will tell you that he cannot afford it, that politics are an expensive thing, the outlay greater than the income, and that man passes into history as a friend of the people. We have many such.

124

### **THE FIFTH LEGISLATURE.**

## Library of Congress

The year 1854 and the Fifth Legislature were ushered in with greater hopes and brighter prospects for the then far-off Territory of Minnesota. The days of ox teams and prairie schooners were passing away. The year previous had witnessed a civil and military expedition, by order of the United States, starting from St. Paul in search of the long-desired thoroughfare to the Pacific. Governor Isaac I. Stevens, who was in charge of the expedition, had recently made a report, showing that the route was entirely practicable.

On the fourth day of January, 1854, the legislature convened for the first time in the new capitol, a building which cost nearly \$32,000, and which we thought was a magnificent edifice. The architect received fifty dollars for drawing the plans.

Ramsey had been succeeded as governor by Col. Willis A. Gorman of Indiana, who, in his first message to the legislature, urged the importance of railway communication, and dwelt upon the necessity of fostering the interests of education and of the lumbermen. It is needless for me to say to you, gentlemen of the Historical Society, that the latter have been fairly dealt with. At least, I have never heard any complaint that these poor fellows have suffered from unreasonable laws or an arbitrary enforcement, and nowhere will you find their names among the poverty-stricken or as seeking aid from the charitable.

During the session quite a number of bills became laws, granting ferry franchises, locating Territorial roads, organizing counties, and incorporating Hamline and Minnesota Central Universities and the city of St. Paul.

### **RAILROAD LEGISLATION.**

Among other bills which became laws in 1854 was one that led to much ill feeling among the prominent men of the Territory, which years did not eradicate. A bill was then pending in Congress, giving to the Territory of Minnesota a grant of lands to aid in the construction of a railroad from the mouth of the Left Hand or Nemadji river on Lake Superior 125 via St. Paul to the Iowa state line. The bill introduced in the Territorial Legislature was to

## Library of Congress

incorporate the Minnesota and Northwestern Railroad Company, and was so drawn that, if the bill then pending in Congress became a law, the lands granted would enure to the benefit of the Minnesota company. It was thought by the Minnesota statesmen that, with the enactment of the two laws, there were millions in it. Everyone wanted a hand in the deal, but the hand wagon was too small to hold all the old combinations of politicians still existing. The governor was left out in the cold, and from the day of the introduction of the bill in the legislature until midnight of the last day of the session, when he approved it, he fought its passage with all of his great ability.

Now, after fifty years, with a knowledge of the great growth and power of railroad corporations, time has demonstrated that in nearly every one of his objections to the bill he was right. Then, however, they were looked upon as the outgrowth of pure selfishness upon his part; the facts are, the people were against him. I have no doubt, in my own mind, that the bill was approved under duress.

It had been said, and perhaps truthfully, that there would be an executive veto. From the time the bill reached the governor until it was returned to the Council approved, a large proportion of the male population of St. Paul, with quite a number from St. Anthony and Stillwater, kept surging in and around the capitol, and it may be said to have been a howling mob, with threats of violence and blood; if not for this, there might have been a veto. "He that complies against his will, is of his own opinion still."

Two days after the adjournment of the legislature, the governor left for Washington, where he devoted his time to securing such amendments to the bill pending in Congress for a grant of lands to aid in the construction of railroads as would exclude the Minnesota and Northwestern Railroad Company from being the beneficiary of the grant. In this he and his associates would have been successful, had there not been an alteration in the bill. The third section of the bill, as it passed the House of Representatives, read as follows:

## Library of Congress

And be it further enacted, That the said lands hereby granted to the said Territory shall be subject to the disposal of any legislature thereof, for the purpose aforesaid and no other, nor shall they ensure to the benefit of any company heretofore constituted or organized.

The alteration consisted in striking out the word “or” and inserting the word “and,” which made the section read, “heretofore constituted and organized.” Who made the alteration, was never definitely settled; but the better opinion was that the clerk of the House of Representatives made the change. The Minnesota and Northwestern Railroad Company had been constituted, but had not organized. On the first day of July, 1854, two days after the approval of the bill by the president, the company met in the Chamber of Commerce in the city of New York and organized and laid claim to the grant.

