

RAMSEY COUNTY
History
A Publication of the Ramsey County Historical Society

Euphoria Dimmed:
X-Rays' First Victim

Page 16

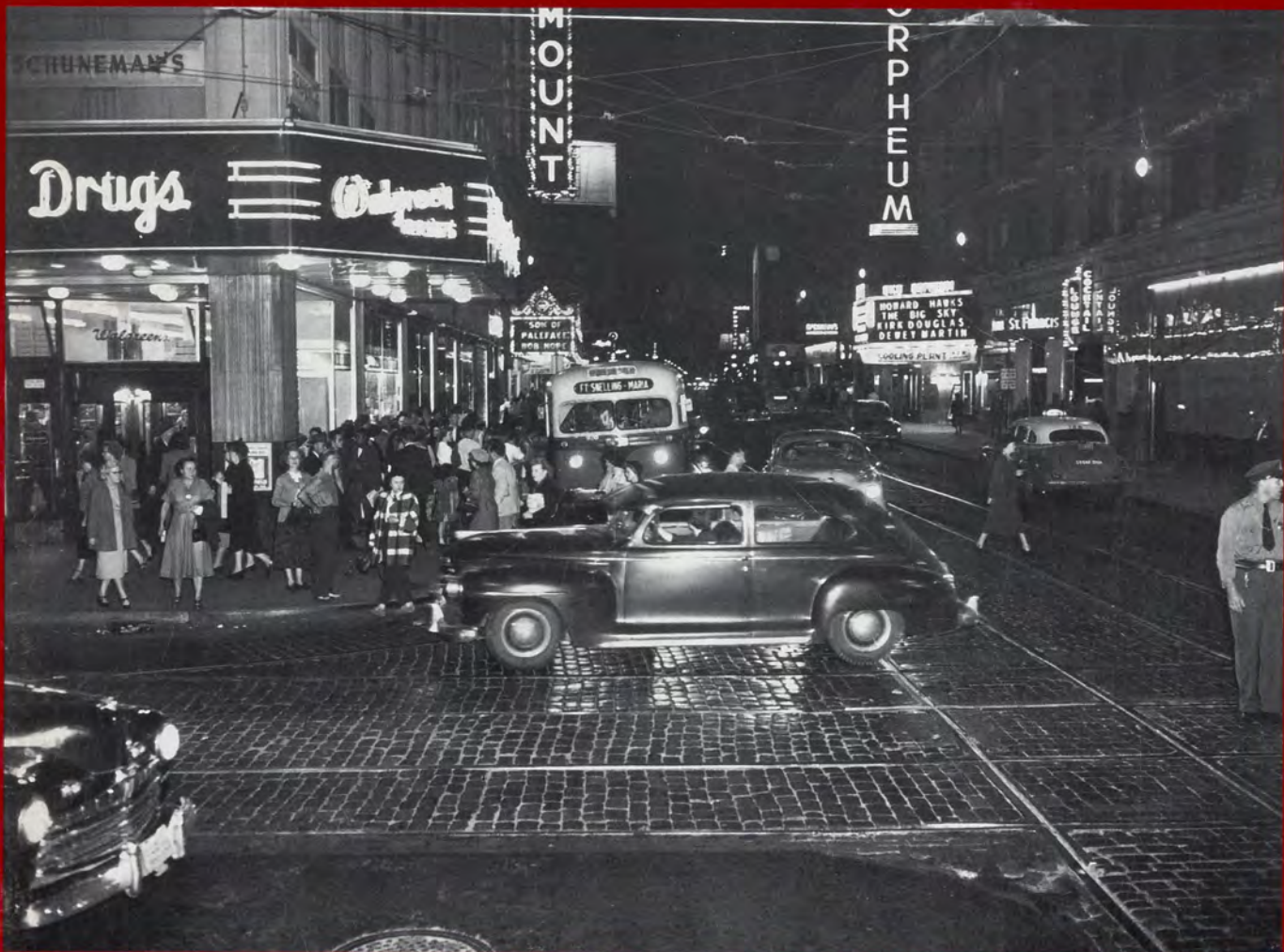
Winter, 1997

Volume 31, Number 4

Rats, Politicians, Librarians

Untold Stories of the Old St. Francis Hotel

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A brightly lighted downtown St. Paul was photographed on the night of September 4, 1952. This view looks west along Seventh Street from Wabasha to St. Peter. The St. Frances is on the right. Minnesota Historical Society photo.

