

CAPITALS AND CAPITOLS IN EARLY WISCONSIN

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CHAPTER I

Selecting A Site for the Territorial Capital

The Meeting at Green Bay

Upon formally becoming a part of the United States with the passage of the Northwest Ordinance in 1787, Wisconsin was made part of a succession of territorial entities, each with its own capital, until coming into its own as a full-fledged territory. From 1788 to 1800, while a part of the Northwest Territory, we looked to Marietta, Ohio, as our capital, followed by Vincennes while part of the Indiana Territory (1800-1809), Kaskaskia during the period that we were part of the Illinois Territory (1809-1818) and, finally, Detroit while part of the Territory of Michigan (1818-1836). When the time came for Wisconsin to enter the ranks of United States Territories, the selection of our capital city developed into an issue which was not only one of the most controversial of the day, but would reemerge repeatedly over the course of the ensuing century. Even before attaining territorial status, the “capital question” would be broached and generate a measure of animated debate.

In 1835, with statehood apparently just around the corner, Michigan’s Territorial Council moved to establish an Interim Council for the western portion of the territory and set October elections for 13 legislative representatives from the western counties and for a delegate to Congress. The truncated territorial “Council” would meet at a time and place specified by Acting Governor Stevens T. Mason. Mason called for the meeting to be held at Green Bay on January 1, 1836, but, before the meeting took place, President Andrew Jackson replaced him with John S. Horner of Virginia, who advanced the meeting date to December 1, 1835, possibly in anticipation of the opening session of Congress in that month. Curiously, Horner was present for neither the December 1 date, which the recently elected representatives ignored, nor the January 1 session, which nine of the 13 representatives attended. In spite of Horner’s and the other four representatives’ absence, the “Council” got down to the business of preparing memorials to Congress in anticipation of the impending lapse of civil government for the territory west of Lake Michigan caused by Michigan’s anticipated entry into the Union. After selecting a committee to draft the memorial to ask Congress to establish the Wisconsin Territory, the issue of the seat of government for the new territory was raised.

William S. Hamilton, son of Alexander Hamilton, had come to the southwestern area of Wisconsin in 1827 to take advantage of the boom in lead mining



then underway. Since he soon became a prominent leader in the region, it was no surprise that he was elected to represent Iowa County at the Green Bay session. Once at Green Bay, Hamilton was elected President of the Council. After James Vineyard, also representing Iowa County, moved that the committee be instructed to establish the new territorial capital on the “east bank of the Mississippi River south of the Wisconsin River”, Hamilton moved that the resolution be altered to specify the town of Cassville in Iowa County. In support of his proposal, Hamilton waxed eloquently:

Cassville stands on the east bank of the Mississippi surrounded by very pretty scenery. The eye can rest on the soft and soothing, the grand and sublime. There will be found everything necessary for the promotion of man’s comfort, and the exercise of his energies. In a word nature has done all in her power to make it one of the most delightful spots in the “far West”.

William Slaughter of Brown County voiced his opposition to selecting any site for a proposed territorial capital, while Thomas Burnett of Crawford County opined that if capital locations were to be discussed, he would favor his own Prairie du Chien. However, when the dust settled and the question was called, only Slaughter and John Lawe, the other Brown County representative, cast votes against the selection of Cassville, and the resolution was incorporated into the memorial.

The issue was not allowed to rest. In an attempt to secure the selection of Cassville, James Vineyard (who later gained notoriety by shooting an opponent on the floor of the legislative chamber in the midst of a heated debate) proposed a resolution that the Interim Council next meet in Cassville, thus redoubling the commitment to that nascent Mississippi river community. Slaughter moved to replace Cassville with his own Fond du Lac, and when that move failed, Gilbert Knapp of Milwaukee County, in an effort which also failed, moved that Racine be substituted. Finally, Slaughter suggested that the law prescribed that Green Bay must be the meeting place for the next session, and in apparent recognition that no alternate site could be successful, the Council defeated Vineyard’s original resolution. The Council continued in session three more days dealing with other matters and adjourned on January 15, 1836. For all the debate over their preferences regarding the seat of the new territorial government, their memorial was either not timely enough to be effective or was ignored by Congress.

Creation of the Territory of Wisconsin

George W. Jones, Wisconsin’s *de facto* delegate to Congress, submitted a memorial of his own to the House of Representatives on January 7, 1836 to establish a territorial government for the counties west of Lake Michigan. It was fol-



lowed two weeks later by the introduction of a bill to that effect by Delaware Senator John M. Clayton, who skillfully steered the measure through the Senate. Once in the House, opposition began to emerge over the Illinois-Wisconsin boundary, appropriations for a law library and the governor's salary, as well as a land grant of 10,000 acres, the sale of which was to pay for constructing public buildings including a capitol. Eventually, the boundary was confirmed as the *status quo*, the law library provision remained and the governor's salary was reduced, but the land grant was supplanted by a \$20,000 appropriation, a prize which would nevertheless soon be sought eagerly by a score of town promoters and speculators. Finally, the measure passed and was signed into law by Andrew Jackson on April 20, 1836, creating the Territory of Wisconsin, but without specifying a territorial capital.

With the passage of the Wisconsin Territorial Act, the slate was wiped clean: Cassville's chances of becoming the new territory's capital dimmed perceptibly, the preference for that town expressed in the January memorial having been ignored by Congress. Instead, the act specified that, after having a census of voters taken in the newly formed territory, the governor would apportion the number of members of the Council and the territorial House of Representatives for each county based upon population and would see that elections were held. The elected representatives would then convene "at such time and place in said territory as the governor thereof should appoint and direct". It was clear that the governor's selection was not intended to be the final word; rather, it was to be an expedient until the Legislature and the governor could jointly agree upon a permanent seat of government. It was this latter capital that would receive the benefit of \$20,000 in federal money for the construction of public buildings. Since the governor had absolute veto power over the Territorial Legislature, the choice of governor was of crucial importance in the eventual selection of the permanent seat of government.

Henry Dodge: First Territorial Governor

It should be no surprise that Andrew Jackson appointed Henry Dodge as Wisconsin's first territorial governor. Dodge's career and personal attributes closely resembled those of Jackson, and he had the strong support of the influential mining interests and the Democrats. Dodge had served with the Missouri militia during the War of 1812, attaining the rank of brigadier general and, after moving to Wisconsin's lead-mining region in the late 1820s, had distinguished himself during the Blackhawk War as a colonel with the Iowa County militia. After that war, Jackson gave Dodge a commission leading a contingent of the United States Dragoons, whose mission it was to protect settlers from Indian attacks. During his four years with the dragoons, Dodge's exploits did not go unnoticed by the local press in the mining area, and his ensuing popularity helped to make him a leading



candidate for the governorship. In stature and appearance, Dodge's resemblance to Jackson, conscious or unconscious, further augmented his popular image among miners. His military bearing made him appear tall and thin, and he seemed most at ease and congenial when dressed in buckskins rather than in uniform. He constantly carried two large pistols in his belt. Dodge's longtime vigorous support of the lead-miners' interests and his affiliation with the Democrats, then in power, together with his reputation as a military leader, must have made him an irresistible choice for the gubernatorial post, for when Jackson's nomination of Dodge reached the Senate in late April 1836, the appointment was confirmed as soon as it was submitted.

Dodge would remain silent on his selection of an initial site for the first meeting of the Territorial Legislature until well after he was officially sworn in on July 4, 1836, at Mineral Point, but it was abundantly clear that whatever town he chose would have a distinct advantage in the eventual determination. This served to stimulate land speculation and optimistic preparations and puffery by town promoters seeking the \$20,000 prize and the obvious economic advantages in being chosen the territorial capital. Even John S. Horner, the inexplicably absent territorial governor of the Green Bay Council, who was also sworn in with Dodge at Mineral Point as Territorial Secretary, was not immune to the speculative urge: he had purchased several tracts of land in Cassville, hopeful that Dodge would support the wishes of the Green Bay Council as expressed in their memorial. During that summer, construction began on a four-story red brick hotel in Cassville destined to house legislators, other government officials and lobbyists. The owner, Garrett V. Denniston, offered to refund the \$20,000 in federal money to the territory at the end of two years if Cassville was selected as the permanent seat of government.

Belmont: The First Territorial Capital

Another speculator who entered the capital sweepstakes was John Atchison, a general merchandise businessman in Galena, Illinois and a land speculator, who as a contractor for the Iowa County militia during the Blackhawk War had come to know Dodge well. In 1835, Atchison purchased an 80-acre tract 25 miles northeast of Galena, laid out a city on paper the following spring and began offering lots for sale in New York, Washington, Dubuque and Mineral Point in his new town of Belmont. When Congress declined to name a seat of government in the Wisconsin Territorial Act, Atchison gambled on his new venture and, like Denniston and others, began constructing buildings to serve the new government on the assumption that, if accommodations for meeting places and lodging for the new officials were ready, a prospective capital would have a decided advantage when the final decision was made.



It is clear that Atchison's four public buildings were constructed outside of Wisconsin, then transported to Belmont in sections. This practice was not uncommon at the time, for – although the lead-mining area had frequent scattered stands of timber – there was not a sufficient supply of lumber in the southern third of Wisconsin for construction of frame buildings and it would be another year before the Winnebago, Sioux and Chippewa cessions would open the rich timberlands to the north to lumbering. According to the most often quoted source, the buildings were constructed at Pittsburgh, Pennsylvania, and then shipped by steamboat down the Ohio River, up the Mississippi River, up the Galena or Fever River and, finally, by wagon the last 25 miles to Belmont. While there is no contemporary corroboration of this account, a report made during restoration activities in the 1950s confirms that the lumber used in construction was not native to Wisconsin.

Atchison commissioned the construction of a capitol (also called the Council House), which would serve both the Council and the House, a court building for the three-member Territorial Supreme Court, a governor's residence, and a lodging house for legislators, although it is not clear precisely when these structures were started or completed. It is evident that work on the Council House must have started in mid- to late-summer 1836, well in advance of Dodge's announcement of his selection of the temporary capital, because it was used as the site of a nominating committee for Iowa County on September 23. The lodging house, about which little is known, was ready for the opening session of the Territorial Legislature in late October and the court building, which never saw the use for which it was intended, was apparently not completed on December 8, 1836 when the Court convened its first session in the "Council Chamber of the Legislative Assembly". The governor's residence left few traces, but was apparently occupied by Dodge well into the next year.

While Atchison was optimistically building these structures along the main street of his "town", the county sheriffs were conducting a census of the territory pursuant to the provision in the territorial act. On September 9, Dodge announced the results of the census together with the number of legislators for both houses who would represent each county. The apportionment broke down as follows:

County	Population	Council Members	House Members
Brown	2,706	2	3
Crawford	854	0	2
Des Moines	6,257	3	7
Dubuque	4,274	3	5
Iowa	5,234	3	6
Milwaukee	2,893	2	3



In the same proclamation, Dodge set legislative elections for the second Monday in October and stated that the legislators would “convene at Belmont in the county of Iowa on the 25th of October, for the purpose of organizing the first session of the Legislative Assembly”. Atchison’s gamble had apparently paid off.

The reasoning behind Dodge’s choice of Belmont is obscure. The temptation to attribute some darker motive, based upon Dodge’s previous association with Atchison, is inescapable, then and now, but there exists no concrete evidence to support such a connection. The fact that Belmont was situated in the middle of the lead-mining region or that it was roughly halfway on the East-West axis of the sprawling Wisconsin territory (which included what is today Iowa, Minnesota and part of the Dakotas) may have had more to do with Dodge’s choice than any sort of imputed cronyism. Alice E. Smith, biographer of James Duane Doty and historian of early Wisconsin, variously attributes the selection to Dodge’s having “unwisely allowed himself to be persuaded by Atchison” and to a desire to quiet “importuning promoters by choosing this isolated site”. Dodge himself defended his choice by claiming that it was in the geographical center of the population of the territory, an assertion which is borne out by the distribution of people reflected in the table above. But why not select an existing town such as Mineral Point rather than one barely off the plat map? Whatever Dodge’s reasons, the fact that Belmont was to be the first, but not necessarily permanent, capital of the Wisconsin Territory was one that was not lost on a score of town promoters. To be sure, Dodge had an absolute veto over the actions of the Legislature, but to use it on so sensitive an issue in the context of a newly formed civil government would have been a risky and potentially divisive move.

Aside from the prospect of exacerbating the tensions between regional and economic interests which would almost certainly have resulted from a gubernatorial veto, Dodge’s own democratic ideals compelled him to leave the selection of the permanent seat of government to the people’s representatives, who, Dodge naively thought, would act in the best interest of all. While Congress was still in the initial stages of debating the Territorial Act in January 1836, Dodge wrote to George W. Jones, Wisconsin’s *de facto* delegate:

The location of the seat of Government is a subject of much interest to the people; if there could be a provision that the Council could select the place with the approbation of the Governor, it would be most satisfactory to the majority. In a Territorial Government I am in favor of permitting the people to participate as far as practicable. . . .

A month after his inauguration as governor, Dodge reiterated his feelings on the matter in another letter to Jones, saying, “As it respects the seat of Territorial Gov-



ernment I think I am not misunderstood. Wherever a majority of the representatives of the people agree on its location will meet my approbation.”

Criticism of his choice of Belmont as the site of the first session of the Territorial Legislature must have reinforced Dodge’s predilection toward leaving the selection of the Territory’s permanent capital in the hands of the legislators. On the second day of the Legislature’s first session, Dodge delivered his first address to the combined houses outlining the most pressing issues facing them. At the end of his concise speech, he announced publicly his intentions on the capital question:

Under the organic law of Congress it was made the duty of the executive to convene the Legislative Assembly at some place designated by him. In the discharge of that duty I have selected this place. The permanent location of the Seat of Government is a subject of vital importance to the people of this territory, and I deem it proper to state that my assent will be given to its location at any point where a majority of the representatives of the people agree it will best promote the public good.

In retrospect, Dodge would later regret forswearing his veto on this issue, but his die was cast.

Although it would be another two weeks before the Legislature would begin formal action on the question, the pace of the competition for the capital quickened almost immediately. Editorials and letters festooned the tiny Belmont Gazette, a newspaper published out of an annex attached to the yet unfinished court building. The owners and promoters of one planned city, Wisconsinapolis, even took out an advertisement in the Gazette, extolling the virtues and advantages of the paper city just east of Portage. However, speculators and the owners of lots in Belmont, who were found to be in “a state of wildest excitement” before the convening of the Legislature, must have been disheartened by Dodge’s announcement of his laissez faire policy. Some town boosters were not deterred by this setback and continued their efforts to secure the ultimate prize for Belmont. These promoters envisioned spacious hotels, boarding houses, “princely mansions” and a railroad for their nascent community’s future. Atchison continued to solicit local investors for Belmont through advertisements in the *Dubuque Visitor*, and, while not openly conceding the loss of the “capital prize”, he judiciously omitted any mention of its current and hoped for status as the seat of government in favor of touting the town’s suitability as a county seat, another trophy which was destined to slip through his fingers.

