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A STATEHOOD CENTENNIAL FEATURE

Minnesota Frames a Constitution

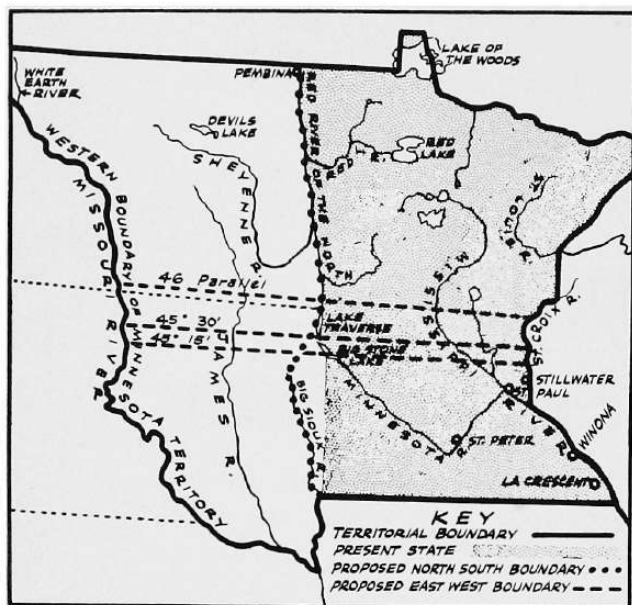
WILLIAM ANDERSON

THE APPROACH of the centennial of Minnesota's admission to the Union, May 11, 1958, reminds us that before the state could be created the people of Minnesota Territory went through the throes and excitement of framing and adopting a constitution. On the basis of this document, Congress granted statehood to Minnesota. The entire transition from the status of a territory to that of a state took about eighteen months, from December, 1856, when Delegate Henry M. Rice introduced into Congress a bill to enable Minnesota to draw up a constitution preparatory to admission, to May, 1858, when the people learned that Minnesota had become a state. So many interesting and even exciting events were crowded into that short period that I can do very little more than touch upon the high spots and give my own interpretation of what occurred.

I put some emphasis upon the framing of the constitution itself because in its 1957 session the state legislature gave serious thought to the question of asking the voters to decide whether the time had not come, after a hundred years and eighty amendments, to hold a second constitutional convention, to overhaul the document under which the state is governed.

How shall the framing of the constitution of Minnesota be treated? How shall we view the event? Shall we take a state-centered view and speak primarily of what happened in Minnesota? Or shall we take a broad national view and treat what happened in Minnesota as one episode in the building of a Union of forty-eight states stretching from the Atlantic to the Pacific? For a full understanding of what took place in Minnesota, I think we need to combine the two. Against the broad background of the making of many new states, one after another, and the filling in of the nation's area with forty-eight self-governing commonwealths, let us look closely at what happened in Minnesota.

In each territory before it was organized, and in each state before it was admitted, there was more or less political jockeying among local land speculators and political leaders, rival factions and political parties. In Washington, Congress almost never permitted a territory to be organized or a state to be admitted, without considerable partisan and sectional maneuvering, bickering, and debate. In every case, local and national issues were rather closely connected, and local and national leaders joined to make the critical decisions.



TERRITORIAL and proposed state boundaries

To look upon the whole procedure of filling in the map with additional states as a smooth, easy, and nearly automatic process is quite erroneous, as the famous historian Hermann Eduard von Holst so strongly emphasized in his study of the *Constitutional and Political History of the United States*. Reviewing the years before the Civil War, he saw strife between North and South, between slavery and antislavery forces, and between the major political parties, as factors in case after case of the formation of a new state and its admission to the Union.¹

I shall not have time to trace the details of the majestic movement that led to the building of forty-eight states into a mighty nation, nor can I take time to comment on the sectional and partisan strife that accompanied the movement down to the time when Minnesota entered the Union in 1858. The plight of Kansas in the years just before the Civil War shows that the sectional struggle over slavery had tremendous repercussions in the process of admitting new states. Remember that the nation was in turmoil, Congress was in a bad mood and partially stalemated, while

the political parties were undergoing great soul searching and far-reaching and convulsive changes.

Although I shall center my narrative on the writing of the document that we call the Constitution of Minnesota, other matters are unavoidably drawn into the account. These include particularly the division of the area of Minnesota Territory so as to establish the boundaries of the present state, and the settlement of certain related issues such as the location of the capital and the planning of railroads. Land-speculating politicians, townsites, county-seat, and state-capital developers, railroad and internal improvement promoters, and business and financial leaders of all kinds, took part in the achievement of statehood for Minnesota as they did in other territories and states. I mention these types not to condemn them, but to indicate the kind of social and political conditions that accompanied and helped to determine progress toward statehood.

