Section VI

HISTORY OF THE MINNESOTA SUPREME COURT

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The early justices of the supreme court, if so inclined, found many opportunities to interest themselves in public activities as the sessions of court occupied very little of their time. Justice Meeker, like Fuller, gave occasional lectures, mostly on the advantages of Minnesota and the soundness of the courts. Meeker contributed much to the cause of state education and internal improvements, in addition to framing much of the fundamental law and early legislation at the time of the organization of the state government.

The organic act of the territory provided that the appointment of officers be limited to four years. The terms of the judges having expired (Goodrich, Cooper, and Meeker, and Fuller and Hayner who had been appointed to fill out Goodrich's term) President Pierce soon after his inauguration appointed William H. Welch, of St. Anthony chief justice, Moses Sherburne, formerly of Maine, and A. G. Chatfield, formerly of New York, associate justices of the territory.

Chief Justice William Welch was born in Connecticut. Very little is recorded of his early life, but mention is made of his graduating from the Yale Law School.

He came to Minnesota in 1850, residing first at St. Anthony (Minneapolis) then at St. Paul, and still later at Red

Wing, Minnesota. At the time of his appointment to the territorial bench he was holding the office of justice of the peace at St. Anthony. He, with Sherburne and Chatfield, served the full length of President Pierce's appointment, but was the only one of the three to be re-appointed by President Buchanan four years later, continuing to serve until the organization of the state government in 1858. [-1-]

In ranking as an attorney Welch was hardly considered the equal of his associates, yet his work while a member of the bench was of high merit. He suffered from ill-health during his term and removed to Red Wing, Minnesota, where, several years after leaving the supreme court bench, he died.

During the five years that Welch served on the bench of the high tribunal he wrote only 7 opinions and no dissents. They are published in volume 1 of the Minnesota Reports.

Associate Justice Moses Sherburne was born at Mount Vernon, Maine, January 25, 1808, and sixty years later, March 23, 1868, died at his home in St. Paul.

He was educated in the public schools and academy at China, Maine. In 1831, after his admission to the bar, he opened a law office in Phillips and soon became prominent as a lawyer. He served in both the House and the Senate of the state legislature of Maine. Other offices he held were postmaster, judge of probate, and Maine state bank commissioner. He was commissioned a major-general of militia in 1842. In 1853 he was one of the three

justices appointed to the territorial supreme court by President Pierce. He received his appointment April 6, and the following fall came with his family to Minnesota.

He took his seat on the bench at the beginning of the January term, 1854, and continued to serve until 1857. His appointment gave general satisfaction, for he was an able jurist. It was told by an eye witness that on one occasion when Sherburne was about to pass sentence upon a prisoner who had been convicted of a criminal offense, the prisoner, who was a Mason, handed a letter to the judge which proved to be from a brother Mason. Sherburne construed this as an attempt to influence him, and he indignantly tore the letter in pieces, after which he sentenced the offender to the full extent of the law. After his retirement from the bench, Judge Sherburne resumed [-2-] his practice in St. Paul.

In 1857 he was a member of the Constitutional Convention, and in 1858 was a member of a commission appointed by the legislature to revise the general laws of the state.

While on the supreme court bench, Sherburne, as did the other justices, also acted as a district court judge. In the three years that he sat as a supreme court judge he wrote 17 opinions and no dissents. All are found in volume 1 of the Minnesota Reports.

Associate Justice Andrew G. Chatfield was born at "Butternuts", Otsego county, New York, January 27, 1810, and died at his rural home in Belle Plaine, Minnesota, October 3, 1875.

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To a large degree Judge Chatfield was self-tutored, and, by studying nights, after the farm chores were finished, he fitted himself for entrance to Hamilton Academy. Earnings from part-time teaching enabled him to finish. At twenty-one he entered the law office of Henry F. Cotton at Painted Post, New York, and three years later he was admitted to the bar. It is interesting to note that at this time, in New York, three years' study was required for admission to practice in county courts -- and seven years' study for admission to the supreme court.