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RAMSEY COUNTY History

Volume 31, Number 4

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Publication of *Ramsey County History* is supported in part by a gift from Clara M. Claussen and Frieda H. Claussen in memory of Henry H. Cowie, Jr. and by a contribution from Reuel D. Harmon

A Message from the Editorial Board

Toward the end of 1996, Ronald M. Hubbs, a long-time supporter of history in Ramsey County, died. Ron not only had contributed a number of fine articles that were published over the years in *Ramsey County History*, but he also was unfailingly enthusiastic in his support for the Ramsey County Historical Society's publication program. The Society dedicates this issue to his memory and to the great value he placed on history. In it we feature a building—the St. Francis Hotel—and a location—Seventh Place—that many residents and visitors know but little understand in terms of their historical significance to St. Paul. A companion piece tells the story of the Saint Paul Building.

John M. Lindley, chair, Editorial Board

When Euphoria Dimmed: X-Rays' First Victim

William Henslin and His Missing Gold Crown

George McDonald

After Sunday dinner her husband asked her to come with him to his basement workplace. For fifteen minutes she did her best to hold her hand stock-still while a strange tube bathed it in a green light. Across the black plate white lines began to emerge. Slowly the streaks broadened and lengthened. Over time they predominated. The fifty-seven-year-old housewife felt uneasy. Through the clear fluids below, the bones of her left hand, except where two rings lay at the base of her third finger, became defined in black against a pearl-gray background. Across from her, her mate made an attempt at a smile. She did not return it.

The portrait of Bertha Röntgen's skeletonized hand did not stay long in Würzburg. The grisly image, which to her augured imminent death and frightened her terribly, had just the opposite effect on her husband. Six days later the December 28, 1895 issue of the University of Würzburg's journal, *Sitzungsberichte der physikal.—medizin. Gessellschaft*, carried Professor Wilhelm Conrad Röntgen's article entitled "*Ueber eine neue Art von Strahlen*" ("A New Kind of Rays"). Hot from the press, copies of it along with photographs, including that of Frau Röntgen's hand, quickly came into the hands of leading scientists throughout Europe.¹

In short order the startling discovery made its way around the world.² Röntgen refused to patent his invention.³ His humanitarianism fostered a quick spread of the discovery across national boundaries and freed it to a prompt application for clinical uses.

Warren A. Dennis, a student at the University of Minnesota, celebrated his twenty-sixth birthday on December 5, 1895.⁴ What impact the news from Germany had on this senior at the medical school can only be surmised. By his last

semester in the Spring of 1896, however, reports already had begun to appear in widely circulated professional publications that X-rays might produce serious side effects.⁵ On the young man's own campus a professor's patient experienced half a head of baldness, skin ulcerations, a right ear bloated to twice its normal size and lips left swollen, cracked and bleeding after a skull X-ray was made to locate a bullet.⁶

The historical evidence suggests that Dennis was a gifted student. Even before he graduated he acted as an autopsy surgeon at the university⁷ and shortly after finishing his internship, Charles A. Wheaton, M.D. and John T. Rogers, M.D., two pillars of the profession at the time, scooped him away into their medical partnership.⁸ Given this background, common sense would suggest that Dennis, even while still a medical student, appreciated the properties of the emerging technology and recognized perils inherent in it.