THE BOUNDARIES of the state of Minnesota are set forth in the Constitution and so are a part of it. How did they come to be agreed upon? The land that makes up the area of the present state came into the possession of the United States in three steps. Minnesota East—the area east of the Mississippi River—was ceded to the United States by the British government in the treaty of 1783 that ended the Revolutionary War and recognized American independence. Twenty years later Minnesota West—that part of the Mississippi Valley which lies west of the great river—was acquired from France in the Louisiana Purchase of 1803. The Red River Valley country in northwestern Minnesota, whose waters drain northward through Canada and ultimately reach Hudson Bay, is not in the Mississippi Valley and hence was not a part of the Louisiana Purchase. This area

¹ For Von Holst's views and the events leading to the admission of Minnesota, see scattered passages in vol. 6: 214–239 (Chicago, 1889).

was acquired in 1818 by a treaty with the British which set the forty-ninth parallel of north latitude as the dividing line between the British possessions and the United States westward from the Lake of the Woods.

Although Fort Snelling was established in 1819, the Minnesota country had very few civilian white settlers for another twenty years. In 1837 Minnesota East was opened to settlement by a treaty with the Indians, and fourteen years later in 1851, Minnesota West was acquired by the treaties signed at Traverse des Sioux and Mendota. Minnesota East had been a part successively of the Northwest Territory and the territories of Indiana, Illinois, Michigan, and Wisconsin. Minnesota West, including the Red River Valley country after 1818, was first a part of Louisiana Territory, and then in succession of Indiana, Michigan, Wisconsin, and Iowa territories.

The admission of Iowa as a state in 1846, and of Wisconsin in 1848, left a large block of land north of Iowa and west of Wisconsin temporarily without organized government. This situation was remedied early in 1849 when Congress created the Territory of Minnesota, consisting of about 166,000 square miles bounded on the south by Iowa, on the east by Wisconsin, on the north by the British possessions, and on the west by the Missouri and White Earth rivers. The latter stream rises south of the Canadian border in the present state of North Dakota, and flows southward into the Missouri River between Minot and Williston.

Bismarck, the capital of North Dakota, and Sioux Falls and Pierre, the capital of South Dakota, as well as other cities, are within what was then Minnesota Territory. The total area was roughly rectangular and about twice as large as the present state. When the time came to consider the formation of the state of Minnesota preliminary to its admission into the Union, apparently no serious thought was given to making this entire area into a single state. A division of the territory was necessary, but

what part should become the state of Minnesota was debatable.

FOR NINE YEARS, from 1849 to 1858, the people in this large area were governed as a territory from Washington, D.C., and from St. Paul. The governor, the secretary of the territory, and the judges of the territorial courts were appointed by the president, but the members of both houses of the legislature were elected by the voters of the territory from districts defined by the legislature. The first governor—Alexander Ramsey of Pennsylvania—was a Whig, appointed by President Zachary Taylor in 1849; and the second—Willis A. Gorman—was a Democrat from Indiana, appointed by Franklin Pierce in 1853.

In order to present a united front in their approaches to the national government for more and more financial aid, the political leaders of the territory maintained a loose alliance, or truce, among themselves under the name of the Territorial party. Beneath the surface, however, there were definite party divisions and loyalties, as well as strong animosities and feuds within each party. The settlers coming into the Stillwater-St. Paul-St. Anthony area in the 1830s and 1840s apparently included more Democrats than Whigs. But the sectional struggle that came to overshadow all other issues in the nation—the question of slavery in the territories—lost friends for the Democrats quite generally in the North, and by 1854 and 1855, when the large wave of migrants from the northeastern states reached southern Minnesota through La Crescent, Winona, and St. Paul, the Republican party was already being formed and was attracting more members every day.

Thus it happened that the new population in southern Minnesota—west of the Mississippi and south and east of the Minnesota River—from 1854 on was or became predominantly Republican and agricultural, while the longer established settlements in the Stillwater-St. Paul-St. An-



St. Paul as
it looked in 1857

thony area were, in the main, strongholds of the Democratic party, with established interests not only in farming but also in trade, commerce, finance, and the public offices of the territory. The Democrats had support also in pioneer communities west and north of St. Paul, as far as Pembina in what is now North Dakota. A partisan cleavage, based to some extent on differing economic interests, quickly developed between the two regions.

