

EARLY JUSTICE COURT IN JACKSON COUNTY

(1910)

FOREWORD

BY

**DOUGLAS A. HEDIN
EDITOR, MLHP**

Many early county histories relied on the reminiscences of old timers. While early settlers recalled the hardships of the frontier, they also had memories of pleasant times, and when it came to justices of the peace and antics in justice court, their recollections were invariably laced with humor.

One of the first justices of the peace was Hiram S. Bailey, who arrived in Jackson County in 1865. Although the county was formed May 23, 1857, one year before the government of the new State of Minnesota was inaugurated, a county government was not elected until November 1865. The following account of the first election of county officials suggests that the early settlers were not deterred by technicalities:

Many difficulties beset these pioneers in their efforts to organize the county. The election was to be held at the home of Jared Palmer, who lived on a farm a short distance south of the present village of Jackson. When it came time for the opening of the polls, Mr. Eddy, one of the commissioners, was absent. In his place Major H. S. Bailey was chosen by the other commissioners to act as one of the judges; W. C. Garratt was selected clerk of the election board. In the whole of Jackson county there was not a man who had authority to administer an oath,

and the judges were confronted with the serious question of how to qualify. Some time previous Major Bailey had held the office of justice of the peace in another county, and he took the responsibility of swearing in the other two judges and clerk of election, although he had no legal authority to do so. One of the other judges then administered the oath to Major Bailey.

The following profile of Justice Bailey reveals a man devoted to his community, and that quality, more than legal training, was necessary to be a successful justice of the peace at that time.

MAJOR HIRAM S. BAILEY (1865), deceased. In the early days of Jackson county's history there were few men who took a more important part than did the gentleman whose name heads this sketch. In political matters he was a leader and played a most important part in the organization of the county.

Major Bailey was born in Montgomery, Vermont, in 1829. He received a common school education in the towns of Montgomery and Waterville and completed his education in an academy at Bakersfield. In 1853 he came west and located in Dodge county, Wisconsin, residing on a farm near Waupon until 1856. That year he settled on a farm in Fillmore county, Minnesota, where he resided until the breaking out of the civil war. He enlisted in 1861 in company A, of the Second Minnesota infantry, and served four years and three months in the army. He enlisted as a private, but promotion was rapid and he was mustered out of the service as major. Major Bailey took part in some of the important engagements of the civil war and in the Indian campaigns. He assisted in the trial of the four hundred Sioux at

Mankato in 1862 and was present at the execution of the thirty eight who were hung.

In 1865, after his discharge from the army, Major Bailey came to Jackson county, where he resided until his death. Earlier in his career he had assisted in the organization of Mower county, Minnesota, and when he came to Jackson county, he, more prominently than any other, assisted in the reorganization of Jackson county. The first county election was held at his home, in his log cabin, near the village. In partnership with Welch Ashley he platted the town of Jackson and was active in the promotion of enterprises and the settlement of the county. Among the offices he held were county commissioner, court commissioner, superintendent of schools, member of the board of education and justice of the peace. Major Bailey died at Jackson April 20, 1901.

Major Bailey was married at Bishford, Vermont, March 10, 1852, to Jane Wheeler. They had five children: Sidney, who died at the age of one year; Frank E., of Jackson; Wallace M., who died at the age of twenty-one; Freddie, who died at the age of eighteen; Brownie H. (Mrs. W. H. Dunstan), of Spokane, Washington.

The following accounts of what transpired in justice court in Jackson County in the 1860s appeared first on pages 314-16 of *An Illustrated History of Jackson County, Minnesota*, compiled by Arthur P. Rose, and published by Northern History Publishing Company, Jackson, Minnesota, in 1910. (The account of the first county election appeared on page 190, and the profile of Major Bailey appeared on page 339). The excerpts are complete, though reformatted. The author's spelling and punctuation are not changed. □

TROUBLES OF A JUSTICE.

Many ludicrous, as well as distressing, events occurred in Jackson county during the hard times that occurred soon after the county was organized.

When the first town meeting was held in Petersburg, in April, 1866, two justices of the peace were elected, one living in Petersburg township proper, the other living near Loon lake in what is now Minneota township. As everybody was peaceably inclined, there was not much for a justice to do that year. But about Christmas time the Loon lake justice was overwhelmed with work. Six people came to him desiring to be made into three, and such a wholesale order was not to be cast aside. He proceeded to perform the marriage ceremonies in his best style, and the newly married went away happy.

