PIONEERS OF MARION COUNTY.

BY WILLIAM DONNEL.

CHAPTER VI.

Claim Law, and Club Laws.

(Continued from page 44.)

The manner of taking claims having been described in another place, we now proceed to a description of the government adopted by the settlers, mainly intended for the regulation of their claim interests, as soon as circumstances rendered such government necessary.

As we have stated, most of the settlers were poor men, who had sought the country for the purpose of advancing their pecuniary interests, prompted by the liberal advantage offered by the general government, which was a claim interest in a certain amount of the public lands till these lands should be subject to sale. In this they saw an opening that seemed to promise admission into comparative independence, if not actual wealth. And for the most of them, we are happy to say, this hope has been, to a greater or less extent, realized. Their sacrifices and labors have been rewarded. They are wealthy. The proprietors of the soil they acquired with so much hardship, they now rest from their labors, with all the comforts and many of the luxuries of life at their command. Though more than twenty-five years have passed away since some of them established their homes in this then trackless wilderness, and those who were in the summer of life then, are now in the autumn of decline, the scenes of their early trials are still fresh to their memories, and they love to "fight their battles over again," in the secure retreat of their own happy homes.

As above stated, an act of congress granted to each settler the privilege of locating upon and claiming three hundred and twenty acres of land until the time of the sale, when he could

enter and secure a permanent title to the same. This claim right was regulated by what was called the "Claim Law," that had its origin in a large meeting of citizens at Locust Grove, Jefferson county, and was legalized by the territorial legislature in 1839.

The provisions of this law were briefly these: Any person twenty-one years old, or any other person at the head of a family, could possess him or herself of three hundred and twenty acres of land belonging to the government, and not legally claimed or occupied by any other person or persons. This could be claimed in one or two tracts, as suited the interest or convenience of the claimant. Said claim had to be defined by well blazed or well staked lines, as it might happen to be, in the timber or on the prairie, said lines not to cross or conflict with those of other claims. Then the claimant was required to build a house on the land, live in it, and cultivate a certain amount yearly, as evidence of his intention to become a permanent settler thereon. In case he should absent himself from it six months at any one time, it was forfeited, and subject to be "jumped," that is, any other person legally entitled to a claim, could take possession of and hold it as though it had never been claimed. But, unlike the present homestead right, claims were transferable at any time, and many who found themselves unable to buy of the government, sold to individuals, sometimes for enough to enter other tracts, and thus secured a permanent title to some portion of Uncle Sam's dominions.

Notwithstanding this apparently just and comprehensive mode of regulating these affairs, difficulties often occurred between settlers in relation to their claims. With no other title than that obtained by mere possession, it did not always appear so clear and unquestionable as to secure the holder in undisturbed possession thereof. In a community where all are in eager pursuit of the same object—the acquisition of property—it is not uncommon to find a few not thoroughly governed by a sense of honesty. So, in a community remote from the influence of law and order, rogues were not dis-

posed to be less roguish. There were no convenient courts of justice, through whose influence men could be restrained from intruding upon each other's rights. The nearest one at that early day was in Washington county, about seventy-five miles distant. Thus isolated from comparative civilization, it is not strange that quarrels often occurred between the settlers that sometimes threatened serious results.

This state of things called for some kind of law, and each settlement of any considerable number found it necessary to adopt certain rules and regulations for its government in all affairs pertaining to claims. At first they were intended to regulate such differences as might arise between the claimants only, but were afterwards deemed a necessary protection against the encroachments of speculators and a monied class of settlers. These "By-Laws," as they were called, embodied the purest "squatter sovereignty" principle. That of each settlement differed more or less, according to circumstances, but in all the object was the same. Under them the settlers were organized into "clubs," duly officered and obligated to serve on all necessary occasions.

As a matter of historical curiosity let us here introduce a *verbatim* copy of a set of these By-Laws. It is of somewhat later date than most of them, but contains the substance of what has just been said of them generally. Having lain in obscurity for more than twenty years, they now come forth with the color of antiquity, and, as a relic of old times, deserve a place more enduring than the yellow, half-worn sheets of old-fashioned writing paper from which we copy them:

"BY-LAWS.

"At a meeting held atthe house of Jesse Johnson, in Perry township, Marion county, state of Iowa, on Saturday, the 19th day of August, 1848, Peter Brans was called to the chair, and James M. Brans was appointed secretary. The object of the meeting being stated, the meeting then proceeded to adopt the following preamble and resolutions:

"WHEREAS, It has become a custom in the western states, as soon as the Indian title to the public lands has been extinguished by the general government, for the citizens of the United States to settle upon and improve said lands, and heretofore the improvement and claim of the settler, to the extent of three hundred and twenty acres, has been respected by both the citizens and laws of Iowa,

"*Resolved*, That we will protect all citizens upon the public lands, in the peaceable possession of their claims, to the extent of three hundred and twenty acres, for two years after the land sales, and longer, if necessary.

