

# “THE SUPREME COURT OF MINNESOTA”

BY

CLARK BELL

Editor, *The Medico-Legal Journal*

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## FOREWORD

BY

DOUGLAS A. HEDIN

Editor, MLHP

*The Medico-Legal Journal* was published bimonthly by the Medico-Legal Society of New York from 1883 to 1933.<sup>1</sup> Clark Bell, a New York lawyer, was its first editor. It featured articles on a wide range of subjects that related in some way to “medicine and law.” In 1899, for example, numerous papers on “Corporal Punishment for Crime” were published, including “The Whipping Post for Wife Beaters.” Several others concerned the “Rights of American Girls Who Marry Foreigners,” “History of the Ohio Supreme Court,” “Christian Science and the Law,” and “The Dreyfus Case.” The range of subjects was wide.

That year, *The Medico-Legal Journal* carried a two-part article on Minnesota. The first was a curious combination of squibs about early explorers, events leading to the formation of the state, and lists of the justices who served on the supreme court during the territorial period and after statehood. The second part consisted of sketches of each justice. This article was part of a series of histories of the courts of states and profiles of their high court justices from their beginnings until the present day. This project covered so much time and territory that Bell and the other authors of these articles necessarily relied upon existing histories, not archival research.

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<sup>1</sup> Frank Luther Mott, III *A History of American Magazines: 1865-1885* 142 (Cambridge: Harvard Univ. Press, 1938). Some issues of *The Medico-Legal Journal* can be found online.

There is nothing new in the first part of the article and many errors. Outlining the history of the state, Bell relied upon the 1897 *Minnesota Legislative Manual* for background and the names of the justices and the dates of their terms.<sup>2</sup> Several times, he quoted “Mr. T. M. Newson.” This is a reference to Thomas McLean Newson’s *Pen Pictures of St. Paul, Minn., and Biographical Portraits of Old Settlers*, which was self-published in 1886.<sup>3</sup>

Bell notes that he contacted the widow of Judge Charles Vanderburgh but whatever information he received from her did not add anything to what had already been written about him.<sup>4</sup> In fact, with one exception, there is nothing new in the sketches of the justices in the second part of the article. That exception is the profile of Territorial Chief Justice Jerome Fuller by Daniel Holmes, the only one not written by Bell. Fuller’s term at the top of the supreme court ran from October 21, 1851, to August 31, 1852.<sup>5</sup> He then returned to New York. It is about Fuller’s post-Minnesota years that Holmes provides more information. His sketch appears to be based on personal knowledge and supplements the works of later writers.<sup>6</sup>

The following article appeared in two issues of volume 17 of *The Medico-Legal Journal* in 1899. It has been reformatted. Bell’s punctuation and spelling have not been changed. One page of photographs of five justices has been omitted. The title, “The Minnesota Supreme Court,” has been added by the MLHP.

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<sup>2</sup> As noted in my article “Documents Regarding the Terms of the Justices of the Supreme Court of Minnesota Territory, 1849-1858: Part One,” most of the dates of the territorial justices’ terms in the *Legislative Manuals* were wrong. The correct dates, with documentation and source citations, can be found in Part Two of that article.

<sup>3</sup> The book has been reprinted and is now available from BiblioLife, Charleston, S. C.

<sup>4</sup> Biographical profiles of Vanderburgh appear in Isaac Atwater, “The Territorial Bench of Minnesota: Part IV,” 8 *Magazine of Western History* 169-70 (1888); Isaac Atwater, I *History of Minneapolis, Minnesota* 431-2 (New York: Munsell & Co., 1893); Marion D. Shutter & J. S. McLean eds. *Progressive Men of Minnesota* 342-3 (Minneapolis: Minneapolis Journal, 1897); Charles E. Flandrau, I *Encyclopedia of Biography of Minnesota* 198-9 (Chicago: Century Pub. & Eng. Co., 1900); Nellie E. Hardy, “Biographical Sketch of Charles E. Vanderburgh,” 4 *Hennepin County History* 6 (April 1944) see also *Proceedings in Memory of Associate Justice Vanderburgh*, 71 Minn. xxi (1899).

<sup>5</sup> See entry on Fuller in my article, “Documents Regarding the Terms of the Justices of the Supreme Court of Minnesota Territory, 1849-1858: Part Two.”

<sup>6</sup> See, e.g., Russell O. Gunderson, *History of the Minnesota Supreme Court* §5 (np, 1937); *Biographical Sketches of Justices of the Minnesota Supreme Court and Judges of the Minnesota Court of Appeals from Territorial Days to 1990* 14 (St. Paul: West Pub. Co., 1990); and “Jerome Fuller” in *Testimony: Remembering Minnesota’s Supreme Court Justices* 8 (St. Paul: Minnesota Supreme Court Historical Society, 2008).

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# MINNESOTA.

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BY CLARK BELL, ESQ., LL. D., OF THE BAR OF N. Y. CITY.

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## EARLY TERRITORIAL HISTORY.

In 1688 Nicholas Perrot first planted the Cross and Arms of France on the soil of Minnesota and laid the first formal claim to the country for France, he built a fort at Lake Pepin near Lake City. Jean Nicolet, a French explorer, in 1635, wintered near Green Bay and brought to Montreal the first mention of the Aborigines of Minnesota. In 1650 to 1660, Groisellers and Radison, Frenchmen, wintered among the Sioux Indians in the Mille Lacs Region. Duluth had ascended the St. Louis River to Fond du Lac and held a council with the Sioux Indians in 1679 and 1680, he met Louis Hennepin, a Dutch priest, at the Sioux village of Mille Lacs Sioux.