Belmont’s competitive edge in the “capital sweepstakes” continued to dull as the session wore on and the legislators and lobbyists wearied of the stark frontier town with its lack of creature comforts. Brown County Council member,



Henry S. Baird, wrote his wife immediately after arriving in the Iowa County community that he was “agreeably surprised, when emerging from the wood to see 6 or 8 very pretty framed buildings, neatly painted, together with several other frames in a state of forwarding.” But after barely a month had passed, Baird’s complaints of the crowded rooms and lack of heat and water were typical of his colleagues. A fellow legislator from Brown County, Ebenezer Childs, echoed Baird’s sentiments, condemning their accommodations as “most miserable” and noting that the entire county delegation, including lobbyists, were “lodged in one room, about fifteen by twenty feet.” In addition to the cramped sleeping arrangements, those at Belmont found much to be desired in the meager bill of fare served at the boarding house and tavern, prompting one anonymous wag to comment wryly in the *Dubuque Visitor*:

That the Legislators of the great Territory of Wisconsin should be made comfortable during the discharge of their duties [is], I think necessary for the enactment of good and substantial law. Empty stomachs make clear heads, but not good laws. The Lord deliver us from a set of hungry legislators.

James Duane Doty

Into this scenario of primitive conditions and town promoters jockeying for position entered Wisconsin’s promoter and lobbyist *par excellence*, James Duane Doty. As a young man, Doty, as many others of his day, had gone west to seek his fortune and had been particularly successful at it. Arriving in Detroit from his native New York in 1818, young Doty quickly attracted the attention of the notables of legal and government circles in the territorial capital. Working first in the attorney general’s office, Doty wended his way upward rapidly, through a law partnership (he was admitted to the bar even before he was able to vote), clerk of the territorial supreme court, and secretary to Governor Cass during the latter’s trans-territorial expedition in 1820, until in 1823 he was able to bring enough influence to bear to engineer his own appointment to a federal “additional” court for the three western counties of Mackinaw, Brown and Crawford. Doty remained a judge until 1832, after which he served a term in the Michigan Territorial Legislature and acted as a retainer for John Jacob Astor’s American Fur Company. After an unsuccessful bid for “territorial delegate” to Congress for the western counties in October 1835, Doty turned his attention to land speculation.

James Doty was no stranger to buying and selling land for speculative purposes and, after he left public life in 1835, he began to pursue his interests in this area with a little more asperity. In that year, several other large land speculators began purchasing lake-front property in the Four Lakes region, an area between Milwaukee and Mineral Point, and – not one to be left behind – Doty entered 100



acres near the Catfish (later Yahara) River on the Fourth (Mendota) Lake side of the isthmus between Fourth Lake and Third (Monona) Lake. That the property was, at that time, largely uninhabitable swampy ground was irrelevant; it was an investment to be developed and exploited. A few months later, Doty was present at the meeting of the truncated Territorial Council at Green Bay, where he was able to interest a group of a dozen or so men in purchasing more land in the region and forming a land company for large scale development. All agreed to follow this course, but, for reasons which are not clear, the company never materialized and the land remained in government hands, awaiting a purchaser. Returning from New York on other business that spring, Doty stopped at Detroit, where he met with Stevens Mason, then awaiting inauguration as Michigan's first state governor. Mason inquired of Doty about investment opportunities in the new territory and Doty brought up the isthmus property, still largely untaken. The two agreed to buy a thousand acres pending the formation of a joint stock land company in which shares would be sold to finance development. Both men deposited the funds necessary to cover the cost of the purchase in a Detroit bank, and Doty wrote to the land registrar in Green Bay instructing him to enter their tract selected at random from the township plat on the isthmus. A solid tract of land was entered jointly in Doty's and Mason's names on April 6, 1836. The center of the thousand-acre tract was at the corners of sections 13, 14, 23 and 24 of Township 7 North, Range 9 East, precisely on the spot where the State Capitol stands today.

Doty then began taking several actions to implement their plan, although the reasoning behind some of his moves are obscure. On May 1, he deeded title to his portion of the land to Mason; four weeks later, Mason gave Doty a power of attorney to divide, plat and dispose of the property that they "jointly" owned. In the rush to form their company and further their new venture, the technicality that Doty was no longer a "joint" owner seemed to have escaped their notice. This oversight would prove to be the seed of a controversy which would later call into question the territory's ownership of the ground on which its capitol stood.

A few days later, Doty organized the Four Lakes Company with ownership divided into 24 shares (plus Mason's two shares) valued at \$100 per share; Doty named himself trustee and sales agent for the company. The same day, acting as attorney for both Mason and an eastern land speculator, Francis Tillou, as well as trustee for the company, Doty had a sizeable portion of the Four Lakes holdings and Tillou's property in the area deeded to himself for the purpose of selling town lots.

A month later, Doty drew up a plat map of the "Town of Madison" and, in early October, accompanied by a surveyor, arrived to stake out the town. In the meantime, Doty, together with Morgan L. Martin and William B. Slaughter, both



of Green Bay, had purchased a sizeable area on the northwest side of Fourth Lake, which they named “City of the Four Lakes”. By the time the Territorial Legislature convened in Belmont, then, Doty had invested a considerable amount of time, effort and funds in the Four Lakes region.

Apparently, there is no significant evidence that Doty developed the area around Fourth Lake before Dodge’s announcement of his no-veto policy in order to secure the location of the territorial seat of government there. It might have been a consideration, but Doty does not appear to have entered the “Capital Sweepstakes” in earnest until the fall of 1836. After surveying Madison, Doty proceeded to Belmont, where his presence would soon be felt even though he had no official capacity there.

The Fight Over Madison

Upon arriving in Belmont in early November 1836, Doty immediately set to work promoting his many ventures, among which was the advancement of his Four Lakes’ interests as a possible location for the territorial capital. Doty could be very ingratiating and generous, and he was influential. Over the years, he had established friendships and alliances with many men who were now legislators at Belmont. Through the liberal distribution of Madison town lots and of buffalo robes to ward off the chill of the November nights, Doty made it clear that he was entering Madison in the “Capital Sweepstakes”. In all, by the end of the short legislative session, 16 legislators, the clerks of both houses and Governor Dodge’s son, Augustus, owned property in the paper town. When Doty approached Dodge himself about securing an interest in the town, the latter indignantly refused in a tone that intimated impending violence. Doty also took advantage of existing regional antipathies by supporting a plan to split the \$20,000 appropriation between a temporary capital and a permanent one.

In retrospect, Doty’s lobbying methods have often been roundly condemned, but, at that time, speculators resorted to a wide variety of schemes to entice the legislators to vote for their towns. Many displayed elaborate maps of prospective cities featuring broad streets with proposed railroads and canals passing through or nearby. Cassville’s Garrett Denniston offered to refund the entire \$20,000 federal appropriation to the territory after two years if his town were chosen; Jeremiah “Major Jerry” Smith, Council representative from Des Moines County, promised to have a capitol ready for the next session of the Legislative Assembly if his Burlington were selected as temporary seat of government for the territory. Undoubtedly, many others offered town lots free or for sale at a nominal price, as Doty had, in exchange for consideration of their town as a potential capital. Doty differed from the other developers only in that he was the most adept and, ultimately, the most successful. Had another town been chosen as the perma-



ment seat of government that town's history would probably contain a person similar to James Duane Doty. Nevertheless, even contemporary accounts vilified Doty as the "shrewdest, most subtle, suave and insinuating" of town promoters and a "consummate political manipulator, a master of chicane."

The details of Doty's efforts were, needless to say, never recorded, but the progress, development and passage of the bill selecting the capital site was clearly chronicled. On November 10, 1836, the first move was made in the Council. John Arndt, representing Brown County, introduced a bill "to locate and establish the seat of government of the Territory of Wisconsin, and for the erection of public buildings." However, Arndt's bill specified two capitals instead of one. The measure called for a temporary seat of government at Dubuque until 1839 with \$8,000 of the federal money allocated to construct public buildings there, and the establishment of a permanent capital at Fond du Lac with the remaining \$12,000 set aside for construction. Arndt hoped to align the Brown County delegation and others who had invested in Fond du Lac with the Dubuque County members but this tactic would quickly backfire on him over the next two days. Joseph Teas, supported by Arthur Inghram – both of Des Moines County – and Alanson Sweet of Milwaukee County, offered an amendment to Arndt's bill to substitute Madison for Fond du Lac and allocate the entire \$20,000 to the former town. Henry Baird, siding with Arndt and others, attempted to head off Teas' move by offering an amendment to the amendment, supplanting Madison with the City of the Four Lakes, which failed when it came to a vote. Baird quickly offered another amendment, this time substituting Portage as the permanent capital; but before the question was called, the Council adjourned until November 14. On that day, Arndt, probably realizing that the issue would continue to generate more heated debate and that he would need time to muster his forces, successfully moved to defer further consideration for one week.

The lobbying and maneuvering in that intervening week must have been intense, with Arndt trying to consolidate his Brown-Dubuque alliance and Doty, behind the scenes, working on a countervailing coalition of Des Moines and Iowa County Council members. Dodge, in despair over the wheeling and dealing occurring off the Council floor, pondered renegeing on his promise not to use his veto in a letter to George Jones, now Wisconsin's official territorial delegate to Congress:

Notwithstanding I have given the Legislative Assembly the power of locating the permanent Territorial seat of Government, and my object in doing so was to quiet as far as in my power all parties and their jarring interests, hoping all would unite in making laws for the good of the people of the Territory – in that I have been mistaken. Doty is exerting himself to get the permanent seat of Government on his land at the Four



Lakes, and the temporary seat located at Burlington for two or three years, making a bargain to unite the Des Moines and Iowa county members that give nineteen votes. I never will consent to do an act of injustice to the people, should their representatives consent to do so.

Dodge continued wishing that Congress had, in the organic act, selected the capital; his idealism concerning the legislators acting in the public good on this matter was clearly waning. If he was looking for support from Jones, he was not likely to find much – Doty had been in touch with Jones since the spring concerning developments of the Four Lakes Company and, after the capital site was selected, Jones was among those listed as property owners in Madison.

On Monday, November 21, the Council resumed debate on Teas' amendment, still the issue before the legislative body. The move to substitute Madison for Fond du Lac suffered repeated unsuccessful attempts over the next two days to replace the Four Lakes town with Dubuque, Mineral Point, Milwaukee, Belmont, and Platteville. Finally, late on Tuesday, the vote on the Teas amendment was called and succeeded by a margin of 7-6. Madison was named the permanent seat of government with the whole \$20,000 appropriation; the tide had turned, but the battle was not yet over.

After passing the second section naming Burlington as the temporary capital until 1839, the Council took the full measure under consideration on Wednesday afternoon. Arndt moved to amend the bill substituting Fond du Lac for Madison, but it failed, 6 to 7. Dubuque County's John Foley then tried to replace Madison with Dubuque, and this attempt also failed; but surprisingly and inexplicably, Arndt changed sides and proceeded to oppose all further moves to dislodge Madison. Foley then unsuccessfully tried to substitute "the Portage of the Wisconsin and Fox rivers," and another Council member, Iowa County's James Vineyard, also changed sides. With this last switch, the lines were clearly drawn and hardened for the rest of the debate. Motion after motion to replace Madison was made, and each, in turn, was voted down by the same 6 to 7 margin with the same members in favor and the same in opposition. After the Portage vote, Vineyard, Foley and Gilbert Knapp (Milwaukee County) took turns proposing, one after another, Helena, Milwaukee, Racine, Belmont, Mineral Point, Platteville, Astor (Green Bay), Cassville, Bellview, Koshkonong, Wisconsinapolis, Peru and Wisconsin City. Each time they were joined by Baird (Brown County) and Thomas Knight and Thomas McCraney, both of Dubuque County; and each time they were defeated by Ebenezer Brigham and John Terry of Iowa County, Teas, Inghram and "Maj. Jerry" Smith of Des Moines County, Arndt of Brown and Sweet of Milwaukee. Finally, on Thursday, November 24, Teas called the question and, with no deviation in voting patterns, Madison was confirmed. In one final, bitter at-



tempt at stalling the bill, Foley, after Arndt moved that the measure be engrossed and read a third time on the next day, tried to amend the motion to substitute “fourth of July next” for “tomorrow”.

The bill would suffer similar tribulations in the House on Friday, Saturday and Monday, but the margin for Madison and Burlington was not as narrow as in the Council. At one point, however, the Madison supporters appear to have been caught napping. James Dallam (Crawford County) moved to supplant Madison with Prairie du Chien, in the same way that the opposition had tried in the Council, and, surprisingly, the amendment carried, 13-12. Iowa County’s Thomas Shanley immediately moved for a reconsideration of the vote and Madison regained its place, 11-14. On Monday afternoon, the final House vote came and the bill passed easily, 15 to 11. The bill was sent back to the Council the same day for concurrence on some minor changes in wording and was ordered enrolled for the Governor’s signature.

Doty appeared to have won, but the question now was whether Dodge would keep his public commitment to accept any site or would, as he had privately written to Jones, not “consent to do an act of injustice to the people.” Either Dodge’s resolve to prevent what he saw as an injustice had diminished, or he may have entertained hopes that the protest against the bill, announced by Foley shortly after the Council’s final vote, would gather enough support to reverse the Legislature’s action upon submission to Congress. Whatever his reasoning, Dodge signed the bill into law December 3, 1836, privately rationalizing that a veto would divert “the remainder of the session . . . to unprofitable discussion, when the good of the people requires the undivided effort of the Legislative Assembly,” even though the session lasted less than one more week.

Foley was joined by all the other Council members who had opposed Madison except Vineyard. Among other things, the protest criticized the isolation of Madison and the lack of building materials there, and incorrectly claimed that Madison had been laid out and named since the convening of the Legislature. Not surprisingly, the majority in the Council voted to refuse to receive the protest; however, shortly after the Legislature adjourned, Dodge forwarded the spurned protest to Jones, in the vain hope that Congress would take some action to nullify or force reconsideration of the selection.

