

reducing the verbiage of the early statutes and gave it lucid and logical form, but they introduced a number of radical reforms. They swept aside the elaborate modes of procedure reported from the older states and secured simplicity in process in ordinary civil actions and in criminal proceedings. In the conduct of government, outside the province of the courts, they provided, at least the Code as adopted so provided, for some revolutionary changes in methods of administration. The two reforms that eventually aroused great public discussion were the establishment of the County Judge system and the new methods of taxation and financial administration in the collection and distribution of taxes. In both instances the conspicuous fact was the marked increase in centralized authority at the expense of the autonomy of minor political units.

Prof. H. M. Bowman, of Amherst College, declares that the Code of 1851 is "justly famous." But he states that "its chief title to fame lies in the fact that it marked the abandonment of the common law." We doubt if this assertion is warranted. The Commission compiled, restated and enacted in fine form the administrative law of the State and local governments, and it codified the forms and methods of procedure in civil and criminal actions. But their Code did not mark the abandonment of the common law in Iowa. What it did mark was the discontinuance of the common law procedure in civil actions. The common law prevails in Iowa today in so far as its rules or principles are not inconsistent with or have not been superseded by statutory provisions. The Commissioners of 1848 did not attempt to produce a code that should assemble and include all of the general principles of law governing man in his relations to property and his fellows, a consummation hoped for by David Dudley Field and our own Judge John F. Dillon.

ROBERT LUCAS—THE MAN.

The discovery of the journals of Robert Lucas, reviewed at length elsewhere, has given us much new light upon the character of our first Governor, light that reveals a finer type

of man and public servant than he has heretofore been considered. From the very outset of his career as territorial Governor the fates served him many tricks. The peculiar conduct of the Secretary of the Territory, Wm. Conway, and his apparently flagrant attempt at usurpation of the gubernatorial office, the collision with the legislature and the eventual triumph of his enemies, all converged to create general popular prejudice against Governor Lucas, and tradition has not lessened it materially. His compatriots in opposition regarded him as a contentious, narrow-minded, overly exacting and stubborn man.

In the Journal of the War of 1812 one is impressed with various mental and moral characteristics that always distinguish Robert Lucas the man. He was methodical and precise and reserved in his conduct. He was concise in speech and cautious in characterization of men if his expressions were adverse. He was conscientious and gave to the performance of any duty anxious and scrupulous attention. Conduct that smacked of insubordination or self-seeking was not tolerated by him even when he might easily have gained temporary, worldly advantage thereby. This noteworthy trait in his character was strikingly shown early on the march towards Detroit, when on May 21 he was "solicited by Governor Meigs and Colo. Cass to assist in Detaching a part of Colo. McArthur's Regt. and attaching th[e]m to Colo. Cass' * * * and promised me the Command of the best Batallion in the Army if I would Consent to which I replied tha[t] when I engaged as a volunteer it was neither with a view to gain rank or emolum[e]nt but purely to serve my country." This was not pietistic patriotism or pharasaical cant, for although he was a regularly commissioned Captain in the United States Army and a Brigadier General in the militia of Ohio he had put aside ambition for personal distinction which he might have secured without much effort and had promptly enlisted as a private.

There is a complete absence of animosity or egotistical boasting, guile or sharp practice. There are no carping complaints or envious reflections. Yet when men and things are at fault, progress is halting, dangers needlessly incurred and

the management of affairs is at cross purposes he speaks out clearly, exactly and vigorously. Now and then he writes with deep feeling. His indignation was intense when he realized the result of Hull's treachery or stupid generalship at Detroit. But the narrative throughout all the trials and misfortunes exhibits a dignity, a fine self-control, an earnestness of character and purpose that compels admiration. In his letters to the Secretary of War and to James Foster after his return to Portsmouth, Ohio, after his escape from Detroit, one finds no self-laudation, no superlative and promiscuous denunciation of men or measures and no sly insinuations derogatory of companions or superiors, but a straightforward, serious, comprehensive and convincing recital of facts and observations. The rugged, somewhat uncouth narrative of the Journal shows us a man and a character thoroughly admirable.

The Journal of Robert Lucas, "Governor of Iowa territory," displays the same man and the same character. Exactness, promptness, scrupulous observance of the precise duties of his office, rigid insistence upon regularity, lack of sympathy with questionable proceedings, strict construction of governmental powers, resistance of insidious interference with official prerogative or of disregard of the organic law; these traits all stand out conspicuously. He is "anxious to commence official duties in a regular manner." He will not express an opinion on a legislative contest because he "would be traveling out of my appropriate sphere of duty." One may have various views as to the wisdom or correctness of Governor Lucas' vetoes that caused so much friction throughout his term as chief executive of the Territory, but there can scarcely be two opinions as to the candor, consistency and conscientious character of his course. Governor Lucas was not what now-a-days would be called a good politician. He lacked various important elements that make for popularity in a public official. Whether it was his Scotch-Irish nature and his notions of right and wrong or his military training, he could not coddle the public. He was not pliable, nor was he given to dodging or hedging when any matter presented itself to him that called for his official action or expression, his attitude or action was unequivocal, immediate and irrevocable. His

one concern was the law. And he could not and would not make himself think that the adverse opinion of the legislature was necessarily *vox dei*, if the law plainly said the contrary. Nor would he admit that a count of heads gave one the better of an argument, even if the fates decreed his removal.

In his communications answering charges made against him by his belligerent opponents, he expresses his dissent in language that is always notable for its restraint under rather irritating circumstances. His enemies did not always proceed against him openly. Many of their criticisms he refuses to notice because he deems it beneath his dignity to characterize them. His irony is pungent at times when he refers to legislative proceedings taken not with a view to the public welfare, but solely with a view to trapping him.

AN ALMOST FORGOTTEN CONTEST.

Elsewhere in this number, Mr. Tacitus Hussey of Des Moines, relates the history of the effort of Iowa fishermen and sportsmen to secure a fishway in the dam across the Des Moines river at Bentonsport. This fight was a long one and unsuccessful. It was led from beginning to end by Mr. Hussey, who tells the story in his pleasant style. The Bonaparte Dam was one that was built to render the Des Moines river navigable under the old scheme of improvement. It was erected before any special interest was taken in the direction of fishing. When the fishermen discovered that it was an obstacle in the way of the fishes in their spring migration up stream, they were very anxious to have a fishway constructed, or to have the dam removed. The Messrs. Meek, however, had purchased it at an authorized auction sale, and were averse to incurring any expense in the matter of establishing a fishway. They had legal rights in the premises which could not be molested, as Mr. Hussey conclusively shows. The dam, therefore, remained until the high water of 1903 when it was partially swept away. It has never been

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