The French after 1696 occupied it and in that year Le Seuer built a fort on Isle Pelee in the Mississippi River below Prescott.

In 1700 La Seuer established Fort L. Huillier, on Blue Earth River, and in 1727 the French built another fort on Lake Pepin with Sieur de Lapperreire as commander.

By the treaty of Versailles, France ceded that part of Minnesota lying east of the Mississippi River to England and west of that river to Spain. In 1796 the laws of the Ordinances of 1787 was extended over the northwest.

May 7th, 1800, that part of Minnesota east of the Mississippi River became a part of Indiana by the division of Ohio. On December 20th, 1803, that part of Minnesota west of the Mississippi River for forty years in possession of Spain as a part of Louisiana was ceded to the United States by Napoleon Bonaparte who had just obtained it from Spain.

In 1805, Upper Louisiana was organized as Missouri Territory and Captain Pike obtained the Fort Snelling Reservation from the Dakota Indians.

In 1812, the Dakotas, Ojibways and Winnebagos joined the British during the war and Lord Selkirk established the Red River Colony.

In 1819, Minnesota east of the Mississippi River became a part of Crawford county, Michigan, Fort Snelling was established and one at Menlota.

In 1854, Minnesota west of the Mississippi River was attached to Michigan.

In 1836, the Territory of Wisconsin was organized embracing all of Minnesota east of the Mississippi River, the rest attached to Iowa.

In 1837 treaties were effected with the Ojibways by which they ceded all their pine lands on the St. Croix and its tributaries and with the Dakotas for their lands east of the Mississippi.

The treaty was ratified by Congress in 1838. In 1846 Congress passed an enabling act for Wisconsin and in 1847 the Wisconsin Constitutional Convention met and acted.

On May 29th, 1848, Wisconsin was admitted leaving Minnesota (with its present boundaries) without a government.

July 23rd, 1851, the treaty of Traverse Des Sioux was completed they ceding all the territory west of the Mississippi to the United States. This treaty was ratified July 26th, 1852, by the Senate of the United States.\*

#### ORGANIC LAW.

The organic act by which Minnesota was made one of the territories of the American Union, was passed by Congress March 3rd, 1849. Section 9 of that act created the Supreme Court of the Territory in which the judicial power was vested and the court organized by a chief justice and two associate justices, who were required to hold a term at the capitol annually, to hold their offices for four years, any two of whom made a quorum.

The territory was divided into three districts, in each of which one of the said judges should be assigned and reside and hold district courts at such times and places as should be fixed by law. Both original and appellate jurisdiction with chancery powers were conferred upon the court thus created.

The Supreme Court sat as a court of appellate jurisdiction in review of the decisions of the judges so sitting as trial judges in the district court.

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\* For the early history, I am indebted to the Minnesota Legislative Manual of 1897.

The judges of this court were appointed by the President of the United States by and with the advice of the Senate. Their salaries were fixed at \$1800 each annually.

Minnesota was formed out of a part of the lands originally embraced within the limits of the territory of Wisconsin and the organic law in section 12, provided that the laws in force in Wisconsin at the date of its admission as a state should continue to be operative in Minnesota, until modified or repealed by the legislature of Minnesota and all suits, civil and criminal, pending within the territorial limits should be transferred, tried and proceeded with in the courts created by the organic act.

An enabling act providing for the admission of Minnesota into the Union as a state was passed by Congress February 16, 1857, authorizing an election to be held as to their acceptance of admission to the Union in June, 1857.

This election resulted in the acceptance of statehood and the ordering of a constitutional convention which prepared a constitution that was adopted by the people October 13th, 1857.

On May 11th, 1858, Minnesota was admitted into the Union by Act of Congress and established as a Judicial District of the United States, within which a District Court was created. The following were the judges of the Supreme Court under the territorial organization:

#### CHIEF JUSTICES.

Aaron Goodrich, June 1, 1849, to November 13, 1851.  
Jerome Fuller, November 13, 1851, to December 16, 1852.  
Henry Z. Hayner, December 16, 1852, to April 7, 1853.  
(Never presided at a term.)  
William H. Welsh, April 7, 1853, to May 24, 1858.

#### ASSOCIATE JUSTICES.

David Cooper, June 1, 1849, to April 7, 1853.  
Bradley B. Meeker, June 1, 1849, to April 7, 1853.  
Andrew G. Chatfield, April 7, 1853, to April 23, 1857.  
Moses G. Sherburne, April 7, 1853, to April 13, 1857.  
R. R. Nelson, April 23, 1857, to May 24, 1858.  
Charles B. Flandrau, April 23, 1857, to May 24, 1858.

## STATEHOOD.

The judicial power of the state is vested in a Supreme Court, district courts, courts of probate, justices of the peace and such other courts, inferior to the Supreme Court as the legislature may from time to time establish by a two-third vote.

The court was given appellate jurisdiction and original jurisdiction but without a jury in such remedial cases as may be established by law.

