

THE FIRST ORGANIZED GOVERNMENT OF DAKOTA

BY

GOV. SAMUEL J. ALBRIGHT

FOREWORD

BY

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Samuel Albright, the author of the following piece, was a publisher and, in today's parlance, a "developer"—or, at least a would-be developer. He received brief mention in Thomas Newson's *Pen Pictures*, published in 1886:

SAMUEL J. ALBRIGHT.

Mr. Albright, the publisher of the old *Daily Free Press*, edited by A. C. Smith, was a printer by trade, and was formerly connected with the *Pioneer*. He is a man now rising fifty years. In his young days he was full of energy, and for that matter is now; short, of ordinary size, with a florid complexion and gold spectacles, he moves with the celerity of light. After leaving the *Free Press* he became connected with a townsite scheme and newspaper enterprise in Dakota, and from thence drifted to Chicago where he now is. He came to ST. PAUL in 1855; is a social, pleasant gentleman and a great favorite with those who know him.¹

Although Albright is identified "Governor," he was never elected governor of Dakota or any other jurisdiction. In the summer of 1859, a rump convention in Sioux Falls attempted to form a government and elected Henry Masters "governor." Masters died a few days after the convention ended, and a committee then selected

¹ Thomas McLean Newson, *Pen Pictures of St. Paul, Minnesota, and Biographical Sketches of Old Settlers: From the Earliest Settlement of the City, Up to and Including the Year, 1857-536* (St. Paul, 1886) (reprinted by Bibliolife in 2009).

Albright as his replacement. Though he never served, Albright was so impressed by the honorific title that he still claimed it four decades later.

The Preface is by Charles Flandrau, an investor in the Dakota Land Company. Flandrau served on the Supreme Court of Minnesota Territory from April 5, 1857, the date of his recess appointment by President Buchanan, to statehood in 1858. He was elected to the state supreme court on October 3, 1857, and took office when the new state government was formed in May 24, 1858. He resigned in July 1864. After a brief time in Nevada, he returned to Minnesota where he practiced law until his death in St. Paul on September 9, 1903.

Flandrau writes that the attempt to organize the Dakota Territory, “presents the only actual attempt (excepting one earlier instance) to form a government on the principles of ‘squatter sovereignty,’ pure and simple, that has ever occurred in this country.” He adds a one page “Note” on “The State of Franklin,” which was that “earlier,” albeit unsuccessful, “instance.” Franklin is the subject of a recent study by Dr. Kevin T. Barksdale, an Assistant Professor of American History at Marshall University, specializing in Appalachian and West Virginia history.²

In his article, Albright refers to “Ink-pa-du-ta,” the leader of a band of Yankton Sioux. Flandrau had written previously about this man, who is the subject of a recent, full length biography by Dr. Paul N. Beck, Professor of History at Wisconsin Lutheran College in Milwaukee.³

The following article appeared first on pages 129-147, of volume 8 of *The Collections of the Minnesota Historical Society* (Minn. Hist. Soc., 1898). It is complete, though reformatted. Page breaks have been added. Footnotes, punctuation and spelling have not been changed.

It is recommended that Albright’s article be read in conjunction with William E. Lass’s “The First Attempt to Organize Dakota Territory,” which is posted separately on the MLHP. Professor Lass’s article appeared first in *Centennial West: Essays on the Northern Tier States*, published in 1991 by the University of Washington Press.

² Kevin T. Barksdale, *The Lost State of Franklin: America’s First Secession* (Univ. of Kentucky Press, 2009), reviewed by Marshall DeRosa, 96 *The Journal of American History* 1171 (March 2010).

³ Charles E. Flandrau, “The Ink-pa-du-ta Massacre of 1857,” 3 *Minnesota Historical Society Collections* 386-407 (Minn. Hist. Soc., 1880). Paul N. Beck, *Inkpaduta: Dakota Leader* (Univ. of Oklahoma Press, 2008), reviewed by Timothy B. Powell, 96 *The Journal of American History* 1182 (March 2010).

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BY

GOV. SAMUEL J. ALBRIGHT.

WITH A PREFACE BY JUDGE CHARLES E. FLANDRAU.

PREFACE.

For many years I have been desirous of obtaining the exact facts concerning the first settlement of Dakota, which took place in the year 1857, in the valley of the Big Sioux river, for the reason that its incidents form a most interesting and curious epoch in the history of the Northwest. It presents the only actual attempt (excepting one earlier instance**) to form a government on the principles of "squatter sovereignty," pure and simple, that has ever occurred in this country. The settlement here noted was by United States citizens, migrating westward; and the statement of its priority should be qualified by mention of the much earlier but scanty British immigration which had extended from the Selkirk settlement southward into the northeast corner of Dakota, in the vicinity of Pembina.

