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The Constitutional Convention of Minnesota, A Frontier Approach to Government

Stuart G. Lang

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THE CONSTITUTIONAL CONVENTION OF MINNESOTA,
A FRONTIER APPROACH TO GOVERNMENT

BY
STUART G. LANG

HONORS PROGRAM
SAINT JOHN'S UNIVERSITY
COLLEGE OF ARTS AND SCIENCES
1965

PREFACE

This paper began to develop in the fall of 1963 while I was doing course work on the history of the West. I chose a topic in Minnesota history because of the availability of sources. The Minnesota Historical Society is located in St. Paul, my home city. (It affords a very good opportunity for an undergraduate to become acquainted with important types of original source material.)

While preparing this work many problems were encountered. Very few studies of professional quality have been made on topics related to the formation of the state government. The Historical Society owns many collections which include personal papers of the delegates, but most of these men evidently did not write from May to September of 1857. A few leaders of the convention left memoirs, but they said very little about the Constitutional Convention. Finally, it is amazing that newspaper collections are fairly complete except for the summer of 1857.

Fortunately, however, many people have assisted me with the research and preparation of this study. I would like to express my gratitude to the following libraries for their assistance in securing the source

material: The manuscript, newspaper, and circulation departments of the Minnesota Historical Society; The St. John's University Library; and the University of Minnesota Walter Library. I wish to thank Father Vincent Tegeder, OSB, my research director, who even took time during his leave of absence to examine the first drafts. I would like to express my appreciation to Dr. Joseph Heininger, my academic adviser and the senior coordinator, for encouraging me to undertake this project and also for his many suggestions during the process of completion. I also wish to thank the many faculty members at St. John's, especially Father Paulin Blecker, OSB, for their interest and help. Finally, I must thank my friends who not only encouraged me but also helped to proofread and type preliminary drafts.

St. John's University
April 8, 1965

Stuart G. Lang

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INTRODUCTION

This is a study of a particular event in a particular area. It is an examination of a frontier approach to politics during a very critical time in American history, the immediate Civil War period. The primary object of interest is the Constitutional Convention of the Territory of Minnesota which drafted the state's first and only constitution. The convention was unique because the delegates split the first day. Each party held its own constitutional convention.

Congress passed Minnesota's Enabling Act in 1857 and the Constitutional Convention met during the summer of that year. The most important sources of material pertaining to the convention are the Debates and Proceedings themselves. Professor Anderson noted that these contain a great deal of interesting material about the thinking and condition of the times.¹

Local newspapers also included much information concerning the events surrounding the convention. They suggest topics which interested the people and state the positions of the major parties in Minnesota on these issues. The St. Paul Pioneer and Democrat was the organ

¹William Anderson, "Minnesota Frames a Constitution," Minnesota History, XXXVI (March, 1958), 1-12.

of the Democrats in St. Paul and the Daily Minnesotan was the city's official Republican newspaper. Both the Minnesota Democrat, issued at Minneapolis, and the Minnesota Republican, published in St. Anthony, were important Republican weeklies for Hennepin County. Only a few copies of the Democratic organ in Hennepin County, the St. Anthony Express, are still available.

Capital city newspapers are usually considered to be important sources of political information. These papers are especially important because they directly represented the political parties. Hennepin County newspapers are a necessary source of information concerning the delegate election because procedural irregularities there were the immediate cause of the convention split.

Other materials contributing to this study include manuscript collections of personal papers, journal articles and monographic studies. It should be noted that no one thus far has made a similar study of the constitutional conventions. Professor William Watts Folwell noted in his History of Minnesota that very little work has been done on Minnesota history in the 1850's. Professor Anderson wrote the History of the Constitution of Minnesota in 1921, but this was a legal approach to the convention. His purpose was to formulate the real version of the state constitution. This was a study preliminary to the preparation of a tract in which he argued for a revision of the Constitution.

The material of this paper will be divided into three main subject areas. First of all, background material will be examined to put this event into its proper historical context. A brief survey of the delegates themselves will also be made. Secondly, the various factors will be examined which caused the partisan split in the organization of the convention. Thirdly, some of the important matters which especially dominated the debate will be discussed.

CHAPTER I

SUMMARY HISTORY OF MINNESOTA

The history of Minnesota naturally is similar in many respects to the history of other states. The development of Minnesota parallels that of other frontier areas prior to statehood. Yet there were many factors unique in its history because it developed in a location and during a time which necessarily varied from any other state.

It is essential to have some knowledge of the history of Minnesota to understand the events immediately preceding the Constitutional Convention. The content of many of the important debates often hinged on factors peculiar to the history of the Territory. This chapter includes a brief survey of some of the highlights in Minnesota's past which are relevant to the process of Minnesota's admission into the Union.

At least parts of Minnesota have been under four different flags, and numerous territorial and non-territorial governments have administered present-day Minnesota. Therefore the Constitutional Convention formulated only one of the many types of government which have had jurisdiction in this area. The area west

of the Mississippi was at one time part of Louisiana, and therefore it has been under both French and Spanish rule. The northern part of this territory was owned by Britain for a time. It was not until 1818 that all of this area finally came under the dominion of the United States. The eastern part of the state was included in the old Northwest Territory and had been part of the Territories of Illinois, Michigan, and Wisconsin respectively. That area which had been included in the Louisiana purchase was included in the Territories of Louisiana and Iowa, and at times it was even joined with the eastern part of Minnesota.

Minnesota did not become a separate territory until 1849, and this change in government was characterized by oddities just as the change to state government was to be. That area which is bounded by the Mississippi and St. Croix Rivers had been part of St. Croix County, Wisconsin Territory. When Wisconsin was admitted to the Union on May 29, 1848, the portion of St. Croix County which had been excluded from the new state organization was left in a peculiar situation. It again reverted to an unincorporated status, and only the very minimum of law and protection applied to the residents. On August 26, 1848, a group of citizens met at Stillwater to draft a memorial to Congress requesting the formation of a territorial government. Henry Hastings Sibley, a prominent businessman, and a partner in the

American Fur Company, was selected to deliver the petition to Congress.

There had been previous attempts to organize a territory for that area. The Wisconsin delegate to Congress, William Martin, had introduced a bill for this purpose as early as December 23, 1846. The Committee on Territories had returned a favorable report and it passed the House, but it was tabled in the Senate. No action resulted since Congress adjourned shortly thereafter. Again on February 3, 1848, the Chairman of the Committee on Territories, Senator Stephen Douglas, introduced a similar bill. It was not reported until August 8, and Congress again adjourned before action could be completed.

Since orthodox procedures had not been successful, someone brought forth a bold and unusual scheme to secure a territorial government for the area. He devised the theory that since no law had officially destroyed Wisconsin Territory, then Wisconsin Territory still existed where the State of Wisconsin had not superceded it. John Catlin, Secretary of Wisconsin Territory, took up the idea and did something about it. His action was taken while the Stillwater petition was still pending.

Catlin argued that if the Territory still existed, then it must still have a governor. The former governor of Wisconsin Territory had been elected to the United States Senate by the legislature, so Catlin as secretary

assumed that he was then acting governor. As acting governor, he issued a call for an election of a delegate to Congress, and on October 30, Sibley was elected. Catlin officially certified the election, and Sibley went to Congress as the delegate of Wisconsin Territory.

To the surprise of many people, Sibley skillfully gained acceptance of his credentials and a seat in the House. This was only a limited victory because Congress would not recognize the Territory he represented and authorize funds for it. However, his presence was important for the future Territory because he helped to guide the Enabling Act through a hostile House. The bill became a pawn in the political struggle between the Democrats and the Whigs, the party which was about to take control of the national administration. The Whigs wanted to delay the bill until after the inauguration so they could control the territorial appointments. Sibley helped to make a shrewd political deal, and a genuine territory was finally formed this time. The Act designated the name as Minnesota Territory.

The new Whig president, Zachary Taylor, had some difficulty finding a man who would accept the territorial governorship, but finally he offered it to Alexander Ramsey, a former congressman and party leader from Pennsylvania. He accepted and came to Minnesota during the summer of 1849. Although people had been settling in what is now St. Paul since the late 1830's, a town was

only beginning to develop during that summer. Sibley had secured the capital for St. Paul, but he had to host Ramsey at his home in Mendota for a few days until some of the necessary buildings were completed. Ramsey called for an election which was held on August 1, 1849, and the first legislature met on September 3, 1849, in a St. Paul hotel.¹

The new territory progressed slowly. Most of Minnesota-west was still Indian country.² The first important order of business facing Ramsey was to make a treaty with the Sioux Indians. Ramsey arranged for a meeting in October, 1849, but the chiefs did not approve any treaty until July, 1851. It was ratified by the Senate in June of the next year, but it did not come into effect until 1854. Negotiations were also begun with the Chippewa Indians who inhabited much of northern Minnesota. The Chippewa leaders and the government officials concluded the first important treaty in 1854. It took a few more years before the United States government had secured all of the land within Minnesota.

Although the population of Minnesota Territory began to increase from the moment it was created, it grew fastest between 1854 and 1857. This happened then

¹Theodore Blegen, Minnesota, History of a State (Minneapolis: University of Minnesota, 1963), 165.

²The term Minnesota-west is used by Professor Anderson to designate that portion of Minnesota west of the Mississippi River and within the Louisiana Purchase area. Minnesota-east then is that portion of Minnesota lying east of the Mississippi River.

not only because of the treaties which secured most of the Indian land, but also because Congress extended to Minnesota the preemption privilege for unsurveyed tracts of public land in 1854. This gave the people the right to purchase former Indian land which they had occupied even though they had settled on it before all the requirements of law had been fulfilled. The estimated population of Minnesota in 1855 was 40,000; in 1856, 100,000; and in 1857 when the official census was taken, the population was 150,092.³ This was one of the fastest population increases ever recorded by a new territory.

The year 1854 was an eventful one for Minnesota. Besides the events mentioned above, some citizens of Minnesota attempted to secure a generous land grant from Congress for the construction of railroads in the Territory. This failed because of attempted wrongdoing. Mr. Robert Brown suggested that at this time people first seriously thought about statehood.⁴ These were only members of the small groups interested in securing railroad land grants.

Also in 1854, the Chicago and Rock Island Railroad began operation as far as Rock Island making transportation to Minnesota easier. Most of the immigrants to Minnesota were from New England, Pennsylvania, and the

³Ibid., 173.

⁴Robert M. Brown, "Office of Delegate for a Minnesota Territory, 1848-58," (unpublished Master's dissertation, Graduate School, University of Minnesota, 1942), p. 130.

states of the Old Northwest Territory. These incoming settlers could travel by train as far as possible and then they took the river boats to St. Paul.

Finally, in 1854, the Republican Party began to form as a result of the dissatisfaction of many Northwestern politicians with the position taken by the two major parties regarding slavery and the Union. Partisan politics in Minnesota did not become important until mid-1856. However, the first Republican convention in Minnesota was held during the summer of 1855.

The largest increase in population in Minnesota occurred during the summer of 1855 and 1856. Most of the new people settled in the treaty lands south of the Minnesota River. The majority of these new residents, especially those from the Northwest, strongly adhered to Republican principles. Yet many others were members of the Republican Party because it was in opposition to the Democratic Party which then dominated the Territory from its stronghold in the region bounded by St. Paul, St. Anthony and Stillwater. This was so because a Democratic state legislature had secured an apportionment of districts early in 1855 which favored the central and northern parts of the state. Moreover, the capital city, St. Paul, was inaccessible to many residents of southern Minnesota during parts of the year.

Although there was some mention of statehood in 1854, Folwell said that Minnesota was not eager for

statehood until late in 1856. He pointed out that only four articles even mentioning statehood appeared in the Pioneer and Democrat during all of 1856. This he explained by pointing out that congressional grants to Minnesota were very liberal and the territorial taxes low.⁵ But if the people of Minnesota were not interested in statehood, some members of Congress thought that they should be. The Chairman of the House Ways and Means Committee, Mr. Campbell of Ohio, reportedly suggested:

I desire in this connection to give a gentle hint to the delegate from Minnesota Territory that with a population of 150-160,000 it is time that territory should make application to come into the Union as a state and pay its own way.⁶

This subtle hint was the first in a series of events occurring over a period of eighteen months which transformed a territory into a state. In December, 1856, Delegate Rice (who had succeeded Sibley in Congress) introduced a bill to enable Minnesota to draw up a Constitution preparatory to admission into the Union. It was quite evident that Congress would not consent to the admission of the whole of Minnesota Territory into the Union as one state. The Territory of Minnesota extended west to the Missouri River and therefore included a good portion of the present states of North and South Dakota.

⁵William Watts Folwell, A History of Minnesota (Rev. ed.; St. Paul: Minnesota Historical Society, 1956), I, 394.

⁶William Anderson, A History of the Constitution of Minnesota (Minneapolis: University of Minnesota, 1921), p. 81.

Northern congressmen usually tried to create as many new northern states as practicable so that they could easily maintain a balance with the South. Therefore it was necessary to decide how the Territory should be divided.⁷ Political leaders supported one of two important proposals. The majority of the people living in the population center of the Territory bounded by St. Paul, St. Anthony and Stillwater were Democratic. These areas had been settled first. They supported a division of the Territory similar to what actually was done--a north-south line. The more recently settled area of the Territory was the southern part and most of its new settlers tended to be Republican. The majority of these people supported a division of the Territory which would have placed the northern boundary just above St. Paul and the western boundary at the Missouri River. This was the so-called east-west line. They felt that this would not only be to their economic advantage, but they hoped also to increase their political influence in the region.

But the delegate in Congress, Henry Rice, was a Democrat, and he was in a position to influence decisively the content of the Enabling Act. At that time Congress actively exercised its right to direct all the steps a territory had to follow to be admitted. Rice had quickly become well known and respected in the House, and his opinion was important. The House gave much con-

⁷See Chapter VIII for a more complete discussion of the boundary proposals.

sideration to his suggestions when it wrote the Enabling legislation. Since Rice was a Democrat and a resident of the capital city area, he naturally sought to have the Enabling Act define boundaries of the future state in a way favorable to the interests of his party and his home area. In this he was successful.

Mention must be made at this point of the role of the railroads in the process of Minnesota's being admitted to the Union. In 1850, Congress began to aid railroad construction by granting large amounts of land in the public domain to state legislatures for that purpose. The legislatures would in turn make grants of this land to corporations organized for the purpose of building necessary railroad lines. The people of Minnesota Territory were aroused by the prospects of such land grants. They needed railroads to bring them in contact with the rest of the country, and also to connect points within the Territory. This would stimulate settlement. Many groups petitioned the territorial legislature for charters of incorporation for the purpose of building railroads.

These men had many ambitious dreams concerning the extent of their railroads. Many important and influential men in the Territory favorable to Eastern monied interests began to formulate plans in 1853 for the creation of the Minnesota and Northwestern Railroad. Henry M. Rice became Democrat delegate to Congress that year,

and in December he indicated his intent to introduce a bill to grant land to aid the construction of railroads in Minnesota Territory. This was a bold venture and many people doubted if Congress would make such grants to a territory because the idea was then relatively new. Even the established states had to work diligently to obtain them. The bill especially won many supporters after an amendment passed which was designed to insure that no specific group of men would profit because of the bill. But this amendment was slightly altered between the time it passed and the time the clerk engrossed the bill. A small change was made in the wording of the bill which also eliminated the effect of the intent of the amendment. The amendment had specified that the land grants would not be made to a corporation already organized and constituted. This would have eliminated the Minnesota and Northwestern Railroad Company from consideration. But the alteration made it possible for the company to receive the grant almost without further legislative action. Congress formed a committee to investigate how and why the change was made. The final solution was the repealing of the act granting the land.

Thus Minnesota did not receive any grants of land during the territorial period. The prospect of these grants was one of the reasons citizens actively and independently began to promote a statehood movement.

Rice worked not only for passage of the Enabling Act in Congress in 1857, but again actively sought railroad land grants. States had always been granted land for schools and public buildings since the enactment of the Northwest Ordinance in 1787, but the granting of land for railroads was new in the 1850's. Congress agreed to make generous grants of land to Minnesota because many of the members did not want to interrupt the practice and endanger the petitions from their own states for such grants. The bill granting land for railroads in Minnesota differed somewhat from previous bills because it specifically granted land for definite routes and designated the state legislature only as a trustee of the grants.

Therefore the railroad grants were an important consideration at the time Minnesota was seeking statehood. The location of proposed railroads influenced the various boundary plans. Details of the proposals are examined elsewhere, but it must be noted here that prudent distribution of the railroad grants helped determine Minnesota's present boundaries. Whereas it is true that Rice had much influence and almost dictated the terms of the Enabling Act including the boundaries, it is also true that he had to have the support of all of the people of the Territory for the Act. In order to insure that the people of Southern Minnesota would accept the terms of the Enabling Act and actively support Minne-

sota statehood, Rice obtained a grant of land for an important southern Minnesota railroad project.

The proposed Enabling Act was introduced by Delegate Rice on December 24, 1856. Although opposition to this bill developed, it passed the House by a rather close vote of 95 to 75. It is interesting to note that eighty-five of those who favored the bill were from the North and forty-eight of those opposing it were from the South.⁸ But it is also true that the bill received a majority of the votes of all three political parties. The only real grounds for opposition was the fact that Minnesota would become another Northern state. This would make the Northern advantage over the South even greater. But approval came on February 26, 1857, and the land grant act passed five days later on March 3.

On April 7, Governor Willis Gorman issued a call for a special session of the legislature. He explained that this session was necessary because he thought that the legislature had to provide measures necessary for the implementation of the Enabling Act. In fact the session had other concerns.

The special session met from April 22 until May 23, just one week before election of delegates to the constitutional convention. During the first three weeks, they discussed the railroad land grants and not the Enabling Act, since land grants were more important

⁸Anderson, A History of the Constitution of Minnesota, 60.

to them. None of the corporations which received the grants to aid them in construction of railroads began to build until 1862. In that year the St. Paul and Pacific completed its line between St. Paul and St. Anthony. The reason for this delay was the economic panic of 1857. Because of this panic, no one was able to attract enough capital to begin construction.

At the last minute the special session also passed the legislation it considered necessary to make the convention possible.⁹ There is some question whether this legislation was necessary. Nevertheless, the legislators made certain additions to the voting provisions and appropriated money to defray the cost of the convention. The legislation it passed was signed by the new governor, George Medary. President James Buchanan had appointed him, and he arrived in Minnesota April 22.

Many experts have said that most of the people were not very interested in the formalities involved in the process of becoming a state. They were interested, however, in the benefits which accrued to the status of statehood. But the activities involved in the process of admission to the Union were important to the political parties. The Democrats had only recently found need for more than nominal unity. They were then still only loosely organized in Minnesota. The Republican organ-

⁹Convention is used to refer to matters pertaining to the meeting in general. Conventions refers to instances where the fact of split meeting was pertinent.

ization was very young and at that time incomplete, but it did receive much help from outside of the Territory.