It was originally provided to consist of a chief justice and two associate justices, with power to the Legislature to increase it to not exceeding four associates, to hold office six years, to be elected by the people. In 1881 the Supreme Court was increased to one chief justice and four associate justices by the Legislature.

The constitution provided for the division of the state into judicial districts, respecting county lines, or as nearly so as could be made, and these courts had original civil and criminal jurisdiction, from which an appeal lies to the Supreme Court except offences which are tried before justices of the peace.

All the judicial and executive officers are liable to impeachment for corrupt conduct in office, or for crimes and misdemeanors.

Two terms of the court are held in each year commencing on the first Tuesday of April and October at the Capitol at St. Paul.

The clerk of the Supreme Court is an elective officer, the term of office being four years. He may appoint a deputy.

The reporter of the Supreme Court is an officer appointed by the courts to prepare the adjudicated cases for publication in official volumes, called "Minnesota Reports," of which sixty-two volumes have been published. The reports are now accumulating at the rate of four volumes annually.

The present judges of the Supreme Court are as follows:

Chief Justice, Hon. Charles M. Start, of Rochester.

Associate Justices, Hon. Wm. Mitchell, Winona; Hon Loren W. Collins, St. Cloud; Hon. Daniel Buck, Mankato; Hon. Thos. Canty, Minneapolis.

The clerk of the Supreme Court is Darius P. Reese, Esq., of St. Paul, and the Reporter, Henry B. Wenzell, Esq., of St Paul.

The following is a list of the Chief and Associate Justices of the State since its admission to the Union with the term of service of each:

CHIEF JUSTICES, SUPREME COURT.

With dates and terms of service.

Lafayette Emmett, May 24, 1858, to January 10, 1865.  
Thomas Wilson, January 20, 1865, to July 14, 1870.  
James Gilfillan, July 14, 1869, to January 7, 1879.  
Christopher G. Ripley, January 7, 1870, to April 7, 1874.  
S. J. R. McMillan, April 7, 1870, to March 10, 1875.  
Charles M. Start, January, 1895, to January, 1901.

ASSOCIATE JUSTICES, SUPREME COURT.

Charles E. Flaudrau, May 24, 1858, to July 3, 1864.  
Isaac Atwater, May 24, 1858, to July 6, 1864.  
S. J. R. McMillan, July 6, 1864, to April 7, 1874.  
Thomas Wilson, July 6, 1864, to January 10, 1865.  
John M. Berry, January to, 1865, to November 8, 1887.  
George B. Young, April 16, 1894, to January 10, 1875.  
F. R. E. Cornell, January 11, 1875, to May 23, 1881.  
D. A. Dickinson, June 27, 1881, to January, 1894.  
Greenleaf Clark, March 14, 1881, to January 12, 1882.  
William Mitchell, March 14, 1881, to January, 1899.  
C. E. Vanderburgh, January 12, 1882, to January, 1894.  
Loren W. Collins, November 16, 1887, to January, 1901.  
Daniel Buck, January, 1891, to January 1900.  
Thomas Canty, January, 1894, to January, 1900.

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THE SUPREME COURT OF MINNESOTA.  
THE PRESENT BENCH.

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HON. DANIEL BUCK.  
ASSOCIATE JUSTICE SUPREME COURT OF MINNESOTA.

Jonathan Buck, father of Judge Daniel Buck, of the Minnesota Supreme Court, was born at Boonville, Oneida county, New York, in 1804, and died in 1883. Judge Buck's mother was Roxana Wheelock, who was born at Claremont, New Hampshire, in 1799, and died in 1842. She was a sister of Chas. Wheelock, Colonel of the 97th New York Volunteers, in the war of the rebellion, afterwards breveted Brigadier General. The father of Jonathan Buck was Daniel Buck, who settled in Boonville about the year 1800. He was a soldier of the Revolutionary war.

Thomas Buck was the eldest son of Isaac Buck, and he settled in Bridgewater, Mass., before 1712. Matthew Buck was a son of Thomas Buck, and he also lives in Bridgewater. He was the father of the Daniel Buck of Revolutionary fame, already referred to, who was born in 1762.

Judge Daniel Buck, of whom this sketch treats, was born in Boonville, New York, September 8, 1829. He received the rudiments of an education in the common schools and finished at Rome Academy, Oneida county, and Lowville Academy, Lewis county, New York. He came to Minnesota May 15, 1857, and pre-empted land at Madelia. In that year he settled in Blue Earth county. After leaving school, he studied law, and was admitted to practice law at Utica, N. Y., January 2nd, 1856, and when he came to Minnesota he was actively engaged in its practice. He was elected to the legislature in 1858, but the legislature did not meet in that year, and so he could not serve. In 1865, while a member of the House of Representatives, he secured the passage of the law providing for the location of a normal school at Mankato. For four years he was County Attorney of Blue Earth county, and in 1878 he was elected to the State Senate for the full term of four years. For five years he was a member of the Mankato School Board, and for five years more he was a member of the State Normal School Board, and while serving in this last named capacity he assisted in the selection of sites for the normal schools at Winona, Mankato and St. Cloud; had principal charge of the construction of the Mankato normal school buildings; was associate counsel for the State at the time of the trial of the five million loan bill, and was attorney for the claimants in the suit for the reward offered for the capture of the Younger brothers. In 1888 he was a candidate for Lieutenant

Governor, but was defeated with the remainder of the Democratic ticket; was elected Judge of the Supreme Court in 1892, for the term of six years, commencing the first Monday in January, 1894, and was appointed Judge of the Supreme Court October 2, 1893, to fill the vacancy caused by the resignation of Judge Dickinson; always has been a Democrat, and as long ago as 1859, was that party's candidate for Secretary of State in Minnesota; was a delegate to the National Democratic Convention in St. Louis, in 1876, and voted for W. J. Bryan for President in 1896. In the Legislature of 1879 he introduced the bill for the insolvent law of the State. It was passed, but the Governor interposed the veto. In 1881 he introduced it again, and this time it became a law.