The Minnesotans who had opposed the passage of the bill incorporating the Minnesota and Northwestern Railroad Company, when they became advised of the alteration, sent up a howl of lamentation, which was never equaled by the children of Israel in their darkest hour of servitude. Congress was besieged by day and night, as having permitted a flagrant attack upon the purity of the National Legislature. Notwithstanding the fact that enlightened jurists and lawyers were of the opinion that the alteration was merely verbal and did not change the meaning of the act, which must be determined from all the language used in it, taken as a whole and not depending upon the construction of a single word, its enemies at home, with the active co-operation of members of Congress who were opposed to making any grants for railroad purposes, secured its repeal by an act approved August 4, 1854.

Minnesota for a while may be said to have been in mourning. The discussion in subsequent Territorial legislatures, and in the newspapers of the day in regard to it, would more than fill a good sized volume. Yet in the light of subsequent events and action of Congress in making liberal grants of the public lands to the Territory and State for railroad purposes, perhaps it was well that the act was repealed.

## **LAW FOR IMPRISONMENT OF DEBTORS.**

It may seem strange to those not familiar with the earlier laws of the Territory, to know that for four years after its organization it had a law which authorized imprisonment for debt. The act was passed at the first session of the Territorial Legislature. All the judgment creditor had to do to place the debtor behind the bars, was to satisfy the justice that the debt was founded on a contract and that the debtor had property sufficient to satisfy the judgment over and above what was exempt and could not be levied upon, which was always easily done in an age of reckless swearing. The law failed to make any provision for the discharge of the debtor, unless the debt was paid. The imprisonment seemed to be indefinite and during the life of the debtor.

A law was passed in 1851, which seemed a little more merciful for the poor debtor, as it gave him an opportunity, after having enjoyed the luxury of prison life for then days, to make an application to two justices of the peace, for a discharge from prison. If the justices were satisfied that he had neither real estate or personal property exceeding in value twenty dollars, and that he had not conveyed or concealed or in any way disposed of any property with intent to defraud his creditors, he received his discharge. The judgment remained in full force against any estate which he had then or which at any other time belonged to him, apparently without regard to the statute of limitation. There were several imprisonments for debt under this law. Shylocks exist in every age. One man died while so imprisoned. It was thought he committed suicide, but whether from the disgrace of being imprisoned for the paltry debt of twenty-eight dollars, or for being confined in such a building as the first jail of Ramsey county was, no one has ever been able to definitely determine.

As time went on, public attention began to be aroused against the law, because it was a relic of barbarism; but many persons who might have settled in Minnesota went elsewhere to make homes, and residents of Minnesota, when they began to be financially

## Library of Congress

embarrassed, folded their tents like the Arab and sought other homes. In 1854, a bill was introduced for its repeal. It was referred to a committee, who in their report said, in part:

128

That an American may, in the nineteenth century, be incarcerated within the four walls of a prison, cut off from the light of heaven and communication with his fellow men, and this for the inconvenient crime of being poor, is to your committee a source of astonishment and regret, especially when they think upon the various mutations which daily transpire in our midst. The man of wealth today is the beggar of tomorrow.

The bill failed to pass, however, for the reason that it had been drawn by Judge Aaron Goodrich, who was not a member, and who had attempted to repeal about half of the civil code in the bill. At the next session of the legislature a bill was unanimously passed repealing the law. In our day there are wiped out in Minnesota hundreds of thousand dollars of debts, without payment, as it were, by the stroke of the pen in the Bankrupt Court of Minnesota. It is no exaggeration on my part to say that it is a very fortunate thing for a great many persons in Minnesota in our time, that the law for imprisonment for debt, passed in 1849, has been repealed.