The procedure for selection of delegates was rather haphazard. Anderson mentioned that a number of eleventh hour nominations were made. For instance, Martin McLeod was informed of his nomination only two days before the election, yet he lost by only a narrow margin. Anderson attributed his loss to the fact that the Republicans got their ballots out first.¹⁰ Republican campaign clubs were not organized until May and many districts held non-partisan elections.¹¹ The campaign was not long in any district because the special session of the legislature lasted until May 23, and many people were waiting to see if the special legislature would pass any legislation pertinent to the election.

June 1 was election day throughout that part of Minnesota Territory which Congress had included within the boundaries of the future state. No one outside of the proposed limits had the right to vote. Because of the difficulties involved in holding frontier elections and because interest was not too great, only about half of the eligible voters actually voted on that day.

The constitutional convention began on July 13 and lasted throughout the hot summer of July and August. Immediately after the conventions adjourned, the parties

¹⁰Anderson, A History of the Constitution of Minnesota, 60.

¹¹See also Chapter V, page 54.

held the various local meetings used to select delegates to the state party conventions. The state political conventions nominated candidates to the offices which would be created by the grant of statehood. An election was held October 13, 1857, and the people accepted the constitution by the overwhelming vote of 30,055 to 571. The contest for the offices was again very partisan because the politicians believed that the party which won the first election would control state politics for many years thereafter.

The campaign was fought mostly on national and not local issues. The Democrats nominated their leader, Henry Sibley, for governor, and the Republicans nominated former Territorial Governor Alexander Ramsey. Evidently many of the charges of irregularity in the election for the convention (see below) were repeated in this contest. Their assistants handled the campaign. Sibley's chief aide was Joseph Brown, a long-time leader in the Territory, and Ramsey had the help of Ignatius P. Donnelly, who was to become an important and colorful figure in Minnesota politics. More than ten per cent of the votes in the gubernatorial race were thrown out, yet Sibley won by only 240 votes.

Because Congress was slow to act on the Minnesota Enabling Act, the newly elected legislature was in an unusual position. It was a state legislature in a territory. Its only important act was the election of the

United States Senators. Henry Rice was the first choice of most of the legislators, but they were divided in their choice for the second seat. Finally, many of the leaders of the Territory were by-passed and General James Shield was elected. He was a relative newcomer to Minnesota, having arrived in 1855 after serving a full term as United States Senator from Illinois. He served as Senator from Minnesota for only a year, and left the state shortly afterwards. He was a United States Senator from Missouri in the late 1870's.

The constitution reached the Senate on January 10, 1858, but objections and debate hindered passage. The bill to admit Minnesota to the Union became involved in the North-South struggle and the contest over the admission of Kansas to the Union. Many objections were raised because of the discrepancies between the directives of the Enabling Act and the actual procedure of the convention. In any event, Minnesota was admitted May 11, 1858. This was less than three years before the beginning of the Civil War.

CHAPTER II

MINNESOTA AND THE NATION

America in 1857 had matured to the point where it was about to enter into a new era in its development. At this same time the nation was restless because sectional and political strife was about to reach a breaking point. Thus the intellectual and political climate throughout the country was tense. The condition of the nation also influenced the nature of the convention and the content of the debates.

Although Minnesota was remote from the population centers of the country and communications were primitive, the people of the state were acquainted with contemporary thought in many fields. This contact was made through periodical literature and conversation with travelers and immigrants. Opinions on the sectional conflict and Negro rights appeared in editorials and the debates themselves. Many of the delegates proposed clauses for the constitution which were consonant with modern political theory.

Not only were national issues involved in Minnesota activities, Minnesota statehood was involved in the sectional disputes evidenced in Congress. Although, in

fact, the North had gained the advantage over the South by 1857, neither side was willing to admit the conflict was ended. While debate on Minnesota statehood was not as controversial as that of Kansas, its passage was indeed threatened by southern congressmen.

This chapter surveys the nature of the editorials and convention speeches which included reference to topics of national concern. The events surrounding the admission of Minnesota to the Union were not isolated. In many ways they present an example of the usual procedures, but the contemporary conditions made this event unique.

Debate on Minnesota statehood occupied Congress from December 24, 1856, until February 26, 1857. Professor Anderson noted that this debate appeared to some observers to be one of the most important battles between North and South for supremacy in Congress. He tended to discount the significance of this passage because he considered northern supremacy to be already established at that time.¹

The fact remains that all the votes in the Senate opposing the Enabling Act came from south of the Mason-Dixon Line. Many newspapers considered passage of the Enabling Act to be an important victory for the anti-slave cause. Regardless of what we know with our advantage of hindsight, Minnesota statehood was deemed an

¹William Anderson, A History of the Constitution of Minnesota (Minneapolis: University of Minnesota, 1921), 67.

important event by some politicians and journalists of the day.

The Chairman of the House Committee on Territories assured his colleagues that the Enabling Act for Minnesota followed so closely the traditional form of such acts that it could have come from a formbook. The Act contained the usual grants of public land for schools and public buildings. It outlined the procedure a territory had to follow to become a state.

Of course, the honorable chairman did not tell his colleagues about the political dealing involved in its passage. Various interest groups attempted to attach amendments to the bill, and these might have spelled defeat for it; but Minnesota was represented in the House by an able politician, Delegate Henry Rice. Its interests were ably defended in the Senate by one of the most prominent men of the time, Stephen Douglas of Illinois, chairman of the Committee on Territories.

The speeches in the conventions and the editorial debates in the local newspapers reflected the political temper of the nation at the time. The editorial of the Pioneer and Democrat for July 15 said:

The Black Republican Party in this territory . . . has been forced to define its position, and in so doing has exhibited those peculiarities of conduct noticeable in the same organization in the Eastern states where Negro equality and nullification are the recognized principles of the party.²

²Theodore Blegen, "The Day of the Pioneer," Minnesota History, XIV (June, 1933), 135.

Granted, this quote is significant because it points out a characteristic of frontier journalism, that is, partisan distortion of the facts. But it also points out that the local participants considered themselves related to the great national controversies.

As would be expected, the Republicans did not agree that the principles of their party were the same as those the Democratic press attributed to them. Mr. McClure made a lengthy speech on August 4 to defend again the Republican convention as the legal one. Among other things, he argued that Republican principles especially included opposition to the extension of slavery.³

It is very evident that aside from the election and organization controversies, the local editorial writers were more concerned with comparing the parties on the questions of great national controversies than on local issues. The only real local issue was the question of who would control the first state organization, and which groups and areas would gain the economic advantages.

The editorial of the Minnesota Democrat for June 3, the issue immediately following the important election, elucidated the principles of conservatism and opposition to the spread of slavery which most Republicans professed. This editorial was written after the election, and so could not have had as its purpose the winning of tradi-

³Debates and Proceedings of the Constitutional Convention for the Territory of Minnesota (St. Paul: George W. Moore, Printer, 1858), 12. Hereafter this is cited as the Debates and Proceedings (Republican).

tional Democrats to the Republican side for the election; but it claimed that the Republican principles then were consistent with the Democratic doctrine before the time of Franklin Pierce's administration. The constitution of the St. Anthony Campaign Republican Club, an organization formed for the purpose of winning an important local election, mentioned nothing about the local issues or constitutional principles, but did declare itself ". . . opposed under any and all circumstances to the further extension of human slavery over territory of the United States now free."⁴ It stated further that the best way to achieve this goal was for the Republicans to prevail over the Democrats.⁵

Slavery was never a real issue in Minnesota; yet this was the issue that primarily concerned the editorial writers. It was frequently mentioned in the debates by the delegates when they defended their organizations. If this was such an inclusive issue in frontier, non-slave, Minnesota, it must have involved many American people during the years immediately preceding the Civil War.

On July 27, Mr. Balcombe proposed a resolution to the Republican convention as part of the recurring defense of their organization; and this was commented upon in an editorial in the Daily Minnesotan of July 28.

⁴Minnesota Democrat (Minneapolis), June 3, 1857.

⁵Ibid.

Balcombe suggested that the reason the Democrats forced the divided situation on the convention was to keep Minnesota out of the Union until they would be able to control the convention. He charged that the Democrats wanted Minnesota to "come in as a truckling slave of the Southern owners."⁶ Again the Daily Minnesotan for August 5 charged the Pioneer and Democrat, "that immaculate organ of Negro breeding Democracy," and the party as being opposed to the admission of Minnesota into the Union unless it could come in as a Democrat state.⁷ Note the lack of mention of local issues, but appeal to the idea of national balance of power and the slavery question.

The question will probably arise whether slavery could have really been accepted as a valid issue by the people of Minnesota in 1857. An editorial in the Daily Minnesotan in late August charged that the Democrats preferred rather "that we remain as a territory than that the odious features of modern Republicanism shall be thrust upon us in our fundamental law against the will of the people."⁸ The "odious features" referred to anti-slavery.

But it does not seem possible that the majority of people could really have feared slavery would be

⁶The Daily Minnesotan (St. Paul), July 28, 1857.

⁷Ibid., August 5, 1857.

⁸Ibid., August 18, 1857.

extended to Minnesota. Most likely the mention of slavery appeared often because it was an issue which pervaded the nation at the time. The politicians had to appeal to such an issue because no important constitutional issue really divided the parties. Only personal and regional issues divided the parties, and these were not the type which would draw new supporters from the opposition party in all parts of the Territory.

Many statements derogatory of the local Irish can be found in the newspapers. There definitely existed some anti-Irish sentiment, and this was quite common in the United States after the wave of Irish immigrants during the decade. The Daily Minnesotan for June 2 related an incident in the second St. Paul ward on voting day. Mr. Wheelock was knocked down and Mr. Moore, the co-owner of the Daily Minnesotan, was "threatened by Irish rowdies."⁹ The Minnesota Democrat for May 23 (a Republican newspaper) noted the large number of Irish in the Democrat party, but glorified the Germans as "those industrious and frugal Germans who have come among us as settlers and citizens."¹⁰ It will be seen below that the Republicans usually identified the illegal voters as Irish.

Minnesota did have contact with the rest of the country, and news of Minnesota was definitely carried

⁹Ibid., June 2, 1857.

¹⁰Minnesota Democrat (Minneapolis), May 23, 1857.

in Eastern papers. The New York journals most frequently did so. The Pioneer and Democrat cited various quotes from Eastern newspapers which it claimed were misrepresenting the facts (because they supported the Republican version of the election and organization). The writer fumed about the treachery of the telegraph operators.¹¹ The Daily Minnesotan even came to the defense of the Democrat governor, Medary. It referred to an article in the New York Times for July 21 which called Medary unscrupulous and the head of a scheme for secession.¹²

Again during the course of debates on the content of the Constituion itself, and not on the organization of the convention, references were made to the national controversy. This was especially true in the Democratic sessions. Mr. Setzer on August 6 snidely suggested that the preamble include a pledge of allegiance to the United States Constitution because many of the free states had been acting in violation of it. During the Republican debate on the preamble, July 24, Mr. Galbraith commented on the recent Dred Scott Decision. He warned the convention to be careful about changing traditional statements when he declared: "Men in these days have got to be wiser than what is written, and the ancient landmarks are being torn down. It puts me in mind of those wise men who framed the Constitution."¹³ He said that the

¹¹St. Paul Pioneer and Democrat, July 21, 1857.

¹²The Daily Minnesotan (St. Paul), September 5, 1857.

¹³Debates and Proceedings (Republican), 40.

wise fathers thought it constitutional to prohibit slavery. "But those wise-acres got new light"14

Many important people found their way to Minnesota during the territorial period. Most of these leaders came just prior to the convention election. It was mentioned that important Republican leaders came to Minnesota to educate the people to Republican principles during the period when the party was just organizing and attempting to gain converts from other political parties. Senator Stephen A. Douglas visited Minnesota during August. He arrived on August 15, and was invited to visit the Democratic delegates on August 17. The session adjourned after a short meeting. His visit caused a little controversy in the city because the Democratic aldermen proposed to pay for his expenses while he was in the city. They argued that he came as a national leader to meet all the people of the city and not just the Democrats. Senator Douglas solved the problem by declining to accept any such gift from the city.

Minnesota was not isolated from the rest of the nation, but it was intimately involved in its concerns. Minnesotans were aware and interested in the important issues of the day across the country. National trends and modern thought were evident in Minnesota also. But most important, Minnesotans involved themselves in the social and political controversies which eventually led

14 Ibid.

to a civil war. Although most of the issues did not involve the local citizens directly, they did affect the content of campaign propaganda, the nature of the convention, and the topics of recurring concern during the debates.

CHAPTER III

THE DELEGATES

Finally, the nature of the convention and the direction of the debates were determined by the backgrounds and characteristics of the individual delegates. The delegates had come from New England, New York, and Pennsylvania, and the Old Northwest. Their education, experience, and personalities varied, and the product of this mixture is evident in the debates.

But a survey of the delegates is important not only for background material, but it also presents examples of frontier politicians. Their ranks included all types: ambitious and lazy; skillful and inept, prominent and unknown. A simple study of the debates themselves readily shows the gifted speakers, the intelligent men, the strong men, in short those who contributed leadership to the convention. The superficial men, the weak men, and the worthless individuals were also present and left a mark on the proceedings. The debates reveal personal animosities and strong personal convictions, and these affected the organization of the convention and the content of the debates.

Professor Folwell noted that nearly three-fourths

of the members of the two bodies were men of "ephemeral prominence afterwards unknown in public affairs."¹

Records on many of the delegates do not exist, and others have left very little material for the historian. But some of the delegates, mostly the leaders of the conventions, did go on to serve their fellow citizens in various important positions, and the material available concerning them is often quite extensive.

The Republicans chose St. A. D. Balcombe, delegate from Winona, as their permanent president. The Democrats chose Henry Hastings Sibley, distinguished delegate from Dakota County, to be their presiding officer. It is evident from the debates that these men also made important contributions to the content of the constitution.

Important leaders and colorful personages stand out in the debates. The names J. W. North, D. A. Secombe, Thomas Wilson, John Cleggghorn, and Thomas Galbraith appear often in the debates. They made significant contributions in the Republican sessions. Since the Democrats controlled most of the important offices in the Territory, their rolls included the names of many important men. Among these were Lafayette Emmet, Charles Flandrau, Henry Setzer, Moses Sherburne, Joseph Brown, and Willis Gorman.

Anderson explained that for the most part the

¹William Folwell, A History of Minnesota (Rev. ed.; St. Paul: Minnesota Historical Society, 1956), I, 403.

Republican delegates had resided in the Territory only a short time, whereas many of the Democrats were pioneers in Minnesota. The places of origin of the members of the two bodies differed also. Almost half of the Republicans had been born in New England. Most of these came from there directly to Minnesota. Only twenty-three per cent of the Democrats were originally from New England. About an equal number in both houses came from the Middle Atlantic states. Only eight per cent of the Republicans came from the states formed from the old Northwest Territory--all from Ohio--but twenty-three per cent of the Democrats came from those states.² There is no evidence that any delegates came from southern states.

The average age of the delegates in the two conventions was similar. The youngest man in the convention was twenty-three and the oldest was fifty-four. The average age was thirty-seven. In terms of occupations, there was a difference between the parties. Many of the Democrats were public officials or government employees; none of the Republicans held such positions. But four Republicans claimed to be ministers; no Democrat did.³ The Republican journal includes a section which lists the delegates and pertinent facts about them. Their occupations ranged from farmer, mechanic, miller

²William Anderson, A History of the Constitution of Minnesota (Minneapolis: University of Minnesota, 1921), 87.

³Ibid.

to daguerreotypist, merchant, real estate dealer, school teacher, lawyer, doctor, and clergyman. The largest single occupation was that of farmer, but there were almost as many lawyers. The majority of the delegates were professional men.

Most of these men realized that they were playing an important role in history. Mr. Foster said on the first day of the Republican meeting that "we may be called a historical convention being the first to lay the foundations of a state."⁴ But they were also aware that for the most part they were inexperienced in parliamentary affairs and therefore would have a difficult task. Mr. King admitted that "a great many of us are uninitiated in these proceedings"⁵

This was especially true of the Republicans because they did in fact lack experience. The Democrats had the important advantage of having in their midst Messrs. Emmet, Sherburne, and Flandrau. Emmet was the attorney general of the Territory; Sherburne was a territorial judge, and Flandrau was a member of the territorial supreme court. Emmet and Flandrau both were later elected to be the first justices of the state supreme court.

⁴Debates and Proceedings (Republican), 10.

⁵Ibid., 12.

To create a more complete picture of the frontier political leaders certain delegates must be examined more closely. This can be done in two ways: first, by studying their biographies and autobiographies, and secondly, by examining their contributions to the convention.

The entire Democrat slate of candidates was elected in the first and second representative districts of Ramsey County. On the day of the election, the Pioneer and Democrat gave a brief sketch of these men.

Mr. Ames was a lawyer; Baker and Prince were businessmen; Murray was a veteran member of the legislature; Emmet again was an eminent legal personage in the Territory. Messrs. Faber and Taylor were also elected, and the Pioneer did not have anything negative to say about them, but did state that they "deserve the vote because although they won't talk much, in their votes they will have Democrat principles and the welfare of the constituents in view."⁶

But two of the Democrat candidates were in fact actively opposed by the Pioneer. They said of Willis A. Gorman: "There is a class of scoundrel, who uniting shrewdness with rascality manages to pass through life without an honorable repute."⁷

William McGrorty also came under the Pioneer's sharp attack. The editorial declared:

⁶St. Paul Pioneer and Democrat, June 1, 1857.

⁷Ibid.

He is utterly incompetent to fill the high position to which he is named. He would not only disgrace the Democrat party but dishonor St. Paul in the convention and injure the interests of the city.⁸

Why did this staunch Democratic newspaper so actively oppose the candidacy of two Democrats? The reason for opposition to Gorman is quite evident. He had been the Governor of Minnesota Territory from 1854-57. During the regular session of the 1857 Territorial Legislature a bill was introduced which would have authorized the removal of the capital to St. Peter in southern Minnesota. The bill failed to become law because Joseph Rollette of Pembina stole the bill and hid it until it was too late to complete action. Thus it failed because of another oddity in Minnesota history. In any event, Gorman had openly supported the bill for the removal of the capital from St. Paul. Some people suspected that he had financial interest in the St. Peter development project. He did gain the hatred of many St. Paulites, and it is indeed a mystery how he was elected to the convention at all. The Pioneer pointed out that he probably did not even consider it possible at one time. He had supported the passage of a law which would have reduced the residence requirements for candidates to the convention to ten days. It interpreted this to mean that he planned to seek election outside of St. Paul.

⁸Ibid.

McGrorty was a member of the St. Paul City Council, and therefore also well known. The Pioneer indicted him for disrupting and dividing the party and referred to some of his activities during the previous winter. Although he was elected, he never was one of the important men in the convention.