Burlington: The Second Territorial Capital

Maj. Jerry Smith’s offer to build a temporary capitol out of his own pocket and have it completed in time for the next legislative session had almost certainly been the linchpin upon which turned the Des Moines County-Iowa County alliance enabling passage of the Burlington-Madison bill. Burlington, almost 140 miles south of Belmont in the southeastern quarter of what is now Iowa, was not



much larger than Belmont at the time. By the summer of 1836, the population of the Mississippi River town was estimated at less than 500 and the buildings consisted principally of log houses with a few scattered frame buildings. Smith, a farmer and merchant, was reputed to be the wealthiest man in Des Moines County at the time. Early the following summer, Smith began construction on the Burlington capitol, while construction on Madison's first capitol was beginning at the same time.

Throughout the Burlington summer, workmen rapidly built a 40 by 70 foot frame building, almost three times the size of the Council House in Belmont. The temporary Capitol was located on Water Street, facing the river between Columbia and Court Streets. It was two stories with an interior staircase; on one floor the House of Representatives was to meet and on the other the Council had its chamber. Both chambers were separated from the lobby by a simple railing. Jerry Smith's offer cost him between \$7,000 and \$10,000, less than half the federal appropriation given to Madison.

The building was finished in time for the November 1837 session of the Legislature. In late October, when Dodge and some of the legislators arrived in Burlington, they were treated to a cotillion in their honor. Creature comforts for the legislators were generally agreed to be much better than in Belmont; Dodge's biographer, Louis Pelzer, noted that "taverns and hotels were plenty, and the 'Exchange' was open at reasonable hours where a clean tumbler, fresh water and an excellent glass courteously served may be had." The bill of fare at the local eateries far surpassed Belmont's offerings, including prairie chickens, venison, duck, goose and fish; the imminent "danger" of hungry lawmakers that the *Dubuque--Visitor* correspondent had commented on while the Legislature was in Belmont would evidently not threaten the territory at Burlington.

On November 6, 1837, the Legislature formally convened its second session in Burlington. The reaction to the new Capitol was as favorable as the comparison in lodging and boarding arrangements; one observer commented that the Burlington Capitol "is commodious, handsomely build, and well arranged for the purpose of legislation. . . . The halls are larger and much better adapted to the purpose for which they are intended, than those at Belmont." The House and Council commenced a ten-week session, continuing the arduous, and sometimes tedious, work of establishing the structure of a civil government. New counties were created, banks were chartered and memorials beseeching Congress for funds for internal improvements and other needs were drafted. The progressive rhythm of this process was interrupted suddenly and briefly on the night of December 12, when Maj. Jerry's Capitol was razed by an accidental fire.



The destruction of the Capitol did not curtail legislative proceedings but did force their removal to temporary quarters. The House moved its activities into a room over Webber and Remy's store. The Council continued in the west room of a structure known only as McCarver's building. It appears that the Legislature retained use of these temporary quarters on Main Street until the end of the session, January 20, 1838, and probably used them again for the special session that June.

While the Legislature was sitting in special session that summer, they received the not unexpected news that Congress had passed an organic act creating the Territory of Iowa, which meant that they would be forced to move to Madison earlier than anticipated. If they were uncertain about the progress of the construction at the infant capital, Doty's requests for more money earlier in the session did little to allay their fears.

CHAPTER II

Building Madison's First Capitol

The Board of Commissioners

Section 3 of the 1836 law, which established Madison as the permanent seat of government and Burlington as the temporary capital, called for the creation of a board of three commissioners – to be elected by a joint ballot of both houses of the Legislature – whose duty it would be to “cause the necessary public buildings to be erected at the said town of Madison.” In very precise language, this section delineated the structure, functioning and some of the specific duties of the board; they were to “agree upon a plan of said buildings . . . issue proposals, giving due notice thereof, and contract for the erection of said buildings without delay.” They were to elect, among the three of them, a treasurer and an “acting commissioner”, the former to be responsible for drawing from the United States Treasury “such sum or sums of money as may have been or may hereafter be appropriated by Congress” for public building construction, for paying bills and for annually rendering an accounting to the Legislature, and the latter to be responsible for the day-to-day overseeing of the actual construction. The act, as a whole, did not take effect until March 4, 1837, three months after Dodge approved its passage.

In spite of the law's specific provisions, the envisioned process that was expected from its meticulous wording did not materialize. After Dodge signed the law, the Legislature elected Augustus A. Bird, John F. O'Neil and James D. Doty as commissioners, who immediately selected Doty as treasurer. Doty was the clear winner of the “capital sweepstakes”. Doty, however, did not wait for the law to take effect three months hence or for the board to formally meet. Instead, on his own initiative, Doty hired Moses M. Strong to go to Madison and resurvey the town to confirm the initial platting and to stake out the Capitol Square (which



Doty had donated to the Territory) in preparation for construction. Strong spent several bitterly cold days in February 1837 carrying out this task.

By the time the board of commissioners finally did meet on May 4, 1837, it was clear that a considerable amount of planning had already taken place in the intervening six months. Although only Doty and O'Neil were present, sweeping decisions were made about which the absent Bird was apparently aware. They adopted a plan for a capitol (it is at this point where "public buildings" somehow became "public building", that is, a capitol) which, by their own estimate, would cost between \$40,000 and \$45,000 to construct. This, of course, was over twice the amount appropriated by Congress. Rather than scale down their plans, the board decided to depart from its lawful instructions and chose not to advertise for bids but to attempt the project on their own. According to later testimony by Bird before a joint legislative investigating committee, the board was "of the opinion that it [the Capitol] could be build much cheaper than anyone would be willing to contract to do it – they therefore, in the exercise of their discretionary powers, concluded to commence and continue the work until they were able to ascertain how it could be done with the least expense and the best advantage to the Territory." Notwithstanding the board's noble intentions as stated by Bird, the fact that no "discretionary powers" to ignore the bid procedure existed in the law establishing the board seemed to be overlooked. After taking this unwarranted step, the board appointed Bird the "acting commissioner" with the power to purchase materials, hire workmen and do whatever else was necessary to get the project underway.

Construction Begins in the Wilderness

Bird lost little time in organizing and hiring a construction crew in Milwaukee and buying the necessary tools and provisions for building a city and a capitol from scratch. At the end of the month, with 36 workmen, six yoke of oxen, wagons, tools, supplies, cooking utensils, etc., Bird set out from Milwaukee on the overland journey to Madison. It proved to be very difficult going since there were no established roads at that time between Milwaukee and Madison, and they were forced to make one as they went along. To make things worse, it rained constantly from the start, further slowing their progress as the ground became muddy and the streams to be forded became swollen. The only break in the rain came as they neared the end of their trek; coming out of a stand of trees onto an open prairie drenched in sunshine, they jubilantly nicknamed the place "Sun Prairie". The name has remained to this day.

Bird's party finally arrived in Madison on June 10, a ten-day trip which would shortly afterward take little more than four hours, greeted by the Peck family, who had arrived a few months earlier to start an inn at the new capital. Since the Pecks' tiny log cabin was not nearly large enough to house the entire work party,



the crew immediately began construction of temporary houses and cabins to shelter themselves and their livestock and to store their equipment and provisions. These were built at the end of King Street on Third Lake [Lake Monona] and “were not of the highest order of architecture.” William Woolcock, a stonemason from Canada who arrived later that summer, leaves us with some impression of what these early accommodations were like: “We slept at the building known as the bedroom, about eighteen feet square and two stories high and the sleeping berths were all around the sides, two or three, one above the other, and the bedsteads were made out of small oak trees and covered with marsh hay. . . . [T]he mosquitoes were so thick that the men made a fire on the floor to smoke them out.”

The mosquitoes were not the only problem facing the workmen, for Madison was still very much a wilderness in 1837. The census the year before had enumerated only about three dozen settlers in what is now Dane County, and many of these tended to be “birds of passage” like Michael St. Cyr, the French trader who had a cabin in the City of the Four Lakes tract on Fourth Lake’s northwest side. The nearest population center of any size was Fort Winnebago, some 35 miles to the north. Hence, isolation posed a very real, as well as psychological, problem with medical services, military protection and sources of resupply some distance away. None of the workmen, however, turned around and returned to Milwaukee or left Madison for other parts in the face of short rations, annoying swarms of mosquitoes and primitive housing conditions, but not because of any idealized “indomitable frontier spirit”. When Bird had signed the men on, they signed an agreement to work for \$2.25 per day, rather a good wage in that day, but a stipulation in their agreement allowing for substantial deductions in their pay if they left within the first three months. After the first three months, many of the workmen did leave, but excavation and construction operations had gained enough momentum and progressed far enough that the temporary loss of labor (Bird had no trouble replacing them) did not bring work to a halt.

Another hardship that the men had to bear, and one which they had not bargained for, had to do with the medium in which they were paid. Doty had withdrawn the \$20,000 in specie from the United States Land Office in Green Bay and deposited it in his bank in the same town. When the monthly payday would arrive for the men working at Madison, Doty would send the pay in banknotes. Since the notes were issued by the bank, their exchange rate for specie and, hence their value, only remained at par at that particular bank. Other banks, both within and outside the territory, commonly discounted such notes and, as a consequence, their value was diminished in common exchange. Andrew Jackson’s Specie Circular of the previous year, requiring the use of specie to pay for government lands, further devalued paper currency. These combined forces operated strongly enough



by mid-1837 to provoke several strikes among the workers at Madison until finally, in mid-September according to Rosalind Peck, Doty personally accompanied a contingent of soldiers from Fort Howard near Green Bay bringing a large amount of specie, presumably to meet the payroll. Before this time, Eben Peck, Rosalind's husband, would leave Madison for Green Bay two weeks before payday and return in time with the banknotes, but, after swimming streams and rivers on the return trip, the notes would have to be spread out to dry before the men could be paid.

Bird managed to get work underway early enough in June to have the foundation laid out and the excavation for the basement story begun in time for the Fourth of July celebration. Doty insisted upon a formal celebration of the holiday, the first such in Madison, which would undoubtedly reinforce Madison as the future seat of government for the territory. He virtually ordered Mrs. Peck to prepare for a large celebration and, acting as her agent, sent wagons to Galena for provisions; Mrs. Peck took advantage of a herd of cattle being driven past Madison en route from Illinois to Green Bay and purchased a few head on July 2, so that the celebrants could have "something besides pork." Attended by two to three hundred people (according to Mrs. Peck's count), including Doty and other territorial officials, the cornerstone of Madison's first capitol was set on the northeast corner of the building site, amid appropriate speeches and ceremony on July 4, 1837. The festivities continued for three days, as long as it took for the whiskey to give out.

Bird and his crew continued work throughout the summer, but, as it turned out, the Capitol was not the only object of their labor. They found a source of suitable building stone in what is now the village of Maple Bluff, on the northeast side of Madison, but the marshy isthmus presented a carriage problem, which they surmounted by building two wharves, one near the quarry and one near the foot of North Hamilton Street, and two scows for hauling the stone across Fourth Lake. They also constructed a steam sawmill to cut the timber felled near the Capitol Square into useable lumber. As the summer continued, more workmen arrived, swelling the construction force to nearly one hundred.

By September, the board of commissioners decided to attempt to turn over construction to a contractor and advertised for bids for completion of the Capitol, but rejected all that were submitted, apparently because they were too high. Bird continued work until November, at which time the foundation and the construction season were finished. After holding a small celebration, most of the crew left Madison for the winter. A problem – which developed undiscovered and which would remain uncorrected for over 70 years – occurred during this summer's activity. The Capitol was intended to be erected precisely in the middle of the



square, the center of the building directly over the spot where the corners of the four sections – 13, 14, 23 and 24 – joined. Whether Strong had erred in surveying the square in February or the center stake had been moved or removed is not clear, but the effect was to place the west doorway of the capitol over the conjunction of the four sections. Moreover, the building was supposed to be aligned with the streets around the square, requiring the axis of the Capitol to coincide with the avenues and streets. For some unknown reason the foundation was also mislaid, slightly out of alignment. Both these errors were discovered some years later and were not corrected until early this century when the current state capitol was being built.

The Winter Hiatus

Raising More Money

During the winter hiatus, although construction activity ceased at Madison, efforts were being pursued at Burlington to further enhance the project. Doty had arrived in the Mississippi River town early for the second meeting of the Territorial Legislature and his intentions were soon abundantly clear to all: he intended to ask for the Legislature to memorialize Congress for more money to carry on construction at Madison. Doty still enjoyed the support of a majority of the Council and the House of Representatives, but a minority who opposed him now had some rather substantial ammunition to use in their fight. Governor Dodge again joined this latter group, his antipathy to Doty unabated since the previous session's events. Dodge was of the opinion that the initial grant of \$20,000 "was no doubt sufficient, if it had been properly expended." Moreover, Dodge felt it was totally unnecessary to pour a great deal of money into Madison, since (he reasoned), with the addition of the Indian lands to the north of the Wisconsin River, the center of population must move north, as must the capital. Clearly, Dodge appeared to be fixated with the notion that the Capital must be collocated with the center of population, which would necessarily cause the eventual removal of the seat of government "at least one hundred miles north of the Wisconsin River."

The Legislature formed a Committee on Public Expenditures to consider the question of asking for an additional appropriation from Congress and, in early spring 1838, the majority issued a favorable report, noting that "some progress has been made." The minority, however, echoing some of Dodge's sentiments, was critical of the use of the initial grant, pointing out that the board of commissioners had spent at least \$7,500 "in the erection of a steam mill, two boarding houses, a lodging house, a barn and a cellar, two scows, a bridge, and two wharves". (Strong estimated the amount to be \$17,900, but, as will be seen, he had more than ample reason to be biased.) The memorial was drawn up and sent to Congress, which



appropriated an additional \$20,000 on June 18, 1838, but Doty's difficulties over the construction of the Capitol were just beginning.

Obtaining A Contractor

In late February 1838, the board of commissioners for a second time advertised for bids from contractors to complete the Capitol, confident that the additional federal money would be forthcoming. The bid specification leaves us with the most complete description of what would become Madison's first Capitol. The building was to be 104 feet by 54 feet, with two stories above the half-submerged basement story and with stone walls from two to two-and-one-half feet thick. As with the two succeeding capitols, there would be no evident front and back, for although the specification described a "front" facade, it was to be identical in every detail to the "back". Both were to have an oak-floored piazza, even with the top of the basement, projecting 12 feet from the building and 30 feet long, with a roof supported by four Doric columns. The roof was to be covered with pine shingles except for a tin-covered dome in the center, 26 feet in diameter with a clear skylight in the center. (There is some uncertainty whether this last feature was ever installed; existing drawings and photographic images of this Capitol do not show any evidence of a skylight in the center of the dome.) The fact that a dome was specified for a Capitol was not as foregone an assumption in that day as one might think. A dome as a feature of a capitol or statehouse was somewhat of a recent innovation, used the first time in the renovation of the Maryland State House less than 50 years before. (This was pointed out by William R. Seale in a paper delivered before a group discussing state capitol renovation at the National Conference of State Legislatures' meeting, 1982.)