This was the situation when statehood came to be seriously considered in 1856. Which party was to be the first to govern the state upon its admission became an important question. Considering the fact that the Democratic party was in control in Washington, it probably helped the cause of statehood to have it appear that the Democrats were also in control in Minnesota.

And so, in fact, it did appear. After his more than four years of service as Minnesota's territorial delegate in Congress, Democrat Henry H. Sibley was succeeded in this office in 1853 by Democrat Henry M. Rice of St. Paul. During its first four years, the territory was governed by Ramsey and the Whig party. After that, the territorial offices were, of course, in the hands of Democrats, and even the legislative assembly—which was elective—in general showed

Democratic leanings. It was, therefore, Rice, a Democrat, who had the most to do with getting favorable action in Washington looking to statehood for Minnesota, and the men who went east to help him and to consult with him were also largely Democrats, although there were others, too.²

THE PROBLEM of statehood for Minnesota was not, then, the simple one of transforming into a state a territory of established and accepted boundaries. First the shape and the boundaries of the proposed new state had to be agreed upon. Other important decisions that depended upon this one included the locating of the capital, the university, and the routes and terminals of the railroads that were planned to open the region to settlement and development, since it was generally expected that Congress would provide the state with a considerable grant of land to aid the

² Among Delegate Rice's visitors in Washington at this time were William H. Nobles, James Shields, Edwin A. Hatch, and Henry L. Moss of St. Paul, Thomas Wilson of Winona, and Henry T. Welles, and Richard Chute of St. Anthony and Minneapolis. "Mr. [Henry D.] Huff from Winona, Major [John S.] Watrous from Lake Superior, J. W. Lynde from Leech Lake, and other gentlemen" were also there, according to the *St. Paul Pioneer and Democrat*, January 15, 1857. See William Anderson, *A History of the Constitution of Minnesota*, 52 (Minneapolis, 1921).

building of railroads. Thus, rival plans for statehood developed that corresponded in general to the partisan and sectional cleavages already evident in the more settled portions of the territory by 1856.

The railroad question was one of the most crucial for the people in all parts of the territory. Without railroads only the rivers were available for large passenger and freight movements between Minnesota and the markets and sources of supply to the south and east, and in winter the Mississippi was frozen and unusable. In 1854 the Chicago and Rock Island Railroad reached the Mississippi at Rock Island, Illinois, and there was talk that the Illinois Central would soon reach Dubuque, considerably nearer to Minnesota.

In that year, too, there was a strangely involved but abortive attempt to procure from Congress a land grant for a railroad from Dubuque north through the eastern edge of Minnesota Territory to St. Paul and on to Lake Superior at Duluth and Superior. The plan failed despite the best promotional efforts of St. Paul and New York politicians, land speculators, financiers, lawyers, and various members of Congress and of the territorial assembly, who were all interested in one way or another in a Minnesota-chartered firm named the Minnesota and Northwestern Railroad Company.³

By the time the failure of this plan was fully recognized, events had moved too fast in Minnesota to warrant any revival of it. The area still badly needed transportation facilities, but a number of other railroad and real-estate companies besides the Minnesota and Northwestern had already been chartered by the legislature, and all had their caps set to catch the most valuable prize in sight—a large grant of federal lands for railroads and possibly for other internal improvements in Minnesota. But

such lands could not, presumably, be acquired and used or sold for a profit until Minnesota should become a state.

DURING 1854, 1855, and even early in 1856, most Minnesota leaders were advising the people to go slow in their demands for statehood, but by the middle and latter part of 1856, attitudes toward statehood had undergone an almost complete transformation. A period of feverish activity set in, all leading to a request for early statehood for Minnesota, or for such part thereof as Congress could be persuaded to admit.

The reasons for this sudden change of pace in the statehood movement are not entirely clear. They seem to have been connected, however, with the rapidly increasing voting strength of the Republicans—to the undoubted dismay of the ruling Democratic officeholders—and the failure of the railroad plans of 1854. A new political party was rising to give Minnesotans a choice of leadership, and some of its leaders were developing quite different plans for the future state and for its railroad system. It behooved the Democrats, who had been advocating a go-slow policy, to change their tactics and get into action if they were to control the making of the new state and its future development.