Judge Buck was a member of the Court of Impeachment on the trial of E. St. Julien Cox. He is not a church member, but sympathizes with the Quakers, his mother having been a member of that society. October 25, 1858, at Elgin, Ill., he was married to Louisa A. Wood, and three children have been born to them: Charles Belos Buck, February 24, 1864, died November 37, 1882, while a student at the State University; Alfred A. Buck, April 16, 1872; and Laura M. Buck, June 15, 1874. The latter is now Mrs. Wm. L. Abbott.

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HON. WILLIAM MITCHELL.  
ASSOCIATE JUSTICE SUPREME COURT OF MINNESOTA.

Born of Scotch parents November 18th, 1832, near Niagara Falls, in Welland county, Ontario; received his common school and academic education in his native county; entered Jefferson College, Canonsburg, Pa., in 1848, and graduated with the class of 1853, the first honor of the class being divided between him and his room-mate, the late Judge Thomas Ewing, of Pittsburg, Pa.

The first four years after graduating he spent in Morgantown, Va., (now West Va.), part of the time in teaching in an academy, and the remainder in studying law; was admitted to the bar in Virginia in March, 1857, and immediately thereafter moved to Winona, Minn., where he continued to reside until, compelled by his official duties, he removed to St. Paul; was engaged in the practice of law, in Winona, from the spring of 1857 until the autumn of 1873, when he was elected Judge of the Third Judicial District of the State, and re-elected for a second term in the autumn of 1880; was appointed Associate Justice of the Supreme Court of the State in March, 1881, and elected to the same office in the autumn of the same year; reelected in 1887, and again in

1892, by the united ballots of both political parties; is still serving his third term, which will terminate January 1st, 1900.

In September, 1857, he married the daughter of the late John Hanning, of Morgantown, Va., to whom were born three daughters, still living, viz.: Mrs. J. K. Ewing, of Union town, Pa.; Mrs. Loring Staples, of Minneapolis, Minn., and Mrs. F. A. Hancock, of Dubuque, Iowa.

Mrs. Mitchell, having died in September, 1867, he married, in July, 1872, Mrs. Frances M. Smith, of Chicago, to whom were born a son and daughter. The daughter died in early life. The son, Wm. D. Mitchell, is engaged in the practice of law in St. Paul. His second wife died in March, 1891.

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HON. CHARLES M. START.  
CHIEF JUSTICE SUPREME COURT OF MINNESOTA.

Judge Charles M. Start, the Chief Justice, is a Republican; was born in Bakersfield, Franklin county, Vt, in 1839; emigrated to Minnesota in 1865, is married, and resides in Rochester, Minn.; served as Attorney General of the State from January, 1880, to March, 1881, when he resigned to accept the office of Judge of the Third Judicial District, which office he held until January, 1895. He was elected Chief Justice of the State in 1894.

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HON. LOREN W. COLLINS.  
ASSOCIATE JUSTICE SUPREME COURT OF MINNESOTA.

Judge Loren Warren Collins is a Republican, resides in St. Cloud, and is married; was born in Lowell, Mass., in 1838; received a high-school education, and emigrated to Minnesota in 1854; enlisted August 9, 1862, in the 7th Minnesota, served through the war of the rebellion, and was brevetted Captain, March 30, 1865; was County Attorney for ten years, of Stearns county; was a member of the House of Representatives of Minnesota from 1881 to 1883; was one of the managers conducting the impeachment proceedings against District Judge Cox; was appointed Judge of the Seventh District April 17, 1883.

On November 12, 1887, on the death of Judge Berry, he was appointed Associate Justice to fill the vacancy, and in 1894 he was re-elected and still holds that office.

HON. THOMAS CANTY.  
ASSOCIATE JUSTICE SUPREME COURT OF MINNESOTA.

Thomas Canty is a Democrat in National and State politics, was born April 25th, 1854, in Michigan, and his youth was spent on a farm in Wisconsin and Iowa; was educated in the common schools, taught in the public schools, took up the study of the law, supporting himself by teaching and manual labor; was admitted to the bar in Hennepin county February, 1881.

He located at Minneapolis October 1, 1880, before his admission; was elected Justice of the Fourth Judicial District in 1890, and in 1892 he was elected Associate Justice of the Supreme Court by the combined votes of the Democratic and People's parties, took his seat in January, 1894, and holds the office now.

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SUPREME COURT OF MINNESOTA.  
The Judges elected to take seats January 1, 1900.

Hon. John A. Lovely, of St. Paul, Minn.  
Hon. Calvin I. Brown, of Morris, Minn.  
Hon. Charles L. Lewis of Duluth, Minn.