The interior of the Capitol was to have a great hall, running from front to back, 24 feet wide and open to the dome skylight above; the walls were all to be corniced and triple-plastered. A flight of stairs on either side of the great hall would take people to the second floor, while the first floor had, on one side, the circular Council chamber and, on the other, the 40 by 38 foot House chamber, both with elevated galleries for public spectators. Even decorative nuances, such as egg-and-dart molding around the doors, were detailed in the bid specification. Clearly, this was not intended to be a temporary capitol, such as Maj. Jerry Smith's building, nor was it meant to be abandoned when the center of population shifted.

Several bids were again received ranging from \$24,450 to \$125,000, and James Morrison, one of Doty's partners in a Mineral Point bank, was awarded the contract to complete the structure for \$26,200 on April 17, 1838. Morrison was to have the shell of the Capitol and the first floor rooms finished by October 15, 1838, and the building completed in all its details by September 20, 1839. Two months later, Congress would approve the second \$20,000, which would not provide the



necessary funds to cover Morrison's contract, but this detail seemed to deter him not at all. By May, Morrison had hired many of the workmen who had come to Madison the year before with Bird and continued construction on the Capitol where Bird had left off the previous November. He also entered into a partnership with Bird to build a hotel, called the American House, on the corner of North Pinckney Street and East Washington Avenue, which, ironically, would see use as a meeting place for the Territorial Legislature before the Capitol.

The Lawmakers Come to Madison

Accommodations Still Inadequate

While at Burlington in June 1838, the Wisconsin Territorial Legislature received word that Iowa had been granted territorial status, reducing Wisconsin to its current boundaries. As indicated by the requirement in Morrison's contract that the shell of the capitol and the first floor (which included the legislative chambers) be completed by October 15, this development was anticipated by Bird, O'Neil and Doty. Although the law establishing the seat of government at Madison specified that the public buildings be completed by March 1839, it was clear now that the territory would need them sooner, for the fall 1838 session. After Doty's last trip to the well for additional money for construction, the legislators were understandably concerned with what would be facing them when they assembled again in Madison, and they appointed a committee to look into the accommodations that waited them.

The legislative committee's report, coming as it did on the eve of the fall session, would deepen the lawmakers' concerns, which would grow after they met and would have far-reaching consequences for Doty, the Capitol and the territory. Of the three hotels in Madison, the committee found "that at the Madison House there was one room that would accommodate four persons; and at the American Hotel, eight rooms, sufficient to accommodate twenty-six persons." In all, the committee estimated that lodging could not be found in the whole village for more than 50 people. If legislators feared from this report that they would be laboring under conditions more similar to those at Belmont than at Burlington, they were not far from the mark. Judge J. G. Knapp leaves us with a vivid image of the early days of the Legislature in Madison:

Though we paid metropolitan prices, it cannot be said that we had exactly metropolitan fare. But men were remarkably accommodating in those early times, and without a grumble could eat "hog and hominy" or "common doings" when "chicken fixings" could not be had, and they would occupy a "field bed" when they were required to sleep "spoon fashion". . . . The "school section" of the "American", embracing most of the garret, was marked into lodging places by cracks in the floor, and its other rooms were equally crowded. At the Madison



House, only six men were placed in a room sixteen feet square, and four others had a place at the fire during the day and evening. . . . Happy were those men who could find places in the few private houses where four men might find two beds in a cold room ten or twelve feet square.

An Unfinished Capitol

While the legislators may not have grumbled at the table, they certainly were not so reticent about voicing their displeasure on the floor of the Legislature – once they could use it! When the lawmakers arrived in November they found the Capitol unfinished and unfit for immediate use. Even the progress that Morrison was supposed to have made by October 15 had not been attained. The shell of the building was up, but the chambers were not complete, without desks or benches, the flooring incomplete and the plaster still wet. The Legislature, without a capitol to meet in, made do with the basement dining room of the American House, where Governor Dodge delivered his first message to the Legislature in Madison. The House and the Council would meet and adjourn from day to day, patiently waiting for Morrison and his workmen to hurriedly prepare two rooms for their immediate use in the southern portion of the building. In their haste, however, they used uncured, ice-encrusted oak planks for the floor, the desks and the benches, and by the time the legislators moved in, the temperatures had dropped and the plaster, still wet, had developed an icy glaze, matching that on the floor boards. The chilled lawmakers started fires in the small stoves and fireplaces to provide a comfortable environment for their debates, but, in the long run, this worked to make matters worse. After a short while, the green wet oak dried out and shrank as a result of constant exposure to the heat; the gaps that developed between the floor boards got to the point where “a person could run his hands between the boards.” Since the basement was still open, the temperatures in the chambers dropped once again.

One legislator, however, made the best of a miserable situation and used the gap between the floor boards to his advantage, leaving us with an entertaining anecdote. As mentioned above, the basement story was unfinished, but still afforded some measure of shelter. Morrison took advantage of this unused area to keep his rather sizeable herd of reportedly very scrawny hogs out of Madison’s bitter cold. Ebenezer Child, a rather down-to-earth Council member from Green Bay, having little use for self-important frontier orators who tended to carry on too long in debate, noticed the opportunity afforded by the proximity of Morrison’s herd. “When members of this ilk would become too tedious, I would take a long pole, go at the hogs, and stir them up; when they would raise a young pandemonium for noise and confusion, the speaker’s voice would become completely



drowned, and he would be compelled to stop, not, however, without giving his squealing disturbers a sample of his swearing ability.”

Finally, in late December, the lawmakers could stand the freezing cold and Morrison's hogs no more, and they declared a one-month Christmas recess but not before entering a bill to move the seat of government to Milwaukee. This was to be the first of many unsuccessful attempts over the next century to move the capital to another city. During the recess, Ebenezer Childs, who had been appointed Chairman of the House Committee on Arrangements, bought all the carpeting he could find “in the Territory,” brought it to Madison and, after laying down a thick coating of hay, covered the House chamber with it. This made the chamber warmer and presumably quieter since Childs could no longer invoke his particular brand of *ad hoc* cloture.

Investigations of the Use of the Funds to Build the Capitol

Before the Legislature left for the Christmas recess in December 1838, two resolutions were introduced concerning the Capitol, Doty and the board of commissioners, which would develop into controversies of major proportions and which would haunt the continuing construction of the Capitol until the end of the territorial period. One asked the new United States Attorney, Moses Strong, to investigate the validity of the territory's title to the Capitol Square, and the other created a committee to look into the use of the two federal appropriations by the board. After the Legislature returned in January 1839, the latter motion was quickly adopted. A joint committee with three members from each house was created “to investigate the affairs of the commissioners for the building of the Capitol, with the power to send for persons and papers and administer oaths,” and report to both houses. The tide had finally turned against Doty; he no longer enjoyed the support of a majority of either house. The miserable accommodations, the half-finished Capitol and the shadow hanging over not only the title to the Capitol Square, but, indeed, virtually all land titles in Madison, many of which were held by individual lawmakers, all combined to quickly erode public confidence in the former judge. The strength of this movement became abundantly clear when a relatively facetious resolution “to inquire into the expediency of bringing in a bill to remove the seat of government, and converting the present public building into a penitentiary” received nine of 25 votes in the House.

Throughout February 1839, the joint committee conducted its investigations, calling Bird, Eben Peck, several of the workmen and others as witnesses. On March 4, the committee submitted its report to the Legislature without recommendation. The report detailed the actions of the board, and of Doty and Bird individually, noting that labor and supplies purchased with the federal money were used in construction of private buildings, as well as the sawmill, bridge, wharves,



lake-scows, etc. noted earlier. Testimony also revealed that Bird had paid Eben Peck \$20 for brandy and wine to reward the workmen from time to time. But the report was most critical on the matter of the board's refusal to follow the bid procedure specified in the 1836 law: ". . . the commissioners instead of entering upon the discharge of their duties agreeably to the requirements of the law under which the board was created, and in which their duties were plainly marked out, boldly assumed the power of purchasing materials, employing mechanics and laborers, and proceeding in the construction of the buildings on their own account." The Legislature referred the report back to the committee with instructions to draft a bill to correct the abuses they outlined. The committee quickly responded, redoubling their criticism of the commissioners by stating that they had "acted from the commencement of their duties in direct violation of the laws under which they were appointed" and reported a bill repealing Section 3 of the 1836 law (which created the board) and forming a three-member Commission of Public Buildings to be elected annually by joint legislative ballot. The old board was required to turn over "all books, accounts, funds, and territorial property in its possession", and Morrison was required to provide assurances that he would complete his contract. If the board, individually or collectively, or Morrison refused, the commission was to institute a suit against them in the name of the territory. The law was passed March 9, 1839, and James L. Thayer, Nathaniel C. Prentiss and Lester H. Cotton were elected to the new Commission of Public Buildings.

The New Commission

The commissioners held their first meeting on May 8, 1839, at which time Prentiss was elected acting commissioner and Thayer treasurer. The commission immediately took steps to carry out its mandate by requesting the appearance of each member of the old board and Morrison, with the appropriate accounts, at its May 28 meeting. Only Augustus A. Bird attended, and the commission again summoned the remaining board members and Morrison for its June 10 meeting with the same results. Finally, the commission in frustration submitted a report to Governor Dodge in late July accusing the first board of "showing a fraudulent design to speculate and trade upon the funds of the Territory" and claiming that they still had over \$20,000 in their possession. Nor was the commission too generous toward Morrison and the prospects for the completion of his contract by September 20, 1839, concluding "that there is little or no intention on the part of the contractor" to meet his deadline. They went on to calculate that, to date, no more than \$13,500 could have been spent in construction of the Capitol and that Morrison had received almost \$20,000 from Doty, leaving a balance of \$6,500 in the former's hands. The commission was clearly not about to allow for the necessity of constructing shelter for the workmen, the sawmill, the wharves, etc. and expected



Doty and Morrison to turn over the amounts they estimated. Doty and Morrison refused, leaving the commission with no funds to continue construction on the Capitol apart from that which Morrison desultorily carried out. In fact, the commissioners later had to advance the territory over \$200 out of their own pockets to prepare the building for the fall session of the Legislature.

Doty, now the territorial delegate to Congress in Washington, flatly refused to make any accounting to the commission or to turn over any funds. In an open letter to the public, published in the *Wisconsin Enquirer* shortly after Dodge released the commission's report, Doty defended his stand with involved legal arguments. He contended that the original board's creation, as specified in the 1836 law, was sanctioned by Congress when it approved that law and reconfirmed when it voted the additional \$20,000 in June 1838, and, since the March 9, 1839, law eliminating the old board and creating the new commission had not yet been submitted to Congress for approval, it was not valid. Doty reasoned that no territorial law was effective until Congress had the opportunity to nullify it, and when and if the Congress ever "approved" the March 9 law, he promised to "willingly surrender" his office as treasurer of the old board and all records and money in his hands. Doty, of course, was fully aware that, as territorial delegate, he was in a position to recommend to Congress and lobby quite effectively for the nullification of any territorial law that he submitted, including this one, which he did several months later.

As Morrison's contract deadline (September 20) approached, it became increasingly apparent that the commission's contention that he would not complete the work would be confirmed. Three days after the expiration of the contract, Commissioners Thayer and Prentiss physically took possession of the building, after Morrison's agent had refused to turn over the keys; they then put their own lock on the Capitol. Enraged, insulted, or both, Morrison broke their lock and forcibly regained possession of the structure, replacing his locks. Rather than continue this childish head-to-head confrontation, the commission brought suit against Morrison for forcible entry and secured a restraining order and a writ of restitution against him, all of which resulted in the commission quietly regaining control of the Capitol from an uncharacteristically quiet Morrison. The success in pursuing a legal recourse must have heartened the commissioners and influenced their subsequent course. This court action was soon followed by another one for the recovery of almost \$7,500, which the commission reckoned the old board had overpaid Morrison. Results in this litigation did not come as quickly, however.

All the difficulties between the commission and Doty and Morrison and the lack of progress in finishing the Capitol gradually added to the growing uncertainty about Madison's future as the seat of government. But after the commission



successfully wrested control of the building from Morrison, the acting commissioner, Nathaniel Prentiss, took charge of the task of hiring laborers and mechanics to continue the work on the Capitol interior. Prentiss concentrated on the rooms used in the previous session by the legislators, laying new floors in the House and Council chambers, lathing the walls on the second floor and finishing a committee room. By the end of October, things were beginning to look up, causing the *Wisconsin Enquirer* to comment that “there is now a fair prospect of the capitol being one day completed” while candidly admitting earlier doubts about its ever being finished. By the beginning of the fall legislative session in November, the Capitol was in useable shape, but the issue of its final completion and Doty’s refusal to turn over the books and unexpended funds did not rest.

Another Investigation

Governor Dodge, in his opening address to the Legislature of 1839-40, formally called for another investigation to determine what had become of the unused portion of the two federal appropriations to build the capitol. The House responded first, appointing a select committee to look into the matter, and the Council later secured the reconstitution of the committee into a joint body of five legislators. At the same time, the Commission of Public Buildings issued its report to the Legislature, reiterating much of what was contained in its earlier report to Governor Dodge and adding the information that they had instituted suits against the old board for the recovery of the unspent funds and against Morrison for the same and for breach of contract. However, they glumly concluded that “the Capitol must remain for some time to come in its present unfinished condition” and that the outlook for a timely settlement of the lawsuits was dim.

In early January 1840, the joint committee reviewing the whole situation issued its report and recommendations. As with earlier investigations, the committee found that Doty had drawn both appropriations and, according to the records that they could find, had spent all but about \$21,000, which should still have been in his hands or disbursed to Morrison and which the territory was attempting to recover through the lawsuits. The report summarized the whole situation to date in severe and quite uncomplimentary terms:

Although more than two years had elapsed from the time the commissioners were elected, until they were superseded, and although they were supplied with funds that were more than ample for the erection of suitable buildings, yet at the time of the election of new commissioners, they had done little more than erect a shell of a capitol, which is scarcely capable of sustaining its own weight, and which, unless it is speedily secured by extensive repairs must become a heap of ruins.



The report went on to characterize the old commissioners as “reprehensible in the highest degree”, charging that they were involved in a conspiracy with James Morrison to profit by his contract, an accusation which A. A. Bird hotly denied in a statement read into the House record within the week. The committee also recommended a bill eliminating the present three-member Commission of Public Buildings, replacing it with a single commissioner, answerable to, and elected by, the Legislature. The bill passed without difficulty and was approved by Governor Dodge on January 11, 1840. The same day, both houses jointly elected Nathaniel Prentiss to the new post.