IN 1856 the question of how to divide the area of the territory in order to form the state emerged as probably the most important constitutional issue in Minnesota. It did not become a party issue in the strict sense, but instead cut across party lines. In general, however, the business and political leaders in southeastern Minnesota, where the Republicans were strongest, favored making the southern half of the territory into the state of Minnesota, cutting off the northern half by an east-west line extending from the St. Croix River westward to the Missouri at about 46° north latitude. This line would have run through or near such present-day communities as Hinckley, Little Falls, and Elbow Lake. Other

³ For the story of the Minnesota and Northwestern, see William W. Folwell, *A History of Minnesota*, 1:327–350 (St. Paul, 1956).

proposals placed the northern boundary farther south, at 45° 30', or even 45° 15', the former falling between Clear Lake and St. Cloud, and the latter farther south between Anoka and Elk River. The 46° line would have ended at the Missouri within what is now North Dakota, while either of the other two would have run to the Missouri south of Sisseton, South Dakota. Any one of the three lines would have created a state considerably smaller than the present-day Minnesota, and each one would have left St. Paul off in the northeastern corner, far from the center of an area with a long east-west axis. Such an arrangement would thus have militated against St. Paul's desire to remain the capital.

The planners of this east-west state extending from the St. Croix River to the Missouri had some substantial benefits in mind. They hoped to use the anticipated federal land grant to construct railroads from La Crescent and Winona on the Mississippi west to a junction at St. Peter on the Minnesota River and then on to the Missouri. This line, it was hoped, would become a major link in a railroad to the Pacific and be a means of bringing to and through Minnesota a vast trade with India and China. They expected to make St. Peter the state capital, and there was talk of moving the university to Winona. To these ends the legislature incorporated not only the St. Peter Company with broad powers to construct buildings and to do many other things, but also chartered several east-west railroads.

In the session of the territorial legislative assembly held early in 1857, the east-west faction had enough votes to pass a bill removing the capital to St. Peter, a bill that Governor Gorman—who had joined forces with them against the friends of St. Paul—was willing to sign. The attempted removal of the capital was frustrated, first by the disappearance of the enrolled bill in the possession of Joe Rolette of Pembina until the session had ended, and later by court decisions against the pretended law.

It was William W. Folwell's belief that majorities favorable to dividing the territory along an east-west line existed in both houses of the territorial legislature, and surely the vote on the capital removal bill supports this position.⁴

Proposals for an east-west line came up later in the year in both wings of the constitutional convention, but most insistently in the Republican section. By that time, however, the issue had been practically settled by Congress.

WHILE the east-west faction was striving feverishly to gain its ends in Minnesota, Delegate Rice was diligently at work in Washington in what proved to be a successful effort to achieve a quite different result. Congress had already developed the practice of having much to say about the boundaries of incoming states, as Iowa and Wisconsin had recently learned. Rice was already known and respected by the leaders in both houses of Congress. He had, as it were, "the inside track" at the place where the controlling decision would be made.

Galvanized into unexpectedly early action on statehood by the rising power and contrary plans of the Republicans and the business and political leaders of southern Minnesota, Rice introduced into Congress in December, 1856, a hastily prepared bill to enable Minnesota to adopt a constitution, organize a government, and become a state in the Union. In his bill, for which he began immediately to gain support in Congress, he provided boundaries for Minnesota more consonant with the interests of St. Paul, St. Anthony, and Stillwater.

He proposed to divide the territory along a north-south line from the point at which the Red River enters Canada, south (up the river) to and along the Bois des Sioux River, thence to and through Lake Traverse, west to the Big Sioux River (now in South Dakota) and down that river to the

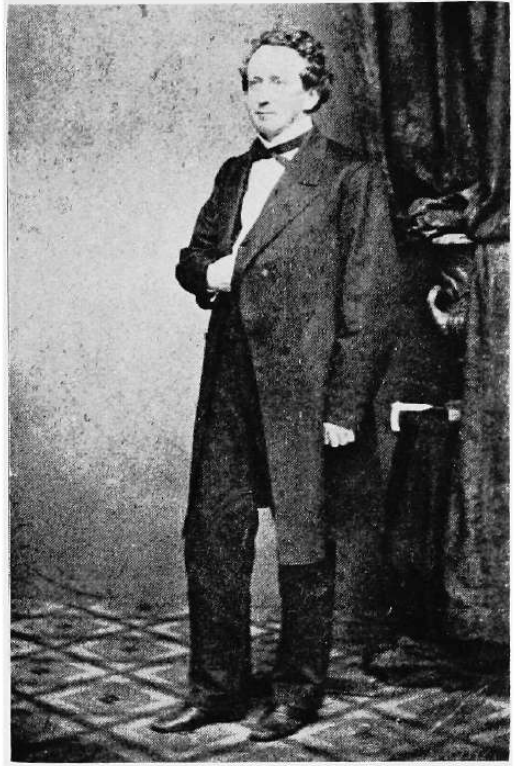
⁴ See Folwell, *Minnesota*, 1:390, 405.