"*Resolved*, That if any person or persons shall enter the claim of any settler, that he or they shall immediately deed it back again to said settler, and wait three years without interest.

"*Resolved*, That if he refuses to comply with the above requisitions, he shall be subject to such punishment as the settlers shall choose to inflict.

"*Resolved*, That we will remove any person or persons who may enter the claim of any settler and settle upon it, peaceably if we can, forcibly if we must, even if their removal should lead to bloodshed, being compelled to do so for our own common safety, that we may not be driven by ruthless speculators from our firesides and our homes.

"*Resolved*, That a committee of five be appointed to settle all differences that may arise.

Here follow the names of this important committee, and a resolution appointing a captain. Then a concluding resolution, ordering the publication of these proceedings in certain newspapers favorable to the cause.

The next meeting (the only one we have any record of besides the above) came off at the same place, on the 9th of September of the same year, at which the following additional resolutions were adopted:

"*Resolved*, That each settler that applies first shall have his or her name registered, and if any two claims should conflict, then it shall be the duty of the second settler for the same

piece of land to call the committee together and have the matter settled; and each settler that expects the benefit of these resolutions, must have his or her claim registered by the 20th of the present month.

* * * * * * *

"*Resolved*, That it shall be the duty of each settler to sign these By-Laws, and he that refuses to do so, cannot, and shall not be protected by us.

"*Resolved*, That any settler who may have signed these By-Laws, and refuses to render service when called upon by the proper officers, and without a reasonable excuse, shall be fined the sum of ten dollars, to be divided among those that may have rendered the service necessary."

A lieutenant and ensign were elected at the conclusion of this meeting, but their duties are not prescribed.

Appended to this venerable document are the names of thirty-five settlers. Two more who, though their hearts were in the cause, were omitted, for prudential reasons that may appear on the face of the instrument, when it is known that they held the civil offices of justice of the peace and constable.

Such a company of strong, resolute men, united in a common cause, to which they were the more attached because it affected their home interests, might seem sufficient to strike terror to the heart of any lonely speculator who might have strayed into the settlement and made choice of some valuable tract claimed by one of the number.

Without doubt, the intent of the claim law was to secure to actual settlers the lands in small portions, so as to facilitate the rapid settlement and improvement of the country, thereby increasing its wealth and strength, a result slowly reached through the impediments of speculation. Yet there was no law forbidding speculation in these lands, nor even the entering of claims belonging to actual settlers without due compensation to the owners; and to supply this want these By-Laws were instituted. Though the settlers were admitted to the first choice, some regulations were necessary to secure them in their possession after they were subject to entry. Though

conducted very much upon the mob principle, their intent was legal so far as it went to inforce the intent of the law. Going beyond this, they were very mobs without any legal authority. But as an auxiliary to the enforcement of the law itself, these By-Laws must be regarded as the best thing that could have been gotten up. Indeed, they were but the natural result of the then state of things. They placed the law in the hands of those who were directly interested in its enforcement, without which we have reason to suppose that it might have been nearly a dead letter upon the statute book.

When the lands came into market, and speculators and other buyers made their appearance, the settlers naturally became suspicious of their motives, and these suspicions were founded on some practical reasons. Many of the settlers had made improvements on their claims, and valued them accordingly. In case they were not prepared to enter them, they did not wish to part with them for less than what they deemed them worth. Yet these claims were subject to entry, and as there was no law forcing the purchaser to pay more than the $1.25 per acre he paid to the government, it depended upon his magnanimity whether he would pay more or not. Some men cannot afford to be magnanimous without the authority of law. They cling to the letter of it so long as it suits their convenience; and it did not suit the convenience of some of these speculators to pay twice for the same property. The little cabin that constituted the poor settler's home, and the ground on which he had cultivated a few crops of corn and vegetables, and the fence that enclosed them, were of much greater value in the estimation of the occupant, than of him who might have been already the possessor of large landed estates, and who could easily secure other tracts equally as good, and unoccupied, a little farther west. If he entered the land regardless of the settler's rights, and refused to pay him what was deemed a just compensation for his labor, or indeed anything, the only remedy was the club law; and, as intimated in some of the resolutions just quoted, it was

somewhat dangerous to disregard its authority. An instance of this will be the subject of another chapter.