Doty continued to evade summonses and his critics while in Washington; but, by the spring of 1840, the controversy over the disposition of the federal funds began to catch up with him. In late February, he wrote a letter to the Chairman of the U.S. House Committee on Territories explaining his position in basically the same terms as he did in his published defense in the *Wisconsin Enquirer* the previous July. At the same time, he recommended that Congress invalidate the March 8, 1839, law eliminating his board and creating the successor commission, but by the time the bill had been given a second reading and referred to a committee of the whole in early April, Doty had resigned from the original board. Doty continued to avoid accounting to the Wisconsin Territorial Legislature, however, until the Whig victory in the presidential elections later that year, after which he submitted an itemized statement and \$1,700 in undisbursed funds (by his calculations). The lawsuit against him dragged on until 1848, when, in its final session, the Territorial Legislature requested that the suit be dropped in an effort to clear the books before Wisconsin became a state.

Controversy Over Title to Capitol Square

The question of the validity of the territory’s title to the Capitol Square surfaced in Madison in early December 1838. Rumors – apparently planted by Moses M. Strong, the new United States Attorney for Wisconsin – concerned Doty’s legal authority to sell or convey titles to Four Lakes Company lands in the capital city.

After Doty had vanquished his competitors in the race for the capital prize in 1836, he had donated the public square to the territory and continued to sell lots with some vigor. The following May, he finally got around to recording these transactions at the Iowa County Courthouse in Mineral Point. At the same time, he filed several documents concerning the Four Lakes Company and the whole Madison venture, all about a year old. These consisted of the original plat, the articles of incorporation for the company, Doty’s deed transferring all his interests in the Madison land to Michigan Governor Stevens T. Mason, Mason’s power of attorney to Doty, and Francis Tillou’s power of attorney to Doty. Shortly after



Doty's filings, Strong, who was practicing law in Mineral Point at the time, discovered these documents and, upon close examination, realized a fatal error in Doty's hasty machinations of the previous spring. Doty, together with Mason, had purchased 1,000 acres on the Four Lakes isthmus and a few weeks later had transferred all his interests in the purchase to Mason. This was followed a month later by Mason's power of attorney authorizing Doty "to divide, lay off, or otherwise dispose of my interest in and portion of certain land *jointly* owned by said Doty and myself." Strong astutely noticed that, as a result of his earlier deed to Mason, Doty was no longer a joint owner of the isthmus property; hence, the power of attorney was technically and legally invalid for all the sales and transactions that Doty had negotiated since, including the transfer of the title to the public square. Had Madison not been selected the seat of government, the issue most probably would not have garnered much interest nor would the power of attorney have been challenged, but the land was now prime real estate.

Strong saw an immediate opportunity to make a great deal of money and quietly charted a course of action. He wrote Stevens Mason relating what he had found and offered the following arrangement: without revealing the connection between themselves, Strong would take the issue to court to test the validity of Mason's claim to all the land in question; confident of a favorable outcome, Strong's terms were simple and direct – no charge if he failed, half of the settlement if a compromise was struck with Doty, and half of all the land if he was completely successful in court. Mason must have pondered the possibilities deeply, since it was six weeks before he finally responded to Strong's proposal. What Mason had entered into the previous year was a one-thirteenth share (he had two shares of a total 26) of a highly speculative venture in wilderness real estate. The prospect he now faced was the possibility of acquiring a quarter of all the land in Wisconsin's future capital. (He had sold one of his two shares to Kinzing Pritchette, Secretary of Michigan, in late March 1837 and stood to realize only half of his portion of Strong's deal.) Strong had his father, who had been visiting him in Mineral Point, stop in Detroit on his way back to his native Vermont. The elder Strong spent the better part of an afternoon convincing Mason that his son could successfully pursue the case to a beneficial conclusion.

Finally, Mason sent Kinzing Pritchette to Mineral Point in July to meet with Strong and, presumably, come to some agreement with him to follow the course that he had proposed. Strong, however, was not there. Having been recently appointed United States Surveyor for the lands west of the Mississippi, he had just departed to carry out his duties. Nevertheless, Pritchette discussed the matter with Strong's partner, John Catlin, and later entered a deed to the half of the lands in Mason's original shares which he had earlier purchased. At some time following



these events, Mason or Pritchette approached Doty (without mentioning Strong) with the intention of seeking a quick compromise and a settlement, but Doty flatly refused, and there the matter rested until December 1838.

The rumors circulating in Madison in December slowed the construction of desperately needed housing to a standstill and implicitly called into question the validity of the territory's right to the ground on which the half-finished Capitol stood. Strong, who apparently started these rumors, covertly wrote Mason and Pritchette again with a new plan while a resolution was between the House and the Council to request formally that he, in his new capacity as United States Attorney, investigate and determine the true ownership of the Capitol Square. This time Strong was more vague about his fee but clearly expected a substantial reward for his efforts on Mason and Pritchette's behalf. He would file a new plat of Madison, identical to Doty's, except that it would list Mason and Pritchette as proprietors. Mason and Pritchette would then execute a new power of attorney authorizing Strong to convey new titles, and the latter would give new deeds to lot owners who had improved their property and would sell for a nominal charge new deeds to absentee landowners who had not. In order to keep the territory from getting too deeply embroiled in the conflict, a new title to the square would be executed and the trio would once again face Doty with an offer of a negotiated settlement. If Doty again refused, Strong planned a test case involving the most valuable commercial property in Madison – the land upon which stood the American House.

When the Legislature returned from the winter recess, Strong's report was ready for them and was laid on the table by the Speaker of the House on January 23, 1839. With the documents Strong had discovered in Mineral Point, a power of attorney from Mason and Pritchette, and a title for the square deeded to the territory for one dollar appended, Strong's report wended through tortuous legal reasoning to the inescapable conclusion that Doty had been selling and granting property which he had no power to transfer. Two weeks later, the Legislature appointed a six-member commission to consider the charges in Strong's report, but with a title to the square from each camp in the territory's name, there was little urgency to act. The battle among Strong, Doty, Mason and Pritchette continued in the press and the courts, with Strong temporarily taking possession of the American House, until the summer of 1841, when then Governor Doty bought all rights and titles from a discouraged Stevens Mason for \$5,000. Strong, for all his maneuvering and intrigue, never realized a dime from his scheme.

The Capitol Staggers to Completion (1841-1848)

While Strong was dogging Doty and Morrison in the courts, the Capitol began its long, staggering journey to completion. In January 1841, the Territory faced the prospect of having to complete the structure with no available funds.



The money earmarked for the work was (and would be for some years) tied up in the maze of litigation. At this point Jefferson, Watertown and Aztalan saw an opportunity, and each made unsuccessful bids to replace Madison as the seat of government. After considering all the possibilities, the Council's Committee on Territorial Affairs reasoned that, since the only basis for such a move lay in the unfinished condition of the Capitol and the lack of good accommodations, it made little sense to start all over again and incur more expenditures building a new capitol in a place with inadequate accommodations. "The present Capitol can be finished easier and sooner than one could be build in any other part of the Territory, and it is highly probable that no other site would be selected that would afford better accommodations . . ." However, the committee's report continued with a warning that "unless it is soon completed or repaired, the expenditure already laid out upon the Capitol will be wholly lost." This warning, combined with the coolly reasoned rejection of the three small-scale pretenders, was stimulus enough for action.

The committee's counterpart in the lower house estimated that less than \$6,800 would be required to finish the Capitol, and a bill was subsequently introduced authorizing the sale of \$100 bonds to raise \$7,000 to complete the building. Before the measure found its way to final approval, however, two significant amendments were attached. The first was an attempt to avoid incurring the additional appropriation by allowing James Morrison the option of renewing his original contract by March 25, 1841, with a new completion date. He would, of course, be paid by James Doty, since his original contract was with the original board. The second amendment must have been more menacing to Doty and others with a stake in Madison's retention of its status as the seat of government. If the final completion of the Capitol, whether performed by Morrison or another contractor, had not been reached or if it was clear that it could not be reached within a reasonable amount of time, the second rider read, the Governor was empowered to convene the next annual session of the Legislature in Milwaukee *provided* suitable accommodations in that city could be assured. Governor Dodge's initial ambivalence, then antipathy, toward Madison, owing to Doty's machinations at Belmont and subsequent actions, were well-known to the legislators. Doty was clearly intended to be the runner in a squeeze play by these two amendments. What the legislative architects of this last amendment did not count on, however, was the replacement that summer of Dodge by Doty as territorial governor.

The bill was approved on February 19, 1841, and, after half the bond issue was sold, Commissioner of Public Buildings Prentiss advertised for bids, as Morrison had ignored the option for renewal. On April 27, Prentiss awarded the contract to Daniel Baxter for the full \$7,000 with a completion deadline of December



1, 1841. Almost as if to confirm the pattern and in spite of sincere efforts, Baxter, too, failed to meet his contractual deadline; but, when the annual legislative session approached, the new territorial governor, James Doty, understandably declined to convene the Legislature in Milwaukee. In his annual report, Commissioner Prentiss assured the Legislature that Baxter had, indeed, made good progress and that the outlook for his completing his contract was favorable. Besides, there was \$1,000 from bond sales still in the territory's hands awaiting Baxter at the conclusion of his work.

On February 18, 1842, John Y. Smith inherited Prentiss's headaches when he was elected by the Legislature to succeed Prentiss as Commissioner of Public Buildings. Smith took his responsibilities seriously and, within a few days, formally took possession of the Capitol and began urging Baxter to complete his contract. While in the concluding stages of construction, the inadequacies of the tin-covered dome became glaringly apparent. Two years before, Elizabeth Baird, in Madison with her husband Henry Baird, had described the Capitol as a "squatty-looking house". Noting that its dome looked like an inverted wash basin, she dubbed the structure "Doty's Washbowl". The moniker stuck and dogged the building until its demolition during the Civil War. Now, Smith and Baxter realized that the dome was "leaking very badly and the rains were seriously injuring the interior of the building." If the territory ignored the situation and Baxter had hurried to complete his contract, the finished building would certainly not survive. Smith took the initiative, getting Baxter to agree to repair the dome if he could get the territory to furnish the necessary money, a paltry \$100.

If the Legislature had been in session, Smith would undoubtedly have had little trouble in securing the necessary funds, but having to submit his request to Governor Doty's handpicked Territorial Treasurer – none other than James Morrison – was bound to mean resistance. Indeed, Morrison refused to supply the \$100 for repairs without the approval of the Governor; and, when approached, Doty allowed that he could see his way clear to permit the expenditure if the still-pending lawsuits against himself and Morrison were discontinued. Smith rejected the deal and managed to patch up the dome the best he could without an authorized appropriation, but the pine-shingled roof around the dome still leaked.

The following spring, the Legislature once again tinkered with the structure of the position which controlled the Capitol. After combining the Commissioner of Public Buildings and the Territorial Librarian into the new post of Superintendent of Territorial Property, the Legislature reelected Smith. The restructuring of the territorial posts did not solve the problem of a leaky roof, however. Baxter's contract was still uncompleted, but it made little sense to put on the finishing touches if they would only be stained and begin to disintegrate and rot after the



first heavy rain. Before another appropriation could be sought from the Legislature for further repairs, a proposition came from an unexpected source which eventually solved the immediate problem. Dane County had been created in the spring of 1839 and had never accumulated sufficient revenues to construct a courthouse in which to install the county's few offices. Early in 1843, the Dane County Board of Commissioners approached the Territorial Legislature with a deal: in exchange for office space in the then roomy Capitol for the next seven years, the board would agree to underwrite the repair of the building's leaky roof. The lawmakers jumped at the opportunity and quickly passed a law authorizing Superintendent Smith to enter into a contract with the county for the repairs and other work bypassed in the previous contracts. The deal was struck and the completion of Wisconsin's Capitol was now in sight.

Over the next two years, construction continued apace; Baxter finished his original contract with the territory in 1843 and promptly secured the contract with Dane County to reshingle the Capitol and install new lead flashing on the roof hips. The county also hired Augustus A. Bird in 1844 to finish off the building, retinning the dome, completing the back piazza and adding an interior staircase *without* securing a commitment from the territory to reimburse them for the \$2,600 outlay. This last step was taken by county officials purely on faith that the Legislature, once it returned to Madison for its fall session, would approve the necessary appropriation; but the county was very aware that they could just as easily be left with the bill. Fortunately for Dane County, the legislators authorized the reimbursement in early 1845 and, after seven and one-half years, "Doty's Washbowl" was finished.

CHAPTER III

The Life of the First Capitol

Further Improvements

For the remainder of its existence, Madison's first capitol saw occasional improvements and remodeling and repair efforts. It was a finished structure, no longer in desperate need of repeated appropriations in order to keep it from collapsing. This was a factor which undoubtedly suppressed and deterred the continual efforts to move the seat of government. John Y. Smith's successor for the years 1846 and 1847, J. G. Knapp, occupied himself with tidying up the heretofore ignored Capitol Park and converting the dirt-floored basement into useable office space, often doing the work first and asking for reimbursement and authorization from the Legislature later.

In 1842, Smith had managed to get Baxter to enclose the park with a rail fence using cedar posts cut from the banks of the Third and Fourth Lakes and the Wisconsin River, but no other thought was given to the park until Knapp assumed



office. At that point the park was still covered with prairie grasses, hazel bushes and the stumps of oak trees which had been felled to provide lumber for the Capitol and other early buildings in Madison. Knapp had the hazel bushes mowed down, the stumps dug up and the grass cut and reseeded. He then hired Alexander McBride to augment what few trees were then in the park with a row of maples and elms along the fence at 50 cents apiece. At about the same time, Knapp noticed the unused space in the basement story and contracted to have an additional three feet of dirt excavated and converted the basement to storage space for dry firewood. It was not long, however, before the space was again converted to offices, which were in use until “the lights were darkened by the construction of the new building” in the late 1850s.

Capitol Events

During its existence, “Doty’s Washbowl” was also the setting for the routine, the religious, and the dramatic, as well as legislative debate and decision-making. The Capitol, as already mentioned, provided office space for Dane County. It also served a great many more functions aside from the more obvious. Until the early 1850s, Sundays often saw no less than three denominations holding religious services under the tin dome, worshipping in shifts throughout the day. As each congregation was able to build its own church, the crowded Sunday schedule in the Capitol abated.