Willis Gorman was born in 1816 near Flemingsburg, Kentucky. His was one of the most impressive records of any of the delegates. He graduated from the University of Indiana Law School, was elected five times to the Indiana Legislature, and had served two terms as a congressman from Indiana. During the Mexican War he organized a regiment of volunteers and served as its colonel. He left Congress in 1853 to accept the appointment as Governor of Minnesota Territory from Franklin Pierce. It is evident that he was a man with a temper because twice during the summer the newspaper carried accounts of fights he had been involved in.⁹

William Murray seems to have been the most popular of all the St. Paul delegates. He was certainly better liked than Gorman and McGrorty. He had been a veteran legislator in the Territory, and in February, 1857, nine Democrats had written a letter to President-

⁹He later returned to the military as an organizer of volunteers for the Civil War. He was breveted brigadier and at one time led a division. His military record has been described in both glowing and questionable terms. Evidently some people questioned his performance at the battle of Manassas because he wrote a letter to McGrorty to defend his actions that day.

elect Buchanan suggesting that Murray be chosen territorial governor. Three of these men were later delegates to the convention. They were Francis Baasen, Joseph Brown, and J. L. Wilson. Murray was also a businessman, and there is evidence that in March of 1857 he was appointed agent for the Kentucky Mutual Life Insurance Company.

John S. Prince was born in Ohio and had been an agent of the American Fur Company. He came to St. Paul as an agent for the Chouteau Fur Company. He evidently was also concerned with other business dealings because his name appears on many land transfer documents during the 1850's.¹⁰

One of the most active delegates from Hennepin was Cyrus Aldrich. He too had a varied but distinguished career. Born in Smithfield, Rhode Island, he became a seaman when he was only fourteen. Later he moved to Illinois where he worked as a laborer until he was elected to the Illinois legislature in 1845. He was a candidate for Congress in a Democratic district in 1854, and although he ran very strong, he lost. The next year he visited Minnesota and decided to move there. In 1857 he was a candidate for Congress from Minnesota and again received many votes, but did not win. The Democrats were

¹⁰Although he did not overtly distinguish himself in the convention, he did continue in politics and served as mayor of St. Paul 1860-62 and 1865-66.

very strong throughout the whole Territory that year.¹¹

The delegates from St. Anthony were involved in one of the most important controversies which plagued the convention.¹² A newspaper in St. Anthony violently indicted a candidate, but at least he was a member of the opposition party. The Express singled out D. A. Secombe in particular, and the editor intimated that the Republicans themselves were not particularly pleased that he was a candidate. The editor suggested that possibly the Republicans would forfeit that one seat for the sake of the honor of the city.

Mention can be made of other Republicans involved in the election controversy. Philip Winnell was an immigrant merchant; L. C. Walker was from Vermont and worked as a real estate dealer; Samuel Putnam was also a New England-born real estate dealer; David Secombe was a young New Hampshire-born lawyer; Charles Sheldon, also from New Hampshire, was a clergyman; D. M. Hall was a lumberman from Maine; and R. L. Bartholomew from Ohio listed his home as Minneapolis but, interesting to note, he gave his occupation as farmer.

¹¹He again ran for Congress in 1859 and was successful. After serving two terms he left Congress because he hoped to be elected by the legislature to the United States Senate. This was not done, so he returned to Minnesota from Washington. He was elected to the state legislature, and was later appointed postmaster of Minneapolis. At this time he was also one of the incorporators of the Northern Pacific Railroad.

¹²See Chapter IV, page 64 and following.

The President of the Republican convention, Mr. Balcombe, was a farmer. Not much information is available on him. On the other hand, the President of the Democratic convention, Henry Hastings Sibley, was one of the most important men in Minnesota history and much has been written about him. Sibley was born in Detroit, Michigan, in 1811. He arrived in Minnesota by horseback during the early winter of 1834 with Alexis Bailly who was later also a delegate to the Democratic convention. Sibley was associated with the American Fur Company of New York. But he is important in the history of Minnesota because of his many public services. He served as the first delegate to Congress from the Territory; first governor of the State; major general of the United States Army which fought the Indians in 1862 in Minnesota; and as a United States Senator from Minnesota.

One of the distinguished and useful delegates in the Democratic convention from out-state Minnesota was Charles E. Flandrau. Although he was only twenty-nine in 1857, he had already compiled an impressive record. He was born in New York City and came from a fairly well-to-do family. His father was a lawyer. Young Flandrau did not at first wish to follow in his father's footsteps. During his early teens he left home to be a sailor, but this adventurous phase did not last long. He returned home and studied law, and was admitted to the bar in 1851. After his admission to the bar, he

practiced law in his father's law firm for more than a year, but he again had an urge to seek a more adventurous existence, and in 1852 he moved westward to Minnesota. In 1854 he was district attorney for Nicollet County; in 1855 he was a member of the Territorial Council; and in 1856 he was United States agent for the Sioux Indians. During the summer of 1857, when he was serving as a delegate to the constitutional convention, he was appointed an associate justice of the Territorial Supreme Court. After serving his term he again moved West and practiced law in Nevada and Missouri. He later returned to Minnesota and served as city attorney of Minneapolis and chief justice of the State Supreme Court.

Probably one Democratic delegate and leader in particular conforms most completely to the usual image of a frontier politician--Joseph R. Brown of Sibley County. Brown was born in 1805 in Hartford County, Maryland. At age fourteen he ran away from the master printer to whom he was apprenticed and enlisted in the fifth infantry as a drummer. He was sent to the future Fort Snelling in Minnesota with Colonel Leavenworth's expedition. He re-enlisted while in Minnesota, and by his twentieth birthday, he was first sergeant of the company. Shortly after this, he left the army and entered the Indian trade in Minnesota. Folwell gave Brown credit for many firsts in Minnesota. After leaving the army, he did some farming and is considered the

pioneer farmer in Minnesota. When the treaty with the Indians was signed in 1837 opening the St. Croix Valley, the early lumbermen found Joe Brown already floating logs down the river. He was a pioneer lumberman in Minnesota. In 1838 he was appointed justice of the peace of his county, and in 1840-42 he served in the Wisconsin Territorial Assembly. He was one of the important leaders at the Stillwater Convention of 1848 which petitioned Congress for territorial status. He was involved in the formulation of the law codes for Minnesota in 1851, and in 1853 when the first Sioux treaties were signed, Joseph Brown was present. At one time he was also territorial printer and owner of a St. Paul newspaper.

These more detailed sketches of the convention leaders should show certain common characteristics of the frontier politician. Many of them had an adventurous character and a tendency to move and try new things. Most of these men mentioned had begun their careers in various non-professional, rugged-type occupations, such as fur trader, laborer, sailor. But all of them evidently were natural leaders who were encouraged to seek political office.

From these sketches, some idea can be obtained of their common characteristics. Actually the background of the delegates was not more varied than those of members of legislative bodies today. Self-made men, well-educated men, adventurous men, prosperous men, born

leaders, good conciliators, and plain non-entities represented the people of Minnesota at the constitutional convention.

Some men were evidently well versed in parliamentary procedure as was Mr. Stannard, Republican from Chisago. At one time he objected to a motion to consider a bill in the committee of the whole because that bill had been laid on the table by the convention. Therefore, he moved that the committee report back to the convention so that the convention could take the bill from the table.¹³

While Mr. J. P. Wilson, Democratic delegate from Pembina, did not contribute much to the debates, there is evidence that he had a personal interest in the railroad legislation and possibly worked behind the scenes. He was one of a group which secured a charter for the St. Cloud and Minneapolis Railroad. Surprisingly enough, little mention was made of his possible conflict of interests when his seat was contested. The opposition only objected to the fact that he was not a resident of the district. He had helped his brother to develop the Sauk Rapids and St. Cloud townsites.

In a speech for a substitute article on school funds, education, and science, Mr. McGrorty called for

¹³Debates and Proceedings of the Minnesota Constitutional Convention (St. Paul: Earl S. Goodrich, Territorial Printer, 1857), 366-368. Hereafter cited as Debates and Proceedings (Democrat).

future legislatures to "encourage public and private instruction for the promotion of religion . . . to secure to the people the advantages and opportunities of education and religion."¹⁴ He said that as a Roman Catholic who sent his children to non-public schools this did not affect him directly, but he feared that infidelity and skepticism were spreading throughout the country. On the other hand, Henry Setzer moved to add a section to this report which stated: "No religious instruction of any kind shall be given in public schools in this state."¹⁵ His remarks on Mr. McGrorty's amendment showed that he evidently made his proposal because he understood the problems involved. He pointed out that the people of the area whose religion was that of the majority would demand a religion teacher of their faith and the minority would be excluded.

Various delegates had parliamentary idiosyncrasies which are evident because they frequently recurred. For instance, Mr. Galbraith favored delaying action on many proposals so that they could be studied further. During the debate on elective franchise, he told the house that there was much to change, therefore "let's put it over a day."¹⁶ These delays usually were not necessary, and such people as Mr. Hudson who was anxious to finish and

¹⁴Debates and Proceedings (Democrat), 461.

¹⁵Ibid., 277.

¹⁶Ibid., 205.

return home often pleaded in exasperation: "O let us finish it."

Some of the delegates seemed to think that they were doing something that they should not when they arose to speak. Repeatedly Mr. Meeker would preface his remarks by saying, "I do not wish to detain the convention for a moment, but" Then he would proceed to make his point. Likewise Mr. Emmet who was a very respected and qualified person would usually preface his statements with an apology and then say, "I do not wish to extend debate further, but"

Mr. Brown was also a well-known and respected gentleman, but his competence was occasionally questioned by those who disagreed with him. A statement by the caustic Mr. Flandrau gives an example of this:

I think the argument of the gentleman from Sibley (Mr. Brown) upon this question is like a good many other arguments the gentleman makes. When he had made a motion which he is satisfied is an improper one, he draws upon his imagination to bear him out.¹⁷

Some of Mr. Brown's fellow Democrats considered much of what he said superfluous. On August 6, the convention was debating the content of the preamble. Mr. Brown moved to amend the preamble by inserting after "We, the people of Minnesota," the words "having the rights of admission into the Federal Union, in accordance with the Constitution of the United States."¹⁸

¹⁷Ibid., 208.

¹⁸Ibid., 277.

Mr. Warner declared this to be superfluous. He pointed out that if Minnesota was admitted to the Union, it would be a foregone conclusion that they would be admitted according to the Constitution.

Brown evidently had a disposition towards long preambles. On August 3 he proposed a very lengthy substitute for the proposed preamble which would have included statements of principle and definition of boundaries. But some people of the convention took it more seriously than did Mr. Becker who quipped, "It is not only a Preamble, but it is almost an entire Constitution."¹⁹ The convention devoted most of the morning to debate on this matter. Finally, shortly after noon, Mr. Sibley took the floor and declared, "The gentleman from Sibley (Mr. Brown) this morning submitted an entirely irrelevant proposition upon which the Convention had a long discussion."²⁰

On this occasion Mr. Sibley concluded by asking Brown to refrain from introducing matters where they did not belong. Brown seemed hurt by the remarks and attempted a righteous justification pointing out that he had the same right to speak as others. Usually Mr. Brown was very amenable to requests from other delegates to rephrase or remove such amendments if they gave good reasons for the request. On occasion he was too ready

¹⁹Ibid., 205.

²⁰Ibid., 211.

to withdraw his proposals. For instance, when he withdrew another amendment to the preamble, Mr. Setzer objected because he considered it to be necessary and proper.

Of course some members of the convention said little on the floor. Perhaps they worked actively behind the scenes, but that information is not available. In the indexes of the two journals some names are followed by only two or three page references. This indicates that they spoke only rarely. Some names were followed only by references to committee assignments. The largest group of these inactive delegates was in the Democratic convention representing the controversial seventh district of Pembina. Some delegates not only spoke seldom, but they said little when they did speak.

Representatives such as Mr. Bartholomew evidently were very interested in only certain subjects. Bartholomew admittedly spoke for the first time to the Republicans on August 13 during debate on the militia clause. He was a member of the committee and delivered a rather long explanation of his views, but this was the only time he spoke.

One of the delegates from Stearns County, Mr. J. W. Ten Voorde, said even less, but he did it more often. He did such things as suggesting the possibility of issuing a German language summary of the proceedings because the Germans liked to know what was happening too.

Occasionally he would move for adjournment. His longest speech was four lines. This was when he said in effect that someone had made a good point.

Then, of course, every gathering has a humorous person--the Democrats had D. A. J. Baker from Ramsey. Sometimes his humor was of the very sarcastic type as evidenced during the conflict with M. E. Ames on whether churches should be granted exemption from taxation. But on the whole, Mr. Baker's remarks were of the sly quip variety, and they often drew great laughter (according to the recorder). Other people tended also to be humorous. Mr. M. E. Ames tried to emphasize a point by amending a phrase under consideration in the report from the Committee on Phraseology concerning women's rights. This he did by saying, "I move to amend by adding: 'Provided that nothing in this Section shall be construed to prevent the gentleman from Washington and the gentleman from Hennepin from marrying.'"²¹

Other men made off-the-cuff remarks which the Republican recorder, Mr. Andrews, considered humorous. For instance, Mr. Colburn mentioned that he desired military office because it was near the secretary of state's office to which he aspired.²²

Some other men just attempted to be absurd. An example of this is Mr. Setzer's amendment to a clause in

²¹Ibid., 586.

²²Debates and Proceedings (Republican), 461.

the article on suffrage. Many minimum voting ages had been proposed when he proposed to solve the problem. He moved that the minimum voting age be ten years.²³

Then, of course, in every meeting there are personal differences, and this was true within both conventions. Such were often evidenced by the verbal barbs they exchanged. For instance, Meeker once said to Brown:

I misunderstood the gentleman and I thought it resulted from the disposition the gentleman occasionally manifested to adhere to the course first marked out by him whether right or wrong.²⁴

Very many examples of personal confrontation over constitutional issues can be cited. Of course it was natural that there be two sides to every story. Certain of the delegates were able to argue more vehemently than others for their causes. See for example Mr. North's speeches of August 12 on suffrage. Mr. Wilson's July 30 speech on property rights is also a good example. Wilson evidently became particularly dogmatic and his remarks resulted in general accusations that some delegates had conflict of interests problems. On that same topic of property rights, Mr. Setzer and Mr. Meeker especially collided. Finally Mr. Setzer exclaimed: "I call the gentleman to order. If he wishes to have personal collision, I am ready for him, but he has no

²³Debates and Proceedings (Democrat), 371.

²⁴Ibid., 256.

right to make personal allusions in debate."²⁵ Such was also the tone of the debate on suffrage, August 6, in the Republican meeting. An agitated Mr. Balcombe and Mr. Wilson confronted Mr. North.

The personal prejudices of the delegates likewise became evident in their speeches. For example, Gorman spoke on a section of the bill of rights and evidently became very agitated. He concluded his remarks by denouncing the foreign-born population. He admitted his prejudices when he said:

. . . and in every prayer they will make they will call down God's denunciation upon the whole Catholic Church They do not love your country nor your institutions. It may be prejudice, but that is my opinion of them.²⁶

And finally, some of the more controversial members used the floor of the convention to answer charges others had brought against them. Sibley answered accusations made by the Republicans concerning his veracity in regard to remarks on the adjournment controversy.²⁷ And as one would come to expect, Gorman had to take the floor on one occasion especially to answer the many charges which had been made against him. On August 6 he spent quite a time explaining his position on the boundary question.

Knowledge of the backgrounds and characteristics

²⁵Ibid., 218.

²⁶Ibid., 331.

²⁷Ibid., 491.

of delegates is important for various reasons. An acquaintance is made with frontier leaders and politicians. Many characteristics were exhibited in those men just as a variety of men serve in legislatures today. On the whole, the leaders of the conventions had interesting backgrounds. They developed and exhibited independence, aggressiveness, boldness, and conviction. Often delegates took specific stands on issues which involved them personally. Thus some fought for clauses in the articles on corporations because they hoped to profit from the results. Specific characteristics and confrontations also contributed to the initial split between the parties and insured its continuance. Finally, an account of personalities provides interesting material.

CHAPTER IV

THE ELECTION CONTROVERSY

Many factors contributed to the splitting of the parties on July 13 and the failure of the leaders to resolve the problems. The leaders were unable to negotiate a solution. But there would have been no need to negotiate and no justifiable reason for split if the results of the election had been decisive. Election laws were incomplete and officials could not agree on interpretation of the laws.

The results of the election of delegates and the organization of the convention became the chief issues of continuing controversy in the newspapers and debates. Not only would the majority party be able to put its special imprint on the constitution, but they would apportion districts for the first state election and dispose of the federal land grants. Because of various reasons, the Democrats had less members present on the day of organization, and so they had to resort to detailed trickery to secure control of the convention. The Republicans were not about to lose control after they had worked so hard to attain a majority, so they continued to organize after the Democrats had departed

from the hall on the first day.

The events preceding July 13 and some subsequent speeches present an example of a frontier election and the frontier politician's justification for his deeds. Interest in partisan politics in the Territory was not too great until 1856 when people began to talk about the possibility of statehood. The Democrats and Whigs had adherents in Minnesota at the time the Territory was formed, but their local organizations were not too formal. A Republican Party began to form in 1854 as a result of dissatisfaction of many Northwestern politicians with the position taken by the two major parties regarding slavery and the Union. The Party was organized in Minnesota at the time many settlers were moving into the southern part of the state. The Republicans formally organized in 1856. A majority of the Republicans lived in southern Minnesota. Many residents there supported this party only because it opposed the Democrats who then dominated the Territory from their stronghold in the region bounded by St. Paul, St. Anthony, and Stillwater. In other words, many people supported the Republican Party not so much because of principles involved, but because they wanted to gain control of the government for the advantage of their region.

This desire to control the state government led many settlers in southern Minnesota to support the so-called east-west boundary line. Congressional Delegate

Henry Rice was able to include a north-south boundary in the Enabling Act only after a compromise was secured. The boundary question recurred in the debates.¹

In most districts the election was a Democrat-Republican contest. The Republican Party in Minnesota as in other areas of the country included former Whigs and anti-slave Democrats. The election in some rural regions was not well organized. In a few districts candidates were nominated only a day or two before the election. The contests in some areas concerned personalities rather than parties.

The campaign for the election was short, even in the urban areas. This may have been because the special session of the legislature extended into May, and the parties were waiting to see if any decisions would be reached which would affect the choice of candidates. In any event, notices appeared in the papers of St. Paul and St. Anthony during the second week of May calling the parties to nominate candidates. The Minnesota Democrat on May 12 carried an account of the proceedings of a Republican meeting in Minneapolis. The first order of business was to organize a Republican Club. D. A. Secombe, later a delegate from St. Anthony presented a constitution. This seems to indicate that formal organization of parties was still incomplete at that time.