northwest corner of Iowa. Congress reduced the proposed area a little by running the boundary through Lakes Traverse and Big Stone and thence due south to the Iowa line instead of along the Big Sioux River. In any case, however, Congress accepted a north-south division of the territory, leaving out the western and not the northern half, and giving the state its greatest dimension north and south, from the Canadian border to Iowa.

IN a companion bill for a railroad land grant to Minnesota, Rice revealed fully his plan for the future state. Of the five railroads provided for, four radiated out from St. Paul and St. Anthony — one almost due south to the Iowa line, a second southwest to the Iowa boundary, a third west and slightly north to near Breckenridge, and a fourth up the Mississippi and then to the far northwestern corner of the state where the Pembina settlement needed to be satisfied. Rice was shrewd enough, also, not to oppose an east-west railroad across southern Minnesota. Having been visited by many lobbyists from the Winona-St. Peter area, he included in his plans the proposed lines from La Crescent and Winona, joining at St. Peter and then going west across the state.

This concession seems to have had its effect. There was little opposition in Congress to Rice's plans for the state as a whole, and the opposition within Minnesota itself rapidly diminished. Though not without some difficulty, the Minnesota Enabling Act was approved by Congress on February 26, 1857. In the meantime, the last regular session of the territorial legislature was registering the defeat of the faction favoring an east-west division.

THE ACTS of Congress that compromised and settled the boundary question and the plan for railroads in the future state did not end the sectional cleavage in Minnesota, or the opposition to the dominance of St. Paul, but they did provide a working



HENRY M. Rice, about 1858

basis for the next steps toward a constitution and ultimate statehood. At the same time, by eliminating some issues that had cut across party lines, they prepared the way for a clean-cut partisan struggle over control of the coming constitutional convention and the election of the first state legislature and the first set of state officials.

Political events during the rest of 1857, including the work of the constitutional convention, developed almost entirely along party lines. By that time, the Republicans were gaining many supporters from the disintegrating Whig party, from antislavery Democrats, and from other sources. The election of delegates to the state constitutional convention developed into a contest between Democrats and Republicans, although there were some districts in which this was not clearly the case.

Rice's Enabling Act as passed by Congress provided for an election to be held on Monday, June 1, 1857, to permit "the

legal voters in each representative district . . . to elect two delegates for each representative to which said district may be entitled according to the apportionment for representatives to the territorial legislature." The delegates were to assemble on the second Monday in July at the territorial capitol. Once assembled they were first to determine by vote whether the people wished to be admitted to the Union as a state at that time. If the vote on this was favorable, they were to "proceed to form a constitution, and take all necessary steps for the establishment of a State government, in conformity with the federal constitution, subject to the approval and ratification of the people of the proposed State."⁵

Congress had thus provided for a constitutional convention, prescribing the date and manner of its election, the time of its meeting, and its duties. It had failed only to provide funds for the payment of the convention's expenses. Although the power of such a convention to create a binding obligation on the state to honor and pay these expenses might have been implied, as other incidental powers of conventions have been, the special session of the territorial legislature called by Governor Gorman in April made explicit provision that such expenses should be paid by the state.

But the special session went on to do a far more doubtful piece of business. It construed the words "representative district" in the Enabling Act as a broad, generic term, including both representative and council districts. Following this interpretation, it authorized the election of two delegates to the convention from each representative district and two from each council district, a total of 108 instead of the 78 seemingly specified by Congress. Just who was to benefit by this increase in numbers is not clear, but it did allow more people to be elected to the convention.

IN THE REGULAR SESSION of the territorial legislature early in 1857, Republican

leaders had struggled in vain to get a reapportionment of legislative representation to reflect the recent great increases in population in the southern counties. Reapportionment having failed, the June, 1857, election of delegates to the constitutional convention was conducted on the basis of the 1855 apportionment, which gave a considerable advantage to the Democrats. In spite of this fact, however, when the votes were counted, fifty-eight Republicans received certificates of election to only fifty Democrats.