I was familiar with the movement to colonize the Big Sioux valley, and to some extent was interested in it; but, not having actually participated in the immigration and subsequent proceedings, I hesitated to become their historian, for fear that, through lack of personal knowledge, I might fail to do full justice to the event, and to the adventurous men who conceived and executed it. I could recall but two of the actual participants to whom I might refer for the facts, Alpheus G. Fuller and Samuel J. Albright, and as they had both been [130] unheard of by me for nearly forty years, I had almost abandoned the idea of ever preserving this bit of history for future generations. An accident, however, discovered the whereabouts of one of them, Mr. Samuel J. Albright, of New York City, to whom I at once applied for the coveted information; and I am happy to say that he has furnished it in a

* Read at the monthly meeting of the Executive Council, May 11, 1896.

** The "State of Franklin," organized in 1784, in the district which now forms the eastern part of Tennessee, as noted on page 133, following this preface.

most interesting and delightfully written narrative, which cannot fail to fascinate everyone interested in our early history. I append his story in full, with my brief preface.

When Wisconsin was admitted into the Union of States, in the year 1848, the St. Croix river was chosen as its western boundary, leaving out the part of the county of St. Croix which lay between the St. Croix river and the Mississippi. Within the large territory so abandoned were the towns of Stillwater, St. Paul, St. Anthony Falls, and several other settlements. The inhabitants of this region at once set about finding some government for themselves, and decided that the remnant of Wisconsin territory so deserted was still the Territory of Wisconsin. Governor Dodge, who was the governor of the territory, had been elected United States senator of the new State of Wisconsin, which left Mr. John Catlin, secretary of the territory, ex-officio governor of what was left of it. Mr. Catlin lived at Madison, and was invited to come to Stillwater and proclaim the territory still existent. He did so, and called for the election of a delegate to Congress. Henry H. Sibley was elected, and when he arrived at Washington was acknowledged and given a seat as delegate from the Territory of Wisconsin, after which the Territory of Minnesota was, on March 3, 1849, duly organized, with its domain extending from the St. Croix to the Missouri.

When Minnesota, on the eleventh day of May, 1858, was admitted into the Union, its western boundary was fixed by the Red river of the North and a line extending south from the foot of Big Stone lake to the north line of Iowa, thus leaving out all the land extending west of this line to the Missouri river, which now belongs to the two Dakotas. The situation was identical with that presented on the admission of Wisconsin. Anticipating this condition, a number of enterprising men, a year previous, had determined to improve the opportunity of organizing a new territory out of the remnant [131] which would be left of Minnesota, and to avail themselves of the advantages of being proprietors of the capital city and several lesser ones, that might become the seats of the university, penitentiary, and other public institutions of the new territory. They did not adopt the plan that was so successful in the case of Wisconsin, by calling upon the governor to order an election for a delegate, for the reason, undoubtedly, that until the year 1857 there were no inhabitants of the remnant, save those residing at Pembina at the extreme north, who could hardly claim to be of sufficient importance to ask that they be recognized as a separate government; but, instead, they boldly took possession of the country with the determination of creating an entirely new government with the aid of Congress.

It must be remembered that Mr. Buchanan was then President, and that Minnesota was strongly Democratic in its politics; but the Republican party, then in its infancy, had gained great strength in Congress, and entertained hopes of electing the next president, which it did in 1860. This condition of things militated against the organization of a new territory, the officers of which would be Democratic, and prevented the realization of the hopes of the adventurers who first settled Dakota.

When the Sioux Indian war broke out in 1862, the remaining settlements on the Big Sioux river were abandoned, and all the improvements were destroyed by the Indians. Shortly after the termination of the Indian war, a military post was established on May 1, 1865, at Sioux Falls for the protection of the surrounding country. This post, which was called "Fort Dakota," consisted of one company of cavalry at one time, and of infantry at another time, and was maintained until June 18, 1869, when it was abandoned, nothing remaining but the quarters occupied by the troops, and two men, Mr. C. K. Howard and Ed Broughton, who had acted as sutlers for the post. They operated a small trading house, and dealt with the Indians. Broughton lived in the stone house on the river bank, which was built by the settlers from Minnesota. A few settlers found their way into the valley near Sioux Falls while the troops were there, a Mr. Jephtha Douling and his family and several others. They supplied milk and vegetables to the soldiers. [132]

This state of things continued until about June, 1869, when E. F. Pettigrew located at the Falls. He found lying on the rocks the platen of the newspaper press that had been used in the issue of the "Dakota Democrat," and has preserved it until the present time. Mr. Pettigrew has been very prominent in the progress of Dakota. He represented it in Congress as territorial delegate, and is now serving a second term as United States senator from South Dakota. I am indebted to him for some of the facts in this narrative.