Mr. Anderson suggested that there were no impor-

¹See Chapter VII (Special Difficulties).

tant debates on constitutional questions during the campaign and that there were no real issues dividing the two parties.² He admitted that the newspapers played up the Negro suffrage issue, but said this was not a real issue because the Republicans did not provide a provision in their version of the constitution which would have permitted Negroes to vote. He evidently overlooked the fact that political expediency prohibited the inclusion of such an article as Negro suffrage in the original constitution. The Republicans did demand that provision be made for easy change of suffrage provisions by later legislatures.

To emphasize further the point that one cannot rely on the conclusions of other writers on this subject, note that Mr. Folwell suggested that the slavery issue divided the parties.³ He showed that the Pioneer and Democrat, a Democratic party organ, explicitly stated that the issue was "White Supremacy against Negro Equality." However, the Democrats did play up this issue more than did the Republicans. Again it seems that the reason for this was political expediency. The Republicans wanted control of the convention, but many of their number were not Republicans in principle, but

²William Anderson, A History of the Constitution of Minnesota (Minneapolis: University of Minnesota, 1921), 72.

³William Folwell, A History of Minnesota (Rev. ed.; St. Paul: Minnesota Historical Society, 1956), 396.

were only opponents of the capital city area Democrats.

A special session of the legislature was held in April and May preceding the election, ostensibly to implement the provisions of the Enabling Act. In the regular session of 1857, the Republicans attempted to secure a redistricting to reflect the sizeable increase in population in their southern Minnesota stronghold since the apportionment of 1855.⁴ They failed in this attempt; so in the special session they tried to amend the voting laws to secure whatever advantages they could. For example, they succeeded in making holders of federal commissions (other than postmasters) and residents outside the proposed state boundaries ineligible for seats in the convention. This was a distinct disadvantage for the Democrats because they held the majority of offices, elected and federally appointed. The Democrats later attempted to subvert this on the grounds that the Enabling Act took precedent, and it did not make provision for this.

This special session agreed to interpret broadly the provisions of the Enabling Act designating the number of delegates authorized. The Act stated that two delegates should be elected in every area that elected one representative to the legislature. The special legislature interpreted the term representative to

⁴William Anderson, "Minnesota Frames a Constitution," Minnesota History, XXXVI (March, 1958), 8.

include all representatives of the people in the legislature, both in the Council and the House. Therefore, 108 rather than 78 men were to be elected to the convention. This provision did not stipulate what was to be done in such cases as in St. Anthony where the representative and the council districts had the exact same boundaries. It did not expressly state whether the parties had to stipulate which men were running as council delegates and which were running as representative delegates. This lack of precise statement led to one of the major election controversies. This problem in turn contributed to the organization controversy.

There were numerous charges of outright illegal voting in many areas on June 1, the election day, and many of these charges were proven. Anderson noted that the St. Paul Advertiser counted 700 illegal votes--500 of them in one ward.⁵ The Pioneer and Democrat charged that two of its own men, McGrorty and Gorman, were elected by the fraudulent vote. An editorial in the Daily Minnesotan pointed out that 2820 votes were cast in St. Paul. This amount signified a population much larger than really existed. It charged that the Democrats elected all of their candidates in St. Paul because of 1000 illegal votes cast. This was possible, they said, because the Democrats used the crews of fifteen or

⁵Anderson, A History of the Constitution of Minnesota, 73.

twenty boats in the river port and encouraged triple voting.⁶ Mr. Owens, the editor, even suggested that the party was "so strong that people came from other counties and from ships and voted up to twelve times."⁷ He had even predicted before the election that Mr. Prince and Mr. Baker would bring fifty illegal voters to the Reserve precinct. The Republicans evidently were also guilty of questionable practices. The charge was that at least 200 illegal votes were cast in Waseca by unlawful voters transported by wagon from Rice County.⁸ Further, Mr. Flandrau in a speech before the Democrat convention charged that some election judges subverted the will of the obvious majority and issued certificates to men who clearly were not the winning candidates.⁹

The split grew out of the nature of the election situation. Because of conflicting laws, unscrupulous election officials, the difficulties of frontier balloting, and the importance of the election, many problems occurred during the process of deciding who the delegates to the convention would be.

Indeed, the Democrats were very confident because they had been the dominant party during the territorial period, and so the very day after the June 1 election,

⁶The Daily Minnesotan (St. Paul), June 2, 1857.

⁷Ibid., June 4, 1857.

⁸St. Paul Pioneer and Democrat, July 1, 1857.

⁹Debates and Proceedings (Democrat), 20.

when returns were still very incomplete, the editor of the Pioneer and Democrat composed this headline: "Democratic Triumph, A Large Democrat Majority in the Constitutional Convention." The jubilant editorial commenced with greetings to the nation and the news that a new Democrat state was about to join the Union.¹⁰ The incomplete returns credited the Democrats with thirty-five seats and the "Black Republicans" with eleven. At first they carried optimistic reports daily. By June 6 they had gained five more seats, but the Republicans had won twenty-five by then and twenty-four seats were yet undecided. Still, items noted "fifth council district a success," and that Cottage Grove was going Democratic.

But the Republican newspapers did not view the election returns the same way. The Daily Minnesotan optimistically predicted that "the chances are good for electing our whole ticket right here in the stronghold of sham Democracy."¹¹ The Democrats, of course, had to admit the obvious losses and conceded that it was probable that the Republicans had elected their entire ticket in the first representative district (Hennepin County).

But on the whole, optimism was the prevailing spirit in the Democratic organ for the first three weeks of June. They balanced their remarks though, and so also

¹⁰St. Paul Pioneer and Democrat, June 3, 1857.

¹¹Daily Minnesotan (St. Paul), June 10, 1857.

reported the news that the Democrats did very well in the third council district, St. Anthony, electing four of six of their men. (Evidently they did not consider it necessary to make the designations on the ballot which determined that election controversy). The Democrats carried Goodhue County by an average of ninety votes. They won five of eight seats in the tenth council district; four victories in Scott County; and men such as Mr. Flandrau were eking out difficult victories.

This was the nature of the convention news during the month of June. The Republican press, such as the Minnesota Democrat, exalted their successes which included a five to one victory in the eleventh council district. They emphasized the significance of these victories by claiming that they won there despite Democrat trickery, which included importation of non-residents.

By the end of the month, however, it became quite evident that the Republicans were indeed gaining the lead. The Pioneer and Democrat for June 24 admitted that the Republicans had elected fifty-one and the Democrats had secured only forty-five seats, but they still held out hope because twelve contests were as of then undecided. The Daily Minnesotan on June 30 indicated that the Republicans were not worried. It listed the final tabulation as 59-43 and said that even if the contested seats all went Democrat (which of course was doubted), the Republicans would still carry the election

by two.

Both parties admitted that there was much at stake in this election and both tried their best to secure a majority by the time of the first meeting of the convention, July 13. The majority party would control the convention organization.

The Republicans stuck to their final tabulation listed above arguing that all of their delegates had certificates and thus were legally entitled to their seats. The Democrats argued that some of these men had received their certificates illegally. The final claim of the Democrats showed fifty-six men legally elected, but they charged that unscrupulous registers of deeds had denied certification to six of them. The officer then charged with issuing election certificates was the register of deeds. The Democrats argued that seven of the Republican members in the group of fifty-nine held their seats in violation of the law. Since there should have been 108 delegates, fifty-five would have been a quorum. The Democrats declared that the Republicans could never legally gather a quorum, therefore the status of their meeting could be considered only as that of ordinary citizens.

Folwell and Anderson attempted to analyze the problem, but they too disagreed as to the number of legal delegates each party actually elected. Folwell counted forty-nine certified Democrats and six others

in fact elected; he found that fifty-nine Republicans possessed certificates, but considered six of these certificates illegal. Therefore Folwell credited the Republicans with fifty-three properly elected and certified delegates.¹²

Anderson, however, found fifty Democrats certified and fifty-eight certified Republicans. He discovered that one other Republican candidate was in fact elected although he did not have a certificate. Thus the Democrats would have lost one of their certified delegates. He pointed out that the Democrats disputed six seats. If they had won these six they would have had fifty-five properly elected delegates. In fact the two conventions combined had a total of 114 members, therefore the Republicans had a majority of the convention delegates.¹³

Some of the Democrats had the "after the election blues" and wrote letters trying to explain why they and their party had lost. An example of such is a letter written by Michael Magner to the Pioneer and Democrat which was published on July 11.¹⁴ He lost the contest in the district which Nicollet, Steele, and Faribault Counties comprised. He questioned the Democratic Party's nomination procedures and suggested that the Democrats had failed to consider local strength in their selec-

¹²Folwell, I, 402.

¹³Anderson, "Minnesota Frames a Constitution," 8.

¹⁴St. Paul Pioneer and Democrat, July 11, 1857.

tions. An editorial in this paper on June 28 chided the Party for not exerting the same vigor that the Republicans had. It bemoaned the fact that unlike the Republicans, the Democrats had been content only to issue a statement just before the election, but did little else. It said that they had taken too little interest in the election, whereas the national Republicans sent many party leaders to aid in the campaign.

Of course, rather than being an apology, this sounds more like an excuse for the loss. It was written as a refutation of an article in the New York Post. The purpose was to show that contrary to the Post's account, the Democrats had done little while the Republicans brought in many leading men and actively canvassed the country districts. There is little doubt that the Democrats did not expect such a show of strength by the relatively new Republican Party. Oddly enough, an editorial written immediately after the election, when the Democrats were still optimistic, viewed this activity in a somewhat different light. It interpreted this action as a desperate effort to carry the election. It claimed that abolition orators were imported to preach treason and nullification and that they had misstated the issues. The editorial also claimed that where these men had visited, the Democrats "uniformly gained."¹⁵

Once the divided convention had begun, both sides

¹⁵Ibid., June 3, 1857.

sought to justify their activities. The Pioneer and Democrat was content to throw little barbs at their opponents. They questioned in particular the legality of the seats of Messrs. Secombe, Hall, Putnam, and Murphy.¹⁶ They claimed they were surprised that such good men as Mr. Stannard and Mr. Galbraith had not advocated the expulsion of certain individuals after the party had seceded in order to be "personally acquitted before the people."¹⁷ This same editorial declared that in private conversation some members of that delegation had expressed the "most contentious opinions of the St. Anthony delegates as interlopers and men devoid of principle."¹⁸ They noted that others had generally expressed the hope that they would be rid of such bogus delegates.¹⁹

The Pioneer became especially disconcerted by an article the Associated Press had carried on July 22 wherein it stated: "The Democrats numbered today thirty-two members--several having become disaffected and returned to their homes." The editor of the Pioneer attributed this release to the assistant editor of the St. Paul Daily Times who was the agent for the Associated Press.²⁰

¹⁶Ibid., June 17, 1857.

¹⁷Ibid., July 31, 1857.

¹⁸Ibid.

¹⁹Ibid., July 18, 1857.

²⁰Ibid., July 22, 1857.

The Republicans in turn were not content merely to enjoy their advantage. They especially exploited the fact that the Democrat convention was adjourning from day to day while they were diligently pursuing their work. The Democrats claimed that they were waiting for their meeting room to be set up, and the Republicans countered that the Democrats were waiting for some other delegate with some little pretext of legality to come and become the member necessary to fulfill the quorum requirement. Some of the Republicans went so far as to state in the convention that they were sure that the Democrats were trying to thwart Minnesota's entrance into the Union because it was to be directed by a Republican majority.²¹

This split convention was, of course, the result of the strong desire of both parties to control it, but the split would not have been defensible if it had not been possible for men on both sides to bring forth sound arguments with which they justified their positions. Neither party would have been able to secede with any pretext of legality if the territorial legislature had not complicated the election laws. The confusion was also caused by the strong partisan desire of each party to insure the advantages for their own tickets. The special session of the legislature had enlarged on the Enabling Act and interpreted the term representative in its broad sense to include all representatives of the

²¹Debates and Proceedings (Republican), 107.

people, both in the lower house and in the council. In this way they authorized the most seats possible. They did not clarify the proper procedure to follow when the representative and council districts had concurrent boundaries. Thus in St. Anthony and Houston Counties the Republicans declared that the Democrat ballots were not legal because they did not distinguish candidates running in the council district from those in the representative district. The Democrats had difficulty enforcing their contention that such distinction was not necessary. They did not secure the certificates they claimed they were entitled to because most of the certifying officers were Republican.

Furthermore, the Democrats had amended the election law to enable the whole territory to be represented as before, even that part which would not be part of the state. The Republicans had secured in turn passage of a section which excluded all federal officeholders from eligibility to be delegates. The Democrat amendment would enable the seventh district, Pembina, to send six delegates; these were usually safe Democratic seats. The Republicans had the advantage from the later change because most of the federal officeholders in the Territory were prominent Democrats. When in actuality these additions went to the disadvantage of one or the other, they could always attempt to argue that the Enabling Act was supreme in conflicting cases. The problem was that

the Enabling Act commented neither one way nor the other on the legality of such additions by the legislature. It had no provision which could be interpreted either as supporting the special legislation or making it impossible.

The editors of local newspapers again gave written theories to justify the actions of their parties. Some editorials actually tried to make an objective analysis of the whole problem. They suggested that the people should set aside all political questions and look solely to the election of men who would labor most successfully for their interest. But then they concluded that the Democratic candidates had the most to offer in this respect. The editorials of the Minnesota Republican appeared to be most objective, but the editor was Reverend C. G. Ames. He was the same man who as Register of Deeds denied certificates to Democrats in St. Anthony. Immediately after the election he wrote:

Majorities and minorities may change with the wind, principles remain the same. Right and wrong are not to be decided by popular vote If we are victors let us rejoice rather that it is in our power to do a public good.²²

In regard to the election controversy he acknowledged that whoever received certification would have his seat contested. He noted that the convention itself was the final authority on the seating of its membership. He thought that the convention should give seats to those

²²Minnesota Republican (St. Anthony), June 4, 1857.

who had clearly been designated as delegates by the majority of legal voters.²³ Further, he noted that the register of deeds had to certify according to the law, but he thought that the convention would be justified in ignoring the law and seating the majority winner.²⁴ Of course one can argue that Mr. Ames had nothing to worry about if the majority of the delegates voting on the credentials were Republican. On the whole, however, his editorials were the most thoughtful, objective, and valuable statements of the whole problem.

The main point of disagreement as to who was legally elected occurred in the St. Anthony district. On the basis of actual votes cast, the register of deeds, Reverend Ames, should have issued certificates to four Democrats and two Republicans. In Houston County, a Republican, C. Coe, was given a certificate instead of the Democrat candidate, O. W. Streeter. In Hennepin County, Mr. Russell, a Democrat, refused a certificate offered him because he said that he did not have the majority vote of the people.²⁵

It is true that before the election the St. Anthony Express had advised its Democratic brothers to be careful to indicate the distinction in delegates on the ballot. The Democrats did not follow the advice;

²³Ibid., June 4, 1857.

²⁴Ibid., June 11, 1857.

²⁵Anderson, A History of the Constitution of Minnesota, 77.

the Republicans evidently did. After the election all of the newspapers had much to say about the situation. The Pioneer and Democrat was again the most vocal of the group. This election controversy was in full swing once the closeness of the race became evident and long before July 13, the first day of the convention. On July 1 the Pioneer informed its readers that Messrs. Meeker, Chase, Tuttle, and Lachelle were refused certificates on the grounds that the distinction was not made. They declared that such a distinction was useless since it was neither required by law nor rendered necessary by the circumstances of the case.²⁶ Their interpretation of the law of Congress and of the Territory was that the person having the highest number of votes should be elected to the office. Accordingly Meeker with 523 votes, Chase with 521 votes, Tuttle with 509 votes, Lachelle with 498 votes, and two Republicans, Winnell and Walker with 512 and 505 votes respectively, should have been declared elected. This would have excluded Murphy, Putnam, Hull and Secombe who had less than 496 votes and more than 472 votes. Secombe was the lowest of all, yet he was a certified Republican delegate.²⁷

The Daily Minnesotan on the same day carried its version of the official election returns. The writer explained that the Republicans had carried St. Anthony

²⁶St. Paul Pioneer and Democrat, July 1, 1857.

²⁷Ibid., June 12, 1857.

because the Democrats had not distinguished on their ballots which men were candidates from the council district and which were candidates from the representative district. They deemed this to be essential. Thus J. H. Murphy and S. W. Putnam were awarded seats as representatives from the council district and D. A. Secombe, D. W. Hall, L. C. Walker, and P. Winnell were awarded seats as delegates from the representative district. Note that the council delegates, Murphy and Putnam, were actually seventh and eighth ranked in the number of votes received.

The Pioneer accused the Minnesotan of avoiding the facts. The editors contended that such distinctions would have been just as useless in Chisago, Olmsted, and Fillmore Counties. In these counties Republicans elected fourteen delegates in the same way that the Democrats had attempted in St. Anthony, that is, without distinction of the type of district represented.²⁸ A week later the Pioneer explained that the Republicans had elected six delegates from Winona and Wabasha, four from Chisago, six from Fillmore, and two from Mower as simply delegates to the convention, not as representative or council delegates.²⁹ Of course, they noted these were districts safe for the Republicans, and they therefore did not see a necessity of resorting to legal techni-

²⁸Ibid., June 25, 1857.

²⁹Ibid., July 1, 1857.

calities to win. And as long as the Democrats were making accusations and were especially deriding Reverend Ames, the Daily Minnesotan recalled an election in 1855 when the Democrats denied Republican candidates seats for minor technical reasons.

The Pioneer attempted to analyze the laws involved to decide if the decision of Reverend Ames was valid. They concluded that it was not because the Enabling Act merely stated that the legal voters in each district within the proposed limits of the new state were authorized to elect two delegates for each representative apportioned to that district for the territorial legislature.³⁰ And this in fact was what the Enabling Act stated in section three.

Section two of the election law the territorial legislature's special session passed, merely declared that every council district should elect two delegates for every councilor it was entitled to in the legislative council, and two delegates for every member they were entitled to in the territorial house of representatives. Further, the Pioneer pointed out that it made no reference to the form of ballot to be used.³¹ When they applied the law to the situation, the Pioneer editor made the point that not only did the St. Anthony districts form one representative and one council district

³⁰Ibid., June 12, 1857.

³¹Ibid.

coextensive, but also there was only one polling place in the districts. He could see no reason to specify on the ballot the names of those running to represent each of the legal constructs when in fact the same men would be delegates for the same people in the same body.

The Minnesotan had tried to show Ames' objectivity by pointing out that he had also thrown out votes from three Republican precincts in the eleventh representative district and awarded the certificate to Mr. R. P. Russell, a Democrat. Mr. Russell refused to take advantage of this legal victory because he had not been given a clear popular majority, and so declined to accept the certificate. The Pioneer denied that this was a similar case because this district was subdivided into two representative districts, and it included four counties with twenty election precincts. Thus, of necessity, a distinction had to be made because some delegates would represent all four counties and others would represent only a district within these counties.³²

As early as June 12, the Pioneer accused Reverend Mr. Ames of a misdemeanor. They said that his purpose was to secure the organization of the convention for the Republicans, and to do this he set up his own dictum and violated the laws of the Territory and of Congress. The certificate rightfully should have been given to those men who clearly had the highest number

³²Ibid., June 23, 1857.

of votes, and the technicalities should have been disregarded. They maintained that the will of the people expressed in the ballots could easily and surely be ascertained. Further, they accused the United States Senator, Lyman Trumbull of Illinois, of giving Reverend Ames the legal advice he needed to effect the trickery.³³ The Republicans' fear of being in the minority at the convention caused them to do this. The editors also expressed indignation that a minister would violate an official oath.