EX ASSOCIATE JUSTICES  
SUPREME COURT OF MINNESOTA,

HON. MOSES G. SHERBURNE,  
1853—1856.

HON. ANDREW G. CHATFIELD,  
1853—1857.

HON. MOSES G. SHERBURNE,  
1853—1856.

HON. ANDREW G. CHATFIELD,  
1853—1857.

HON. CHARLES E. FLANDRAU,  
1857—1864.

HON. C. E. VANDERBURGH,  
1864—1864.

HON. GREENLEAF CLARK,  
1861—1864.

EX-CHIEF JUSTICES SUPREME COURT  
OF THE TERRITORY OF MINNESOTA.

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HON. AARON GOODRICH.  
EX-CHIEF JUSTICE OF MINNESOTA TERRITORY.  
1849-1851.

Judge Aaron Goodrich was born in Sempronius, Cayuga county, N. Y., in 1807. He practiced law in Tennessee and was elected to Congress from that state; he was a Presidential elector on the Whig ticket in 1848, and was appointed by President Zachary Taylor, Chief Justice of the territory of Minnesota court, 1849, and made his residence at St. Paul in that year. He presided at the first term of the Supreme Court in the territory and held the first district court of the state at Still Water, Sunk Rapids, and St. Paul, and served until November 13, 1851.

He at once took a prominent position in the territory; he prepared a code of pleadings and practice, drew the first Republican platform adopted in the state of Illinois, was a member of the National Republican Committee. The first court house in the state was commenced in his term, in November, 1850, and was completed in 1851. It was torn down in 1884, to make room for the new court house. The old jail was constructed in 1850, and demolished in 1857. He was made secretary of the American Legation at Brussels, Belgium, which position he held eight years.

In 1869 he returned to St. Paul, and was the author of a work assailing the popular views as to the discoveries of Columbus, which he called mythical; he was an ardent admirer of Wm. H. Seward. He is described by T. M. Newton, the biographer, "as a tall, spare man with an exceedingly active brain, who speaks quickly and decidedly, an effective speaker on the stump, an excellent writer, a good lawyer, a scholar among the pyramids, a hater of court hypocrisy and meanness, a lover of honest thought and honest expression."

His daughter married Mr. Victor Robertson, and now resides in Chicago, Ill.

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HON. JEROME FULLER.  
EX-CHIEF JUSTICE OF MINNESOTA TERRITORY.  
1851-1852.

BY DANIEL HOLMES, ESQ.

Jerome Fuller was born in Litchfield county, Conn., about the year 1807, and settled in Brockport, N. Y., in the year 1835. Of his early life, prior to his emigration to western New York, but little is known. As a young lawyer he at once reached the front rank in the bar of Monroe county, a position which he maintained through life. Outside of the duties of his profession, he first appears in the politics of the state by being elected to the State Senate, in the year 1847. In those days he was an ardent and enthusiastic politician and a prominent member of the Whig party. In the factional contests of the time he identified himself with what was then called the silver gray Whigs, and an organ of that wing of the party at Albany being considered desirable, he established and became the editor of the State Register, in the year 1850.

Editorial duties, however, did not seem to be his forte, and in 1851 he accepted the office of chief justice of the state of Minnesota at the hands of his friend, President Fillmore. The United States Senate failed to confirm the appointment, and Judge Fuller returned to Brockport in 1853, where he remained during the rest of his life and was actively engaged thenceforth as a lawyer, except when called to the discharge of public duties. In 1867, he was selected as a member of the State Constitutional Convention, and in the fall of that year as county judge of Monroe county, to which office he was re-elected for a term of six years in 1871. Having reached the age limit he was retired in 1877, and died at Brockport, September 2, 1880.

At his home and by those who knew him best, Judge Fuller was held in the highest esteem. He was always conscientious on the performance of every duty; he was kind and affable to his daily associates, and was deservedly popular. He thoroughly identified himself with the interests of his town and especially with the educational interests of Brockport. In November, 1845, he became a member of the board of trustees of the Brockport Collegiate Institute, a flourishing academy, and, in 1846, the president of the board. Subsequently, in 1866, this institution was merged into the State Normal School at Brockport, and Judge Fuller was chosen as the first president of the local board of managers.

As a prominent characteristic of the man, one may mention the unbounded enthusiasm with which he advocated any cause which was near to his heart. No one ever doubted on which side he stood, and in no sense was he a trimmer. During our Civil War he was active in the raising of volunteers and sent his two

sons to the war, one of whom died in the service, and the other was a captain in the 108th Volunteers. As a judge he was one of the best we ever had in Monroe county; as a lawyer he was among the first; as a neighbor and citizen he is affectionately remembered by all who ever came in contact with him.

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HON. HENRY Z. HAYNER.  
EX-CHIEF JUSTICE OF MINNESOTA TERRITORY.  
1852-1853.

Chief Justice Henry Z. Hayner was appointed chief justice of the territory by President Fillmore, took office and held the position from December 16, 1852, to April 7, 1853, to fill a vacancy.

He was a citizen of the state of New York, and, as he held the position only a few months, he did not become at all identified with Minnesota, and none of the present bench or older members of the bar are able to give any account of him and very few ever knew him. He never presided at a term of the court during the time he held the office.

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HON. WILLIAM H. WELSH.  
EX-CHIEF JUSTICE OF MINNESOTA TERRITORY.  
1853-1858.