About the year 1871 a brother of Senator Pettigrew found his way into the valley of the Big Sioux and located on the old site of Flandrau,*** about thirty-five miles above Sioux Falls, which town the old company had named in my honor. There was then no vestige of the former settlement. But a few Sisseton Indians were living there; and a man named Lew Hulett, a trapper, had built a shack in which he carried on a small trade with the Indians.

***** The name of this town has always been, and is now, spelled Flandreau on all maps; and the town has been incorporated under that name. It was a mistake in the beginning, and has been continued.**

The site of Medary, one of the old locations, still farther up the river, was lost, and a new town by the same name was started a few miles from the old one; but that has also disappeared, and the present town of Brookings, on the railroad, about six miles away, has taken its place.

Since the second settlement of the valley of the Big Sioux, which may be said to have commenced about the time of the arrival of Mr. Pettigrew in 1869, the growth and progress of the country has been marvelous; and the success of the three principal selections of sites for cities made by the original settlers, Sioux Falls, Flandrau, and Brookings, the successor to Medary, proves conclusively the sagacity of these pioneers, as they are all now prominent localities in South Dakota.

With these preliminary remarks, I submit the narrative of Governor Albright, in the assurance that its perusal will be deeply interesting to everyone who cares to know how states are made in the Northwest.

CHAS. E. FLANDRAU. [133]

NOTE

THE STATE OF FRANKLIN.

Prior to 1772, settlements were made in the valleys of eastern Tennessee, and the people organized themselves into the "Watauga association," by way of forming a local government. They adopted a plan vesting authority in a general court, which consisted of five members and a clerk. In 1776, the country of the Watauga association became annexed to North Carolina, and was called the "District of Washington."

Again, in 1780, eight stations or forts, with settlements about them, situated in what is now middle Tennessee, formed themselves into "The Cumberland compact of government," which was represented by twelve notables or "General Arbitrators." This government lasted until 1783.

The territory of these settlements all belonged to North Carolina until it was ceded to the United States in June, 1784. The Watauga people opposed this cession, and North Carolina having repealed the act of cession, they then, in the latter part of

1784 and early in 1785, organized a state government and called it the "State of Franklin." It had a governor, Col. John Sevier, a secretary of state, Mr. Langdon Carter, a treasurer, Mr. William Gage, and a superior court of three judges, the first of whom were David Campbell, Joshua Gist, and John Anderson. The capital was located at Greenville. A constitution was adopted, and laws were enacted, among which was one making otter skins a legal tender for all debts. Under this law, a bundle of skins circulated for a long time and paid many debts; after which, it was discovered, by the last victim, that they were raccoon skins with the tails of otters sewed to them.

In the adoption of the name of the State, a considerable minority had wished it to be called Frankland (that is, free land); and Franklin, when informed of the honor conferred on him, replied that he had understood the name chosen to be Frankland.

Many of the people soon manifested discontent and refused allegiance to the Franklin government, and it continued only a few years. Its brief and turbulent history has been recently summarized in a chapter of the third volume of "The Winning of the West," by Theodore Roosevelt.

The country of the Watauga, Cumberland, and Franklin governments was finally merged into Tennessee, and was admitted into the Union as part of that State on June 1, 1796. Sevier, who had been the governor of the State of Franklin, was elected the first governor of the new State of Tennessee.

C. E. F. [134]

GOVERNOR ALBRIGHT'S NARRATIVE.

Comparatively few of those who, in these later days, journey over the parallel of 44 from the Mississippi to the Missouri rivers, and from the windows of luxurious cars look out upon thrifty towns, comfortable dwellings, and highly cultivated farms, dotted here and there with beautiful groves, call to mind the fact that little more than a generation has elapsed since the country through which they are speeding was a wilderness of prairie, destitute alike of improvement or the semblance of trees, except as they occasionally fringed the margins of small lakes or sluggish streams. The white man's foot had seldom left its impress upon the virgin sward. A few adventurous trappers had invaded it for game and pelts; Nicollet had explored it in the interest of science; and in 1857 Colonel William H. Nobles, of St. Paul, laid out

and marked by earth mounds the first road across it, doing this by order of the Secretary of War, and under strong military escort. A generation ago it was, however, the undisputed home of the Sioux Indian, who roamed over it undisturbed wherever his fancy led him, dependent for his subsistence principally upon the abundant game which his good "Manitou" had bestowed upon his children as a beneficent provision against hunger and famine. The pioneer had touched its eastern boundary only. It remained for a special enterprise to discover and develop in part its boundless agricultural wealth.