While the Pioneer was expressing indignant horror and accusing people, they also accused the Minnesotan of complicity in the plot by reporting the award of four contested seats to Republicans. They also accused Secombe of actively seeking to disenfranchise the people of St. Anthony. Thus the Pioneer attempted to analyze reasonably the case, but they resorted to their usual colored journalism to further promote the Democratic cause.

To dramatize their case, the Democrats took legal action against the Reverend Ames for an alleged misdemeanor in office. The charge was brought by C. L. Chase, Secretary of the Territory. The official complaint was that Ames had neglected his duty and was guilty of official misconduct.³⁴ Pursuant to the notice given, the Governor of Minnesota Territory, George Medary, tried

³³Ibid., June 12, 1857.

³⁴Ibid., June 18, 1857.

the case Tuesday, June 16, five days after the certificates had been issued. The Territory was represented by a Mr. Smith, the law partner of the Attorney General of Minnesota. Ames was represented by a Mr. Nourse of St. Anthony. Only one witness, Mr. Chase, testified. On June 17, the governor read his decision. He said that he had considered the evidence in support of charges by Mr. Chase, and he examined the statute regulating and defining duties of the office of register of deeds. He concluded that Reverend Ames had indeed been guilty of misdemeanor. The penalty was removal from office.

Of course the newspapers viewed the justice of the decision in different lights. The Minnesota Democrat's editor examined the bill of complaints preferred and pronounced that they were "evidently drawn up by some consummate blockhead as there is but one truth set forth therein, and that one not prejudicial to the case of Ames."³⁵ The Minnesota Republican in turn declared Medary's act illegal and unjust. Both Minneapolis newspapers agreed that the Democrats had utterly failed to make out any semblance of a case.

The Pioneer thought that "even the most radical of the opposition will not deny Medary made a righteous judgment." It claimed that the Republicans had intended fraud and that Ames was merely a well-intentioned weak

³⁵Minnesota Democrat, June 21, 1857.

man involved in a plot.³⁶ In any event, the Hennepin County commissioners reinstated the Reverend Mr. Ames the very afternoon of his dismissal.

Judging from the editorials Mr. Ames wrote concerning the election problem, he most likely made a sincere decision. He probably thought that he was fulfilling his duty, and that the delegates themselves would resolve the evident legal problems.

The Democrat's claim that they had the majority of legally elected delegates depended on the question of whether delegates from Pembina district had the right to be seated. The Republicans claimed they did not. This was based on the fact that a major portion of the district was located outside of the proposed state boundaries. Besides this, they argued that election procedures there had been improper.

But the Democrats had successfully blocked a reapportionment during the legislative session. The laws declared that the election for delegates to the constitutional convention should be conducted according to the usual procedure for elections to the territorial legislature. Thus the Democrats argued that although only residents of the new state could vote, Pembina district was entitled to full representation--six seats.

Because Pembina district was so remote, the charges of election irregularities could not be proved.

³⁶St. Paul Pioneer and Democrat, June 17, 1857.

The Democrats could refute all the Republican charges. Since Pembina was safe for the Democrats, they were adamant on their position concerning the legality of seating those men. The Republicans must have recognized the legality of electing six delegates from there because most of their later arguments were based on procedural peculiarities.

The Democrats had to delay the organization of the convention because the Pembina delegates were not present on July 13. Seating of those delegates would secure domination of the organization only if they were present during organization proceedings.

Actually the Democrats did delay organizing for two weeks because they were waiting for a fifty-fifth person to arrive whose seating could be justified. The Democrats could argue that all of their delegates were legally elected; the Republicans claimed that their fifty-nine members were legally certified. They too had legal justification for their statements.

CHAPTER V

THE ORGANIZATION CONTROVERSY

The Democrats and the Republicans both proceeded to draft their own version of a constitution to present to the people. A large part of the recorded Debates are devoted to the defense of the legality of each organization. Actually neither house was competent to do business for the Territory after this split, and eventually they formed a joint conference committee to form a compromise constitution. Both bodies approved the report of the committee separately and thus one constitution was presented to the people for their approval.

Each body claimed to be the real constitutional convention of Minnesota. The Democrats based their claim on the fact that they had captured the leadership of the organization of the convention on the first day by immediately winning approval of their motion to adjourn. The Republicans based their claim on the fact that their organization had the majority of accredited delegates.

The actual split in the convention occurred shortly before noon on Monday, July 13. The delegates were to meet in the chamber of the Territorial House of Representatives located in the Capitol Building. Most

Republican delegates were assembled in the hall long before noon. Shortly before noon the Democrats suddenly entered the hall in a body led by Secretary of the Territory, Mr. C. L. Chase. Mr. Chase went immediately to the speaker's rostrum and called the convention to order.

Before the meeting, Mr. J. W. North from Rice County had been designated temporary chairman by his fellow Republicans. As soon as he became aware of what was happening, he went to the speaker's rostrum and also called the convention to order. Thus one can picture the foolish scene of two men pounding their gavels and calling the same convention to order. Most delegates paid attention only to the chairman from their party. As soon as Mr. Chase called the meeting to order, ex-Governor Gorman arose and moved that the meeting be adjourned. While Mr. North was calling the convention to order, Mr. Chase was quickly putting the motion to adjourn before them. All Democrats voted yea by voice, but evidently some worried Republicans responded to the call for nay votes. The Democrat delegates and their leader then left the hall, while Republicans continued and proceeded to set up a temporary organization. They appointed a credentials committee and received its report; formed a permanent organization; defined the rules of procedure; and began to debate whether the terms of the Enabling Act should be accepted.

The Republicans met again at nine o'clock the next

morning and proceeded with other preliminary matters. According to the Republican journal, shortly after they began their meeting, the proceedings were interrupted by the appearance of Mr. Chase. He demanded the hall for the use of the constitutional convention. Mr. Balcombe, president of the Republican body, replied that that body was then in session within the hall. Chase asked whether they would give up the hall. Balcombe replied: "Certainly not," and Mr. Chase retired.¹

Thus whereas the Republicans had attempted to gain control of the convention by manipulation of the election laws, the Democrats attempted to gain control of the convention by trickery at organization time. They argued that some Republicans had recognized Mr. Chase, and therefore a majority of the convention acted upon the motion to adjourn. Proceedings following this action were declared invalid.

Folwell noted that both parties desired to control the convention in order to have the advantages of not only being able to determine the character of the constitution but also to be able to apportion the voting districts in a way to secure the majority of the state and national offices in the first election.² He noted further that the Republican leaders especially hoped for a

¹Debates and Proceedings (Republican), 28.

²William Folwell, A History of Minnesota (Rev. ed.; St. Paul: Minnesota Historical Society, 1956), I, 277.

Republican delegation in Congress from the state. For these reasons the Republicans had sent many party leaders to Minnesota to campaign prior to the June 1 election.³

The immediate problem which made possible all that confusion was the fact that the Enabling Act did not specify the hour for the meeting to assemble. One would ordinarily expect that the delegates would have made an informal agreement before the day, and in fact the party leaders attempted to do so, but in a devious way. Warnings went out through the newspapers that delegates should arrive early to protect themselves from any tricks by the opposition. They were thus on the alert.

The Minnesota Republican noted that the Republicans had a legal majority in the convention and therefore had the prerogative to control it. They pointed out that some of the alleged Democratic delegates did not have credentials, or were federal officeholders, or lived outside of the proposed boundary limits, or had some other impediment to being seated.⁴ Mr. Anderson suggested that even if the Republicans had submitted and adjourned on that day and had refused to seat their party members with questionable credentials, they still would have had the majority of delegates during the early days

³Ibid.

⁴Minnesota Republican, July 17, 1857.

of the convention.⁵ And in the specification of the early days of the convention lies the answer to why the Democrats did what they did. If they had clearly been in the minority, they would have been hard pressed to justify their actions. However, they did have some basis in fact to justify the legality of the election of some of their members whose seating was questioned. Besides this, some of their delegates who lived quite a distance from St. Paul had not arrived on the 13th.

They had to do what they could to stall for time or else they would not have had sufficient votes to control the organization and early proceedings. In fact it took them two weeks before they were able to accumulate a majority of the originally authorized number of delegates and were able to argue the legality of their election.

The newspapers had a heyday! Each editor gave a different interpretation of which laws and precedents applied, and even had different versions of what actually happened. The Republicans were just as vigorous in justifying their position as the Democrats upon whom the burden of proof should have lain.

As one would expect, the Daily Minnesotan devoted many columns of the following day's paper to a "real" account of the happenings of the day before. First, the

⁵William Anderson, A History of the Constitution of Minnesota (Minneapolis: University of Minnesota, 1921), 82.

editor attempted to prove that Mr. North and not Mr. Chase was the proper person to call the convention to order because duly elected members had requested in writing that he do so.⁶ Most likely, the Democrats had specified Mr. Chase as temporary chairman to give an added note of legality to their actions because he was a territorial official. The Republicans took pains to show that Mr. North had just as much right to make the first call of the convention. On July 20, Mr. Amos Cogswell arose to talk on the organization procedure, and he cited Cushing's Law and Practice of Legislative Assemblies which he claimed to be the highest parliamentary authority in this country. This source evidently said that every person duly returned as a member (whether legally elected or not) until his election had been turned aside, had the right to call a legislative body to order.⁷ He denied that Chase had such a right because he was not duly certified. Also he did not have the right to call the convention as Secretary of the Territory because where this had been done elsewhere it had been done by virtue of some special order or situation which did not apply in this case. On July 27, Mr. Balcombe presented a very long, well-documented speech to prove the legality of all the activities of the Republicans during the organization. He cited numerous instances where a member

⁶Minnesota Democrat (Minneapolis), June 14, 1857.

⁷Debates and Proceedings (Republican), 77.

of the body had been authorized by his fellow members to call the body to order when no special provision had been made in the authorizing legislation. This had even happened in Minnesota Territory earlier in the decade.⁸

The Minnesotan's version of the first few minutes of the meeting certainly was not an objective analysis of the event, since it stated:

About thirty Democrats of the minority march swiftly into the hall including sundry paid hirelings of the national administration backed by a sturdy crowd of the St. Paul 'Dimmocratic' Irish boys, many of whom, no doubt, contributed about ten votes apiece Secretary Chase sneaked out from some hole or corner of the hall and attempted to call the convention to order.⁹

The next question that was raised was whether a legislative body could adjourn before any type of temporary organization had been effected. The Republicans denied the Democratic argument that a motion to adjourn took precedence even in this case. As the Minnesota Republican argued, so did the party. This paper said that until a temporary organization had been effected, there was in reality no convention to adjourn. In his speech before the Republicans, Mr. Balcombe again referred to page 79 of Cushing's manual. He declared that it stated that a motion to adjourn took precedence before all other questions whatsoever, but it might not then include any amendment as to the day or manner if made

⁸Ibid., 96.

⁹Daily Minnesotan (St. Paul), July 14, 1857.

in the midst of some other proceedings.¹⁰ Then Balcombe denied that this motion to adjourn could be a privileged motion because there was on the floor a motion made by Mr. North that Mr. Galbraith be elected president pro tempore.

Thus he was recognizing the existence of the motion, but understood it to be made to Mr. North and not to Mr. Chase because Mr. Chase had no right to be there as he had previously proved. He cited Jefferson's manual to show that no motion to adjourn could be made during a vote. He also argued that the motion to adjourn was made after the motion was put to elect Galbraith. Mr. McClure spoke on the same topic, August 4, and he argued the point that no one had seconded the motion, therefore it could not properly be voted on.¹¹ He also denied the Democrats the right to argue according to strict parliamentary procedure when they themselves had rushed into the hall, quickly took action without being seated, and then rushed out. He did not consider parliamentary usage to be so gruff. He did mention though, as did the Democrats, that Mr. North had not been so concerned with strict dignity when he placed his own motion before the convention.

The Daily Minnesotan added another point when the

¹⁰Debates and Proceedings (Republican), 122.

¹¹Ibid., 291.

writer claimed that no nay vote had been called for and that a majority did not vote.¹² But note that the Democrats argued also that some of the Republicans had responded to a call for the negative votes.

Finally, the Republicans based all of their arguments on the fact that they had the majority of certified delegates. This point the Democrats could not deny, but they did deny the validity of some of the certificates. First, the Republicans argued that the general rule was "that a certificate is prima facie evidence which always entitles the possessor to the say in the first instance."¹³ Admitted that there were exceptions to this rule, they denied that the exceptions were the rule. They cited especially speeches made in the United States Senate during a contest over the seat from Kentucky in December, 1852. Democratic delegates Shields, Gorman, and Sibley were members of Congress at that time.

Mr. McClure presented to the delegates quotations from the Democrat speeches on the resolution justifying their convention. He denied the claim of Mr. Flandrau that the candidates from St. Anthony of either party must be denied their seats by the convention until an investigation had been made. Flandrau argued that the certificates had been issued by a man who had been officially censured for his activities concerning the elec-

¹²Daily Minnesotan (St. Paul), July 17, 1857.

¹³Debates and Proceedings (Republican), 116.

tion. McClure countered that the trial was not in fact fair, therefore such an argument was not valid.

Finally, the Republicans argued that the Democrats could not adjourn the convention by vote until it had been ascertained who had the right to vote upon such a motion, that is, until a report of the credentials committee had been submitted.

But as is evident, the Democrats also have elaborate justifications for their actions. As a matter of fact, the Democrats spent from the ninth day, Wednesday, July 24, until the twelfth day, July 27, to debate a resolution offered by Mr. Flandrau. He resolved that the other assemblage was in fact "without the authority of law or of parliamentary usage, and revolutionary in its character," therefore neither the electors nor the officers of the Territory should recognize them.¹⁴ The arguments given in the resolution claimed: (1) that the report of their Committee on Credentials had given evidence that the Democratic convention had a majority of the legally-elected members entitled to seats in the convention; (2) that they had determined after examination of official documents that the members legally elected to this convention represented more than a sixteen hundred majority of the popular vote of the Territory; and (3) that there was a body of men assembled who called themselves a constitutional convention without

¹⁴Debates and Proceedings (Democrat), 27.

any legal authority or right. Although some of them may have been legally elected, they had not as yet presented their credentials to the proper authority. This resolution was offered to vindicate

before the people of this Territory, the people of the United States, and I may add, the people of the civilized world, the position occupied by this Constitutional Convention.¹⁵

Mr. Flandrau explained the Democratic position concerning the proper conduct of Mr. Chase in calling the convention. He said that Chase was the proper officer not only because he was Secretary of the Territory, although this could be supported by precedent and usage, but furthermore he was supposedly a member of the convention possessed of all the rights and privileges. The Democrats did not deny that any member of the body had the right to call the convention, they denied only that Mr. North should have done it instead of Mr. Chase. Flandrau said even further that if Mr. Chase did not have the chair, Mr. North would have had as much right as anyone else to do so.¹⁶ Mr. North was out of order because the chair was already occupied, and his motion was void because one was already pending on the floor. Further, he argued that if a quorum was present, a motion requiring only a simple majority would pass even if the vote was only one to nothing.

¹⁵Ibid., 20.

¹⁶Ibid., 24.

Mr. Sherburne further clarified this by stating that the question was not which man had more right than another to call the convention, but the question was whether the call was responded to. Mr. Chase had the right to call the convention. Many of the members had not been informed that Mr. North had been requested by some delegates to call the convention. There was no way to determine how many had been informed. The Democrat portion of the Convention voted in favor of the motion to adjourn and it was "voted against by a small portion of the other party."¹⁷ And also, if he was right, he concluded that all activities after the adjournment were technically revolutionary and out of order.¹⁸

In fact, Mr. Sherburne and Mr. Brown admitted that if the Republicans had returned the next day, they could have come in and voted their opposition down. They admitted also that the Republicans had the majority present at that time and that the Democrats wanted to adjourn to bring in their own members. They wanted to wait until they could have control of the organization to which they claimed they were entitled by the votes of the people. If the Republicans had called for a division of the house, these men said that they would have remained.¹⁹ The issue according to the Democrats went back to the election controversy, and it was the

¹⁷Ibid., 78.

¹⁹Ibid., 20.

¹⁸Ibid., 79.

Republicans who had forced the split in the convention to preserve the illusion of legality they had created.

The Democrats assumed that a motion to adjourn was in order there. Even granting the truth of the parliamentary sources quoted by the Republicans, the motion they claimed to have on the floor was not under consideration in fact because Mr. North's attempt to assume the chair was not in order.

The Democrats denied on two grounds the Republican claim that they had the majority of legal delegates because of the prima facie evidence of certification. They denied the legality of the certificates and then cited precedents where legislative bodies refused to accept as prima facie evidence those certificates which were of questionable legality.

Again Mr. Flandrau had something to say on the subject. He pointed out that it was that officer's duty to certify those members who had the greatest number of votes. He said rather lamely that

there exists a perfect answer to the prima facie character of right claimed for these credentials It is this: that the people of that District were so outraged when it was made public that their wishes, as expressed through the ballot box, had been attempted to be defeated by an official of their own creation, that they insisted that such a man should be removed from office.²⁰

The two parties met separately because no compromise was possible in their eyes. The Democrats were

²⁰Ibid., 19.

probably more responsible for the split than the Republicans because they were confident that a majority of the people in the Territory were Democrat and therefore would support their constitution if two had to be submitted to the people for approval. The temper of the times probably contributed to the inadamant positions taken, but the prizes awarded winning parties were a more important contributing factor. The Republicans of course were far from blameless because they were responsible especially for the election confusion. Also their activities during the organization proceedings were not entirely straightforward either. If they had been so sure of the legality of their position and the strength of their majority, they would have attempted to settle the disputes. This they would not do at first.

CHAPTER VI

HOW TO WRITE A CONSTITUTION

The procedure followed by the two conventions was similar. They both met at nine in the morning and usually also at two in the afternoon five and one-half days a week. The Republicans began deliberations immediately, but the Democrats delayed more than two weeks while they gathered all of their delegates and then publicly justified their actions.

But although the Republicans began actual work much sooner than the Democrats, they had both progressed to about the same point when they appointed their compromise committees. There were many reasons for this. Although both parties used committees, the Democrats relied more heavily on them than did the Republicans. The Democrats accepted the reports of their committees with less debate than did the Republicans.

Progress was hindered in the Republican convention because there was much jealousy among committees. Also the Republicans were more assiduous in discussion of most matters. They spent many hours deciding what the proper content of the Bill of Rights should be. Much time was even spent deciding the procedure to

follow when the convention ordered newspaper subscriptions.