Often the lawmakers themselves leave us with some interesting insights about early legislative decorum. When the circus first came to Madison in 1848, for example, the temptation obviously was too great to bear and both houses, then in the midst of floor sessions, promptly adjourned without bothering with the formality of a vote. On another occasion, a late-arriving representative reached the House chamber one winter’s morning after walking several miles through the wet snow to find the day’s proceedings already well underway. He sat down near the stove and, after considerable effort, managed to get his wet boots and woolen socks off so that they might be arrayed with rows of others drying in the heat. He then took his seat. After his socks had been exposed to the warmth of the stove for a short time they began to emit a rather unmistakable, pungent aroma, inciting a fellow lawmaker to remark strongly to their owner. Rather than take offense, the tardy legislator congenially replied, “Lord, you ought to smell ’em in the summer!”

Murder in Session

In spite of the distances and the relatively poor roads crisscrossing the territory, it was not uncommon to hold social gatherings in Madison to which people from all over Wisconsin were invited, particularly during the period when the Legislature was in session. There was one such gathering in early 1842 at which



James R. Vineyard, a Grant County Council member, Charles C. P. Arndt, another member of the Council from Brown County, and Arndt's elderly father were in attendance. According to all accounts, the Arndts and Vineyard were more than just cordial friends. Vineyard had boarded with the Arndt family in Green Bay during the winter of 1835-36 and came to be generally regarded as one of the family. While serving in the Legislature together, the younger Arndt and Vineyard were often seen together in amiable conversation, both on the floor and at the American House, where they both boarded while in Madison. To see the three of them together at a social function in the Capital was nothing out of the ordinary. This made the events of the following day wholly unexpected.

It was February 11, 1842, and the issue which would trigger the disastrous events of the day concerned Governor Doty's nomination of Enos S. Baker for sheriff of Grant County. Doty had submitted the nomination earlier in the session, and, when it finally came up for floor debate in the Council on January 24, discussion was postponed until February 5, at which time the nomination was rejected. Two days later, in anticipation of a move in the House condemning the Council's action and requesting Doty to renominate Baker, a motion to reconsider the vote was introduced in the Council and laid on the table. When Governor Doty sent the House's petition for Baker's renomination, signed by a bipartisan group of 19 representatives, to the Council on the 11th, the issue was joined once again. Arndt, a staunch supporter of Doty, moved to take up the motion to reconsider, which had been tabled days before. The exact details of what followed are lost in conflicting accounts, but there is sufficient agreement on some points to sketch out the rest of the story. Vineyard moved to postpone reconsideration once again and was opposed by Arndt. Either, or both, in debate, called the other a liar in reference to an earlier remark about the nominee. According to one story, both were speaking from the floor at the same time, addressing their heated remarks as much to each other as to the Council. At one point, Arndt reportedly said in response to some retort of Vineyard's, "That difference will be accommodated at some other time." Arndt and others converged on Vineyard's desk, continuing in animated debate, which grew louder and more shrill until order was finally restored and the two separated. Almost immediately, an adjournment was voted and Arndt quickly returned to Vineyard's desk, resuming the argument. Tempers flared and Arndt struck Vineyard full in the face one or more times; this was followed quickly by a loud crack which resounded off the walls of the chamber. Arndt fell backwards into the arms of a fellow lawmaker, shot through the heart. Vineyard stood amidst the gathering with a smoking pistol in his hand. The elder Arndt, in the House chamber observing from the gallery, hearing the noise from the Council hall, hurried over and arrived just in time to see his son die in a pool of blood without regaining consciousness.



Funeral services for the slain Arndt were held in the Council chamber the next day, undoubtedly the first such state funeral ever held in a Wisconsin Capitol. The remains were then sent to Arndt's native Green Bay at the expense of the Legislature. On the same day as the shooting, Vineyard had surrendered himself to the Dane County Sheriff and was jailed. The following Monday, the Council received Vineyard's resignation, but – upon a motion by Ebenezer Brigham – returned it without reading it into the record and subsequently expelled Vineyard and declared his seat vacant. The following month, Vineyard was transferred from Madison to Mineral Point under a writ of *habeas corpus*, and bail – set at \$10,000 – was put up by several citizens of Grant County. Later that spring he was indicted for manslaughter and was subsequently tried and acquitted. Vineyard left Wisconsin for California, where he died some years later.

Inadequacies of “Doty’s Washbowl”

By the time Madison became a city in 1856, people had tired of the cramped, rickety structure with the odd-looking tin dome. Elisha Keyes recalled that:

. . . it was even for its time, a shoddy structure, and all the patching and repairing that was done, could not make it very substantial or convenient. Its appearance was a good deal ridiculed in its time, though the general impression was that it was a quite imposing structure. The cupola or dome, which was meant as an embellishment, really detracted from the general architectural effect.

Madison's first Capitol was, indeed, slowly falling into decay and becoming a relic increasingly unable to serve its original purpose in spite of continual efforts to repair it.

Governor Coles Bashford set events in motion in his annual address to the Legislature in January 1857. While summarizing routine financial reports of various state organizations and funds, Bashford inserted an afterthought when he got to the report of the School Land Commissioners: “The unsafe condition, in case of fire, of the records pertaining to the School Land office, merits your serious consideration. All the records of the various state offices, are in like danger of destruction. Some provision should be made, by which our records should be rendered more secure.” Bashford then proceeded to the remainder of his address, unaware that he had unwittingly started a process that would eventually result in the erection of Madison's second capitol. The records that Bashford mentioned were stored in the State Capitol, which, with its oak and plaster interior, was very susceptible to damage by fire.

The prevailing mood was such that only two alternatives were seriously entertained: enlarging the present building by adding a wing with fireproof storage, or starting from scratch and constructing a new capitol, probably in some place



other than Madison. The prospect of the latter alternative left the good people of the new city of Madison understandably disturbed, and they immediately responded before Milwaukee and other pretenders could marshal their forces by offering to issue \$50,000 in bonds to underwrite the enlargement of “Doty’s Wash-bowl”. Such an offer was next to impossible to pass up, and, within six weeks of his address, a bill passed by both houses was on Bashford’s desk. The bill enabled the state to receive the \$50,000 bond issue from the city and added to it the proceeds of the sale of ten sections of land previously set aside by federal law for the “completion of Public Buildings” and an additional \$30,000. The bill also vested authority for completion of the work in the Governor and the Secretary of State; obviously, the bitter taste left by a decade of lawsuits had not yet dissipated. Bashford signed the measure into law February 28, 1857.

CHAPTER IV

A New Capitol – “Remodeled”

Early Remodeling Efforts

Later that spring, Bashford retained the architectural firm of Kutzbock and Donnel to prepare drawings and plans for the capitol “enlargement”. Of the two architects, August Kutzbock was to be the chief architect of the building that would eventually arise from this and succeeding “enlargements”, as Samuel H. Donnel would die while the first extension was still in the foundation stage. Kutzbock was born in Prussia in 1814 and migrated to the United States around 1852. After living in New York for two years, he moved to Madison where he formed a partnership with Donnel. The firm thrived, never wanting for commissions, and left Madison with several landmark structures. Among the buildings credited to Kutzbock and Donnel were the first City Hall, completed in 1857; former Governor Leonard J. Farwell’s octagonal mansion on the city’s near east side, which later became the Harvey Hospital during the Civil War; the Gates of Heaven Synagogue and the Grand Army of the Republic building.

Kutzbock and Donnel designed a large semicircular wing with a stone-columned portico to be built on to the eastern face of “Doty’s Washbowl”. Based upon this plan, the state in May advertised for bids from contractors to construct the addition. Several builders submitted bids, including Augustus A. Bird, who had started construction on the original building. John Rycraft came in with a low bid of \$92,000 and received the contract in June with a completion date of November 1, 1858. Progress was slow, however, and this, combined with a financial crisis which threatened the value of Madison’s bonds, led to the most serious and most nearly successful attempt to deprive the city of the capitol.

In early 1858, Governor Alexander Randall asked Kutzbock and Donnel to submit a report to him regarding what he perceived as Rycraft’s exceedingly



slow progress. Obviously, the newly elected Governor did not want to allow a situation similar to that of the early 1840s to develop under his administration. In late February, Randall received Kutzbock and Donnel's report and immediately transmitted it to the Legislature with a cover letter beseeching them in urgent tones to take immediate action. While the architects did not discount the *possibility* of Rycraft completing his contract, they estimated that in order for the work to be done on time, it would take 119 men per day working continuously for the time remaining, plus the delivery of 200 cords of stone within the next six months, of 20,000 feet of Prairie du Chien sandstone within the next three-and-a-half months, and of 100,000 feet of lumber within the next three months – all to be done only if “*driven with energy from this time*”. Under these circumstances, Kutzbock and Donnel warned, to proceed with enough speed to reach the deadline “might be highly injurious.”

This damaging report, together with Madison's precarious financial situation, due in large part to the financial crisis of 1857, led the lawmakers to quick action. The question was referred to the Senate's Committee on State Affairs, which started an investigation of the whole situation immediately. The resulting reports – majority and minority – revealed more about what was planned than why Rycraft had been so slow to date and whether he could complete his contract in time. Acknowledging that there was a “decided difference of opinion existing between the architects [Kutzbock and Donnel] and the contractor” [Rycraft] and that, after Rycraft's contract had been signed, the building specifications were changed, the committee departed from the central question. A handful of architects and builders were retained by the committee and issued an extremely critical evaluation of the architects' plan, but not without first ridiculing the low \$92,000 bid, claiming, instead, that it would cost an estimated \$106,370. At the same time, they revealed that the Capitol “extension” was, in fact, the first of several planned enlargements which would eventually *replace* the present building, costing nearly a half million dollars.

The majority of the committee reported out a bill to move the Capital to Milwaukee “temporarily”, while a new capitol was designed and built. Battlelines began to harden. Madisonians, led by Simeon Mills, stood ready to insure Rycraft's construction in response to reported inadequacies noted in the architects' plan and offered the use of office space in the newly completed City Hall, free of charge, while construction activities continued. Milwaukee promoters, on the other hand, offered free rooms and apartments for legislators and other government officials while in the Cream City. The showdown finally came in the Assembly. After considerable floor debate, the question was called and the measure passed by a three-vote margin. It seemed that one of many efforts to move the



capital had ultimately succeeded until, after a closely won vote to reconsider, a second vote failed by a tie. Although further consideration was avoided by skillful parliamentary maneuvering, the closeness of the call apparently convinced Madisonians to retract their offer of free offices in the City Hall. The state ultimately rented space from the city for several years.

Gradual Replacement of “Doty’s Washbowl”

The plan to gradually replace the old Capitol continued without a hitch, with construction spanning the following decade. “Doty’s Washbowl” was finally demolished in 1863, preparatory to the erection of the center and the north and south wings of the new building. This fact seems to have been lost on many writers since; the resulting structure has often been referred to as an enlarged version of Madison’s first Capitol, an obvious error perhaps arising from a too cursory review of the legislative history.

Sometime following the Assembly floor battle, Governor Randall suggested to Kutzbock and Donnel that the stone columns in the east wing “extension’s” portico be replaced with cast-iron columns. The idea was approved, implemented and duplicated on the west wing a few years later, giving the Wisconsin Capitol the distinction of having the largest cast-iron columns anywhere in the United States at the time.

The Legislature occupied the east wing in 1859 and, two years later, construction of the west wing began, with the existing building still in place. Once both east and west wings were completed, the state was ready to take the final step. In late March 1863, a law was passed authorizing the Governor and the Secretary of State to advertise for bids for the construction of the north and south wings, the center portion and the dome. Although Kutzbock had estimated in January 1863 that it would cost close to \$80,000 for each of the remaining wings, the law limited the expenditure to \$63,000. Bids for the north wing were opened on May 9, and James Livesey came in with a low bid of \$50,855. Within a fortnight, demolition of Madison’s first Capitol began, unearthing in the process over \$300 in lead sash weights in the window frames, an unexpected find, since the cost of lead was much lower when “Doty’s Washbowl” was originally built years before.

In spite of heavy demands placed on revenue and labor by the Civil War, construction continued until all but the rotunda and dome were completed, at which point, work finally came to a halt when state officials and August Kutzbock disagreed about the appearance of the dome. Kutzbock’s original plan called for a relatively small dome mounted on a cylindrical barrel ornamented with columns and arches, topped by a cupola. The design was in keeping with the architectural style of the rest of the building, but a majority of state officials preferred to imitate the recently completed United States Capitol dome. In the resulting disagree-



ment, Kutzbock resigned as architect and the state began to look elsewhere for someone to design a new dome.

Wisconsin found a new architect for its Capitol dome in late May 1866 in the person of Stephen Vaughan Shipman. Shipman had moved to Wisconsin from Pennsylvania and Chicago about the same time that Kutzbock had arrived in Madison. Before accepting a commission as a first lieutenant in the 1st Wisconsin Volunteer Cavalry, Shipman had been the architect for the state for the controversial Central State Hospital for the Insane. Later, Shipman would design several other public and private buildings, including the old Madison Post Office, the Dane County Court House and what is now the American Exchange Bank building. Shipman's plan for the Capitol dome very closely resembled that of the National Capitol, right down to the building material – cast iron plates.

Work continued on the rotunda until it was finally completed in 1868, then the contract for the erection of the dome was let to C.S. Rankin of Cincinnati, Ohio, for \$90,000, to be completed by the end of the decade. Sometime after Rankin began work, August Kutzbock strolled alone one November evening to the end of Picnic Point and continued walking into the chilly waters of Lake Mendota. His obituary attributed Kutzbock's suicide to concern for his failing health, but the timing of his act begs the question of whether the radical alteration of his most important commission may not have had something to do with his final decision. Kutzbock is buried in Madison's Forest Hill Cemetery with other members of his family.

The finished building was an imposing, if somewhat awkward-looking, structure, with octagonal towers cornering the ends of the rectangular north and south wings, semicircular porticoed east and west wings and an overpowering classical dome. The new building dwarfed "Doty's Washbowl", measuring 228 feet from north to south, 226 feet from east to west and towering to 225.5 feet to the gilded eagle on top of the dome's flagpole. The exterior was finished in Prairie du Chien sandstone, a mellow tannish stone, and was the pride of Madison for many years. The interior, although not nearly the spacious maze of today's Capitol, was a roomy four stories accommodating all state offices and various statewide societies. The Grand Army of the Republic kept and cared for "Old Abe", the nationally renowned mascot of the 8th Wisconsin Volunteer Infantry Regiment, in a room in the basement. On the ground level, the floors were laid in blue and white flagstone leading to the offices of the Governor, the Secretary of State, the Attorney General and many others. Ascending one of two iron spiral staircases on the northwest and southeast sides of the rotunda to the second floor, one could find the floors laid with red, yellow and black tiles and an iron balustrade enclosing an open rotunda. On this floor, one could find the Supreme Court in the



north wing, the Senate chamber in the east wing, the Assembly chamber in the west wing and the State Historical Society in the south. The remainder of the floors were devoted to public galleries, committee rooms and storage.