War formally broke out between the United States and Spain on April 24, 1898. With the rank of major, Dr. Dennis spent the duration in Georgia with the 15th Minnesota Volunteer Infantry, a contingent whose ranks were severely afflicted by typhoid.⁹ It seems likely that, as a medical officer he became further acquainted with the Army's experience with X-radiation during that conflict, as reflected in the 1900 Government Printing Office publication, *The Use of the Roentgen Ray by Medical Department of the United States Army in the War with Spain*.¹⁰

Although later reports¹¹ state that on returning home he set up a practice with Dr. Judd T. Goodrich of St. Paul, the record shows otherwise. The *City Directory* for St. Paul records Wheaton, Rogers & Dennis at 102 West Fourth

Street as of 1901¹² and the earliest existence of Goodrich & Dennis only a year later.¹³ Dr. Dennis' change in association must have taken place after March, 1902. This is so because during the late morning of March 3 a man walked into Wheaton, Rogers & Dennis and became the first person in the Western Hemisphere—perhaps in all the world—to suffer injury enough from X-radiation to sue those who aimed Dr. Röntgen's beams at him.

William George Henslin, a carpenter in his early thirties, had for some years made St. Paul his home.¹⁴ A bachelor, he lived with his mother at 299 East Congress. On Sunday, March 2, 1902, he had some dental work done. A gold crown separated from one of his teeth and disappeared down his throat. His dentist, a Dr. Arnold, thought it had gone into his lung. So did Henslin's cousin, Aaron E. Henslin, a physician.¹⁵ Dr. Henslin advised his cousin that a crown harbored in lung tissue was serious. He referred his relative to either Dr. Wheaton or Dr. Rogers. Neither of those physicians was available the morning of March 3, 1902, however, when Henslin went to their office. Warren A. Dennis, M.D.,¹⁶ a doctor at the time of four and one-half years' experience, was covering the three partners' office.

Dr. Dennis' physical examination could neither confirm nor rule out a metallic crown in his patient's lung. Afterwards, in a darkened room, he sat Henslin down in front of a Ranney-Weimshurst-Holtz X-ray machine.¹⁷

William Henslin saw six revolving glass wheels appear to generate power for a large glass globe which was placed a short distance from his back. For the next thirty to thirty-five minutes Dr. Dennis examined through an eyepiece all planes of Henslin's chest.¹⁸ That uncov-

ered nothing. A second phase of Dr. Dennis' effort involved taping a photographic plate to Henslin's chest. Following that the patient underwent an additional exposure of another thirty minutes or so.¹⁹ When that film showed nothing, Henslin came back the same afternoon for a second X-ray session. Another thirty-five minutes were taken up in exposing still another chest plate.²⁰

On Tuesday, March 4, 1902, Henslin returned to Dr. Dennis' office. His cousin, Aaron E. Henslin, came with him.²¹ Together the two physicians examined the photographic plates of Henslin's chest taken the day before; neither could spot anything resembling a tooth crown. Over the next thirty-five minutes, with the machine switched on again, both doctors tried to find it through the eyepiece of a fluoroscope.²² When that failed, a third photographic plate was taped against the carpenter's chest. It, too, over a period of thirty or so minutes of ionization, came up with the same negative results.²³ After one final X-ray at an outside laboratory, performed on Dennis' recommendation, Henslin's diagnosis was no more firm on March 5, 1902, than it had been before that.²⁴

There the matter no doubt would have ended except that around March 19 Henslin's back began to feel sore. He angled himself in front of the mirror and saw that his skin was coming off at one point. Elsewhere he had red blotches near the ulcer. Three or four office visits with Dr. Dennis produced reassurance but little relief physically.²⁵ Several months of agonizing pain followed. Healing occurred by June, 1902.²⁶ On October 5, 1902, however, the ulcer recurred and steadily grew worse, enough to require care by a new physician.²⁷ Eventually the substitute doctor, after two painful operations, removed the lesion and brought the carpenter relief.²⁸

Attorneys Stanley C. Olmstead and Charles H. Taylor practiced in room 630 of the Globe Building in St. Paul. Henslin chose them to represent him. Olmstead became lead trial counsel. Wheaton, Rogers & Dennis selected Christopher D. and Thomas D. O'Brien as their attorneys. The O'Briens, father and son, had an office four floors below their oppo-