### **LATER YEARS OF THE TERRITORY.**

If it were not for the fact that this paper has already been spun out beyond the limit, the writer had intended to follow up briefly the story from 1855 down to the organization of the State government in 1858; to speak of the real estate mania in 1855, '56, and '57, up to the time when the financial panic struck the Northwest, how every man thought he was a millionaire, and then a struggle for daily bread, how hundreds were forced out upon the prairies and opened up farms to get the wherewith to live; of the law transferring St. Anthony from Ramsey county to Hennepin county; and of the grand military and civic parade, with oratory and music, on the occasion of laying the corner stone of a magnificent building which was to be erected for the Historical Society. That was forty-eight years ago

## Library of Congress

the 24th of last June; yet, gentlemen, I am told the building has never been completed. The story of the attempt to remove the capital, which was only defeated by the cunning and shrewdness of Joseph Rolette, a member of the legislature from Pembina, and the dual Constitutional Convention,— these and many other incidents 129 in Minnesota history might have been written up, but the work has been left for some one else.

### **STATUES PROPOSED FOR GOVERNORS SIBLEY AND RAMSEY.**

Before I close this paper, however, I want to make a suggestion. On the second day of July, 1864, Congress passed an act, which in part reads as follows:

And the President is hereby authorized to invite each and all the states to provide and furnish statues, in marble or bronze, not exceeding two in number for each state, of deceased persons who have been citizens thereof, and illustrious for their historic renown or from distinguished civic or military services, such as each state shall determine to be worthy of this national commemoration; and when so furnished the same shall be placed in the old hall of the House of Representatives, in the capitol of the United States, which is hereby set apart, or so much thereof as may be necessary, as a national statuary hall, for the purposes herein indicated.

The invitation was extended by the President to the State, but no action has ever been taken to furnish either statue. Now, has not the time come when the two statues that Minnesota is entitled to should be placed in Statuary Hall? To do this, where should the movement originate, if not in and by the Historical Society? While Minnesota has many honored dead, for whom the State would do itself honor by placing their statues in the National Statuary Hall, I take it for granted, as we have only two places, that there will be no difference of opinion as to the names of the men whose statues should be placed there, the one Henry Hastings Sibley, the other Alexander Ramsey. And why? Because they stand out, more prominently than any others, as the men who laid the corner stone of our

## Library of Congress

great State, and who deserve the reward of immortality as far as it can by the State be conferred upon them.

Henry Hastings Sibley was really the father of Minnesota. He first came to what is now Minnesota in 1834, and located at St. Peter's, now Mendota, as the chief factor of the American Fur Company. He erected the first civilized dwelling house in the Northwest in 1835. He performed the first judicial functions here, as a justice of the peace, when St. Peter's was a part of Iowa. When Wisconsin was admitted into the Union, in 1848, he was chosen by the citizens who occupied the deserted remnant of the territory to represent them in the Congress of the United States, to secure the passage of an act organizing the Territory of Minnesota; and in March, 1849, he succeeded in so doing. He was twice elected as a delegate to Congress from the Territory of Minnesota, and was a member of the Constitutional Convention. When Minnesota was admitted into the Union, as a State, in 1858, he was chosen its first governor. In 1862, when our state was threatened with destruction by the rebellion of the Sioux Indians, he was the man that was chosen to defend it, and he did it with success. He was twice a member of the Legislature. He was always, until the day of his death, a wise, cultivated, and universally esteemed and beloved citizen of the State, enjoying the confidence of our people in an eminent degree.

Alexander Ramsey was the first governor of Minnesota Territory, and to him, more than all the rest of the people of the Territory, we are indebted today for a magnificent school fund, now amounting to fifteen millions of dollars, and in the future destined to reach a sum of not less than forty millions of dollars. He was one of the commissioners that made the treaties with the Sioux Indians, in 1851, by which they ceded all their lands west of the Mississippi river to the United States. He was the second governor of the State, and represented it during two terms in the United States Senate. It is no discredit to other senators to say that he was the best one Minnesota ever had, as far as the interests of the State were concerned. He was chosen, while living here later as one of our citizens, to the positions of Secretary of War of the United States, Secretary of the Navy, and

## Library of Congress

Commissioner to Utah, in all of which distinguished offices he performed their various and important duties with credit and honor to himself, the State, and the Nation.

I trust your Society will memorialize the Legislature at its next session to make such generous appropriation as will enable the Historical Society to secure and place a statue of each of these men in the National Statuary Hall at Washington city.