During the period that the rotunda was under construction, it was decided to sink an artesian well on the Capitol lawn to provide water for the Capitol and to fight fires. The idea had been first recommended by Superintendent of Territorial Property Knapp 20 years before, at which time he estimated that the project would cost no more than \$150. J. H. Underwood signed the contract to begin drilling the well on May 21, 1866, and commenced work within two weeks. The drilling would continue for two years and cost almost \$9,000 before he gave it up as a dry well. Underwood's crew drilled to an eventual depth of 1,026 feet, penetrating through several strata of rock, to about 100 feet below sea level before abandoning the project. Five years later, however, the well was revived by Governor Cadwalader C. Washburn. The Legislature had passed an appropriation to make several improvements in the Capitol and on the grounds, which included \$5,000 to design and build a pumping house on Lake Monona to supply the Capitol with fresh water. Washburn was convinced that the well was not the dry hole everyone thought it was. Indeed, water had filled the six-inch pipe to within sixty feet of the surface. Washburn had workmen hook up a series of pipes to a pump and soon began pumping very pure water in abundant quantities. The well served this and the succeeding Capitol into the early 1950s and has since had a hand pump attached to it. The well is still capable of providing five gallons per minute.

Improvements of the Next Decade

The Iron Fence

The decade following the completion of Wisconsin's fourth capitol was one which saw a great many improvements and embellishments in the Capitol, the grounds and the square. Among other things, these enhancements served to solidify Madison's grip on the seat of government. The move was spearheaded by Governor Washburn, who proudly announced the ultimate completion of the new State Capitol in all its details in his address to the Legislature on January 11, 1872. The cost, \$550,000, was \$125,000 more than the estimate reported to the Senate Committee on State Affairs by their architectural consultants almost 14 years before. But Washburn was not swayed by the extra cost from asking for still more money to undertake an ambitious program to further enhance the Capitol and its grounds. His first initiative was to replace Daniel Baxter's old board fence with a new decorative iron fence with a \$40,000 price tag.

Within two months, Washburn had his appropriation. The Legislature agreed with him that the new stone-and-iron Capitol and the dilapidated wooden fence were not harmonious. The Governor, Secretary of State, State Treasurer and



Attorney General were constituted as the Building Commission responsible for overseeing the project. In early March, the competition for the design of the fence was announced and, of the two plans submitted, Stephen V. Shipman's won the \$200 prize. Certain revisions were made in Shipman's original plan, including the elimination of the Prairie du Chien stone coping and foundation, which was to run virtually the entire length of the fence, saving an estimated \$6,000. After the final plan was decided upon, Washburn advertised for bids from stone and iron contractors to construct the fence, and, in late May, a La Crosse firm received the contract for the stonework at \$13,000 and a Madison company was awarded a \$14,898 ironwork contract. Work began almost at once, with a scheduled completion date less than six months away, on November 15, 1872.

Once again, as with so many previous contracts connected with Wisconsin's capitols, the deadline came and went and the contract was unfulfilled. In this case, however, the reason for the delay was neither an unrealistic date imposed by the state nor one that was too optimistically agreed upon by the contractors. Rather, a key factor in the delay was the great Chicago Fire of 1872. In rebuilding the metropolis after the conflagration, both individual preferences and a city ordinance aimed at preventing a reoccurrence dictated a virtual exclusion of all but stone and brick as building materials. As a result stone masons' wages doubled in that year, making the preparatory stone work for the iron fence an expensive project with scarce labor resources available. A shift from Dodge County granite to stone from Joliet, Illinois, further slowed progress.

Moreover, a public outcry developed rising from the decision to place the iron fence at the curb instead of within the sidewalk as it was with the old board fence. In late April, Washburn had decided that the fence would be placed at the outer limits of the park (that is, at the curb) and that another eight-foot wide sidewalk would be added outside the fence. This might not seem such a controversial move on the surface, but until this time, Baxter's board fence and a hitching rail for horses and wagons had straddled the existing walks surrounding the park. With the decision to construct a new fence where the hitching rail had been, taken together with a law just passed outlawing the hitching of horses within 20 feet of the new fence, Madisonians reacted strongly, petitioning Washburn to reconsider his decision. Washburn, nevertheless, forged ahead and the fence was finally completed in June 1873.

The fence was an elegant addition to the Capitol Park. There were 8 large gate posts and 16 smaller gate posts of Prairie du Chien stone flanking 4 carriage and 12 pedestrian gates. Six-foot cast iron statues from Chicago surmounted the larger gate posts while the smaller ones were topped with gas lights. Every 6 feet there was a stone base to which the fence was secured and every 30 feet there was a



cast iron post. The fence itself was 4-1/2 feet high topped by finials resembling spear points.

The fence remained in the park until the summer of 1899 when Governor Edward Scofield had it removed. Large sections of the fence were given to two other state institutions for their grounds. During the winter of 1969-70 the Wisconsin Department of Administration recovered and restored a portion of the fence and erected it in front of the current Executive Residence in Maple Bluff. The gate posts remained at the Capitol until the final stages of construction of the current structure, which was completed in 1917, after which most disappeared. Among the survivors are two of the smaller gate posts in front of a private residence on Madison's far south side and two of the larger ones in a field in rural Sun Prairie. Nothing is known of the remaining 20 gate posts. As with most of the gate posts, the eight iron statues and gas lights met an unknown fate. However, rumors have surfaced that they were used as landfill in a Madison park project around the 1920s.

Capitol Park

At the same time that the Legislature was considering the "fence bill" in early 1872, another measure struggled through the legislative process to establish a Board of Park Commissioners, who would pursue a coherent approach to developing and improving the general appearance of the park. The bill passed March 23, 1872, and Washburn appointed George Morrow, George Delaplaine, and John Gurnee to the board for six-year terms each. Among the first actions of the new agency was the solicitation of a master plan for the embellishment of the park. They invited the landscape architect, Horace W. S. Cleveland, from Chicago to submit a comprehensive design for the Capitol Park. Cleveland turned in an impressive park design with a maze of meandering serpentine walks throughout, dotted with four fountains, a statue, a music stand, a large vase, and a summer house. There were also fountains placed at each of the four reentrant angles of the building within a wide surrounding sidewalk. The entire landscape of the park was to be augmented with new trees and shrubbery. The board was pleased with Cleveland's ideas, but unfortunately the plan never came to full fruition, partially owing to Washburn's involvement of the architect in the controversy over the placement of the fence. During the summer of 1872, amidst the public outcry rising from Washburn's decision to place the fence at the outer limits of the park, the Governor wrote Cleveland, seeking confirmation of his action. Cleveland responded sympathetically, disparaging the previous practice of allowing wagons to tie up on the square, giving it the appearance of a "stable yard". Washburn used Cleveland's letter to refute his antagonists, having it, together with his original letter, published in the Madison papers as expert confirmation of the correctness



of his decision. It is not certain that this publication of correspondence was the cause, but implementation of Cleveland's plan from this point through the end of the decade (when the Board of Park Commissioners was eliminated) was half-hearted, at best.

A Fountain and More Mundane Improvements

The decade saw other improvements and embellishments on the Capitol Square, as well. Stephen V. Shipman designed an underground coal vault and boiler room on the southwest side of the park so that the fuel would not be piled on the ground, detracting from the general appearance of the park. At the same time, a pump house was to be constructed on Lake Monona, but Washburn's revival of J.H. Underwood's abandoned artesian well made this undertaking unnecessary. With the abundance of water suddenly available, the prospect of installing a fountain was no longer such an expensive project. A duplicate of the award-winning "Centennial Fountain" from the 1876 Philadelphia Centennial Exhibition was purchased and installed on the southeast side of the park, where it remained until 1912, when it was moved due to construction of the new Capitol. The fountain was transplanted to the backyard of the old Executive Residence at 130 East Gilman Street, a few blocks away. In 1943, Governor Walter Goodland had the fountain sold for scrap.

By the beginning of the following decade, not only did Madisonians find their Capitol and park a source of intense pride, but citizens from the rest of the state were unstinting with their praise, as well. In December 1881, the *Lodi Valley News*, evincing a short memory, remarked:

... there are few states in the Union possessing a neater, more imposing or more convenient capitol building. For a building as large and of a class that offers so many inducements for rascally contractors, it is a better structure than any other in the United States costing double what the one in this city did. When strangers and even citizens of Wisconsin look the building over, and are informed that it cost less than half a million dollars, they are astonished, and say "should think it must have cost two million at least".

The explanation is that there was not the slightest trace of jobbery in the execution of the contracts. For every dollar that was expended the state received a full dollar's worth of material and labor in return. It is surrounded by the finest capitol park in the United States . . .

This sort of panegyric was not uncommon after memories of controversies and deadlines unmet began to fade.

Extensions to the Capitol

The following spring, owing to increasing pressure on the limited space in the Capitol, the Legislature approved \$200,000 to add extensions to the north and



south wings. These extensions were to provide room for the State Historical Society, the Supreme Court, the State Library, and other state offices. The bill specified an unusually large building commission composed of the Governor, the Secretary of State, the Attorney General, two persons appointed to represent the Supreme Court and another to represent the State Historical Society. Napoleon B. VanSlyke, a noted Madison architect, and John Winans were selected to represent the Court; and Elisha W. Keyes, a prominent Madison politician, was picked to serve on the commission for the Historical Society. An architectural competition was held and D. R. Jones, a local architect, was awarded the commission. His design called for the extension of the north and south wings maintaining the same width and height, constructed from the same Prairie du Chien stone. The extensions would follow the same general lines as the existing building, incorporating the four octagonal towers and further embellishing them with miniature domes. The terminus of each wing would sport smaller cast iron columns, similar to those on the east and west wing porticoes, but in two rows, one rank on top of the other.

By May, bids to complete the work by January 1, 1884, were sought. They were opened on June 15, 1882, and, much to the chagrin of the commission, all exceeded the total appropriation by at least \$20,000. All the bids were rejected and the architect, Jones, was immediately sent for by the commission to revise his design to bring the bids down. A second bid opening was held and, again, the bids came in high, the lowest being \$208,000. A second, more severe “pruning” was made on Jones’ plans, and contractors were finally selected with a bid of \$188,370. John Bentley, Sheriff of Milwaukee County, and his son T. R. Bentley and Oscar F. Nowlan of Janesville, the successful bidders, began work on the North and South extensions soon after the contracts were signed. During one of the revisions, Jones’ domes for the octagonal towers were eliminated and the lower ranks of iron columns were replaced by stone piers.

Work on the extensions continued throughout the year, with the construction on the north wing progressing faster than that on the south wing. By late July 1883, the north extension was all but complete and Bentley and Nowlan’s work on the south, although well behind, seemed likely to be finished in plenty of time to meet the deadline. By early November, the south extension lacked only some final masonry and tinning on the roof for the exterior to be structurally complete. It seemed certain that Bentley and Nowlan would meet their contract deadline, a historically unusual feat, but a disastrous event would displace all concern for the contract deadline.

The Construction Tragedy, 1883

On Thursday, November 8, 1883, work on the south extension was progressing as usual. After lunch some 40-odd masons, carpenters, plasterers, tanners, and



other assorted laborers returned to work. Brothers Edward and Joseph Page, masons from Middleton, returned to their trowels, as did Madisonians Michael Zwanke and his son Matthew. Edward Gleason, foreman of the tanners working on the roof, joined fellow Chicagoan Arthur Lynch, Dave Meinhard of Madison and Nelson Boest of Sun Prairie in finishing the tinning on the roof, still wet from rain two days before. At 1:40 p.m., Gleason and his crew felt a trembling behind their feet. The trembling became a rumble, and the rumble, a roar and the roof fell from beneath their feet, down to the basement of the four-story structure. It was over in less than five seconds, burying about 30 of the workmen. An Arcadia reporter, in Madison at the time, was watching his son play in the Capitol Park and observing the construction activities that afternoon. Hearing a noise, he looked up to see stones and bricks falling from the building.

The noise increased and presently the roof disappeared from view, and in another second the front wall, which was unfinished, was pushed out and came down like an avalanche, pushing the iron columns in front down, breaking them into a thousand pieces. The noise of the fall was terrible, and was loud enough to be heard beyond the University building.

Indeed, many on the campus hearing the thunderous collapse had assumed that the boiler in Science Hall had blown up.

Huge clouds of dust filled the square, while pedestrians stared in stunned silence. As the dust began to subside, onlookers were horrified by what they saw. Two workmen were seen, 40 feet off the ground, hanging upside down and frantically waving their arms and crying for help; both men's legs were pinned by huge, twisted beams and jagged planks which crushed their limbs. A red stream staining the wall could be seen trickling down from one of the men. During the collapse, another workman was seen grabbing a rope suspended from a cornice and sliding part way to the ground. When he saw the columns beginning to fall, he paused long enough for them to clear his path and continued his slide to safety. The groans and cries of pain and desperation from a score of trapped and buried men emanated from the pile of debris.

Rescue efforts began immediately, as a crowd began to gather. A Madison hook and ladder company arrived to help in the rescue efforts; bystanders were deputized to help cordon off the ruins; a woman who lived near the square, hearing the noise of the collapse, filled a large pitcher of water and ran to the source of the noise to offer assistance without really knowing what had happened. An injured workman pinned under a mass of twisted iron, brick and stone was recognized by an elderly former employer, who quickly began the arduous labor of moving the heavy debris to free his former employe. The mangled, bleeding laborer warned



his former boss, “don’t do it or you will get hurt yourself,” to which the older gentleman replied, “I will get you out or die in the attempt.” Among the crowd was a 16-year-old prodigious Madison High graduate, who was passing by the Capitol Park on his way from Allen Conover’s engineering class at the university at the moment the south wing collapsed. He stood clinging to the iron fence for hours as limedust-covered workmen were pulled from the ruins; the experience was to have a lasting effect on young Frank Lloyd Wright.

Emergency “hospitals” were set up in the offices of the Governor, the insurance commissioner, the quartermaster general, and the Secretary of State; and over a half-dozen local doctors were pressed into service and spent the rest of the afternoon and most of that night treating the injured workers who were extricated from the rubble. As rescue efforts continued, the grisly toll mounted. Four men were found dead – all from crushed skulls, a fifth died within a few hours of being freed, and 20 more were seriously injured. Among the dead was the mason, Michael Zwanke; Matthew, his son, was among the injured, as were other men working on the roof. The tinning foreman, Gleason, was severely hurt by a box of falling glass; his fellow Chicagoan, Arthur Lynch, “sustained severe contusions on the skull, rendering him devoid of reason”. Perhaps the most gruesome fate befell William Edgar, a mason and longtime resident of Madison, who was found under several feet of stone “completely crushed . . . [his] skull was badly broken, the brain oozing therefrom, and many bones in his body broken.”