William Henslin and the lesion on his back. Photo from the archives of the Supreme Court of Minnesota.

nents in the same building. When the trial began on March 20, 1903,²⁹ Olmstead was forty-nine years old. He had practiced law for about twenty-three years, the last sixteen in St. Paul.³⁰ The elder O'Brien, then fifty-two, began "reading law" at a St. Paul firm in 1866, and he had practiced for thirty-two years when the case of *Henslin v. Wheaton, Rogers & Dennis* started. Behind him, then, were three years as an assistant district attorney, four years as a Ramsey County attorney, a term beginning in 1883 as the mayor of St. Paul, and an on-going academic appointment at the University of Minnesota as a professor of criminal procedure.³¹ Younger at forty-six³² than both of the advocates before him, Grier M. Orr, on the day trial began, was the most junior of the six judges then on the Ramsey County district court bench. He had held his post for only a little over two months.³³ A graduate of Cincinnati Law School in 1883, Judge Orr was enrobed as a judge of the Second District in January, 1903, after eight years on the municipal court.³⁴

As the Supreme Court of Minnesota itself mentioned later,³⁵ this case was the

first in which Röntgen's rays and how physicians were to conduct themselves in respect to them had come before it. Indeed, the high court understated it. This was the first instance in the United States (and probably the world) where any tribunal faced these issues. Plowing such fallow ground surely taxed the ingenuity and talent of the parties' counsel. In all likelihood, such a unique situation would have challenged a trial judge and especially, as was the case here, an inexperienced one like the Honorable Grier M. Orr.

American states, of course, largely derived their legal systems from England. By the time Judge Orr called proceedings to order, civil suits by patients against physicians had been around for centuries.³⁶ (J. Mort brought the first such recorded action in England in 1374, as reported in *Y. P. Hill*, 48 Edw III, f.6, pl. 11, whereas *Cross v. Guthery*, 2 Root 90, occurred in Connecticut in 1794.)

In Minnesota, as elsewhere in the United States, lay persons were judicially viewed as unequipped by education or experience to judge whether a doctor did or did not act negligently. To succeed in court, it was imperative for the aggrieved patient to prove through an expert witness what standards of care the doctor should have followed and also in what respect the medical practitioner fell below such standards.

In the quaint vocabulary of the time, physicians of a conventional training commonly went by the term "allopaths," whereas "homeopaths" described treaters, often on the fringe, who advocated the healing powers of nature and the therapeutic benefits of any number of substances including placebos. In Minnesota, because of a ruling handed down on August 8, 1902 by its Supreme Court, a firm legal principle prevailed that an allopath was entitled to be confronted solely by another allopath as an expert; that a plaintiff who could offer only expert testimony from a homeopath or any other non-allopath was bound to lose for the very reason the law deemed such testimony unworthy of consideration by the jury.³⁷

Edwin J. Freeman, a few months after its announcement in Germany, dupli-

cated Röntgen's feat at the State Normal School in Winona. He taught physics there. Since 1896 he had regularly included X-ray technology in his repertoire both to classes of his students and to others interested in using the novel discovery for treatment and diagnosis. He had studied anatomy and physiology and taught both subjects at Winona and also at the Northern College of Osteopathy and Surgery in Minneapolis. He had equivalent experience with "coil" and "static" machines, the two principal types of X-ray generating devices available at the time.³⁸

Freeman took the witness stand in Henslin's behalf. After the information just set forth came out in testimony Olmstead turned to a new topic: Dr. Dennis' manipulation of *his* machine, the closeness of the apparatus to Henslin's back and the duration of exposure. Clearly, he planned to prove through Freeman that a machine negligently left too close to Henslin over too long a time had brought about the burn. Virtually every question Olmstead asked was interdicted by O'Brien's objections followed by Judge Orr's rulings that, as a non-allopath, the witness could not address such questions or answer them. O'Brien's strategy obviously was to prevent Freeman from dealing with any aspect of Dr. Dennis' actual performance on either March 3 or March 4, 1902, from which the jury could conclude or deduce that flawed technique accounted for Henslin's complaints.