In the year 1858 the eastern portion of the former Territory of Minnesota was admitted into the Union as a state. As a territory it reached west to the Missouri river; as a state, its western limit was the Red river of the North, extending on about the same meridian south to Iowa. What remained of the original Minnesota was set apart to be organized into a separate territory or otherwise disposed of, as the general government might think proper. It comprised a large extent of country, practically uninhabited and unknown to the white man. Previous to the settlements on the Big Sioux in 1857, Pembina, in the extreme north, and an occasional settler in the Missouri river valley, comprised all that approximated civilization within its limits. [135]

Nearly a year before the admission of Minnesota as a state, a company of gentlemen, principally residents of St. Paul, associated themselves as a corporation under the title of "The Dakota Land Company." Their purpose was to acquire early title to, and to colonize, some of the most desirable agricultural tracts and eligible town sites in the territory which was expected to be left on the west side of the new state of Minnesota. Among those who took an active interest in the company's affairs were Alpheus G. Fuller, J. P. Kidder, Joseph E. Gay, S. J. Albright, Baron Freidenreich and son, J. M. Allen, F. J. De Witt, Byron Smith, and others, all intelligent gentlemen, imbued with the spirit of enterprise, and conversant with the ways and requirements of frontier life. They were willing to devote both time and money to the systematic development of the country, and trusted to the future for results.

Early in the spring of 1857, immediately following the disappearance of the snow, some of these gentlemen, under the lead of Mr. Fuller, proceeded west from New Ulm with the intention of visiting the valley of the Big Sioux, looking over the ground in that region, and, if favorably impressed, making selections of claims and town sites. They laid their course by compass, west-southwesterly. The journey was made with ox teams, and they were frequently delayed at the crossings of

streams, which usually ran between bluff banks, or were flanked by marshy approaches, overgrown by rank grass and high weeds, so that they were both difficult and dangerous to ford. The valley and falls of the Big Sioux were reached without serious mishap, where, however, the little party, which had expected to lay the corner stone of civilization in the new land, were greeted by a genuine, if not entirely pleasant, surprise.

Upon their arrival they found themselves confronted by a half dozen adventurous spirits, representatives of the Western Town Company, of Dubuque, Iowa, who had preceded them, having arrived at the falls and begun building on their proposed town site a few days earlier. The Iowa immigrants hailed the arrival of the newcomers, with their well equipped and provisioned outfit, as a most welcome addition to their ranks. The Minnesotans, on their part, were delighted with [136] the location. They regarded it as an ideal spot for a town.

The surrounding country was all that could be desired as a farming district, with a soil as rich as the most exacting agriculturist could demand. The falls of the river, comprising several distinct cataracts, were picturesque to the point of grandeur; and, in connection with the rapids above them, might be utilized as an unsurpassed water power. They would attract mills and manufactories, and so tend to build up a manufacturing center. The dearth of timber could be made up for by the importation of lumber when railroads should be built; and the presence of the enduring quartzite rock on the surface gave evidence of unlimited supplies of building material beneath. Here appeared to be all the requisites for a city: beauty of location, almost unlimited water power, building material of the best quality, and a rich farming district surrounding. Therefore it was decided that this should be the company's initial point of operation in what was to be known as "Dakota." Here was to be Sioux Falls City, the proposed future capital of the territory. This point having been settled to the satisfaction of all, a portion of the Dakota Land Company's party proceeded some thirty miles northward, and, at a natural ford, selected a second site, which was christened "Flandrau," as a mark of respect to Hon. Charles E. Flandrau, a resident of St. Paul, and an honored citizen of Minnesota. Continuing their observations northward, at a distance of twenty-five miles farther, still on the Big Sioux river, another town was located, which they named "Medary," in honor of Governor Samuel Medary, the last territorial governor of Minnesota, as it was hoped that he would be the first executive to administer the laws in the prospective territory of Dakota. This wish was frustrated by the fact that Congress failed to accord to it immediate Federal recognition; added to which was a desire upon the part of President Buchanan that Governor

Medary should accept a like appointment to Kansas, in the hope that his executive ability might bring order out of chaos in that contentious territory.

Having satisfactorily accomplished the object of their first western visit, by the selection of these several eligible points for occupation, and having established a desirable location as [137] a base for future operations, Mr. Fuller and one or two others returned to St. Paul, leaving the remainder of their party at Sioux Falls to permanently occupy and improve the company's holdings, and to perfect arrangements for the reception and assistance of anticipated immigrants.

Ten colonists of the Western Town Company and six of the Dakota Land Company spent the following winter at Sioux Falls amid many privations and hardships. They were extremely fortunate in one thing, however. Among the Iowa party was a young but very intelligent physician, Dr. J. L. Phillips, fresh from his eastern studies; and upon his knowledge of surgery and medicine depended a most valuable life. The circumstances were these: Early in February, 1858, Mr. W. W. Brookings, the head of the Iowa colony, had the misfortune to have both his feet badly frozen while returning from an attempted journey to secure the site on which the city of Yankton now stands. From want of attention, or through lack of the necessaries for prompt treatment, mortification resulted; and, as a last resort, in order, if possible, to save his life, amputation of both legs below the knees was resorted to. This operation was successfully performed by Dr. Phillips, with no other implements at hand than a large butcher's knife and a small tenon-saw. Marvelous as it may appear, the patient, lying upon a bed of "buffalo robes" in his floorless cabin, with none of the surroundings and comforts deemed indispensable to a sick-room, not only survived the shock incident to the harsh surgery, but entirely regained his health, and afterward became one of the foremost citizens of Dakota and a judge of one of her courts.