Chief Justice Welsh was born about the year 1812, as Mrs. Venson, who knew him, thought. He resided at the time he was appointed chief justice by President Franklin Pierce, April 7, 1853, at St. Anthony, Minn., and held the position of justice of the peace. During his term Andrew G. Chatfield and Moses Sherburne were associate justices, both of whom were excellent lawyers and very far his superior in legal learning and ability. His health was poor, but his published opinions commanded the respect of the bar and were not inferior to the average of the judges of that period in the western territories.

He was a tall, spare man; was quiet and undemonstrative; he was esteemed as a gentleman of unblemished character; he served until May 24, 1858. He finally removed from St. Paul to Red Wing, Minn., where he died.



EX-CHIEF JUSTICES  
SUPREME COURT OF MINNESOTA.

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HON. LAFAYETTE EMMETT.  
EX-CHIEF JUSTICE SUPREME COURT OF MINNESOTA.  
1858-1865.

Chief Justice Lafayette Emmett, the first chief justice of the Supreme Court after Minnesota became a state, was born in Ohio about the year 1827. He was of liberal education and early admitted to the bar of his native state; he emigrated to St. Paul, Minn., in 1851, and was a law partner of H. L. Moss, Esq., and later with James Smith, Jr.

He was appointed attorney-general by Governor Gorman, in 1854, and was elected chief justice in the fall of 1857, and taking his seat May 24, 1858, when Minnesota organized her state government under the state constitution. At the expiration of his service as chief justice, January 10, 1865, he resumed the practice of the law at St. Paul. He finally removed to Faribault, and engaged in practice there, and from there to Ortonville, Big Stone Lake; he now resides at Las Vegas, New Mexico.

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HON. JAMES GILFILLAN.  
EX-CHIEF JUSTICE SUPREME COURT OF MINNESOTA.  
1869-1879.

Chief Justice Gilfillan was born in Scotland, March 9, 1829, emigrated to New York in infancy, where he received an academic education. He studied law at Balston Spa, and at Buffalo, N. Y., and was admitted to the bar at Albany, N. Y., in 1850. He located in St Paul to practice his profession, in 1857. In 1862 he enlisted in Company H, 7th Regiment, and was commissioned captain in August, 1863; served in that regiment in its Indian campaigns and afterwards at the South, at Tupelo, Tallahatchee, and in other battles and campaigns. On the 7th of September, 1862, he was promoted to the colonelcy of the nth Minnesota, and commanded that regiment until it was mustered out in June, 1865. In 1869, on the resignation of Chief Justice Thomas Wilson, he was appointed chief justice to fill that vacancy. On March 6, 1875, he was again appointed chief justice and held that position until his death, December 16, 1894, at St Paul.

Judge Gilfillan edited the first twenty volumes of the Minnesota Reports, and although he was never reporter of courts his work is in general use. The memorial proceedings of the bar of the state on his death are reported at the end of volume 59, Minnesota Reports, and at page 547, of that volume is the statement of Judge Young, who said: "In Chief Justice Gilfillan we had a judge who would rank with Judge Gibson and the greatest jurists who have adorned the bench in other states in the Union." Mr. Gilman's appreciation of him may be found on page 555, of the same volume; "I may say of the position Chief Justice Gilfillan will hold in the estimation of the bar of the state, he will be spoken of as is Chief Justice Parsons, of Massachusetts, by the bar of that state, and Chief Justice Gibson, of Pennsylvania, by the bar of that state—"the great chief justice.'"

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HON. CHRISTOPHER GORE RIPLEY.  
EX-CHIEF JUSTICE SUPREME COURT OF MINNESOTA.  
1870-1874.

Chief Justice Christopher Gore Ripley was born September 6, 1822, in Waltham, Mass., where his father, Rev. Samuel Ripley, was the settled Unitarian minister. His mother, who is said to have been one of the most remarkable women of the century in her intellectual attainments, was the daughter of Captain Gamaliel Bradford, of Boston. The future chief justice was prepared for college by his parents and graduated from Harvard College, in 1841. He spent one year at the Harvard Law School and then entered the office of Franklin Dexter, Esq., of Boston, a celebrated lawyer of that day. In 1855, he came to the then territory of Minnesota, settling first at Brownsville, but removing to Chatfield, in 1856, where he practiced his profession.

In 1869, he was elected chief justice of the court for the constitutional term, beginning in January, 1870, but in April, 1874, he was compelled by failing health to resign. The remainder of his life was spent at Concord, Mass., where, in the "Old Manse," he died October 15, 1881.

The opinions of Judge Ripley begin in volume 15, and end in volume 20, of the Minnesota Reports.

EX-ASSOCIATE JUSTICES OF THE  
SUPREME COURT OF THE  
TERRITORY OF MINNESOTA.

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HON. DAVID COOPER.  
EX-ASSOCIATE JUSTICE TERRITORY OF MINNESOTA.  
1849-1853.

Judge David Cooper was a native of Pennsylvania; born about 1820; was admitted and practiced law in his native state, the data of which I am not able to ascertain. On the organization of the territory of Minnesota, he was commissioned an associate justice of the Supreme Court by the President, June 1, 1849; removed to the territory, there remained and held the position until April 7, 1853. He practiced law in St. Paul after his term expired and finally removed, in 1864, to Nevada, where he made mining titles a specialty in his practice; from Nevada he removed to Utah and lived and died at Salt Lake City at the early age of about fifty-five years.