A theme which Olmstead tried to advance was that all users of X-rays, allopaths, homeopaths and professors of physics alike, followed the same techniques and took the same precautions against complications. Freeman, so the attorney urged, was therefore as qualified as anyone else to address those questions.³⁹ Repeatedly citing *Martin v. Courtney*, Judge Orr disagreed. The whole frustrating affair (from Henslin's standpoint), came to a limp end. Christopher O'Brien's tactics worked so well that he did not bother asking Freeman a single question on cross-examination.⁴⁰

Olmstead then called Dr. Aaron E. Henslin to the stand. Although an allopath like Drs. Dennis, Wheaton and

Rogers, he added little to his cousin's case. He only had a fuzzy recall of the time factors involved when they went to Dr. Dennis' office on March 4, 1902. He apparently was at least as responsible as Dr. Dennis had been in subjecting Henslin to ionization during the fluoroscopic examination. He differed materially from his cousin about how far distant from the skin Dr. Dennis' glass globe lay when the diagnostic studies took place. Finally, Dr. Henslin conceded that in his own practice he did not use X-rays all that much and did not know that much about the technology itself ("I am a common, one horse, country doctor, and I don't know much about it").⁴¹

Freeman's failure as an expert did not just leave Henslin's case in tatters, it doomed it. Although Henslin's attorney called Robert Browne, an X-ray technician (in modern terms) and Philemon Roy, M.D., who treated Henslin in the fall of 1902 when the ulcer recurred, neither expert addressed the medicolegal issues necessary to make out a tenable case against Dr. Dennis. At the conclusion of Henslin's case, Judge Orr granted a nonsuit *i.e.*, dismissed the action for the lack of an adequate body of evidence to go to the jury.⁴²

On appeal the parties' attorneys presented many arguments for and against either reversing the courtroom result or allowing it to stand. Justice Brown of the state Supreme Court, however, concentrated on the critical ruling that Freeman lacked capacity to testify against Dr. Dennis and his partners. He distinguished the applicability of *Martin v. Courtney* in this setting, the decision on which Judge Orr had so heavily relied in his rulings. Justice Brown wrote:

"Defendants objected to all such evidence on the ground that the witness [Freeman] was not a physician and surgeon, and was incompetent to testify against them, under the rule announced in the case of *Martin v. Courtney*, . . . which objection the court sustained. . . . It was held in that case that, in an action against a physician or surgeon for malpractice—unskillfulness in treatment being charged—the physician was entitled to have the propriety of his treatment tested by physicians of the same school; that, if a

physician of the allopathic school be sued for malpractice, the question whether his treatment was unskillful should be tested by the rules and methods of that school, and the testimony of a physician of the homeopathic school would be incompetent. The trial court applied that rule to the case at bar, and in doing so we are of opinion that it erred. The application of the X-ray to plaintiff was not for the purpose of treating any disease or ailment from which he suffered, but for the purpose of locating, if possible, a foreign substance thought to be in his lungs. While it, perhaps, may in some instances be used as a remedial agent, it was not so employed in this case. The so-called X-rays, discovered by Roentgen, have been recognized and known to scientists both in and out of the medical profession, for some eight years. During this time the apparatus for the generation of the X-rays, together with the fluoroscope, has been used very generally by electricians, professors of physics, skiagraphers, physicians, and others, for experimental and demonstrative purposes. It is a scientific and mechanical appliance, the operation of which is the same in the hands of the college professor, or the physician of the allopathic, homeopathic, or any other school of medicine. It may be applied by any person possessing the requisite scientific knowledge of its properties, and there would seem to be no reason why its application to the human body may not be explained by any person who understands it. The rule in the Courtney Case can therefore have no application to the case at bar. It might apply, did it appear that the application of the X-rays to plaintiff's person was for medical purposes, and not for the scientific purpose of discovering the presence of a foreign substance in his lungs. . . . For the error in excluding the evidence of witness Freeman and dismissing the action, the order appealed from must be reversed. . . ."⁴³