In September, 1858, Mr. S. J. Albright, formerly editor and publisher of the "St. Paul Free Press," established a weekly paper in Sioux Falls City, to which he gave the name of "Dakota Democrat." The Dakota Land Company had erected a small stone structure for its accommodation, which was donated to the enterprise. It has been claimed that the small hand-press upon which the paper was printed had, previous to its removal to Dakota, performed a similar service for the first newspapers printed in Wisconsin, Iowa, and Minnesota, thus becoming historical as the pioneer printing press in four territories. At the date of the Democrat's first issue, there [138] were less than two-score settlers within a radius of seventy-five miles; and the nearest point at which it could be mailed was Sioux City, Iowa,

nearly a hundred miles distant. Its mechanical appearance bespoke excellent workmanship, which would have done credit to older communities and better facilities. Advertisements were necessarily scarce, where neither the arts, professions, nor trades, were yet in evidence. Foreign news items were frequently old before they appeared in this newspaper, but they were none the less new to those who had no other means of information. Its original matter comprised local happenings, and appeals to those who were so unfortunate as to still abide outside the limits of Dakota to hasten to that favored land of plenty and possibilities, where the earth needed but to be "tickled with a hoe to laugh with a harvest." It added unceasing calls upon the general government for territorial organization, but these were all to no purpose. Congress persistently neglected to heed the counsel and admonitions of the Democrat; its unprofitable importunity was finally abandoned; and Dakota remained without a representative in the "fourth estate."

The Indians were jealous and suspicious of the intrusion of their white visitors from the start, and became still more so when they observed evidences of the continued occupation of their favorite camping grounds adjacent to the Falls. This distrust grew into open protest as claims were staked off, cabins built, and the ground prepared for cultivation. Every furrow turned by the plough was to them as a wound planted in the breast of their loved prairie. They were not prepared to yield peaceably the heritage that came to them from the Mound-Builders of Em-e-ni-ja. They might finally be compelled to submit to their traditional enemies; but not until they had entered an armed protest against the justice of the claim which civilization makes to all the earth.

Ink-pa-du-ta's band of Yankton Sioux had furnished fearful evidence of their malignant hatred, in March, 1857, by the massacre of an entire colony of whites who had taken up the lands about Spirit Lake, Iowa, a hundred miles east of Sioux Falls. The slaughter was complete, with the exception of four females, who were carried away as captives. Wandering bands of Indians were still roaming over the country, venge-[139]-ful and aggressive, intent upon pillage and murder. The Falls were often visited by them while upon their predatory excursions, sometimes decked out in war-paint, and at other times in the character of "good Indians," which guise was often assumed to cover theft and crime.

Against these bands there was little protection except watchfulness, courage, and trusty arms; all of which were occasionally necessary to ward off threatened danger. A rumor became current and gained credence that the Sioux nation had combined to wage systematic and exterminating war upon all whites found between the

Minnesota and Missouri rivers. Some of the more timid in the western portion of Minnesota, rumor said, had already deserted their claims, and others had been warned by friendly Indians that unless they did the same they would have to abide the consequences. There could be no hope of effective assistance to the settlers at Sioux Falls in case the threat was carried out. The nearest government troops were stationed at Fort Randall, on the Missouri, and Fort Ridgely, on the Minnesota, at a distance of probably a hundred and fifty miles in each case; and should a concerted insurrection occur, both of these stations would find ample employment for their limited forces much nearer home.

The Dakota Land Company had, as one of its first improvements, erected a one and a half story stone house on the bank of the river, which, in an emergency, might serve as a means of defense against superior numbers. The walls were built of boulder rock, laid in mortared clay, without lime. There were but two rooms, about fifteen feet square, the one above the other, the upper being reached by a movable ladder which could be quickly withdrawn should occasion require. This building served for the time as a residence for the company's officials, and, as intimated, might have been utilized as a means of defense. But its limits were too contracted to prove efficient as a retreat for so many as half the settlers in the vicinity. It might serve as a rallying point, but nothing more; and under some circumstances it would be as likely to invite a disaster as to prove a protection against assault or siege.