The Republicans kept their fifty-eight accredited delegates, and added one more who claimed that he had been elected but that he had been denied a certificate. The Democrats lost one of their fifty, but added six more who disputed the elections of as many Republicans, so they claimed fifty-five delegates. All told, 114 delegates are listed in the convention rosters, instead of the 108 authorized by the territorial legislature.⁶

It is clear that there was little discussion of state constitutional issues in the campaign. The newspapers printed some "letters to the editor" and other items on state constitutions and government, but most of the political news and editorials dealt with national party issues. Democratic editors denounced the alleged "nigger worship" of the Republicans, and Republican editors replied in kind. The Negro suffrage question was kept before the voters by Democratic charges that the Republicans intended to force it upon the state.⁷

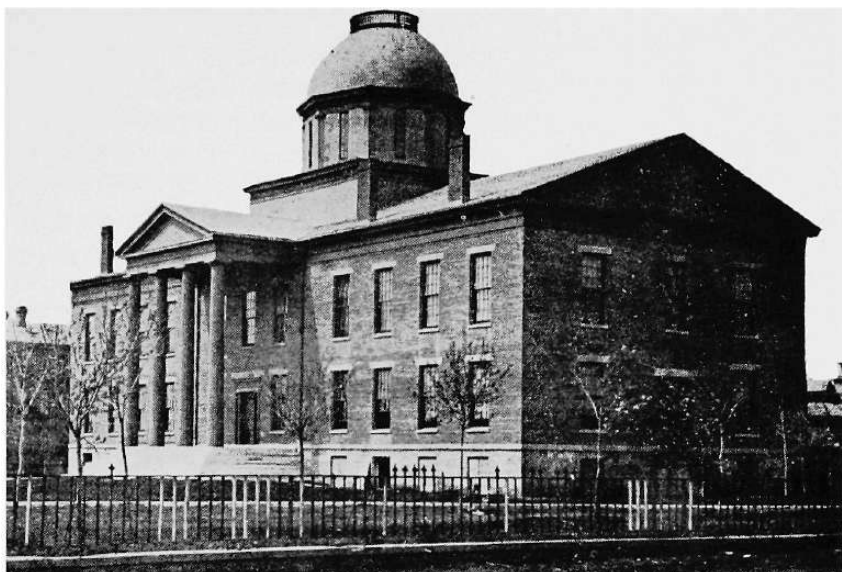
There were a number of irregularities in the election and in the issuance of certifi-

⁵ *United States Statutes at Large*, 11:166 (3 session). The Enabling Act has been published regularly in the *Minnesota Legislative Manual*.

⁶ For the rosters, see *Minnesota Constitutional Convention, Debates and Proceedings* (Democratic), 12-16, 676 (St. Paul, 1857), and *Debates and Proceedings* (Republican), 6 (St. Paul, 1858). See also Anderson, *Constitution*, 276.

⁷ See Anderson, *Constitution*, 71; Folwell, *Minnesota*, 1:394; *Debates and Proceedings* (Democratic), 529-531.

THE first
state capitol



cates to delegates, and charges of fraud were heard from both sides. Early returns received in St. Paul seemed to indicate a Democratic victory, but later returns revealed that the contest was a close one, and that victory might go to the Republicans. As the day for the opening of the constitutional convention drew near, tensions mounted, especially in St. Paul and up the river in St. Anthony.

WITH THE DEMOCRATS in control of the territorial offices in St. Paul, the Republicans became worried that they would be cheated of what seemed like their victory. They began to arrive in St. Paul several days early, and some even slept in the capitol. They made several contacts with the Democratic leaders in order to reach an agreement on the time and the arrangements for the first meeting, but the Democrats kept to themselves. There was a lack of candor in the latter's replies to Republican overtures and some evidence of tampering with the clock in the House of Representatives where the convention was to meet on July 13.

With the Republicans nearly all present in the chamber at what seemed like 11:45 A.M. by the clock, the Democrats suddenly

marched in as a body. They were led by Charles L. Chase, secretary of the territory. He quickly mounted the platform, called the meeting to order, and recognized former Governor Gorman who immediately moved to adjourn until the next day at twelve noon. Chase declared the motion carried even as a Republican leader, John W. North, who had also mounted the platform, was calling for nominations for president pro tem. The Democrats marched out as one body, while the Republicans stayed on, elected Thomas Galbraith as president, and proceeded to organize as a constitutional convention.