At the time of his admittance he formed a partnership, Birdsell & Chatfield, and the firm began practice at Addison, New York. Then in 1833 he was elected to the legislature and thereafter re-elected three times. In 1841 he was chairman of the committee which investigated the affairs of the Erie Railroad. Finished with this he returned to private practice and continued until 1845, when he was again elected to the assembly, where during this session he served as chairman of the important judiciary committee.

During these years of public service Chatfield had accumulated little money, and the prospects to be found in the west appealed to him so strongly that he moved to what is now Kenosha, [-3-] Wisconsin, in 1848. Here, in 1850, he was elected judge of Racine county, and several years later, while attending a meeting of the supreme court in Washington, met General H. H. Sibley, then a delegate from Minnesota. Sibley painted a glowing picture of the

new territory, and later, through his recommendation, President Pierce appointed Chatfield associate justice of the Minnesota territorial court. Chatfield resigned his Racine county judgeship and moved to Minnesota, settling at Mendota. Later, in 1854, he made a claim on the Minnesota river and laid out a village site which he named Belle Plaine.

Entering upon his supreme court duties, he also served as a district court judge, and as such he held the first term of court in almost every organized county west of the Mississippi river. He served on the supreme court bench from April 7, 1853, to April 23, 1857, the expiration of his term, on which date he again resumed private practice.

In the meantime he and associates had invested heavily in real estate, and the financial crash of '57 left them penniless. After leaving the bench he received the nomination of his party for various offices: chief justice, attorney general, and member of Congress, but at that time election on the Democratic ticket was impossible. In 1870 he was appointed judge of the Eighth judicial district, a position which he continued to hold until his death.

In the four years that Judge Chatfield was a member of the supreme court he wrote 11 opinions and not a single dissent. They are to be found in volume 1 of the Minnesota Reports.

One of the more important decisions rendered by the court during this period was the affirming on March 23, 1854, of a

Ramsey county district court verdict pronouncing the sentence of death against Yu-Ho-Za, a Sioux Indian. The verdict was ordered exe- [-4-] cuted according to law. It was the first legal execution to take place in Minnesota.

On November 6 the following fall a special term, the first of its kind, was deemed necessary and was ordered to be held at the capital December 6, 1854.

It was during this same year that the town of Excelsior, near Minneapolis, came into being. Some land belonging to the government along the south shore of Lake Minnetonka, was being occupied by several persons. One of their number, under the direction of the others, surveyed and platted out a town site named "Excelsior". Along the shore of the lake, and stated in the plat to be 99 feet in width, a street was laid out which was called Lake street. Later a good deal of litigation arose over this, appearing in title disputes, assessment controversies, and estate cases, many of which reached the supreme court.

At the special supreme court session held in December, 1854, the first railroad case to be tried by the supreme court was heard. This action, "The United States vs. Minnesota & North Western Railroad", commenced in Goodhue county, plaintiff charging trespass and asking damages of one thousand and ten dollars, growing out of entry upon his lands.

The answer filed by the railroad justified the acts complained of under the act of the territorial legislature approved

March 4, 1854, by which the defendant was incorporated and endowed with any lands which Congress might thereafter grant to the territory, for the purpose of aiding in the construction of a railroad between the points indicated in the act of the corporation, and the act of Congress, approved June 29, 1854, entitled "An act to aid the territory of Minnesota in the construction of a railroad therein".

The reply alleged that after the directors and officers of the defendant were elected and entered upon their duties, and be- [-5-] fore the trespasses were committed, the act of Congress was repealed. Defendant demurred. The lower court sustained the demurrer that the act of Congress August 4, 1854 was void so far as it related to the repeal of the act approved June 29, 1854. Plaintiff appealed from this decision to the supreme court, where it was held the act of June 29, 1854, was valid, and as such the railroad had the right to proceed under it. The opinion was written by Chief Justice Welch. [-6-]