The settlers therefore decided to construct around this building a fortification of sufficient dimensions to contain all who [140] would be likely to seek it as a retreat from imminent jeopardy. The material for its construction was near at hand and abundant. It was found in the heavy, tenacious prairie-sward, than which nothing could be more effective for the purpose; because it would be impossible for either bullets or arrows to penetrate it to the depth of three feet, or even much less. It was, of course, unflammable, which was a great point in Indian warfare; and time only served to make the layers of sward more adhesive and compact. The walls, seven or eight feet in height, and enclosing an area of a hundred feet square, were pierced by port-holes, which commanded an unobstructed range of the prairie on every side; whilst corner bastions commanded the immediate exterior sufficiently to make scaling a perilous venture. Inside the enclosure was a living spring of pure water, thus precluding the possibility of a water famine; and each individual seeking an asylum within the fortress was expected to bring with him sufficient provisions to last through a short siege. The signal of danger and call for "assembly" was produced by beating upon a pendent circular saw. This, unlike any other sound,

would be immediately distinguished throughout the settlement as a call to arms and concerted action.

Altogether, while this crude defense would doubtless have failed to pass the critical examination of scientific engineers, it would assuredly have proved a strong bulwark against any mode of warfare possessed by the Indians. Fortunately, it never became necessary to test its strength or defensive qualities. But its mere presence afforded a sense of security to the early settlers at Sioux Falls that repaid them many times over for the labor of its construction. In that way it may have served to ward off a calamity such as befell the colony at Spirit Lake.

There were continued threatenings and rumors during the summer and autumn of 1858, but nothing more serious occurred in the immediate neighborhood than the theft, by some of Ink-pa-du-ta's band, of three horses. One of these was a valuable animal belonging to Mr. Albright, and greatly coveted by the Indians, who had once before stolen him while the property of Colonel Nobles. The other two belonged to Mr. J. B. Amidon, who had arrived from St. Paul the day previous, [141] with his wife, son, and daughter. They were taken from the stable about ten o'clock in the evening, their loss being discovered half an hour thereafter. Pursuit was made at early dawn the following morning, and the trail was followed northward for two days; but the thieves succeeded in getting away with their valuable booty, and were never caught. The reward of "one hundred dollars for the return of the horse or the scalp of the thief," offered by the owners through the columns of the Democrat, called forth some very pronounced criticisms by certain Eastern papers. One of these censors in a Boston paper took up the matter quite seriously, and called for the arrest and punishment of the "Christian savage" who publicly offered a reward for murder. He was probably ignorant of the fact that in those days, on the frontier, there existed an unwritten law which made horse-stealing a capital crime, punishable with death, be the detected culprit white, black, or bronzed.

As Dakota was an unattached domain, having no voice in the political questions that obtained in either a state or a territory, the issues that divided its few citizens were merely sectional. A warm rivalry had sprung up between Sioux Falls City, representing the east and north, and Yankton, on the Missouri, which, with its earliest settlement in 1858, immediately became the center of interest for the western section. Each desired to make the best exhibit of population, improvement, and general progress; all of which were regarded as factors in the future location of the capital at such time as the country should change its condition of an ostracized waif for that of a recognized ward of the United States government.

The immigrants in the Missouri valley probably outnumbered those in the valley of the Big Sioux; but the latter were more enterprising and progressive, besides having organized companies, with capital to encourage and assist them. Moreover, these eastern colonists were almost all Americans, with the persistence and push incident to their nativity; while their more plodding western rivals were generally Swedes and Norwegians, who had taken up claims, and were content to till the soil and await events, with little apparent desire to hasten or influence them by personal effort. They had [142] gone there in quest of homes, and they had found them. They knew but little of our language or methods, and they were willing to bide their time, and let others shape the social and political status of their adopted country.

Sioux Falls, Yankton, and Pembina, were all in perfect accord upon one point, however, and that was a desire for territorial organization, and the consequent encouragement of immigration, the introduction of capital, and the establishment of industries; for it was argued that investments of any kind would be few and small where the collection of debts was left entirely to the conscience of the debtor, and where contracts could not be legally enforced, owing to the entire absence of lawful authority. The Dakota Land Company, on account of its greater interests, was especially anxious for organization; and it was hoped by its members that a direct and personal appeal to the powers at the national capital by an authorized delegate, representing a worthy class of citizens who were without other means of petition, might serve to hasten affirmative action.