The Republicans spent much of the time during the first two weeks discussing in detail issues not directly concerned with the constitution. On the other hand, when the Democrats finally organized, they began immediately to discuss articles in the body of the constitution. They spent much less time discussing content of the Bill of Rights, minor procedure, and the proper jurisdiction of each committee. Their first debates concerned corporations other than banking and militia.

The facility of the Democrat proceedings is best explained by the fact that many of the Democrats had held public office and were more familiar with legislative procedures. Possibly they had worked out many of the problems in private before they officially organized. In any event, the Democrats did work much more swiftly even though they had more difficulty maintaining a quorum.

Folwell suggested that the convention delegates really did not have a very difficult task because there were so many precedents to follow. He mentioned that they especially relied on the precedents set by the states formed from the old Northwest Territory, the Wisconsin constitutional convention of 1848, and the newly revised Iowa constitution. Further, he said that the Democrats ranged even farther and included

contributions from New England and New York.¹

And it is true that the delegates had many precedents to follow to aid them in their work. Some delegates tried to form a constitution which would be a collection of the best clauses of other state constitutions. In addition to constitutions, the delegates relied on the United States constitution for guidelines. Some of the legal practitioners proposed common law precedents. Of course besides these, the delegates also drew on the experiences of the members coming from many different states and also from their own territorial government.

But although they had all these contributions from those who had faced a similar task before, many of the delegates saw imperfections in the previous work and sincerely wished to create an original document which would be more perfect than the ones written earlier. The delegates had to decide just what was precedent. Some of the less scrupulous among them proposed sections, and then sighted as precedent to support their proposals articles of other constitutions taken out of context. The conservatives among them thought that what was done was good and therefore little new material should be incorporated in the Minnesota document. On the other hand, the real liberals would accept very little from other constitutions. Some of those who delighted in

¹William Folwell, A History of Minnesota (Rev. ed.; St. Paul: Minnesota Historical Society, 1956), I, 404.

citing precedent were opposed by those who had lived in the other states and knew that some of these sections had not worked in their former states and in some cases had already been revoked.

Early in the debates of the Republicans, Mr. Galbraith told his colleagues that they had reason to be optimistic about the results of their work because they had good men and plenty of good precedents to guide them.² Sibley told his colleagues to oppose minor technical change in a section because the original was precisely the same as was contained in most of the states "and we had better have the language just as we found it."³ Mr. Meeker agreed with this explanation, only he suggested that the members be a little more active. The activity would consist in looking very hard at a section before changing it and making it different from the usual form. He voiced the ideas of most of the other men when he suggested "I don't think we are wiser than everybody and everything which had preceded us."⁴

So there was a real task to face. The delegates wanted to do the best job, and many feared their abilities to be inadequate. Some tended to rely very much on precedent and the wisdom of others. This did not really make the job easier because some of the delegates

²Debates and Proceedings (Republican), 72.

³Debates and Proceedings (Democrat), 202.

⁴Ibid.

knew that their situation was new and that each precedential clause had to be examined in detail in context. The work of other constitutions was actually only helpful in directing the outline of the form to be followed.

Nevertheless, many examples of precedent citing are evident. The usual procedure would be such as used by North when he argued for a technical clause concerning libel which was to be included in the Bill of Rights. He wanted Minnesota to adopt the relatively new procedure that in a libel suit the jury be allowed to decide both the law and the fact. His reasons for suggesting this were that it had been included in many constitutions and had had a beneficial effect. Of course the burden of the opposition was then to show that it did not have a good effect.⁵ Butler attempted to support the report of the Committee on Preamble and Bill of Rights by saying that they had only followed precedents which had been set in the formation of other constitutions. This procedure often made the solution to a disagreement easy.

It is a fact that the representatives of the committees consulted other state constitutions to guide them in their work. Some did so not in blind reliance as mentioned above, but for the practical reason that they wished to take advantage of the experience of others. Mr. Cogswell asked that state library facilities be made available to all delegates so that they would be

⁵Debates and Proceedings (Republican), 95.

able to consult the proceedings of other conventions.⁶ The delegates referred to the work of other states as a lawyer refers to his law books, to find clarification of what the law contains. Thus a Republican committee of the whole referred to the work of the old Northwest Territories to discover whether they had to accept without condition the boundaries specified by Congress in the Enabling Act before they would proceed with the work of the convention. Mr. Cogswell compared the Minnesota Enabling Act with the one for Michigan and declared that they were substantially the same; therefore the situation in this case was comparable. He found that Michigan delegates did not consider the boundaries proposed by Congress to be rigidly binding.

Delegates from both conventions used other constitutions as a guide for content and organization of their own constitution. Mr. M. E. Ames justified his amendment to the section on the militia because nearly all state constitutions contained such.⁷ Brown explained to his opponents that nearly all state constitutions excluded municipal corporations from the general corporation regulations.⁸ Morgan attempted to minimize opposition to his report when he admitted that his Committee

⁶Ibid., 40.

⁷Debates and Proceedings (Democrat), 177.

⁸Ibid., 172.

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on the Executive Branch did not claim much originality because its provisions had been copied mainly from constitutions of other states.⁹

To overcome hypothetical objections, delegates would cite the clauses they copied and point to the fact that such had worked in the particular state. They also tried to show that difficulties occurred in states which did not have such provisions. For instance, Mr. Becker tried to show that it was indeed possible for all non-municipal corporations to be provided for by general laws, and that special laws should never be necessary to enable an incorporation. To prove this, he stated that it had been tried successfully in Michigan and elsewhere and cited the Michigan clause. This provision supposedly had not caused any difficulties--general laws were sufficient. The state was protected from the existence of specially privileged organizations. The burden of the opposition was to prove that the assertion of previous success was not true, and this no one was able to do.¹⁰

Delegates were not always easily convinced of the value of precedents, however. Mr. Colburn told his Republican colleagues that the fact that a provision existed in a constitution did not mean difficulties would not arise in the actual application. Further, even if it did work in practice elsewhere, a difficulty

⁹Debates and Proceedings (Republican), 133.

¹⁰Debates and Proceedings (Democrat), 135.

might arise in Minnesota.¹¹

Delegates from both conventions relied especially on the Constitution of the United States for example. They did this because they had ". . . a particular regard for this instrument and for its language," as did Mr. Balcombe or because, as Mr. Secombe pointed out, ". . . for we have to frame a constitution which does not conflict with the Constitution of the United States."¹²

The Constitution is the supreme law of the land and all acts in direct conflict with it are void. This did not eliminate difficulties, but only added to them. For instance, some delegates would base their argument for or against an article on the content of the United States Constitution. But Morgan pointed out that such delegates often did not note the context or the intent of the article in the Constitution. Often the content was such that it appeared to apply to the similar state situation but did not.

A Democrat delegate suggested that all revenue bills originate in the lower house of the legislature, because this was the procedure followed by the national government. But Becker pointed out that this was not necessary in Minnesota because both houses were directly elected.¹³ Other delegates such as Gorman argued against

¹¹Debates and Proceedings (Republican), 133.

¹²Ibid., 103.

¹³Debates and Proceedings (Democrat), 228.

the change of any clauses taken verbatim from the Constitution even if they might not be perfectly applicable in the state situation.

While it is true that the delegates could make use of the experience of other constitutional conventions, a problem arose when they used this as precedents to reinforce arguments. Speakers on each side of a question were able to support their position with valid precedents. The most obvious instance was the organization problem. Delegates from both political parties cited equally reliable legislative manuals and the proceedings of other legislative bodies.

But sometimes delegates would tend to extend the truth a bit to fit their needs. Thus Mr. Balcombe assured his Republican colleagues that he had examined all possible journals and the conventions were all called by members of the convention body. The Democrats evidently found the impossible journals because they cited instances when a territorial officer had called a constitutional convention to order. They did not deny that members had also done so, but tried to show that there were just as many arguments in favor of what they had done.

When delegates supported their position with citations of precedent for such actions, the other delegates reacted in different ways. Mr. Wilson admitted that a clause on dueling had been included in the Bill of Rights

of other states, but he could not see that as sufficient reason for doing the same thing in Minnesota.¹⁴ He suggested that possibly an improvement could be made in the Minnesota document.

Some delegates questioned the validity of certain citations. Besides the possibility that the act would not apply in the same context, there was also the fact that the original article was actually faulty, or at least delegates often alleged them to be such. Mr. Setzer would have denied the validity of any citation from the Iowa Constitution because he maintained that it was in conflict with the United States Constitution. He based this broad accusation on the fact that the Iowa Constitution specifically declared the fugitive slave act inoperative and yet the courts had declared it constitutional.¹⁵ Some delegates denied the validity of certain citations on even less substantial grounds. Mr. Wilson denied the necessity of a certain article in the Bill of Rights which California had included in theirs. He said that California was an exception and that "we, on the contrary, are a sober, temperate, and honest people usually."¹⁶

Occasionally certain delegates indicated that they had recent information concerning the value of

¹⁴Debates and Proceedings (Republican), 110.

¹⁵Debates and Proceedings (Democrat), 597.

¹⁶Debates and Proceedings (Republican), 172.

certain clauses which had been included in other constitutions cited as precedent. Mr. Secombe pointed out that the California Constitution's Bill of Rights secured women's property rights. But Mr. Lowe apparently being better informed, pointed out there was a popular movement under way there to repeal the clause because it had caused much difficulty.¹⁷ Then the Democrat's Mr. Murray pointed out that the proposal to the banking section which had been copied from the Ohio Constitution had caused much trouble there. Not only was it a bad precedent, being the only state having such a clause, but also its effect had been to drive all banking capital from the state.¹⁸

In discussing whether to include a clause concerning the procedure to follow if two men received an equal number of votes for office, some delegates denied the value of the arguments which pointed out that other states had done so. The argument that some other constitutions contained similar articles, therefore Minnesota's also should, was not a very strong one because usually an equal number could be cited which were silent upon the subject.¹⁹

The lawyers among the delegates sometimes attempted to appeal to another precedent other than constitu-

¹⁷Ibid.

¹⁸Debates and Proceedings (Democrat), 419.

¹⁹Debates and Proceedings (Republican), 283.

tions which they considered to be even more weighty--the common law precedents. Thus when the Democrats were debating a technical matter concerning libel, Mr. Becker pointed out that the decisions of the courts of England are much older than the clause they were presently debating. He said that their decision had indicated that the common law was precisely as the section then being debated implied.²⁰ So also, Mr. Perkins was against sweeping away the century-old principles in the fundamental law document presently being formulated.²¹ The burden for delegates who argued this was to show that such was indeed common law principle, but such arguments once established were difficult to refute.

Then, of course, the delegates drew upon their many experiences to determine what should be included in the constitution. They had already been governing themselves for eight years as a territory and many delegates had much experience from this. The difficulties met during the territorial experience moved some delegates to write into the constitution certain safeguards which they found to be necessary. This was especially true in regard to what was done concerning corporations because the territorial legislature had spent most of its time granting specially written charters of incorporation. It was possible for many to receive special

²⁰Debates and Proceedings (Democrat), 283.

²¹Debates and Proceedings (Republican), 172.

privileges.

Some of the delegates were predisposed to certain types of organization because they were used to such in their previous home states. So Mr. Colburn suggested that no one could question the value of the system of county government headed by commissioners and not township supervisors. The county commissioner system was the type used in New England and Colburn suggested that most of the Minnesotans had their roots in states having the county system and would not accept the change.

Finally, some delegates were guided in their actions by the will of the majority of the people. Such was Mr. Bolles who said, "I am in favor of incorporating in it every popular sentiment of their day."²² One of his reasons though for suggesting this was so that a constitution would be formulated by his Republican group which would be more appealing to the people. Fortunately the body had a moderating influence in Mr. Mantor, who suggested that such a constitution would be too unwieldy. He asked the question, who would determine the popular attitudes and the wisdom of such.²³

Thus while the delegates had some idea of what should be included in a state constitution because they could study the work of other constitutional conventions and legal theorists, both bodies debated anew all these

²²Ibid., 151.

²³Ibid.

articles and actively formulated their own constitution. The constitution of necessity had to conform to the needs of the time.

One of the most difficult tasks the representatives to the conventions had to deal with was the formulation of a policy concerning content of the constitution. The debate on many of the clauses usually included a speech or two questioning whether that clause was proper for a fundamental law document or could more properly be handled by the legislature. In other words, both conventions had to decide how detailed their constitution should be; how much specific definition they should give to the law.

The Pioneer and Democrat carried an editorial on June 26 in which the editors analyzed the problem. They expressed the hope that this convention would learn from the experience of past conventions in other states and avoid their common sin: "the usurpation on the part of constitutional conventions of the functions of the legislatures" They showed that such a fault usually made necessary frequent alterations of state constitutions. This not only caused unnecessary expense and political excitement, but might also result in the weakening of the usual respect given to the civil and political institutions of a state. If this happened, the force of authority of the law over man would be severely diminished.

The editors noted further the supposed distinction between a constitution and a code of laws. They said that "the object of a constitution is to prescribe and define the principles and rules which shall regulate the relations between the governor and the governed."²⁴ The object of a code of laws was deemed to be the governance of citizens in their relation with each other. Therefore the usually partisan newspaper did have the sophistication to conclude the nature of types of law. The task of the members of the convention was to define the relationships that ought to exist between people and their government. These were considered to be fairly simple and unchanging. In conclusion, they declared that the delegates should define broad principles and leave to the legislatures which followed the duty of governing the contemporary relationships of the people. These of necessity changed with the times.

But examination of this topic illustrates a characteristic of many of the delegates to the convention, and probably also a characteristic of frontier legislatures. The delegates often wanted to define the law in detail to provide safeguards against many of the practices of the legislature. Many men had been territorial legislators, and most of the rest were critics of that body. The debate on the article on "corporations without banking functions" gives an example of how

²⁴St. Paul Pioneer and Democrat, June 26, 1957.

delegates to this convention attempted to remedy an abuse that had been common in the territorial legislature. Evidently it had been fairly easy for certain interest groups to obtain special privileges from the legislatures, and in fact numerous privileged charters were granted. Many of the delegates wished to prevent the existence of such privileged status--to prevent unequal treatment of citizens by the legislature. Therefore many of the delegates attempted to include in the constitution the principle that corporations would be formed only according to general laws.

This was a proper subject to be included in a constitution--it was a statement of principle. However, it does illustrate the problem, and it explains why the delegates so often wanted to include specific prohibitions and other safeguards. For instance, during the debate on the militia clause, Mr. Colburn said that the constitution should include a detailed militia clause lest the legislature (which he claimed was usually apathetic to such legislation) should allow those persons who were ambitious to secure military title to frame the necessary laws and then control the laws themselves.²⁵

So also, during the debate on county and township organization, an additional section was added which would have specified a minimum size for counties and restrict

²⁵Debates and Proceedings (Republican), 456.

subdivision of existing counties.²⁶ Mr. Wilson pointed out why he considered such a section to be necessary. According to him, many men had laid out town sites and then petitioned the legislature to create a new county from the section of an established county wherein their site was located. This would be done in such a way that their town would have an advantageous location, possibly be even the county seat. He even implied that some bribery was involved. Evidently towns had been incorporated and designated as county seats before a house had even been built. Therefore he said, "I want to place this matter out of their hands."²⁷ He did not believe that a situation which had been common would suddenly change; therefore he wanted to take it out of their hands--make it impossible. Further, he exclaimed, "I do not care if it does savor of legislation. I shall not be scared of that cry."²⁸ He explained that he acted on the higher principle that he voted for what was right, and in this case the convention had an opportunity to eliminate a wrong. As a matter of fact, that particular matter failed to pass.

Some instances of attempting to legislate safeguards into the constitution were quite evident. Mr. Emmet opposed an amendment to section ten of the article

²⁶Ibid., 296.

²⁷Ibid., 279.

²⁸Ibid.

on the executive which specifically stated the amount of bond the state treasurer must post.²⁹ Another example was the clause which still hinders lawmakers today: the designation of the state debt limit. Many also opposed in vain the section on the legislature which defined apportionment.³⁰

But then there was also the opposite viewpoint which in most cases seemed to agree with the ideas expressed by the Pioneer. Mr. North, for instance, said that the role of the convention was to enumerate simple principles and leave the legislature to go into minutiae.³¹ Some took a moderate position such as Mr. Bolles who granted that the constitution should not be encumbered with useless legislation, but he also thought the idea ridiculous that the constitution should not incorporate anything which was legislation.³² And others such as Mr. Colburn refused to admit that legislatures would of necessity be corrupt. Therefore he did not admit that it was necessary to restrict legislatures on those grounds.³³

There were also many delegates who questioned the appropriateness of the content of certain clauses for a

²⁹Debates and Proceedings (Democrat), 283.

³⁰Ibid., 234.

³¹Debates and Proceedings (Republican), 188.

³²Ibid., 173.

³³Ibid., 188.

constitution. They questioned not only those which were too detailed as mentioned above, but even those matters of a broader nature which would still more properly be done by the legislature. These men such as Mr. Colburn denied it was self-evident that the legislatures had to be controlled. Mr. Lowe questioned other sections because he wished to leave more to the legislature which he believed to be more competent to determine particular matters.

But then there was always the problem that some delegates opposed certain clauses merely with the blanket condemnation that the matter would be done more properly by the legislature. Some, such as Mr. McClure, would have even excluded clauses defining important principles because the form they were presented in was too detailed.³⁴

Another problem which confronted the delegates--especially the Republicans--was the proper placement of certain clauses in the document. Many times men were opposed to a clause because it had already been included in the Bill of Rights. Other times a proposed resolution for the Bill of Rights would be opposed because the particular delegate had information that such was included in a report of one of the committees. Some delegates explained that they thought the nature of the Bill of Rights was different than that of Articles of the Constitution; therefore such could properly be included twice.

³⁴Ibid., 173.

Topics which were often confusing along this line included especially those concerning legal rights, such as trial by jury and property rights.

It should be noted that the Republicans had a head start on the Democrats, but they concerned themselves more with questions such as have been included in this chapter. Anderson noted that there was not too much difference in state constitutions, but he failed to recognize that for most of the delegates in Minnesota, that was their first and only experience with a constitutional convention. Though the content of the final copy may have been similar to others, the delegates actively formulated it.

CHAPTER VII

SPECIAL DIFFICULTIES

When Minnesota Territory applied for statehood, there was much speculation as to what the boundaries of the new state would be, because no one expected Congress to create such a large state as was the territory. Many of the Republicans, and most of the leaders from southern Minnesota, worked to obtain an east-west boundary line; that is, one which designated the north boundary just north of the Twin Cities, and the western boundary at the Missouri River. The Democratic leadership and most of the people living in the populous St. Paul, St. Anthony, and Stillwater region worked to obtain a north-south division which was similar to that which in fact exists today. Actually Congress settled the boundary problem when it prepared and passed the Enabling Act, but the "die-hards" questioned whether it was necessary to accept this provision of the Enabling Act. Throughout the course of the convention, delegates sought to have the last word about the benefits of their particular boundary proposal.