Governor Jeremiah Rusk was in Bayfield when he received the news of the collapse. He caught a train and was immediately on his way to Madison. The following day, a coroner’s inquest was begun on the collapse, and Rusk, after returning to Madison, started his own investigation, calling in outside construction experts and architects. The cause of the collapse came into immediate question owing to several “reports” and rumors circulating days before the disaster of cracks and crumbling walls. As late as the end of October, the contractors had shown a *Wisconsin State Journal* reporter through the south wing, claiming that the rumor “was unfounded and that there was not a crack in the wall anywhere.” The day after the collapse, Nowlan, in an interview with the same newspaper, was quoted as saying that he was “completely dumbfounded” about the event.

The newspapers of the state, however, were anything but dumbfounded. The *Lincoln County Advocate* reprinted a *Chicago Evening Journal* editorial expressing the opinion that the collapse was a result of “reckless carelessness on the part of the architect, contractor or building commissioners” and further speculated that the repeated pruning process to bring the contractor’s bids within the appropriation limits may have been directly responsible. The Merrill newspaper further implicated the commission and dissension among the members, noting that John



Winans and another member had virtually boycotted meetings of the commission. The *Manitowoc Tribune*, taking perhaps the most extreme position, dubbed the coroner's inquest "a roaring farce" that would bring disgrace which would "hang over the people of the state". The *Waupaca Post* joined the *Tribune* in calling the investigations a "first class job of whitewashing", blaming greed on the part of the contractors. It was probably in anticipation of just such criticism that Rusk called in the outside investigators.

The group called together by the Governor included A. C. Nash, a prominent Cincinnati, Ohio, architect who specialized in large buildings using iron supports; Godfrey Ludwig, also of Cincinnati, the superintendent of public buildings for that city; C. F. Struck, an architect from Minneapolis; and J. R. Willett, a Chicago architect. Six days after the disaster, the group submitted an eight-page handwritten report to Governor Rusk in which they placed the blame (in agreement with popular opinion) on substandard materials, specifically the cast iron columns. Many of the columns were of an uneven thickness, ranging from substandard to well above specifications, leading the investigating team to "come to the conclusion that the disaster occurred on account of the weakness of the second story columns, or of the masonry supports beneath them, or both combined . . ." All of this, of course, cast serious doubt on the safety of the already completed north wing extension.

At 9:00 on the morning following the disaster, the coroner's jury was impaneled, composed of the stationer J. E. Moseley; L. S. Hanks, a banker; Allen D. Conover, professor of civil engineering at the University of Wisconsin; F. M. Dorn, a stablekeeper; and two builders, David T. Sorenson and Benjamin Warnes. The young Dane County district attorney, Robert M. La Follette, represented the state in the investigation. Unlike the structural investigating team, the coroner's inquest relied on eyewitness accounts, as well as expert testimony. Several workmen, including some injured in the collapse, related stories on the stand of walls with cracks large enough to insert one's hand in, of using huge floor jacks to raise girders repeatedly to repair cracks, of replacing crumbling bricks, and so on. After ten days of testimony, the jury began deliberating at 8:00 p.m. on Tuesday, November 20; at 4:45 a.m. the next morning they reached a verdict after an all night session. They found Nowlan culpable of "improperly and insufficiently" repairing a fault in the second-story pier near the southeast corner of the extension, which they found to have contributed to the falling of the south wing. They also found D. R. Jones and a consulting Milwaukee architect, H. C. Koch, guilty of negligence "in designing the internal construction of the said south wing of the Capitol Extension without a due and proper regard for the safety during the erection . . ."



In spite of the jury's damning verdict, the principals were not severely punished, although D. R. Jones was said never to have designed another building. Bentley and Nowlan, however, were retained by the state to reconstruct the south wing extension and shore up the north wing extension under the direction of Chicago architect W. W. Boyington. The work continued another year and was completed at an additional cost of over \$11,000 by November 1884.

Fire!

The Fire Begins

Late on the evening of February 26, 1904, the lights in the Capitol dimmed, then went out, as they did every night between 10:00 and 11:00 p.m. when the generator in the basement which produced the building's electricity was shut down for the night. The only illumination remaining in the Capitol until daybreak would be two gas jets on the building's second floor – one in the Assembly Post Office in the west wing and the other in a room across from the Grand Army of the Republic's Museum in the south wing. These lights were intended to be used by the two night watchmen when they were not occupied performing one of their two nightly "grand rounds", which took them to all parts of the Capitol, including the attics over the Senate and Assembly Chambers, where a series of pipes with open nozzles were laid so that the rooms could be flooded in a matter of minutes if the danger of fire threatened. In spite of the fact that the rationale for replacing "Doty's Washbowl" with this structure was to provide a fireproof capitol and that this intention was explicitly referred to in the 1857 law authorizing its construction, several small fires had occurred throughout the years. During Governor Scofield's administration over \$20,000 had been appropriated to install the sprinkling systems above the chambers, four standpipes with hoses within the building, and complete "circuit" of ten-inch water mains around the Capitol with eight hydrants in the park and a connection with the city water system in case the state's supply, held in tanks on top of the university's Main Hall, should prove insufficient. With these and other precautions in place, Wisconsin's Capitol had one of the most advanced firefighting systems of the day. Nevertheless, a principal part of the duties of the night watchmen on their "grand round" was to check all the fireplaces and stoves in the building to insure that embers were extinguished.

During one these grand rounds night watchman Nat Cramton smelled smoke shortly after 2:00 a.m. He immediately went upstairs to his second floor post in the west wing, following the odor. Arriving at the Assembly Post Office, Cramton found the recently varnished ceiling above the gaslight ablaze. He attempted to put the fire out by throwing a pail of water up on it, but the blaze had already progressed beyond such efforts. While the other night watchman, a Mr. Chase, unrolled a hose from the nearest standpipe, Cramton telephoned Madison's Central



Fire Station, alerting the main company, which raced to the state house. Meanwhile, Chase had found that there was almost no water pressure, although he found the connection, hose and nozzle in good working order. Unknown to Cramton and Chase, an engineer at the university had drained the tanks on Main Hall in the course of cleaning a boiler. The Madison firefighters, mostly volunteers, arrived and for a time apparently gained the upper hand, but the fire spread above the ceiling and broke out again. Madison's Fire Company No. 2 was called to the Capitol and attached hoses to the state mains within the park, only to make the same unpleasant discovery that Chase had minutes before.

The Blaze Spreads

Although the valve to switch from the state supply to city water was in the park, well known to the night watchmen, it had inexplicably not yet been turned. Soon the blaze spread further and, more mysteriously, the valve next to the Adjutant General's office, which would have flooded the Assembly Chamber, also went unopened. By the time the water supply was switched, the fire was clearly out of control lighting up the frigid night sky.

One of the first Madisonians to awake to the sight was 15 year-old Joseph Livermore, who had the presence of mind to use his vest-pocket Kodak to take a most spectacular, if not the only, night photograph of the Capitol fire. Livermore later made copies of the photograph to sell for 10 cents apiece to earn enough money to purchase a bicycle; his father, however, felt the price too exorbitant and made Joseph reduce the price to 5 cents. One of Livermore's customers was a postcard printer, who ran off and sold hundreds of the postcards, without sharing any of the profits with the boy.

By about 4:30 a.m., it was clear that the Madison firefighters were over-matched, and Governor Robert M. La Follette was awakened with a request to call other communities for help. Both Milwaukee and Janesville were telegraphed and both responded by loading equipment and men on trains and dispatching them to the Capital. When the call for help reached Milwaukee, Engine No. 518, with Henry "Sky" Johnson at the throttle and Frank Backus stoking, was just pulling in from Madison. Railroad officials rushed to Johnson and asked how long it would take to make the return trip with the desperately needed equipment and men. The railroader replied that he could cover the 96 miles in 96 minutes if "the locomotive fireman holds out". Two pumpers and two hose carts were loaded onto flat cars and the firefighters were crowded into the caboose, and the tracks between Milwaukee and Madison were cleared. Backus "held out" and Johnson, true to his word, arrived in Madison slightly more than an hour and a half after leaving Milwaukee. Unfortunately, the subzero weather had frozen the water in the pumper



and the equipment had to be thawed before the Milwaukeeans could join the battle against the fire.

Meanwhile, La Follette arrived to direct fire-fighting efforts, now augmented by volunteers composed of downtown Madison residents and about 200 university students. At the same time, the Governor organized efforts to save important state documents and furniture, personally entering the burning building to rescue papers again and again until Dr. Cornelius Harper forced the water-soaked Progressive to return home. After changing clothes, however, "Fighting Bob" returned to the state house.

By 5:00 a.m., according to the *Wisconsin State Journal*, the west wing, which contained the Assembly Chamber, "looked like one gigantic flame". Shortly afterward, the fire reached the magazine in the commissary department, setting off 17 rounds of powder as well as innumerable rifle cartridges, undoubtedly hampering fire fighting efforts. University students continued to arrive to aid in the rescue and fire-fighting efforts. Because of thick smoke filling the building, they were unable to use the stairways and several ladders were secured and raised to the windows in the north wing, which contained the State Law Library. Once inside, they began throwing volumes out the windows to snow banks below; others below began stacking the books haphazardly until State Supreme Court Justice R. D. Marshall arrived and organized the students into lines to pass the books hand-to-hand to nearby stores and later, to waiting wagons. According to Solon J. Buck (who later became archivist of the United States), then a senior attending the University of Wisconsin, this effort grew to five to six hundred people "and it began to get too crowded to work".

The fire raged on, involving all of the west and east wings, the rotunda and the south wing above the ground floor. The north wing was saved by the efforts of Madison volunteer Assistant Fire Chief, Jay H. Snell, several other firemen and others, including varsity football player, Arne Lerum. Almost as a counterpoint to all of the individual acts of selflessness, there were several reports of looting from the burning building. One person recalled seeing students running down State Street with arms laden with anything of value that could be carried, including typewriters. (The problem outlasted the fire: authorities were forced to erect a high board fence around the ruins to keep scavengers and looters out.) Finally, around 10:00 a.m., the fury of the fire began to subside. The armies of volunteers began to give way to thousands of spectators, causing a massive traffic jam. People from surrounding towns came to Madison to view the smoldering ruins, then attended a ski tournament on nearby Bascom Hill.



Aftermath

By 10:00 p.m., almost 20 hours after Nat Cramton first discovered the ceiling of the Assembly Post Office burning, the fire was finally out. Both Assembly and Senate Chambers were utterly and completely destroyed; the offices of the State Treasurer and the Secretary of the State suffered extensive damage as did those of the Free Library Commission and the Grand Army of the Republic. The Library Commission lost all of its records, a number of expensive books and several traveling libraries; the GAR lost scrapbooks, medals, photographs, banners and other relics of Wisconsin's participation in the Civil and Spanish-American Wars. But the most heartfelt loss was that of the remains of "Old Abe", the famed mascot of Wisconsin's Eighth Regiment. Fortunately the Civil War battle flags were saved early in the morning.

POSTSCRIPT

A New Capitol Arises From the Ashes

While the ashes cooled, state officials pondered their situation. The previous year, the Legislature had created a Capitol Improvement Commission to explore ways of further expanding the sandstone building. A few days after the fire, the commission, composed of Governor La Follette, State Supreme Justices John B. Winslow and R. D. Marshall, and four others, met and radically revised their program for the competition between architects for the task of expanding and renovating the Capitol. This entailed broadening a simple expansion project, costing perhaps a few hundred thousand dollars, to a major work of restoration and rebuilding comprising at least two million. At the same time, the state faced the consequences of an enormously ill-timed economy move. In 1903, the Legislature, in the interest of saving money, had enacted a measure allowing the state to insure itself against casualty loss, and the privately underwritten policy on the Capitol had been allowed to lapse in late 1903 in favor of the new State Insurance Fund, which, at the time of the fire, had accrued only \$6,000. The loss incurred by the fire was estimated to be between \$800,000 and one million. The radical re-vamping of the commission's program and the extra expense it would entail, combined with the enormous casualty loss, would not be faced squarely by the legislators until the next year.

In the meantime, the commission continued the process of advertising for and selecting competitive bids from architects. Cass Gilbert, designer of the just completed Minnesota State Capitol and future architect of West Virginia's and Arkansas' State Capitols, was chosen from a handful of entries. Gilbert's reign as architect of Wisconsin's State Capitol was short-lived, however, for in 1905 the Legislature empowered a new commission, the Capitol Building Commission, to undertake to build an entirely new building after holding a new architectural com-



petition. The winner of this competition, juried by Professor Allan Conover and Chicago architect Daniel Burnham, was the prestigious New York firm of George B. Post and Sons, designers of the New York Stock Exchange. Although George Post, then 72, would not live to see the current Wisconsin State Capitol finished some 12 years later, there is little question that this was his most magnificent creation and the crowning achievement of an illustrious career.

Slowly, over the years 1906 to 1917, the old Wisconsin State Capitol was dismantled and scattered, although many attempts, several of them successful, were made to salvage portions of the Prairie du Chien stone and cast-iron structure. The most noble, albeit futile, attempt was undertaken at the behest of the Legislature. In 1909, a law was enacted directing the Capitol Building Commission to remove the cast iron dome in such a way that it could be reassembled on Main Hall at the University of Wisconsin. Unfortunately, it was not determined until much later that the weight of the dome was too great for the intended structure to bear, and the law was repealed in 1915, the year before the existing Main Hall dome was destroyed by fire.

In July 1917, the Capitol Building Commission formally went out of existence after 11 years, announcing that the new Wisconsin State Capitol was complete at an accumulated cost of almost \$7.25 million, including the cost of temporarily housing several state government agencies in private office buildings, renovating sections of the old capitol for continued use during the construction period and building a heating and power plant (still in operation today). At the time, however, the announcement of the final completion of such a monumental structure made small ripples in the newspapers compared with the tidal wave caused by World War I; indeed, a formal dedication of the building would be repeatedly delayed until July 7, 1965.

It is unfortunate that the day was not more well marked – in spite of America’s preoccupation with the War to End All Wars. After five attempts, the people of the State of Wisconsin had finally adorned their state with the Capitol they had always wanted. Indeed, the white granite, classical-revival building has already outlasted all four of its predecessors combined.

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