It was in consonance with these views, in the spring of the year 1858, that Mr. A. G. Fuller, whose ability and acquirements eminently fitted him for the position, was selected and consented to undertake the onerous and profitless duties which the appointment imposed. His labors were to be in the interest of all; for, if successful, all would be benefited alike. Having received such credentials as were permissible under the circumstances, Mr. Fuller proceeded to Washington. He went fully equipped with data, documents, petitions, etc., and with letters of introduction from conspicuous gentlemen in the West to influential politicians at the Federal seat of government. It was not expected, of course, that he would be recognized as an empowered representative from an established territory; but he was admitted to the floor of the House of Representatives, and treated rather as a quasi-delegate by courtesy. Necessarily his intercourse with Congress was confined mainly to the Committee on Territories; and his endeavor was for the introduction of a bill organizing the new territory of Dakota. The committee heard him patiently, and

became convinced by his arguments; but they failed to make headway with the House, where matters of greater import-[143]-ance, at least to the members, furnished themes for debate. The times were unpropitious for the introduction of any new bill not possessing national interest. Sectional politics were at glowing heat; and measures offering political advantage to neither party were apt to be set aside. Representatives from the North and the South were jointly digging the "bloody chasm," and were unconsciously marshaling for the terrible conflict so soon to be inaugurated. Under these circumstances, Mr. Fuller saw that further effort on his part would be merely a waste of time, and consequently he returned to the West, somewhat disappointed at his present lack of success, but not discouraged as to the future.

It was certain that Dakota could hope for no Federal organization for at least a year, and it might be delayed for a longer and indefinite period. Meanwhile the country would be left without a semblance of law, or any acknowledged authority for the prevention or punishment of crime. This would be to invite within its limits a class whose presence would be a constant menace to society, with the probable effect of putting a stop to further immigration. These conditions led to a proposition, which met with the general approval of those concerned. It embraced the establishment of a temporary government to have existence only until a more permanent one should be provided by congressional enactment. There was no precedent for such a proceeding (unless in the dissimilar action of Utah), but necessity creates precedents; and in this instance the law of self-preservation furnished not only the pretext, but the justification. It would be a practical application of "squatter sovereignty" in its best sense, and certainly preferable to lynch law, its only alternative under the circumstances.

In response to the generally expressed sentiment, a convention was called to meet at Sioux Falls City on a given day, in the summer of 1859, to decide as to a proper mode of procedure in the premises. The attendance was limited, owing to the wide separation of communities and the primitive means of travel, no less than the sparsity of population. The boundaries north and south were the British Possessions and the Territory of Nebraska; and the average white population was scarcely one to a hundred square miles of territory. Those [144] taking part in the proceedings, however, were uniformly men of character and intelligence, and were all earnest in the matter which brought them together.

Following the organization and the appointment of committees, came a brief recital of the peculiar conditions in which the inhabitants of Dakota were placed, as

American citizens within the limits of the United States, but without political affiliation with either state or territory, being without laws, protection, or Federal recognition. As a result of the further exchange of views, it was decided as the sense of those assembled that the general good would be best subserved by the inauguration of a government having due authority to enact laws which should be recognized as the voice of the people, and be regarded as valid and binding upon all, until such time as the United States should grant them a territorial organization. Authority to enact laws was assigned to a legislative body, to be duly elected by the people and to meet in session at Sioux Falls City at a stated time. The government of the former Territory of Minnesota, modified to meet exigencies, was accepted as a model for that of her cast-off sister; a committee was appointed to so change and amend the laws of that territory as to make them applicable to the requirements of Dakota; and the code, so amended, was to be submitted to the first legislature for their approval or further amendment.

To obviate the necessity of another assemblage, the convention assumed the privilege of making nominations for the offices of governor, secretary, and delegate to Congress. The latter position was unanimously tendered to the former delegate, Mr. A. G. Fuller; but that gentleman felt compelled to decline the proffered honor, in justice to his private interests, which, having been neglected during the previous winter, now demanded his attention. Several names were proposed instead, the nomination finally going to Mr. J. P. Kidder, an eminent jurist, and lieutenant governor of Vermont previous to his removal to St. Paul, from which city he came to Sioux Falls City, which he had chosen as his future residence.

As the convention's candidate for the position of governor, Mr. Henry Masters, of Sioux Falls City, was put in nomination. Mr. Masters was a gentleman of high executive ability [145] and thorough method. Previous to his present nomination, he had been regarded as a sort of unofficial magistrate in the Sioux valley, to whom the citizens turned for counsel and arbitration in matters of controversy. Originally from Massachusetts, he removed to Dakota with his family and effects, from Dubuque, Iowa. A few days subsequent to the adjournment of the convention, the community was startled by the information that he had been stricken by apoplexy at his home, and that death had followed the stroke. An important vacancy was thus created on the ticket so recently named, and one which was necessary to be filled without delay. It being impracticable to call another convention, the recent committee on nominations, after mature deliberation, named Mr. S. J. Albright, of the "Dakota Democrat," to fill the vacancy so unfortunately created by the death of Mr. Masters. The nomination thus proffered reached Mr. Albright and was

accepted by him at St. Paul, whither he had gone, in company with Governor Kidder, in order to be in more direct communication with Pembina, whose vote was regarded as a necessary factor to the success of the general ticket named at Sioux Falls. This included, also, the name of Mr. J. M. Allen, from Ohio, as territorial secretary.