Reversal of a trial judge's decision does not mean that one "wins" or another "loses." What of Henslin and Dr. Dennis—how did their dispute play out? What happened to them afterwards? The clerk of the Supreme Court notified the District Court of the Second Judicial District in Ramsey County of the decision on January 19, 1904.⁴⁴ That act quickly set in motion procedures to bring the parties

and witnesses back into the courtroom for a new trial. On March 29, 1904, the jury delivered its verdict against Henslin and in favor of all the doctors.⁴⁵

William G. Henslin appears to have died in either 1926 or 1927 when still living in St. Paul at 91 East Louisa.⁴⁶ Dr. Dennis, after a distinguished career which included service in World War I, died unexpectedly of pneumonia on November 8, 1923 at Miller Hospital at the age of fifty-three.⁴⁷

Without, hopefully, diminishing the individuals who found themselves pitted against one another in this story, history fairly much left them in Ramsey County. Not so Justice Brown's decision. *Henslin v. Wheaton*, which resolved seminal issues the law had never encountered before, was cited by other tribunals many times afterwards as a precedent. Even today, a century later, it still occasionally creeps into scholars' discussions on the evolution of health care law.

George McDonald, an attorney, practices health care law in South Pasadena, California. While researching a chapter he contributed to a British textbook, Complications in Diagnostic Imaging (Blackwell Scientific Publications, Oxford, 1987, 2nd Edition) he came across the materials in this article.

Footnotes

1. Nitske, W. R., *The Life of Wilhelm Conrad Röntgen* (Univ. of Ariz. Press, Tucson, 1971) pp. 5-8.

2. *Id.* at pp. 116-118; *Electrical Engineer*, New York, Jan. 8, 1896; *Il Nuovo Cimento*, Pisa, Jan. 1896; *The New York Medical Record*, Jan. 11, 1896; *L'Eclairage Electrique*, Paris, Feb. 8, 1896; and *Jour. Am. Med. Ass'n.*, vol. 26, Feb. 15, 1896, p. 336.

3. Nitske, *op.cit.* pp. 173-174.

4. American Medical Association, member index.

5. *Nature*, London, Mar. 5, 1896, p. 421 (eye pain experienced by Thomas A. Edison after exposure to fluoroscopy tubes for several hours); *Science*, April 10, 1896, p. 566 (report by Professor J. Daniel of epilation of a patient at Vanderbilt University after a one-hour exposure to X-rays); *Lancet*, London, Mar. 12, 1896, p. 655 (linkage between Röntgen rays and a sunburn-like effect on the skin); and the

British Medical Journal, April 18, 1896, p. 989 (serious dermatitis from x-radiation).

6. *British Jour. of Photography*, Nov. 13, 1896, p. 730.

7. *St. Paul Dispatch*, vol. 56, no. 120, Nov. 8, 1923, p. 1.

8. *Ibid.* As to the considerable achievements of Dr. Wheaton, see *Minnesota and Its People*, S. J. Clarke, Publisher, Chicago 1924, pp. 598-600. The Minnesota Historical Society's *Men of Minnesota* (St. Paul 1902) describes Dr. Rogers as a professor of clinical surgery at the University of Minnesota. Further evidence of Dr. Rogers' growing prestige comes from the fact that his peers later (in 1909) elected him chief-of-staff of the City and County Hospital. Czerwonka, M.A., "Diphtheria, Typhoid, Tuberculosis—Roots of Ramsey's Health Trace Back to Ancker Hospital," *Ramsey County History*, vol. 22, no. 1, pp. 1, 6.

9. *Little Sketches of Big Folks* (R.L. Polk & Co., St. Paul 1907) p. 105; and *St. Paul Dispatch*, vol. 56, no. 120, Nov. 8, 1923, p. 1.

10. Borden, *The Use of the Roentgen Ray by the Medical Department of the United States Army in the War with Spain*, Gov't Printing Office, Wash. D.C. 1900.

