

# ANNALS OF IOWA.

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## EDITORIAL DEPARTMENT.

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### THE COUNTY JUDGE SYSTEM.

In the act to divide the territory of Wisconsin, and to establish the territorial government of Iowa, congress (June 12, 1838,) extended over the new territory the existing laws of Wisconsin, "so far as the same are not incompatible with the provisions of the act of separation." This measure was but a provisional one, however, subject to be altered, modified, or repealed by the governor and legislative assembly of Iowa. A law of Wisconsin territory, approved December 20, 1837, had established a board of county commissioners in each county and this was the law of Iowa territory until December 14, 1838, when our territorial legislature passed a similar law. This was a statute of twenty-two sections in which the powers and duties of county commissioners were clearly defined. This law, amended in some particulars, was re-enacted in 1843. It appears in the "Revised Statutes of the Territory of Iowa" of that year. The boards of county commissioners administered the government of their respective counties until the adoption of the Code of 1851 (Chapter 15), when the county judge was invested with the usual powers and jurisdiction of county commissioners, and of a judge of probate, and "with such other powers and jurisdiction as are conferred by this statute." (Courts of probate had been established by an act of the territorial legislature approved January 17, 1839.) This is a lengthy statute consisting of thirty-seven sections, in which the powers and duties of these officials are fully defined. It will thus be readily understood that the county judge was a functionary of multifarious duties and that he wielded immense power within his proper county.

Those counties which fortunately called to that responsible position men of large ability and tried integrity—men with such characteristics as distinguished Charles Mason, Edward Johnston, and Edward H. Thayer—had a system of government which was doubtless as nearly perfect as it is within the power of a legislature to devise. The majority of our counties chose good men and the system had many friends—possibly half or more of the people of the State. But the temptations which were presented in many counties—especially in some of the newer ones in the northwest—were too strong to be resisted by the greedy adventurers who went thither among the pioneer settlers.

The old county judge system continued to be the law of the State until the Eighth General Assembly, after a protracted and bitter contest, passed what was popularly known as "the county supervisor law" (Chap. 46, Laws 8th G. A.), which was included in the revision of 1860. This provided for a board of supervisors consisting of one from each civil township, to which was committed the administration of county affairs. This law remained on the statute book until the adoption of the Code of 1873, when the number was reduced to three persons in each county, except in certain specified cases, when it could be increased to five or seven. With this amendment the county supervisor law has remained with no material change until the present time.

The intent in the passage of the county supervisor law was evidently to found a representative system, similar to that of the state of New York, where the organization of each town or township is independent and complete in itself, in which "home rule" prevails, and in which most of the functions of civil government locally affecting the interests of the people are exercised. In New York a bridge may be built by the people of a town. But in Iowa the authority of the county had to be invoked. This condition of things led to burthening the boards with duties and obligations which should have been acted upon and discharged by the town-

ship authorities. That defect in the law resulted in a system of "log-rolling" which detracted from its popularity at the beginning. In order to secure needed improvements in their own localities, members of the boards were too often compelled to vote for schemes which they would otherwise have opposed. This state of things led to the reduction of the membership of the boards to where it still remains.

Several years since a young Iowa journalist who had been reared in northwestern Iowa, in the course of a newspaper article, gave expression to severe reflections upon the county judges of forty odd years ago. That branch of his article was adverted to and quite sharply denounced by a leading editor who resided on the eastern border of the State, who had himself been a county judge. Having been chosen by the people to fill that highly responsible office, and having served them in a manner to win hearty approval in every direction, he resented these reflections with emphasis. But as in the old story of the knights who fought about the color of a shield, both gentlemen were right and both wrong, their differences arising from the different standpoints from which they had observed the county judge system. He who had written from northwestern Iowa had known several judges who had been guilty of serious diversions of the county funds, some of which had gone into their own pockets, while more, perhaps, had been squandered upon personal or political favorites—members of the court house "rings" or cliques. Public buildings had been erected, streams bridged, and miscellaneous expenses incurred, for which there was no need whatever. It often occurred in this way: a few adventurers—perhaps six or eight men—would go into a northwestern county, which they would proceed to "organize." If there were enough voters to hold the offices, with three or four confederates on the outside to submit bids for the jobs, any county could be speedily put into running order, if it had not contained a single inhabitant at the date of the last preceding election.

The course pursued by these officials varied with each locality. Many of the judges in those sparsely settled counties were men of integrity, who discharged their duties with rare conscientiousness, while in others extravagance was wild and rampant. It was jocosely remarked of some of them that they had machines for striking off or manufacturing county warrants by the wholesale. It also sometimes occurred that, owing to the plentiful issues, county warrants were sadly depreciated, and that outside speculators bought them up at more or less heavy discounts, standing around the county treasury with the connivance of the county judge and treasurer, and securing the dollars as fast as they were paid in for taxes. Of course, the warrants were paid to the holders at their face value. The pioneer farmers who were hauled away from their homes to serve on juries,—or who had rendered the county some other service,—were compelled to wait indefinitely for their money, or take whatever the speculators were willing to dole out for their warrants. As this species of "financiering" occurred when times were hard and money scarce, it created a state of affairs not contemplated with equanimity by those who had earned the warrants.

We have in mind as we write one of these "promoters" of county organizations. He modestly served his time in one county, and after some years' experience as an innocent looker-on, and in directions to which no exceptions could be taken, migrated to another county, in the organization of which he became an important factor. When he left that county it was so steeped in debt that it was more than twenty years before its debts were paid, and even then, we believe that some of them were successfully repudiated from having been tinctured with fraud. But he had made a success of his enterprise, as those things went—had "made money"—and therefore deemed it expedient to leave the State. The next and last that was heard of him in Iowa he was appropriately serving a sentence in the Illinois penitentiary.

The county judges, deprived of their functions as admin-

istrators of the business affairs of the counties, still retained the probate business until the establishment of the circuit and general term courts. Their duties were assigned to the first named court. (See Ch. 86, Laws 12th G. A.) By a law (Ch. 160) of that session, creating the office of county auditor, it was further enacted that—"The county judge in each county shall be, *ex-officio*, auditor after the first day of January, 1869, and shall discharge the duties of county auditor until the auditor shall be elected and qualified; and after the said auditor shall be elected and qualified, the office of county judge shall cease."

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#### MESSAGES AND PROCLAMATIONS OF THE GOVERNORS.

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We have at this writing received Vols. I and II of this important work, which has been issued by the State Historical Society, at Iowa City, under the editorship of Prof. B. F. Shambaugh. This publication is modeled upon the Messages and Documents of the Presidents of the United States, which was issued from the government printing office a few years ago. At the present time we shall attempt no review of the work, for that is to be done for our pages by another hand later on, when the remaining volumes are published. Few works of Iowa history have ever been projected which can equal this in its value for reference or careful study. Within its pages the student may read at first hand the views and opinions of our governors from the times of old General Robert Lucas to those of Albert B. Cummins. It is really an epitome of the official and general history of the Territory and State of Iowa. And then, again, the memories of our governors have been rapidly "fading into the azure of the past." Once a governor retires from his honored place he is apt to be speedily forgotten. (The State has never troubled itself to the extent of even securing their oil portraits. Until quite recently there were not even name-

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