In the meantime the Missouri valley party was not idle. They had met at Yankton and selected for their gubernatorial candidate Captain J. B. S. Todd, a former officer in the regular army, and a gentleman in every way qualified to fill the position which his friends wished to bestow upon him. His support came almost exclusively from Fort Randall and the settlers in the Missouri and James river valleys, whose interests he championed. He was unsuccessful, however, in the contest for votes. Pembina, in the north, held the balance of power. Hon. N. W. Kittson, whose judgment in that section was accepted as almost infallible, was a warm personal friend of Mr. Albright, in whose favor he exerted his influence. The result was the defeat of Mr. Todd, and the success of the Sioux Valley ticket, carrying with it the location of the capital at Sioux Falls City.

A good portion of the succeeding winter was spent by Governor Kidder in Washington, as the duly elected delegate to Congress from the self-created territory of Dakota. The [146] prominent official position formerly occupied by him in Vermont, his high standing as a lawyer, his extended acquaintance with politicians, and his own genial temperament, were all adjuncts to Governor Kidder's earnest endeavors in the interest of his constituents. He was accorded an honorary seat in the House, which entitled him to no further rights, however, than a full hearing before the Committee on Territories, and in one instance, possibly, to be heard in full session on the "Territorial Day." He presented to Congress an exhaustive brief, which the House printed as a public document, in connection with an able oral argument in favor of granting to his constituents territorial enfranchisement. But argument, oratory, and appeals, proved alike as unavailing as were the efforts of his predecessor; and he returned to his orphaned territory to report upon the failure of his mission. His labors, however, were fully appreciated by those to whom he gave his time and talents; and he was later selected by the United States government as one of its Federal judges.

The first legislative assembly of Dakota came together in Sioux Falls City in the winter of 1859. It was in response to the mandate of the people's convention, which authorized it. There was no domed capitol to open its wide doors to these frontier legislators; no gilded halls, with soft carpets and luxurious chairs, to receive them.

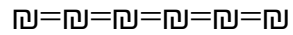
In fact, the capital city could boast of no sort of public building, nor private one, either, large enough to accommodate both branches. It was, therefore, decided to select two places, in near proximity, in which to hold the legislative sessions. The Senate was called to order in the cabin of Hon. W. W. Brookings, who had been elected as a member, and who afterward was chosen as the president of that body, although his infirmities, heretofore related, made it extremely difficult for him to leave his home.

The House of Representatives met in the office of the "Dakota Democrat," and was organized by the election of a speaker and clerk. That newspaper was chosen as the official organ of the public printing for both branches. It was agreed to make the session as brief as possible. There was, indeed, little to be done except to put upon record the facts relating to the institution of the government; the enactment of a code of laws; the defining of county limits; the incorporation of several companies; and the petitioning of Congress, as a body, for territorial organization. They found ready for joint action, immediately upon assembling, "House Bill No. 1: To enact certain laws for the government of Dakota Territory." It was a neatly printed bill, covering several foolscap pages, so amending the Minnesota code as to make it applicable to the needs of Dakota. It had been prepared by a committee named by the preceding convention, and was adopted with very few amendments. Having concluded their labors in a most satisfactory manner, the legislature adjourned; and so was created and inaugurated the only genuine "squatter sovereign" government known to our history, the record of which should find a page in the annals of the two Dakotas, now grown rich and populous. Nor should the memory of those who, amid hardship and perils, and in some cases at the sacrifice of their lives, planted the seeds of civilization and laid the foundation for the building of two states, be permitted by their historians to die with the generation that knew them.

The names of the settlers at Sioux Falls in the years 1858 and 1859, so far as now remembered, are the following: Alpheus G. Fuller, J. P. Kidder, S. J. Albright, James M. Allen, J. E. Gay, Byron M. Smith, F. J. De Witt, W. W. Brookings, Dr. J. L. Phillips; Henry Masters, wife, and three children; C. S. White, wife, and child; Mr. Greenleaf and wife; Baron F. Freidenreich, and his son; J. B. Amidon, wife, and two grandchildren; I. I. Stewart, Joseph Scales, Mr. Philbrick, James M. Evans, A. L. Kilgore, L. B. Atwood, and James McCall.

The Sioux name of the city of Sioux Falls is Can-san-san Ha-ha Oton-wi, meaning "Whitewood Rapids City." The species of tree referred to is plentiful in the narrow

belts of timber which grow, here and there, along the banks of the Big Sioux river. It also has a wide geographic range in the United States and southern Canada, east of the 100th meridian, being known, perhaps, more commonly, under its other names, as the basswood or American linden. ■



Posted MLHP: June 14, 2011.