11. *St. Paul Dispatch*, vol. 56, no. 120, Nov. 8, 1923, p. 1.

12. *St. Paul City Directory* (R.L. Polk & Co., St. Paul 1901) p. 477.

13. *Id.* 1902 issue, p. 497.

14. *Id.* 1889-1890 issue, p. 638 and 1902 issue, p. 765; and Settled Statement, District Court, County of Ramsey, Second Judicial District, June 5, 1903, p. 32 (a thirteen-year resident as of March 1903).

15. Settled Statement, p. 32.

16. *Id.*, p. 33.

17. *Id.*, pp. 51-52.

18. *Id.*, pp. 19-20.

19. *Id.*, pp. 20-21.

20. *Id.*, p. 22.

21. *Ibid.*

22. *Id.*, pp. 22-23.

23. *Id.*, p. 23.

24. *Id.*, p. 24.

25. *Id.*, p. 25.

26. *Id.*, p. 26.

27. *Id.*, p. 27.

28. *Id.*, pp. 28-29.

29. *Id.*, p. 49.

30. *Little Sketches of Big Folks* (R. L. Polk & Co., St. Paul 1907) p. 297.

31. Castle, H. A. *Minnesota: Its Story and Biography* (Chicago 1915), vol. 2, pp. 765-766; and *History of the Bench and Bar of Minnesota* (Hiram F. Stevens Legal Publishing and Engraving Co., 1904) pp. 225-226.

32. *Little Sketches of Big Folks* (R. L. Polk & Co., St. Paul 1904) p. 300.

33. Stevens, H. F., *History of the Bench and the Bar of Minnesota* (Legal Publishing and Engraving Co., Minneapolis and St. Paul) vol. II, p. 53.

34. *Little Sketches of Big Folks* (R. L. Polk & Co., St. Paul 1907) p. 300.

35. *Henslin v. Wheaton*, 91 Minn. 219, 97 N.W. 882 (1904).

36. J. Mort brought such an action in England in 1374 (Y.B. Hill. 48 Edw III, f.6, pl. 11). The first reported malpractice action in the newly independent states occurred in Connecticut in 1794 (*Cross v. Guthery*, 2 Root 90).

37. *Martin v. Courtney*, 87 Minn. 197, 91 N.W. 487 (1902).

38. Settled Statement, pp. 56-60.

39. *Id.*, pp. 58-59.

40. *Id.*, pp. 61-71.

41. *Id.*, p. 74 ("I am a common, one horse, country doctor, and I don't know much about it.")

42. Settled Statement, pp. 95-100.

43. *Henslin v. Wheaton*, 91 Minn. 219, 97 N.W. 882, 883 (1904).

44. Docket Sheet, Ramsey County District Court, p. 86904.

45. *Ibid.*

46. *St. Paul City Directory* (R. L. Polk & Co., St. Paul, 1926 and 1927).

47. *St. Paul Dispatch*, vol. 56, no. 120, Nov. 8, 1923 p. 1.

NOTICE

"The citizens of the town of St. Paul are respectfully invited to meet at the School House, in said town, on Saturday, the 24th inst. at 3 o'clock P.M. to take into consideration the propriety of procuring a suitable place for a public cemetery."—*Minnesota Pioneer*, August 22, 1850.

TO ALL WHOM IT MAY CONCERN

"NOTICE is hereby given that a special session of the Board of Commissioners for Ramsey County will be held on the 20th day of April when all engaged in selling liquors in quantities more than one quart will find it to their advantage to come forward and procure licenses under the 13th section of an act (of the Wisconsin Legislature now in force in this Territory) entitled, An Act regulating taverns and groceries."—*Minnesota Pioneer*, April 10, 1850.



St. Paul's first public Market House at Seventh and Wabasha, about 1870. It was built by Vetat Guerin, a French-Canadian who was the first settler on this tract of land. Minnesota Historical Society photo. See article beginning on page 4.

R.C.H.S.
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