Mr. Newson, who knew him, thus describes him: "Judge Cooper was a medium sized man, with a clear complexion, good features, very gentlemanly in his makeup and was especially noted for his ruffled shirt bosom and ruffled cuffs, which gave him the appearance of 'an old school gentleman,' such as we see in the person of William Penn. He was a diligent student, not brilliant as a lawyer nor as a judge, yet a good deal of an antagonist in a legal fight, and was very social in his habits."

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HON. BRADLEY B. MEEKER.  
EX-ASSOCIATE JUSTICE TERRITORY OF MINNESOTA.

[NOTE.—Bradley B. Meeker was an associate justice of the Supreme Court of the territory. Commissioned June 1, 1849, and serving till April 7, 1853, but I have been unable to obtain any data as to his birth or residence before or after his term of service, nor any portraits of him. No portraits are accessible of Chief Justices Goodrich, Fuller, Hayner, or Welsh, nor of Judge Cooper, though I hope to secure them of Judges Goodrich and Nelson, but not in time for the publication of these sketches.]

HON. ANDREW G. CHATFIELD.  
EX-ASSOCIATE JUSTICE TERRITORY OF MINNESOTA.  
1853-1857.

Judge A. G. Chatfield was born January 10, 1810, at Butternuts, in Otsego county, N. Y.; was a student at Hamilton Academy, N. Y., and studied law in Steuben county, N. Y. In 1833, he was admitted to the bar and formed a partnership with Judge Birdsall, at Addison, N. Y., and in June, 1836, he married Miss Eunice E. Beman, of Addison, N. Y. In 1836, he was elected to the Legislature of New York from Steuben county. He was a brother of the Hon. Levi S. Chatfield, who sat in the same legislature and who was a lawyer of eminence and distinction. Both brothers were returned for three successive years from their respective counties to the New York Legislature. Hon. A. G. Chatfield was again elected in 1845, and served on important committees and during the enforced absence of the speaker he was elected to fill that position and served for a considerable part of the session. In 1846, he was elected a member of the Constitutional Convention in New York, to revise the state constitution. In 1848, he removed to Kenosha, Wis., and entered into partnership with Volney French, Esq. In 1850, he was elected judge of Racine county, Wis., but shortly after resigned that office.

On April 7, 1853, he was appointed associate justice of the Supreme Court of the then territory of Minnesota by President Pierce. This appointment and its acceptance was largely due to the influence of General H. H. Sibley. He removed to Mendota, Minn., and entered upon the discharge of his duties; he served with credit and distinction and at the expiration of his term, in 1857, he returned to the bar. In 1870, he was elected district judge for the eighth judicial district of the state, which position he held to the time of his death, October 3, 1875, at Belle Plain, Minn.

At the time of his death Judge Isaac Atwater, in remarks made at the bar meeting of Hennepin county, said among other tributes:

“It has been my fortune to have known in their official positions all the judges who have occupied seats upon the Supreme bench of the territory and state, and none have been so universally honored and beloved as Judge Chatfield.”

Mr. T. M. Newson says of him: “He was a judge of the finest purity of character, very careful, very honest, very sincere, and very conscientious in his convictions of right. He died universally mourned by the whole bar of the state.”

HON. MOSES G. SHERBURNE.  
EX-ASSOCIATE JUSTICE TERRITORY OF MINNESOTA.  
1853-1857.

Judge Sherburne was born January 25, 1808. at Mt. Vernon, Kennebec county, Maine; was the oldest son of Samuel Sherburne, who was of English descent; his education was of the public schools and the Academy at China, Maine; entered the law office of Nathan Cutter, Franklin county, Maine; was admitted to the bar and began practice at Phillips, in the same county, in 1831; was elected to the State Legislature and later to the Senate of Maine, and was chosen postmaster probate judge of Franklin county and bank commissioner of the state. In 1843, he was elected a major-general of the state militia and duly commissioned.

On April 6, 1853, he was commissioned an associate justice of the Supreme Court of the territory of Minnesota, at the same time that Judge Chatfield was appointed by President Pierce, and in the fall of that year he removed, with his family, to Minnesota as his permanent home. His term of office expiring on April 13, 1857, he commenced the practice of law at St. Paul; held a high position at that bar, both as an advocate before a jury and was successful in his practice. He died, greatly regretted, March 23. 1868.

Mr. T. M. Newson says of him in his pen pictures: "Judge Sherburne was cast in the mould of a grand man. He was physically large and intellectually great." The Hon. Henry J. Horn paid a tribute to him before the State Bar Association of Minnesota, in April, 1884, from which I quote:

"Judge Sherburne was eminently fitted for the bench by his thorough legal education and training and by his varied experience. His mind intuitively sought the merits of a controversy, and his quick and ready perceptive facilities led him soon to a correct decision. His opinions are clear, forcible, and scholarly. Judge Sherburne's sense of justice was very keen and he was scrupulously conscientious in discharging his judicial duties."