THE next day, the Republicans were in the chamber and at work, when the Democrats came to the door about noon, and were informed by their leader, Secretary Chase, that the hall was occupied by citizens of the territory who refused to turn it over to the constitutional convention. The Democrats then went down the corridor to the Council chamber, where they organized separately, elected Henry H. Sibley as their president, and also began the framing of a constitution.

From that day to the end of the proceedings and the signing of a compromise docu-



JOHN W. North in 1864

ment as the proposed constitution of the state, the Democrats and Republicans did not meet again in the same hall. Each group claimed to be *the* constitutional convention of Minnesota, the Democrats by reason of having captured the "organization" of the convention by their ruse of an adjournment under Secretary Chase on the first day, the Republicans by reason of having organized with a majority of accredited delegates.

The evidence as to what happened is incomplete and conflicting, but I have not found any reason to change materially the conclusion I reached thirty-seven years ago when I went over all the evidence I could then find. My conclusion was that the convention never did meet as a whole. With two men on the speaker's platform at once, the Democrats looking at and responding to one, and the Republicans listening and responding to the other, there never was a real meeting of minds, or a meeting in the true sense at all. Two meetings occurred

simultaneously in the same hall, with some intermingling of members at the edges of each, and such confusion that hardly anyone could tell what really happened. There were no roll calls, no attempts to check credentials, no minutes of the meeting, no subsequent approval of any record by the body of popularly elected members, in fact no agreement upon what happened or upon its significance.

ALTHOUGH both self-styled constitutional conventions met for the next six weeks in separate rooms in a rather small building, Minnesota Republicans and Democrats were probably never farther apart or more sharply divided. In one room Republican orators were justifying their own procedure and their right to consider themselves the legitimate constitutional convention, while at the same time denouncing the Democrats; and in the other room Democratic speakers were justifying their claims and denouncing the Republicans. It was said that the louder speakers in each convention could be heard in the other.

Despite the tenseness and uncertainty of the political situation, both conventions made progress in drafting sections and articles of a proposed state constitution. Both used committees, but the Democrats relied more heavily on them than did the Republicans. The latter were far more assiduous in attendance and in discussion, while the Democrats, many of whom were officeholders and more at home in St. Paul, had difficulty in maintaining a quorum.

In any case, the task was largely one of copying from the other thirty-odd existing state constitutions, and especially from those of New York, Ohio, Michigan, Illinois, Wisconsin, and Iowa. The pattern of American state constitutions was already set by 1857, and no very important innovations were proposed in the two Minnesota conventions.

The boundary question was raised anew, but the several proposals for an east-west division of the territory were voted down

by large majorities in both conventions. The right of Negroes and aliens to vote was also debated vigorously, and so were questions concerning monopolies, corporations, banks, legislative apportionment, judicial districts, and methods of amending the constitution. Problems relating to the bill of rights, the general structure and organization of the state government, taxation, and education received less attention than they deserved.

AFTER some three weeks of separate meetings, both conventions began to receive adverse comments upon their procedure from Minnesotans and from the national capital. Figuratively speaking, eyebrows went up and heads were shaken wherever people learned of the ludicrous constitutional convention or conventions in Minnesota. The possibility was not overlooked that outbursts of violence might result if two separate constitutions were submitted to the voters, and neither was the greater danger that Congress would refuse, or at least delay, Minnesota's admission to the Union.

By early August there was talk of conference committees and some sort of compromise that would enable the two bodies to agree upon one constitution and, at the same time, permit them to save face. The Republicans, whose expense accounts were not being honored by the Democratic treasurer of the territory, were the first to make a move toward compromise. In general, the Democrats were more adamant in their refusal to recognize the Republicans and were slower to yield; indeed, a few members of that body were so incensed at a decision to explore the possibility of compromising that they left the convention.