The important problem for the delegates was

whether the convention had the right to alter the Enabling Act by changing the boundaries it proposed. The boundary question was brought up the very first day in the Republican convention during the debate on the required resolution which declared that the people in fact wished to enter the Union. Mr. Coggsell and Mr. Galbraith thought it improper to depart from any provisions of the Enabling Act, saying "if we reject a part of it, what guaranty have we that we do not reject every part."¹ Galbraith especially feared many things. Possibly Congress would withdraw the many grants the Enabling Act provided; possibly admission to the Union would be much harder if not impossible to achieve. Finally, he felt that the boundary question was in fact solved when the people of the Territory elected delegates pursuant to an act also providing for such a boundary.

Although Mr. Coggsell feared any action that Congress could misconstrue, he did not agree that the convention was bound strictly to the provisions of the Enabling Act. He did not believe that a resolution in compliance with the Act specifying that the people of Minnesota wished to be admitted had any implications other than that. He said that Michigan had a similar Enabling Act, yet it did not consider the provisions by Congress perpetually binding.²

¹Debates and Proceedings (Republican), 15.

²Ibid., 16.

Immediately Mr. Billings arose to give what he considered to be a solution to the problem. He pointed out that the Enabling Act did not give the people of the Territory of Minnesota the right to form this government, but only the inhabitants of that portion of the designated territory which would then be admitted to the Union. The rest of the Territory was excluded from the convention, so Mr. Billings could not see how representatives from an area which might not be part of the state could form a government for an area not represented. Therefore, if the members of the convention wished to be immediately admitted into the Union, then they must accept the conditions of the Act exactly.³

Others agreed that the convention had the right to reject some of the provisions of the Enabling Act, but that in point of fact such would not be a wise thing. The Republicans finally adopted a resolution offered by Mr. North which actually ignored the boundary question and merely declared the people's wish to enter the Union on equal footing with other sovereign states.⁴

On Wednesday the delegates again faced the problem when Mr. Secombe proposed that a committee on boundaries be appointed also. Mr. Coggswell and Mr. Mantor both pointed out to the delegates that the Wisconsin convention had had such a committee. This committee was appointed and made a report favoring a north-south

³Ibid., 17.

⁴Ibid., 28.

boundary the next week on Friday, July 24. It was brought up for debate on the following Friday, and at that time Mr. Wilson, a strong supporter of the east-west boundary and a delegate from Winona, made a minority report. A debate followed that day, and as with similar controversial subjects, reappeared on the floor from time to time thereafter.

Most of the Democrats favored the north-south line, and it did not become such an issue in their convention debates. The Democrats, of course, did not actually complete organization until July 27 when they completed debate on a resolution to justify their organization. Therefore the Democratic confrontation with this issue did not parallel the Republican's. During the course of this debate though Mr. Stacy remarked that he did not consider that Congress had the right to disenfranchise inhabitants of the Territory--meaning in this case those beyond the proposed boundaries--and in fact proposed that the convention had the right to determine the state's boundaries.⁵ Of course Congress would still have final approval.

The delegates also had to pass a resolution declaring whether the residents of the Territory wished to enter the Union. The question again came up whether delegates were bound to accept the provisions of the Enabling Act in its entirety. Mr. Flandrau thought

⁵Debates and Proceedings (Democrat), 89.

that the members of the convention were free to debate the content of the Act.⁶ Mr. Brown did not think the provisions of the Act binding until submitted to the people for ratification. This was rather ambiguous, but Mr. Sherburne clearly stated what the consensus of the delegates was. He thought that they were not bound to the Act, but it was expedient that they accept the provisions of the Act and of necessity in toto.⁷ In the end the convention adopted a detailed resolution of acceptance of the Enabling Act; and they, unlike the Republicans, specifically noted that they accepted the proposed limits mentioned.⁸ However, the Committee on Standing Committees authorized a Committee upon "the Name and Boundaries of the State, to consider and report upon the several propositions submitted to of this territory by the Act of Congress. . . ." ⁹ The report of the committee was presented the afternoon of August 6, and it defined the same boundaries as the Enabling Act, a north-south line.

Mr. Flandrau immediately offered an amendment which in effect designated an east-west line. After some debate on this, it was rejected and the report of the committee was adopted. Again on the 19th, Mr. Flandrau attempted to give an east-west boundary another chance by proposing that the boundary question be submitted to

⁶Ibid., 101.

⁸Ibid., 109.

⁷Ibid., 103.

⁹Ibid., 119.

the people along with the question of adoption of the constitution. He finally was able to have this question referred to a select committee of three who reported back on the last day of the session without recommendation; therefore the question died.

We see then that there definitely was a question before both conventions of what the boundaries of the new state should be. It is true though that the Democratic debate on the question was minimal, and in the usual spirit of these delegates, somewhat personal. Actually the debate on Mr. Flandrau's first amendment was only with Mr. Gorman who had at one time favored the east-west line. He changed his mind after a trip to Washington where he was told that adoption of the east-west line would mean the loss of a large amount of railroad land grants. This, of course, was the work of Mr. Rice. He also convinced many other people. In fact, it is evident in Flandrau's speeches that his only real argument was that he believed certain people in the northern part of the Territory preferred to remain a territory. He suggested that they could then profit from federal patronage which they had not had the advantage of during the previous nine years.¹⁰ His original argument for the east-west line was that the amount of land grants was not a question because in every case the state would have just as much land to tax. He considered the question to be

¹⁰Ibid., 530.

which railroads were most important. He concluded that the most important lines would be those connecting with the Missouri River.¹¹

The arguments by the Republicans other than those similar to the above included the economic advantages for the Southern Minnesota region if the northern boundary was set just above St. Paul. They also thought that if their boundary proposal were adopted, the balance of political power would shift from the predominantly Democratic St. Paul area.

One significant feature of the Minnesota constitutional convention was the fact that it was the last one in a territory before the outbreak of the Civil War. Since some of the politicians and some of the journalists chose to bring national issues into the local situation, it was to be expected that the question of Negro rights and Negro suffrage would be raised. But not only did the delegates debate this, but also questions of suffrage for half-breeds, Indians and foreign-born non-citizens.

Folwell thought that it was to be expected that some of the Republicans would not fail to propose that suffrage not be limited by race restrictions.¹² He noted that some of the wiser delegates warned that the

¹¹Ibid., 296.

¹²William Watts Folwell, A History of Minnesota (Rev. ed.; St. Paul: Minnesota Historical Society, 1956), 277.

Negro was not yet ready for suffrage, but some of the enthusiasts nevertheless sought to at least insure the possibility of Negro suffrage in the near future.

The delegates also debated other questions concerning the role of the Negro, such as his role in the militia. And it was probably to be expected that although few advocated the sanctioning of slavery, few also favored Negro suffrage. In fact, Buley noted that although Illinois did not have a southern-orientated population, it specifically excluded Negro suffrage rights from its first constitution even in 1818.¹³ Although Negro rights were discussed and limited in Minnesota, no one actually recommended discussion of the propriety of the slavery institution.

But this does not mean that the slavery question was not raised in Minnesota. Evidently during the campaign some Republicans tried to convince the people that the issue between the Democrats and the Republicans was the establishment of slavery in Minnesota. This must have occurred because one of the editorials in the Pioneer on election day attempted to dispel such an idea. It declared that the question was not as the Republicans implied (especially for the benefit of foreign-born citizens) that African slavery was involved: "They argued that no sane man dreamt that an attempt

¹³Roscoe C. Buley, The Old Northwest, Pioneer Period, 1815-1840 (Indianapolis: Indiana Historical Society, 1950), 40.

would be made to legalize that peculiar institution for Minnesota." But the editors admitted that the question was whether the people would "endorse the monstrous doctrines of Negro Equality and Nullification."¹⁴ Therefore, the political spokesmen were attempting to make a distinction between the two parties in terms of the position taken on the Negro question.

The Pioneer further warned that Negro suffrage was an openly avowed principle of the Republicans. Also, if the Republicans should win control of the convention in the election that day, they would probably include Negro suffrage in the constitution. In fact, the editorial said that the Republicans in the territorial legislature that spring had supported a bill which would have given "the ignorant and degraded slave" the vote after only six months residence. One of the complaints was that the educated foreign-born would still have to wait two years. But they must also have considered Negro suffrage a policy opposed by the majority.

This Democratic newspaper assumed on election day that the question at issue was one of Negro equality or white supremacy. They claimed that the prosperity of the future state hinged on the solution to this problem. The editor further assumed that the people wanted a constitution written for the benefit of white people.¹⁵

¹⁴St. Paul Pioneer and Democrat, June 1, 1857.

¹⁵Ibid., June 2, 1857.

So if the Pioneer was an influential newspaper voicing the opinion of many of the Democrats, questions on aspects of the Negro situation were brought into the election. Most likely the editors did not really consider these questions so important in Minnesota, but they did note that these were questions upon which many people had very strong feelings. Therefore, these could effectively be used in a campaign.

And to add another thought for the voters' consideration, the Pioneer further suggested that the Republicans wished to put the future state in a position of antagonism to the federal government by supporting the fugitive slave laws which had been viewed unfavorably by the Supreme Court.

But even the Republicans themselves did not agree what the party position should be on Negro questions. On August 6, Mr. North proposed an amendment to the report of the Committee on Elective Franchise which would have stricken the word "white" from the enumeration of requirements for voting privileges, thus in effect removing race as a qualification.¹⁶ He argued from the natural law principles that there were no grounds for denying to other races those rights they themselves enjoyed. He also argued at length from other precedents and the Declaration of Independence. Mr. Wilson, a member of that Committee on the Elective Franchise,

¹⁶Debates and Proceedings (Republican), 351.

stated that he knew no one on the committee besides Mr. North who opposed the white qualification. But they had decided that if it was questioned, instead of just deleting it, they would suggest that the convention submit the question to the people at the time the constitution was submitted for ratification. He said further he did not believe that the right of Negro suffrage was part of the Republican creed.¹⁷ North said he was sure that a large number of Republicans in Minnesota felt very strongly on this question, and Mr. McClure and Mr. Balcombe quickly questioned that assumption. According to Balcombe, Negro suffrage was not a tenet of the Republican Party but it only opposed the extension of slavery.¹⁸ Mr. Messer agreed with North that a majority of the people favored Negro suffrage, and in fact he believed that the Republican version would have a better chance of being accepted by the voters if it were included.

Other delegates argued not on party principle, but appealed to what they considered to be the higher principles and more important facts. Although Mr. North gave the most detailed arguments, some of his opponents also gave well-thought-out criticisms. Such for instance was the analysis of Mr. Galbraith. He disagreed with North that this was a question which could be defined as being either right or wrong, but was one of expediency.

¹⁷Ibid., 361.

¹⁸Ibid., 362.

Galbraith noted the Negro's degraded position and he insisted that the first step was to elevate his social position--remove the inequality--and then it would be possible to give the Negro a vote.¹⁹

Then, of course, there were always cynics in the convention, and Mr. Mantor evidently feared that some people would vote to retain the race qualification because they feared reprisal. They would rationalize their actions by arguing that such was accepted policy.²⁰ And although we do not know their motives, some people argued the question of policy.

Finally, some delegates argued as did Mr. Hudson that they opposed the inclusion of white as a qualification but would vote with the majority. Possibly this determined the majority. In any event, the amendment to strike white as a qualification failed 17 votes to 34.

The Democrats were also faced with deciding whether the Negro should be given the right to vote, and just as not all Republican members favored this, so also not all of the Democrats were opposed to granting them suffrage. The question occurred on August 4 when Mr. Curtis proposed to strike out a part of section 22 of the article on the legislature which specified that the legislature should prescribe the qualifications for voters in those years when a reapportionment was made.

¹⁹Ibid., 343.

²⁰Ibid., 339.

His grounds were that the legislature should be free to do so whenever such was needed. Mr. Emmet guided the debate towards the question of Negro suffrage. He feared that if the 1865 legislature, which would be the first one to consider a reapportionment, would grant the Negro the right to vote, it could never be recalled. He proposed that they write into the constitution a permanent denial of such a right for the Negro. So Mr. Brown obligingly proposed to amend again section 22 with a statement that no person of Negro blood should be allowed the right of suffrage or to hold office. But then the action was tabled until the Committee on Elective Franchise would report, and hence no vote was taken.²¹

That committee reported on August 12, and there was very little debate on their report. Only a brief mention was made of the fact that white was one of the qualifications for voting. Certain exceptions were made to this rule because half-breeds and civilized Indians were also given the vote.

The Democrats professed to be concerned with the recent decisions of the Supreme Court, especially the Dred Scott decision which denied the Negro the right of citizenship. This was especially evident during debate on the militia. The delegates decided that making citizenship a requirement for qualification for military service would in fact exclude the Negro. This also never

²¹Debates and Proceedings (Democrat), 250-251.

came up for a vote, and in fact the section on militia merely stated that the legislature should make all laws necessary.

The question did come up again for both the parties when the compromise committee met. The Pioneer and Democrat thought that the question of suffrage would be an insurmountable barrier, even though the Republicans had also restricted suffrage. Anderson said that the Republicans agreed to restrict suffrage in return for the provision of a simple method of amendment. This would make it fairly simple to change the suffrage requirements later, and also to change the apportionment the constitution designated.

The Democrats debated at length a proposed section of the Bill of Rights which would have defined when an alien had the same property rights as a citizen. They argued mostly technical matters, but they wanted to insure that the aliens would in some way declare their intent to become citizens. This would have prevented them from just exploiting the land. In the end the proposed section was stricken.

In the other convention the Republicans were debating when an alien would have the right to vote. Some felt that there should be no long residence requirements, others disagreed. Wilson suggested that the alien should declare his intent to become a citizen. Mr. Bates then arose to express the prejudiced view "that the oath

of an Irish Catholic amounts to very little."²² Although some delegates harbored some prejudice against foreigners, this was not a general outlook. Aliens were granted many rights, and some delegates suggested that only minimum restrictions should be placed upon them.

Candidates often argued Negro questions during the campaign. A survey of the partisan speeches and articles gives much evidence that the national concern was also an important local interest. But from a survey of the debates, those questions do not appear to have been so important in actual fact. There certainly was some difference between the parties, but also within the parties, as to what rights the Negroes should have. But it is also quite evident that slavery just was not a real problem in Minnesota. Again it seems that this was such a popular campaign issue only because it could arouse the people and define loyalties, whereas the constitutional issues were neither appealing nor defined.

Debates on other less controversial matters evidenced frontier thinking. These could present material for another complete study. Part of one session was devoted to a discussion of whether a farmer should be compensated for the land taken from him by the railroad right-of-way. The argument was that the advantage of having a railroad nearby more than provided sufficient compensation.

²²Debates and Proceedings (Republican), 382.

The discussion on corporations with banking functions was especially significant. Some delegates seriously questioned whether the people in fact wanted banks in the territory. The real problem the delegates had to face was the procedure they should follow to insure that the banks would remain sound. Many members cited the unhappy experiences with Western banks and argued that Minnesota should go to lengths to guard against these. Many proposals concerning banks were designed to insure their soundness. However, most of them would have made banking an unattractive business venture. They wanted to demand so much security that it was not worthwhile for a man to invest his money in banking stocks.

Both conventions debated at some length the judiciary article. The most important topic of discussion was the selection of judges. Most of the delegates seemed to think that it was best to have the people select the important justices and so today we still elect our state supreme court.

Space does not permit a more detailed appraisal of the Minnesota delegate's approach to those topics common in all constitutional conventions. Only the general problems concerning content and the unique problems concerning organization have been examined. Indirectly, however, it has been possible to give a brief view of the frontier politician's approach to political problems.

CHAPTER VIII

THE GREAT MINNESOTA COMPROMISE

Although each convention consisted only of members of the same political party, the division of votes on various questions followed a pattern similar to the usual results in bi-partisan meetings. But the fact remained that there were two conventions formulating two separate though very similar constitutions. That the two constitutions were similar would have made no difference if they had both been submitted to the people. The partisan confrontations would have been much more violent than what had already gone on during the election campaign and the organization controversy.

Finally, during the last part of August, the delegates agreed that one constitution should be submitted to the people. A committee appointed by each party met with its counterpart to iron out the differences and create one document. Francis Smith, the reporter for the Democratic sessions, said in his preface to the journal that the final constitution was the work of a joint committee, but that the committee "reported almost verbatim et liberatum the instrument

framed by the Democratic convention."¹ While this is a bit exaggerated, most authorities agree that the Democratic version prevailed for the most part. Furthermore, Mr. Smith noted that this final document was acted on with comparatively little discussion; therefore it must have been agreeable to most members.

There are different reasons offered to explain why both conventions agreed to accept the proposal that a joint committee be appointed. The two parties agreed to accept the document the committee formulated. Anderson suggested two very important reasons for this. First, he noted that after three weeks of separate meetings, both of the conventions began to receive notes of adverse comment from both local and national sources.² Secondly, also it was almost inevitable that only one constitution would be submitted to the people because, since as Anderson noted, they feared the violence that would accompany the agitation for acceptance of each. Thirdly, another overriding factor was that the delegates feared that failure of the parties to agree on one constitution might delay the admission of Minnesota into the Union. They listened attentively to the comments that came from Washington.

The Daily Minnesotan noted that submission of two

¹Debates and Proceedings (Democrat), vi.

²William Anderson, "Minnesota Frames a Constitution," Minnesota History, XXXVI (March, 1858), 11.

constitutions would only draw ridicule from Congress. The editors argued that it was ridiculous to think that only part of the representatives of the people would formulate a fundamental law that would affect all of the people.³

Finally, one powerful factor which led the Republicans to make the first real attempts to reach a compromise was that the Democratic treasurer of the Territory refused to pay the Republican expenses.⁴ In fact, the Democrats as a group were more adamant in their refusal to recognize the opposition convention than were the Republicans. Those who were opposed argued that they had already told the Republicans that they were welcome to submit their credentials and join the "real" constitutional convention. They did not wish to deal with the Republican body as a whole because they would not grant that all of the the Republican seats were lawfully held.⁵

But some of the delegates were less adamant. In fact, on Saturday, August 8, Mr. Sherburne proposed a resolution which proposed that the convention appoint five men to meet with a similar committee from the Republican meeting. They would consider a plan which would enable the two parties to agree on a single constitution.⁶

³The Daily Minnesotan (St. Paul), August 9, 1857.

⁴Anderson, "Minnesota Frames a Constitution," 11.

⁵Debates and Proceedings (Democrat), 352.

⁶Ibid., 350.