Three or four weeks later some one informed the justice that he had made himself criminally liable for marrying people who had not first secured a license. He became alarmed and sought advise as to the best way out of the scrape. Some one advised him that the best way would be for the parties to procure licenses and be married over and thus legalize the affair. This struck the justice as the proper way out of the dilemma, and he proceeded to notify the parties accordingly. The first couple thought so, too, and wanted the job done up strong. The second couple were satisfied and said they would risk the former marriage. The third couple lived just over the line in Iowa, and when the justice broke the situation to them, the man said: "Good; I am glad of it; I've had enough of married life; I'll quit and don't want to be married again." The woman chimed in: "All right; if you're sick of it, I am, and if you want to leave, leave, so now." And they separated. This is the only instance on record where a justice of the peace granted a divorce.

EARLY JUSTICE COURTS.

The duties of early day justices of the peace wore not entirely taken up with performing marriage ceremonies, and sometimes the courts were attended with ludicrous scenes and results. George C. Chamberlin, in the Jackson Republic of January 27, 1888, tells of his recollections of some of these events:

"I recall the first justice court held in Jackson, or on the original townsite. It was early in the spring of 1867, and was held in T. A. White's store. A Mr. Blackmer was building a mill up the river and refused to pay the farmers in the vicinity who had labored in the construction of the mill and dam, and naturally they commenced an action to recover. Mr. Blackmer brought M. E. L. Shanks from Fairmont to attend to his interests, and the boys here secured one of our citizens to prosecute the case, there not being at that time a lawyer in the county. Major Bailey was the justice, and he and the unlearned and unlicensed home attorney beat Blackmer and Shanks, but Blackmer beat on execution.

"That little building on the corner of Second and Ashley streets is replete with scenes and incidents of early days in Jackson. It was the first building lathed and plastered in the county. Commissioners held sessions there; Rev. Peter Baker held services there, and during the winter of 1867-68 school was taught in the building. Major Bailey was holding court there on one occasion when Evan Herbrandson led up a smiling damsel, and, looking square in at the door, announced matrimonial intentions; whereupon the Major suspended proceedings, and right then and there made two hearts beat as one inside of five minutes, and then went on with his court.

"There were occasionally assault and battery cases in those days that never came to trial. I recall one case where the doctor who was called to attend one of the parties to a scrimmage reported hardly a strong enough case to warrant

an arrest. A slight wound was inflicted by one of the assaulters and a physician was called to dress it. The doctor was reputed to be not particularly skillful in surgery, but he had stowed away in his memory a few medical and anatomical phrases, to be used as occasion might arise. He returned from the scene of the fracas, and of course there was a rush to the buggy to learn the result. He made the affair out not a serious matter and remarked that there were 'but a few scratches by a knife about the diaphragm and the epiglottis.' A bystander turned to go, and answered further inquiries by stating that the doctor said there was no trouble, only that the 'diafrown was up and the epaminondous was down.' The diagnosis was accepted, and that was the last of the case."

A WIFE AS A JAILOR.

The primitive condition of Jackson county under its first organization led to many a queer official proceeding, viewed in the light of present conditions. The story is told that in 1861 Joseph Muck, who with his large family had come to Jackson county and settled near the present site of Jackson in 1858, had a row with a traveling minister and struck him with a club. Muck was promptly arrested and taken before Judge Simon Olson, then a justice of the peace, who fined the prisoner ten dollars or ten days in jail.

Muck chose the latter. It is stated that at the time the nearest jail was at St. Paul, and that Israel F. Eddy, who was the county sheriff, was too busy catching muskrats to think of making such a trip; so he appointed Mrs. Muck deputy sheriff and made her her husband's jailor. Mrs. Muck, so the story runs, worked her prisoner in the garden ten days and then put in a bill for ten days' board, which was allowed by the county commissioners.

A partial verification of this story is found among the few county records of the first organization which have been preserved. In a little book containing a record of county

warrants issued, I find that warrants numbered 58 to 62, inclusive, were drawn in favor of Joseph Muck, all under date of October 4, 1861. These were for a total of \$14—the first four for three dollars each, the last one for two dollars. The form of the entries is as follows:

No. 58. Oct. 4, 1861. Joseph Muck, for wife's services as jailor and prisoner's board, \$3.00.

Muck had had the satisfaction of beating the minister, had settled his ten dollar fine, had received fourteen dollars from the county and had got his garden hoed; and the court was ready for the next case. ■

ŷŷ

Posted MLHP: February 21, 2011.