In the end, both conventions agreed to appoint conferees, and it was not long before five men from each body began to

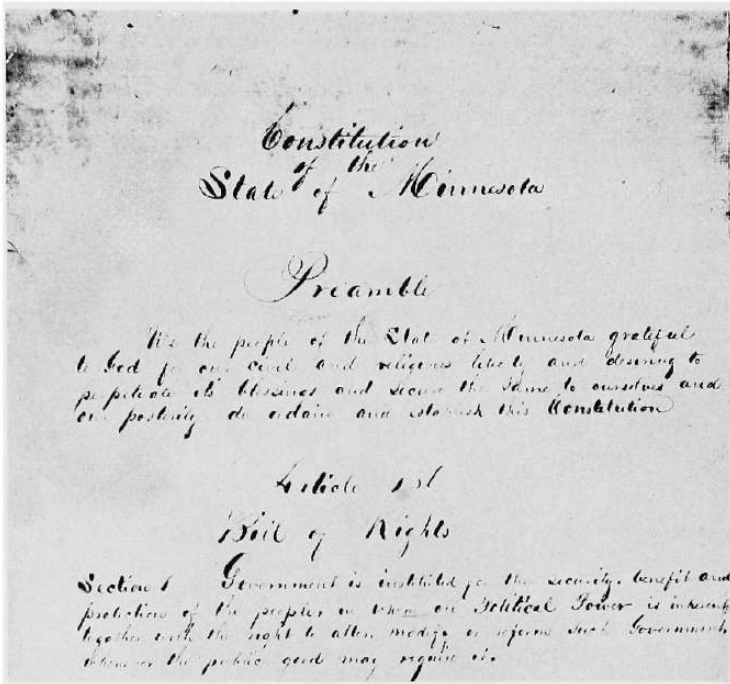
meet in secret to frame a compromise constitution. From August 18 on, while the conventions continued to meet, the conference committee worked on a compromise. By August 24, its members had reached a deadlock, mainly it seems over the question of how to open the suffrage to nonwhites. The tension must have been nearly at a breaking point when, on August 25, ex-Governor Gorman attacked Thomas Wilson with his cane over a disparaging remark. Wilson arose to use his own cane on Gorman, but the two were separated. Both were then induced to leave, and the compromise was soon completed.

IT IS IMPOSSIBLE to assess the relative importance of the several elements in the compromise. The Republicans apparently agreed to restrict the suffrage to white persons, in return for a very simple method of amending the constitution that would make it possible to change the suffrage clause and any other portions of the document. They also obtained a much fairer apportionment of members in the legislature than had prevailed in previous years, as well as a set of judicial districts to their liking. For the rest, the Democratic draft supplied more provisions for the compromise constitution than were drawn from the Republican version, but the differences between the two were not great.

It was a bitter pill for members of both conventions to have to accept the compromise document, but accepted it was by a majority of each body. Even so, however, some members of each group refused to recognize the validity of the other one, and said they would not sign the same document.

By agreement two groups of copyists were set to work late on Friday, August 28, to enroll two copies of the compromise constitution.⁸ These two differ somewhat in punctuation, spelling, and in other minor respects, but considering the fact that they include eight different handwritings, and the haste with which the work was done,

⁸These two documents are preserved in the Minnesota State Archives. They are also reproduced in facsimile in *Minnesota Statutes Annotated*, 1:37-65, 67-107 (St. Paul, 1946).



PART of the first page
of the Constitution
(Republican draft)

the differences are surprisingly trivial. Thus, Minnesota is unique in having two originals of what is one and the same constitution.

Both conventions also published their *Debates and Proceedings*.⁹ These volumes contain a great deal of interesting material about the thinking and the conditions of the times, but it is generally recognized that they have little value as aids in interpreting the compromise constitution that was drawn up in the conference committee. The members of that committee for reasons of their own picked some provisions from each of the two drafts, but they also wrote in additional provisions. Furthermore the compromise committee left no written record as to why it selected some provisions, left out others, and wrote in still others. In a sense, therefore, the document has to speak for itself, and it has done so. Though often amended, it has served the state for a hundred years.

FOLWELL once characterized the convention proceedings as a "roaring farce," but the men who took part in them were deadly serious. To each of the sectional groups and

the political parties involved, the others represented a dangerous and destructive force in Minnesota and even in the nation. It is obvious that national politics got mixed up in what was essentially a state and local problem. The years just before the Civil War were a time of intense political partisanship and well-justified fears for the continuance of the American republic.

We who look back upon the making of the Minnesota constitution see in the attendant proceedings a great measure of selfishness, unscrupulousness, vanity, pride, and irresponsibility on the part of many actors in the play. All things considered, however, I cannot find it in my heart to condemn the leaders on either side. They were acting more or less as men have always acted in defense of their supposed interests. In the end, they came to see the larger interests of Minnesota and the nation, and they acted finally in that larger interest. Thus the result was, on the whole, a good one. Have we any right to say that they should have achieved more?

⁹ See footnote 6, above.



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