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HON. R. R. NELSON  
EX-ASSOCIATE JUSTICE TERRITORY OF MINNESOTA  
1857-1858

Judge Nelson was born in Cooperstown, Otsego county, N. Y., 1826, and was the son of United States Judge Samuel Nelson; studied law in his father's office and also in that of Judge J. R. Whiting; he removed to St. Paul in 1850, and

was appointed associate justice of the Supreme Court of the territory, April 23, 1857, and held the office until May 24, 1858, when he resigned on being appointed, by President Buchanan, United States District Judge, a position which he held for many years in that district, residing at St. Paul, and commanding unusual confidence and respect by all who knew him.

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HON. CHARLES E. FLANDRAU.  
EX-ASSOCIATE JUSTICE TERRITORY OF MINNESOTA.  
1857-1864.

Judge Flandrau was born in New York City in 1828. His father was a law partner of Aaron Burr, and his mother a sister of General Macomb, at one time commander-in-chief of the United States Army. He was educated at Washington, D. C., and at Georgetown; followed the sea three years as midshipman; learned the trade of sawing mahogany; studied law at Whitesboro, N. Y., and emigrated to and located at St. Paul, Minn., in 1853, where he has since resided; was a deputy clerk in the United States District Court in 1854; member of the Territorial Council in 1855; United States Indian Agent for the Sioux Indians in 1856; member of the Constitutional Convention in 1857, and was commissioned associate justice of the Supreme Court for the territory of Minnesota, April 23, 1857, which office he held until the 24th of May, 1858, when the state was organized, where he took his seat as associate justice of the Supreme Court of the state on May 24, 1858, which position lie held until July 3, 1864; was commissioned judge advocate general of the state in 1858; was candidate of the Democratic party for governor of the state in 1867; Democratic candidate for chief justice of the Supreme Court in 1869, and was chairman of the Democratic State Central Committee in 1868; was married to Miss Dinsmore, of Kentucky, in 1859, and was the second time married to Rebecca B. Riddle, of Pennsylvania, in 1871; he has two sons and two daughters. In 1862, while associate justice of the Supreme Court, he greatly distinguished himself on the occasion of the Indian outbreak of 1862, by the gallant defense of New Ulm, organizing a company of which he was chosen captain, and commanding the reinforcements that saved that town in a memorable and desperate conflict with the Indians in great force. Judge Flandrau is one of the most eminent and conspicuous of the judges of the state. He still resides at St. Paul, and has been intimately associated with the territorial and state history of that state.

EX-ASSOCIATE JUSTICES OF THE  
SUPREME COURT OF MINNESOTA.

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HON. CHARLES EDWIN VANDERBURGH.  
EX-ASSOCIATE JUSTICE SUPREME COURT OF MINNESOTA.

Judge Charles E. Vanderburgh was born in Clifton Park, Saratoga county, N. Y., December 22, 1829. He was the son of Stephen Vanderburgh, a farmer, of Holland Dutch stock; fitted for college at Homer Academy, entered Yale College in 1849, and graduated in the class of '52; became principal of the Academy at Oxford, N. Y., and commenced the study of the law, and, in 1858, entered as a law student the office of Henry R. Mygatt; was admitted to the bar in 1855, and went to Chicago, Ill., and from thence, in April, 1856, he removed to Minneapolis, Minn., and formed a co-partnership with F. R. E. Connell. In 1859, he was elected judge of the Fourth Judicial District; he was re-elected to this office for three successive terms in 1866, 1873, and 1880. In 1881, he was elected an associate justice of the Supreme Court, and was re-elected in 1887. He was twice married. In 1857, to Miss Julia Mygatt, of Oxford, N. Y., of the two children of this marriage, a son survives him, who resides at Minneapolis; he married, after the death of his first wife, Miss Anna Culbert, a daughter of Hon. John Culbert, of Broadalbine, Fulton county, N. Y., who survives him and resides at Minneapolis, Minn. The only fruit of this union was a daughter, who died at nineteen years of age. He died at Minneapolis, after a short illness, on the 3d of March. \*

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EARLY CONGRESSIONAL AND JUDICIAL HISTORY.

The territory embraced in the State of Minnesota was embraced in the lands ceded to the United States by the State of Virginia, by the Virginia Act of Cession of 1783 in part, and in part in the Territory of Louisiana, purchased from France in 1803.

Parts of the Territory of this State were subsequently included in the territory of Indiana; the territory of Louisiana; the territory of Illinois; the territory of Missouri; the territory of Michigan; the -territory of Wisconsin and the territory of Iowa. Vide Act creating the Northwest territory, July 13, 1788.

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\* The data for this sketch was furnished by the widow of the deceased.

Vide Act of Congress creating the territory of Indiana, of May 7, 1800.  
Vide Treaty ceding Louisiana, April 30, 1803.  
Vide Act creating the territory of Louisiana, March 3, 1805.  
Vide Act of Congress creating the territory of Illinois, of February 3, 1809.  
Vide Act of Congress, June 4, 1812, establishing a territorial Government in Missouri.  
Vide Act of Congress establishing the territory of Michigan, approved July 15, 1805.  
Vide Act of Congress creating the territory of Wisconsin, passed April 30, 1838.  
Vide Act of Congress, passed June 12, 1838, establishing a territorial government for the territory of Iowa.  
Vide Act of Congress, establishing a territorial government for Minnesota, passed March 3, 1849.  
Vide enabling Act for Minnesota for admission to the Union, passed in 1857.

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