He pointed out that such was necessary because the reputation of the state was at stake, but he suggested that "we can afford to be magnanimous because we are legally the constitutional convention."⁷ His resolution was postponed. But interesting to note, the same morning, and apparently without consultation with the Democrats, Mr. Galbraith proposed a resolution similar to Sherburne's, and it was unanimously adopted without debate.⁸ The Democrats received the proposition on August 12, and Sibley selected a committee to study the matter. That committee reported back on Friday, and the report was designed to make sufficient political capital. It stated that after the session on Saturday, they had in fact formed an informal caucus and arranged with some Republicans to meet and discuss the matter off the record. The Republicans did not come to the meeting. The Democrats charged that they went back to their own convention and proposed a similar resolution which passed. The Democrats concluded that as yet they had the only committee of any type appointed to work out a solution. Also they said that the Democratic convention could not receive any communication from the other meeting "by which the legal character of this convention can be called into question."⁹

On the 18th, the Republicans passed a resolution

⁷Ibid., 351.

⁸Debates and Proceedings (Republican), 411.

⁹Ibid.

authorizing a select committee. The president appointed it, and he sent a communication stating the fact to the Democrats. The Democrats then passed a similar resolution by a vote of 33-7. Mr. Setzer exclaimed that he could not compromise his principles, and he left the room, but returned a few days later.

As one would expect, the Republicans also attempted to make political capital from the fact that they had offered such resolutions, and the Daily Minnesotan explained that the noble party had "placed themselves right before the people as a party prepared to make honorable and reasonable sacrifices to preserve the material interests of the territory and the future state."¹⁰ Therefore both parties were then ready to attempt to reach a compromise because they had prepared a proper image for the people.

The committees were chosen and went to work immediately. The Republican committee consisted of Messrs. Galbraith, McClure, Aldrich, Stannard, and Wilson; the Democrats appointed Messrs. Gorman, Brown, Sherburne, Holcombe and Kingsbury. It is evident from the above description of some of the delegates that these were important members of their respective conventions.

The meetings of the committee were held behind closed doors, and they did not keep a journal of their proceedings. What they concluded is evident only by

¹⁰The Daily Minnesotan (St. Paul), August 12, 1857.

comparison of the final constitution with what had been done before. They not only chose from both of the drafts, but also added provisions of their own. They evidently felt quite free to make changes. It is known, however, that they did vigorously debate such questions as monopolies, corporations, banks, legislative apportionment, judicial districting and methods of amending the constitution.

Evidently the committee became deadlocked by August 24, and Anderson suggested that the main difficulty was the question of how to open the suffrage to non-whites.¹¹ The tension was broken by a method which would seem typical for the frontier, although present-day legislators are not above it.

According to an account in the Daily Minnesotan which seems to be corroborated by other accounts, the discussions were at a standstill that morning. Republican Delegate Wilson was discussing with some of the men present. During the course of his conversation, he mentioned that there were gentlemen of the Democratic convention membership with whom he could exchange ideas freely and in whose judgment and opinion he had confidence. However, he said in effect that there were others in whose judgment he had little confidence. According to this version, Gorman was reclining nearby and overheard the remarks. He asked if he was considered to be on the

¹¹Anderson, "Minnesota Frames a Constitution," 11.

second category, and Wilson reportedly said, "most certainly." Gorman evidently quickly stood up and struck Wilson on the head with a heavy gold-headed cane. In fact, the cane splintered. The papers said that Gorman was ready to jump on the fallen Wilson, but he quickly recovered and attempted to return a blow to Gorman. The other members prevented this and Gorman left the room.

The Daily Minnesotan suggested in an editorial the next day reasons why the compromise committee was not able to complete its work successfully. The editors felt that there was a great danger that the committee would fail because of a conflict over Negro suffrage. They put the blame not on the Democrats in general, but on Gorman and Sibley. Blame was especially placed on Gorman because the Republicans said that he insisted that the question of suffrage should not be left up to the people. Another factor was that Gorman mentioned that the final draft of the constitution should be signed by Sibley as the president of the constitutional convention. This last demand, of course, the Republicans could not agree to, and the Minnesotan even suggested that he and some of the other Democratic leaders wanted to have two constitutions submitted to the people. The editors supposed that the Democrats thought that they would profit from the anarchy that was sure to follow.¹² Whatever their motive may have been, the Republican delegates to

¹²Daily Minnesotan (St. Paul), August 25, 1857.

the committee refused to meet with a committee which still included Gorman in its membership. But the next day they all met without Gorman as a member and completed the work. The crisis was overcome, and on August 29 the report of the compromise committee was adopted in both houses by a large margin.

There was one important opponent to the compromise constitution in the Democratic convention, Mr. Setzer. On the 27th, he moved that the committee be dismissed because he felt that the apportionment schedule adopted by them was wholly unfavorable to the Democrats. Later he argued that the Democrats' constitution was already enrolled. However, he was overruled, and the compromise report was adopted by a vote of 38-13 in the Democratic convention. Sherburne evidently succeeded in convincing the delegates that this compromise contained most of their version of the constitution verbatim, and that it was in their best interest to adopt it. Actually though, once the entire report was submitted on the floor, there was very little debate upon it. Many men argued that if they changed any part, the compromise committee would have to meet again. This might upset the agreement. These men also argued that it was expedient to accept the report as it was not only because they would be busy much longer if they did not, but also because they probably would not be able to improve on what was already accomplished. Those who strongly opposed what had been done did so

because they felt that everything had been sprung on them at once. They finally relented, however.

The Republicans did not seem to be quite as enthusiastic about the compromise constitution. They opposed in particular the apportionment, the location and method of controlling the state university, electoral procedure, and the suffrage provisions. But nonetheless, they did not think it prudent to submit a separate constitution to the people, nor did they think it possible to improve upon the compromise constitution unless they spent months negotiating. Finally, they felt that their party was strong enough to overcome the handicap of an unfavorable apportionment. They accepted the report of the compromise committee by a vote of 42 to 8.

The biggest difficulty other than the suffrage question was agreement on apportionment. The Republicans had had a disadvantage during the spring election because the apportionment did not give the proper number of seats to the newly-settled southern Minnesota counties where they were the strongest. They intended to change the districting for their own advantage. Both parties wanted to have the districts set up in such a way that they would secure the entire congressional delegation, a majority of the legislature, the governorship, and most of the other important elected offices. Both conventions felt that the apportionment provisions of the compromise constitution were unsatisfactory.

The Republicans favored dividing the state into two congressional districts of equal size. The first district would have been the southern counties, and would have been Republican; the second district would have included the northern counties, and it would have been Democratic. On the other hand, the Democrats favored an election of three congressmen on a statewide, at-large basis. The man with the lowest number of votes would be eliminated if the census was too low to permit three congressmen. But the Democrats felt that they had a slight majority of the votes on a statewide basis.

The Republicans proposed a small legislature and a districting which would have given their safe counties about one-fifth more representation than they were entitled to, and the Democrats would have had about one-fifth less. On the other hand, the Democrats proposed a large legislature and a districting that would have given the usual Republican counties one-tenth less representation than they were entitled to and the Democrats one-seventh more.¹³

The constitution also provided for judicial districts. The Democrats proposed that there be five such districts of which four would be safe for the Democrats; the size of the districts proposed was wholly unequal. The Republicans seemed to be fairer in this matter, and their plan called for six districts of equal size. They

¹³William Anderson, A History of the Constitution of Minnesota (Minneapolis: University of Minnesota, 1921), 102.

would have been equally divided between the parties.

When the compromise committee solutions were completed, it was found that the Democrats obtained the major advantages. The Democratic plan for congressional elections was adopted. Anderson suggested that the Republicans probably agreed to this because they had overestimated their own strength.¹⁴ But in regard to the legislative apportionment, they evidently compromised, and the solution was as fair as possible. It provided the Democratic counties with slightly more representation than they were entitled to, but the Republican counties were exactly apportioned, and the doubtful counties were slightly underrepresented. In regard to the judicial districting, the committee provided six districts, but the four Democratic ones were probably equal in population to the two Republican districts. Anderson suggested that the Republicans possibly did not know the size of the population of their districts.

In any event, this problem was solved, and the conventions agreed to adopt a compromise constitution. But this does not mean that they both approved the same document. Mr. Sibley, president of the Democratic convention, said he would not sign the same document as the Republicans, and many men from both conventions agreed that they should not do so either. Therefore a committee of eight men spent the night of the 29th making another

¹⁴Ibid., 103.

copy of the constitution. Evidently they were not skilled copyists because there are some minor errors in spelling and punctuation. Actually then, Minnesota does have two constitutions, and those who like to argue technicalities still try to decide which is the real constitution of the State of Minnesota. In fact, some members even had a difficulty deciding which version should be sent to Congress.

CHAPTER IX

CONCLUSIONS

The frontier was that region of free lands located at the edge of the advancing line of civilization. The early history of Minnesota conforms to the frontier pattern of development which Frederick Jackson Turner pointed out. Other information also shows that Minnesota's early history conformed to the Jacksonian idea. For instance, Indians populated this area first, and by the eighteenth century white men were actively trading with some of these Indians. Usually the traders were followed westward by the missionaries, and a few Franciscan and Jesuit missionaries found their way to Minnesota at an early date. The army facilitated frontier advancement by setting up forts and attempting to impose a certain amount of stability in the about-to-be settled regions. Fort Snelling was organized in 1819 at the confluence of two important rivers and near the present-day population centers. Its men afforded protection to the American traders and the few pioneer farmers who settled nearby. As soldiers resigned from the army, many settled on the fertile land near the fort. Some foreign immigrants also settled there.

Settlement advanced westward as the lands in established areas were occupied and new lands became available. Just as in many other states, as some military and governmental protection was made available, and Indian treaties became effective, people from other areas flocked in. Detailed examination of Minnesota history after these events affords examples of the process of attaining statehood.

Reference to the approach to constitutional formation in other states is not within the scope of this paper except in those instances delegates themselves referred to them. But it evidently is a study of an approach to frontier government because Minnesota in 1857 was a frontier community. From this narrow study other historians may be able to draw material for generalizations concerning the political methods of frontiersmen.

The members of the two versions of a constitutional convention had to decide certain issues which their counterparts in previous territories had to do. But because Minnesota approached statehood in 1857, they had to direct themselves to certain other problems which some previous conventions did not have because they had not yet occurred. Naturally certain difficulties such as debate on boundaries were somewhat unique to Minnesota because of its geographical situation.

Factors native to Minnesota determined the nature of the convention. The political leaders were not able

or willing to compromise and work together. There are three main reasons for this. Firstly, the party which controlled the convention would strongly influence the allocation of various land grants made to new states. Although regional considerations were more important here than were political ones, the parties in Minnesota tended to be identified with regions.

Secondly, the party which controlled the organization of the convention would be able to influence decisively the apportionment for the first state elections. The controlling party could gerrymander districts to insure domination of the first state legislature and the congressional delegation. Winning of the first state elections was considered essential because those officials would implement the constitution and set precedents which later lawmakers would not change easily.

Thirdly, the type of men holding leadership positions affected the course of events. Gorman, Chase, Setzer, Balcombe, and Wilson are good examples of men who fought strongly to achieve objectives. Behind the scene maneuverings are not recorded, but Democrats did admit deceptive tactics. They justified these by saying that the expedients were used only to counter Republican trickery.

External factors also contributed to the extremely partisan and very adamant positions taken by the leaders. Because the leaders considered so much to be at stake

both locally and nationally, they based their propaganda on the issues dividing the Republicans and Democrats across the nation. Constitutional issues were not too exciting, nor did the parties differ significantly on them. Since the parties considered it necessary to convert some voters, they appealed to those topics which would definitely arouse people.

Minnesota was not isolated from the nation. Most likely those topics would have been strongly debated in newspapers and legislatures of Minnesota even if a constitutional convention was not in process. But these events occurred at a time when national sectional and political conflict was reaching that point of tension where a split was almost inevitable. Minnesota and Kansas were the first states in which the Republican Party participated significantly in state formation. As a new party, their survival depended on successes. Therefore the tense temper of the times and the stakes involved made compromise very difficult.

But compromise would not have been necessary if the situation were not so confused. The provisions of the Enabling Act concerning the election left room for interpretation. Lack of complete definition in election laws passed by the legislature made misunderstanding possible. If the election laws had been clear, the Democrats most certainly would have conformed to the letter. If they had adhered strictly to the law, the Republicans

would have had no grounds to deny seats to those Democrats who definitely won. If the Democrats had not complied with the law, they would have had no basis for argument.

Because the election laws were not clear, the results of elections in St. Anthony and Houston were questionable, and procedure concerning Pembina was uncertain. Legally, the convention could have decided the questions, but those factors listed above made a negotiated solution difficult if not impossible.

The Democrats never would have attempted to gain control of the convention by trickery if they did not have grounds to justify their contention that they in fact had elected the majority of delegates. While admitting that their activities concerning the organization were not straightforward, they claimed that everything was legal. It was necessary for them to stall the organization proceedings because they did not have all of their men present July 13.

Both parties could justify the legality of their activities on July 13. But if the Republicans had been so certain of their position, why then did they act as they did? The Democrats included in their membership more experienced men and they claimed the support of the majority of citizens of the Territory. It was to their advantage to meet as a separate body. The Republicans either did not expect the split to continue or they over-estimated their strength.

In any event, although in many cases Minnesota's entrance into the Union was achieved according to orthodox procedures, it was unique in some aspects. Confused law made the split possible. The Republicans contributed to the split by confusing the election results. The split followed an attempted Democrat coup and delay of the convention organization. Finally, national, frontier, legal, and personal factors contributed to the continuance of the separation.

Once each convention had organized, they had to resolve certain difficulties. Both groups had to determine norms for content of their documents. They had to decide how detailed a definition should be given to various matters. It was difficult to decide which precedents from other conventions best served their needs. Although content of state constitutions by then was standard, the delegates themselves had to debate again the same issues other state delegates had.

Finally, the content of the debates evidences examples of frontier thought in 1857. To determine whether these ideas were common to other frontier communities is not an object of this study. The point is, some people in Minnesota were giving expression to certain conservative and even untrue theories. Speeches of other delegates show that thinking on given topics had developed to a certain extent by 1857, and such thought had reached Minnesota.

Although each party attempted to prepare its own draft of the state constitution, political pressure and common sense led them to attempt to formulate a document which both parties could support. Evidently, the only important differences between the parties were suffrage and apportionment. By late August certain considerations made compromise possible. But each party agreed to proposals only because they saw some advantage for themselves in its acceptance.

Just how successful was the constitutional convention of the Territory of Minnesota? Although it was written under adverse conditions, its content was workable. In fact, that same document (with many amendments) is still the fundamental law of Minnesota today--108 years later. In 1924 and again in 1948 there was strong pressure for constitutional revision, but political and practical considerations have hindered the calling of another constitutional convention.

APPENDIX

DEMOCRATIC DELEGATES

A. E. Ames (Hennepin)	William M. Laskelle (Hennepin)
M. E. Ames (Ramsey)	B. B. Meeker (Hennepin)
Thomas H. Armstrong (Mower)	James McFetridge (Pembina)
Francis Baasen (Brown)	William B. McGrorty (Ramsey)
Henry G. Bailly (Dakota)	Wm. B. McMahan (Blue Earth)
D. A. J. Baker (Ramsey)	William P. Murray (Ramsey)
R. H. Barret (St. Louis)	Patrick Nash (Ramsey)
George L. Becker (Ramsey)	James S. Norris (Washington)
Joseph R. Brown (Sibley)	John S. Prince (Ramsey)
Daniel J. Burns (Dakota)	Joseph Rolette (Pembina)
Josiah Burnwell (Dakota)	R. H. Sanderson (Washington)
Charles J. Butler (Washington)	Henry A. Setzer (Washington)
Xavier Cartell (Pembina)	J. C. Shepley (Stearns)
Charles L. Chase (St. Anthony)	Moses Sherburne (Ramsey)
Gould T. Curtis (Washington)	Henry H. Sibley (Dakota)
Wm. A. Davis (Dakota)	Edwin C. Stacey (Freeborn)
James C. Day (Houston)	O. W. Streeter (Houston)
Lafayette Emmet (Ramsey)	Wm. Sturgis (Morrison)
Paul Faber (Ramsey)	J. H. Swan (Le Sueur)
Charles E. Flandrau (Nicollet)	Wm. H. Taylor (Ramsey)
Newington Gilbert (Washington)	J. W. Tenvoorde (Stearns)
David Gilman (Benton)	Calvin A. Tuttle (Hennepin)
Willis A. Gorman (Ramsey)	Louis Vasseur (Pembina)
William Holcombe (Washington)	H. C. Wait (Stearns)
J. Jerome (Pembina)	Frank Warner (Scott)
Andrew Keegan (Dakota)	J. P. Wilson (Pembina)
Robert Kennedy (Scott)	
W. W. Kingbury (St. Louis)	

REPUBLICAN DELEGATES

Cyrus Aldrich (Hennepin)
 J. A. Anderson (Houston)
 Frederick Ayer (Morrison)
 St. A. D. Balcombe (Winona)
 B. C. Baldwin (Wabasha)
 R. L. Bartholomew (Hennepin)
 E. N. Bates (Hennepin)
 H. A. Billings (Fillmore)
 Thomas Bolles (Rice)
 A. H. Butler (Fillmore)
 P. A. Cederstan (Chisago)
 John Clegghorn (Fillmore)
 Charles A. Coe (Houston)
 Amos Coggsell (Steele)
 N. B. Colburn (Fillmore)
 Albert W. Coombs (Hennepin)
 Page E. Davis (Nicollet)
 D. D. Dickerson (Scott)
 Warren J. Dailey (Winona)
 Henry Eschlie (Carver)
 W. H. C. Folsom (Chisago)
 Thomas Foster (Dakota)
 Thomas J. Galbraith (Scott)
 Charles Grrish (Winona)
 D. M. Hall (St. Anthony)
 Charles Hanson (Fillmore)
 Simeon Harding (Olmsted)
 Wentworth Hayden (Hennepin)
 H. W. Holley (Fillmore)
 Aaron G. Hudson (Goodhue)

Samuel A. Kemp (Wabasha)
 David L. King (Olmsted)
 Charles F. Lowe (Chisago)
 Robert Lyle (Mower)
 Frank Mantor (Dodge)
 Joseph A. McCann (Houston)
 Charles A. McClure (Goodhue)
 Lewis McKune (Waseca)
 B. E. Messer (McLeod)
 W. H. Mills (Olmsted)
 David Morgan (Hennepin)
 J. H. Murphy (St. Anthony)
 J. W. North (Rice)
 Joseph Peckham (Goodhue)
 Oscar E. Perkins (Rice)
 Boyd Phelps (Mower)
 S. W. Putnam (St. Anthony)
 Nathan B. Robbins (Olmsted)
 William T. Russell (Hennepin)
 D. A. Secombe (St. Anthony)
 Charles B. Sheldon (Hennepin)
 T. D. Smith (Carver)
 L. K. Stannard (Chisago)
 C. W. Thompson (Houston)
 Alanson B. Vaugh (Mower)
 L. C. Walker (St. Anthony)
 J. Q. A. Ward--Secretary
 George Watson (Freeborn)
 P. Winnell (St. Anthony)
 Thomas Wilson (Winona)

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