

# ANNALS OF IOWA.

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## EDITORIAL DEPARTMENT

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### HISTORICAL VALUE OF EARLY COURT FILES.

Original matter touching that part of Iowa history preceding the general introduction of the press is most elusive for the student. It is meagre, of varying value and scattered through reminiscences, personal letters, diaries, petitions to legislative and administrative authorities, resolutions and statutes, treaties and proclamations. The published reminiscences of the period are to some extent inaccurate and inharmonious. Personal letters and diaries are scarce and will become more so. Petitions forwarded to Territorial and National authorities are rare, and the bare language of our Indian treaties, statutes and proclamations, while more accessible and more familiar to the student, contain comparatively little of the affairs of the people. But the effectuation of the laws of that period, as of our own, was by the courts, and the interest and issues of persons and communities were perhaps more frequently recited in the pleadings and processes of these courts than in any other available source. Historically speaking there is a value in a statement filed under oath, giving names, dates, places and principles regardless of whether it was ever tried, appealed or published. The records and archives of the *nisi prius* courts first established over what is now Iowa soil are therefore rich in matter of interest to the student of that time. As illustrating this we present herewith three items from the files of a single one of the many earliest seats of justice in this State, namely, Van Buren. It will be noted that all were filed within the brief space of six months, and within a series of ninety cases.

File number 173 is endorsed: "United States vs. Chapley P. Ross, and others. Indictment for kidnapping. A true bill. (Signed) Lemuel G. Jackson, foreman. *Nol. E. P. Qui.* (bail) \$1,000 each. Exhibited and filed in open court August 14, 1839. (Signed) Frye B. Hazelton, clerk." We set out the first count verbatim, with the variations in the three others indicated.

Territory of Iowa, County of Van Buren, ss. District Court, August Term, A. D. 1839. The grand jurors on the part of the Territory aforesaid selected, tried, empanelled and sworn to inquire in and for the body of the county of Van Buren aforesaid on their oaths present that Chapley P. Ross, Robert Chapley Woodfork, Giles O. Sullivan and Benjamin B. Troop on the tenth day (3—on the day and year aforesaid. 4—date omitted) of January in the year of our Lord one thousand eight hundred and thirty-nine at Bentonsport in the county aforesaid did unlawfully kidnap a certain black man named Armsted with intent to send the said Armsted out of the Territory of Iowa into the State of Missouri. (2— . . . unlawfully and forcibly take a certain black man named Armsted away from his residence in said county with intent to send the said black man Armsted out of the territory. . . . 3— . . . unlawfully and forcibly take away a certain black man named Armsted and did then and there send the said black man named Armsted out of this Territory. . . . 4— . . . unlawfully and forcibly take away a certain black man named Armsted and did then and there carry the said Armsted out of the Territory of Iowa into the Territory of Missouri) against the peace and dignity of the United States of America and contrary to the form of the statute in such case made and provided.

(Signed.)

WILLIAM H. STARR,  
District Prosecutor.

A second indictment against the same persons was returned on the *next day* in substantially the same words except there was inserted the very pregnant word *free* preceding each phrase *black man*.

File 180 is endorsed: "United States vs. George S. Wilson. Indictment for exercising an office in this territory without authority. (Signed) Lemuel G. Jackson, foreman. A true bill. Decided (*nol prossed*) April, 1840. Exhibited and filed in open court August 15, 1839. Frye B. Hazelton, clerk. Bail, \$500." The indictment reads:

Territory of Iowa, Van Buren county, ss. District Court, August term, 1839. The grand jurors on the part of the Territory aforesaid selected, tried and empanelled and sworn to enquire in and for the body of the county of Van Buren aforesaid on their oaths present that George A. Wilson on the first day of July, in the year of our Lord one thousand eight hundred and thirty-nine in the county of Van Buren aforesaid did unlawfully officiate as county assessor within the limits of the county of Van Buren aforesaid and within the jurisdiction of this Territory by virtue of a commission not derived from this Territory or under the laws of this Territory or under the general government of the United States, but derived from the authorities of Missouri, against the peace and dignity of the United States of America and contrary to the form of the statute in such case made and provided. (Signed) William H. Starr, District Prosecutor. Found on the testimony of John Seaman, Samuel Newman, Henry Singleton, Charles Stott, Henry Smith, James Hall.

File 262 is endorsed: "The United States vs. James F. Turner. Indictment for disturbing dead. A true bill. (Signed) Martin A. Britton, foreman. Decided September, 1840. Found on the testimony of John Fairman, Cyrus H. Ober, Robert Moffit."<sup>1</sup>

The indictment is as follows:

District Court, April Term, A. D. 1840.

The grand jurors on the part of the Territory aforesaid duly empanelled and sworn in and for said county, on their oaths present that James F. Turner of said county on or about the first day of November, A. D. 1839, in the county of Van Buren aforesaid, did unlawfully open the grave where the body of a deceased Indian named Black Hawk had been deposited and did then and there remove the remains of said Indian from said grave for anatomical purposes without the knowledge and without the consent of the relatives of said Black Hawk.

And the jurors aforesaid upon their oaths aforesaid do further present that the said James F. Turner, on or about the day and year last aforesaid in the county aforesaid, did unlawfully procure some person to the jurors unknown, to open the grave where the body of the said deceased Indian had been deposited, and to remove the remains of the said Black Hawk from said grave for anatomical purposes, without the knowledge or consent of the near relatives of said Black Hawk.

And the jurors aforesaid upon their oaths aforesaid do present that the said James F. Turner on or about the first day of November, A. D. 1839, at the Indian village in that part of the Indian country which had been and now is attached to the county of Van Buren for judicial purposes by act of the Congress of the United States in such case provided, did unlawfully open the grave where the body of a certain deceased Indian named Black Hawk had been deposited, and did then and there remove the remains of the said deceased Indian from the said grave for anatomical purposes without the knowledge or consent of the near relatives of said deceased Indian.

And the jurors aforesaid upon their oaths aforesaid do further present that the said James F. Turner on or about the first day of November, A. D. 1839, at the Indian village aforesaid, did unlawfully counsel some person to the jurors unknown in the opening of the grave where the body of a deceased Indian named Black Hawk had been deposited, and in removing the remains of said deceased Indian from said grave for anatomical purposes, without the knowledge or consent of the near relatives of said deceased Indian, against the peace and dignity of the United States of America and contrary to the form of the statute in such case made and provided.

(Signed)

WILLIAM H. STARR,  
District Prosecutor.  
E. R. H.

<sup>1</sup> A facsimile of the *capias* is the frontispiece of this article, and carries its own explanation. It is endorsed "Not found."

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