

THE FIRST COURT SESSION IN HENNEPIN COUNTY (1853)

During Minnesota's territorial period, a Supreme Court Justice served as a trial judge and appellate judge. When an appeal was taken from his rulings as a trial judge, he joined the other two justices, now convened as the Supreme Court, to review the case. Judge Flandrau reflected upon this process in an address to the Minnesota Historical Society in 1896:

When the territory was organized, its judicial power was vested in a Supreme Court, District Courts, Probate Courts, and Justices of the Peace. Three judges were allowed it, a Chief Justice and two associates. The judges held the trial courts individually, and assembled in banc to sit as a Supreme Court of Appeals. This allowed a judge to sit in review of his own decision, which is not to be commended, but did not produce any noticeable disturbance in the administration of justice that I remember.¹

The opinions of the Territorial Supreme Court Justices are mentioned in memoirs and occasional articles while their service on the trial bench has been neglected.² This is regrettable because, by some measures, their trial work was more important to the development of the territory than their decisions in occasional appeals. But it is also understandable: lawyer-writers naturally

¹ Charles E. Flandrau, "Lawyers and Courts of Minnesota Prior to and During Its Territorial Period," 8 Minn. Hist. Soc. Coll. 89, 98 (1898) (MLHP, 2009).

² See e.g., Russell O. Gunderson, History of the Minnesota Supreme Court §§2-7 (np. 1937) (available online at <http://www.lawlibrary.state.mn.us/gunderson.html>); and the entries on the territorial justices in *Testimony: Remembering Minnesota's Supreme Court Justices* 1-41 (Minnesota Supreme Court Historical Society, 2008).

Difficult to categorize because it is largely a compilation of anecdotes is Robert J. Sheran & Timothy J. Baland's "The Law, Courts, and Lawyers in the Frontier Days of Minnesota: An Informal Legal History of the Years 1835 to 1865," 2 Wm. Mitchell L. Rev. 1 (1976).

concentrate on appellate court opinions because they are at the heart of the case-method system of legal education, used for the last century. Moreover the opinions of the Territorial Supreme Court have been published in the first volume of *Minnesota Reports*, which is available in many public libraries, whereas records of trial court proceedings are fragmentary and difficult to find and use.

Newspapers are an important source of information about the trial work of territorial judges. But many newspaper accounts were short, superficial and subjective. They were written in the “booster” style that marked the territorial press.³ Using this style, the reporter lavished compliments on the judge and how he conducted the court proceedings (It may be noted that even today obsequiousness or boot-licking is a characteristic of many speeches by bar leaders about the bench).

Two newspaper accounts of court sessions conducted by Associate Justice Bradley B. Meeker follow. The first was held in 1851 in Becker County, the second in Hennepin County on April 4, 1853. There is a story behind the second.

Meeker was nominated, confirmed and commissioned in March 1849. His four-year term, beginning with the date of his confirmation by the Senate, expired on March 18, 1853, but because of clerical errors in the drafting of his presidential commissions (there were three), he claimed he still held office, forcing President Pierce to “remove” him on April 5, 1853, when he submitted the nomination of Moses Sherburne to the Senate.⁴ Looking at the law and the calendar, it is hard not conclude that Meeker held court in Hennepin County after his term had ended. None of this, of course, is mentioned by the newspaper reporter.

³ See generally, Douglas A. Hedin, “Lawyers and ‘Booster Literature’ in the Early Territorial Period” (MLHP, 2008).

⁴ See “Documents Regarding the Terms of the Justices of Minnesota Territory, Part One” 17-18, 26-29 (MLHP, 2009-2010); “Documents: Part Two-B” (posting Meeker’s three commissions, the Territorial Supreme Court’s order on August 15, 1854, dismissing his challenge to his removal, and other documents (MLHP, 2009-2010); and “Documents: Part Three” 24-33 (MLHP, 2009-2010) (posting Meeker’s lengthy “Letter to the Public,” contending that his “removal” was improper).

The following is the *St. Anthony Express*'s report of a charge Judge Meeker delivered to a jury in Benton County on June 9, 1851:

His Honor Judge Meeker, in a clear, forcible and eloquent charge, illustrated the importance of the duties of jurors, and explained the mode of their proper performance. He enlarged upon the advantages of the county, its fertility, beauty, location, markets, &c; and urged them as stimulants to a patriotic and faithful discharge of public duty. In an impressive manner he showed how valueless are all earthly blessings, without a government of laws, promptly, wisely, and energetically administered; and urged the jurors and others in attendance, to a ready and cheerful attention to the offices imposed upon them as good citizens.⁵

And the following is that newspaper's account of the first court session in Hennepin County on April 4, 1853:⁶

Hennepin Court House, }
April 8, 1853. }

George D. Bowman, Esq.,
Editor of Express: —

The District Court of the United States for the County of Hennepin, commenced its session on Monday morning, 4th inst. — Hon. B. B. Meeker, United States District Judge, presiding. Mr. Moss, U. S. District Attorney, Mr. Bristol, District Attorney for the County, Mr. Furber, U. States Marshal, Mr. Brown, Sheriff, Mr. Canney, Deputy Sheriff, and Sweet W. Case, Esq. Clerk, were present.

This is the first Court ever held in this new but beautiful County. It was opened at 11 o'clock, A. M., when a sufficient number of grand and petit jurors promptly

⁵ *St. Anthony Express*, June 28, 1851, at 3.

⁶ *St. Anthony Express*, April 8, 1853, at 2 (emphasis in original).

answered to their names; and more intelligent and respectable looking men I have never seen selected for that important and responsible trust.

The Grand Jury was charged by his Honor, Judge Meeker; it was the most eloquent, able and appropriate charge I ever listened to; and I would attempt a brief report of it, but I doubt not the Grand Jury will take the necessary steps to request copy for publication, which I hope will be complied with; if so, your readers will have an opportunity to judge for themselves. Judge M. presides with ease and dignity — seems perfectly at home on the bench, and makes all around him feel equally so. If Hennepin County is always favored with so able a Judge, her citizens may rely upon a faithful and judicious administration of law.

Every one seemed to be well pleased with the officers of the Court; they certainly have discharged their several duties faithfully and efficiently, and reflected credit upon the Court, their constituents, and themselves.

There were no civil cases entered upon the trial docket for this term.

Yesterday the Grand Jury came into court escorted by officer Jenks, and thro' their Foreman, Hon. A. E. Ames, reported a Bill of Indictment against one *gentleman* for a misdemeanor, and returned their room.

Hennepin County has truly started under favorable auspices; and will without doubt soon be one of the richest and most populous Counties in the Territory. But a few weeks since there was no building near the seat of justice of the County of suitable size to hold the Court in; but that obstacle was removed by Mr. Anson Northrup, one of the most enterprising and energetic citizens of the County, who in an almost incredibly short space of time erected a large and commodious building, in which the Courts are now being held. Success to Hennepin County!

When the Court has finally adjourned, you may hear from me again.

A. R. D.

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