As appears in one or two resolutions, differences between settlers relative to claims, were settled by arbitration. All decisions by such a court were considered final. There was no other, neither above nor below it, to appeal to. In case either of the contending parties should refuse to submit to the decision of the arbitrators, and continued to make himself troublesome about the matter, his case was submitted to Judge Lynch, where it was apt to end. Any claim holder not a member of a club, was not entitled to the benefits thereof; and, further,— though perhaps not a universal rule,— any such person positively refusing to subscribe to, or comply with, the rules and regulations of a settlement, as set forth in its By-Laws, thereby indicating an opposition to them, was subjected to a species of ostracism difficult to endure in any country, much less in a new and sparsely settled district, where the conveniences of social intercourse were occasionally felt to be indispensable. Against such an offender "non-intercourse" was declared, which withheld from him all aid and comfort, either in sickness or in health. Such a punishment was apt to be severely felt, and, sooner or later, would bring the rebellious individual to terms.

But strict fidelity to the facts of history will not permit us to say that the spirit of monopoly was confined entirely to speculators. Many settlers were not content with the amount of land the law entitled them to, but made pretended claims to so large a portion of the territory that, in some instances, it was difficult for a buyer to find an unclaimed lot. Of course such claims were without improvements, but the pretended claimants, by representing themselves as the real owners thereof, would frequently impose upon some unwary buyer, or, by threats, extort from him sums, varying in proportion to the supposed value of the claim, or whatever sum could be obtained. For an instance of this, part of the land on which the author resides was once a pretended claim, for which the present owner was compelled to pay a small sum, he having

entered it after learning by due inquiry that it was unoccupied. In this case, the club followed him and another individual named Brown, who was charged with a similar offense, as far as Oskaloosa. Brown stubbornly refused to comply with their demands, and went his way, whilst J. C. Donnel, who had offended to the amount of eighty acres, satisfied the claimants, for the time being, with a note of hand for thirty-five dollars, the half of which was afterwards paid upon compromise of the parties. Judgment had been rendered for the whole by J. D. Bedell, justice of the peace, at Red Rock, but rather than carry the case to the district court, each agreed to divide the difference, and pay his own cost.

We mention this case somewhat particularly, because it was about the last demonstration made by the club, which soon after mutually abandoned its organization, as a thing no longer needed in the eastern part of the county. This was in 1848.

CHAPTER VII.

The Majors' War.

But perhaps the most notable event connected with claim troubles, occurred just previous to the date mentioned at the close of the last chapter, and as such deserves a full account, under the above title, by which it has ever since been known.

Some time during the year 1844, a family by the name of Majors immigrated from the state of Illinois, and settled in the western part of what is now Mahaska county, and formed what was known as the "Majors' Settlement."

This family consisted of five brothers, two sisters, and their mother, a widow. One of the sisters was also a widow, and had two sons eligible to secure claims. In all, there were ten persons, each of whom claimed three hundred and twenty acres of land, amounting in the aggregate to five sections.

Having secured their claims, they were among the first to organize a club in that settlement, and adopt rules and regulations for the government and protection of claimants. But in 1847, when the land sales opened, one of the brothers, Jacob H. Majors, who seems to have acted as agent for the

family, entered all their claims; after which, having abundance of means at his disposal, he proceeded to enter some timbered claims, belonging to John Gillaspy, Jacob Miller, and Peter Parsons. His plea was that he did not know they were claims; but, after being informed that they were, he still evaded making restitution according to the rules of the club.

When the report of these transactions spread abroad, it created no little excitement among the settlers, based upon fears for the fate of all their claims. That the Majors were a wealthy family, seemed now unquestionable; and, if not checked in their strides toward a land monopoly, they might continue them, to the ruin of many settlers; and their example might embolden others to do the same, and thus neutralize the real purpose of the claim law.

In view of this alarming state of things, the clubs convened, and passed resolutions denouncing the conduct of Jacob Majors, and decided upon a concerted movement to force him to deed back the claims above mentioned, should he refuse, after being duly admonished to do so. It was supposed he had many friends, who might back him in a refusal, and show some hostility in his defense; and this was the cause of the general uprising of the settlers in behalf of their rights. The central committee sent word to the various clubs, requesting them to meet at the residence of Jacob H. Majors, for the purpose of inducing him to make the required settlement.

At the time specified for this meeting, the exact date of which we have not been able to obtain, a large number of people collected there, and remained all day, awaiting the return of Majors, who was at Oskaloosa, attending the county commissioners' court, as a member of that body. A message had been sent him, desiring his presence for the purpose above stated; and it was supposed that he would make his appearance in the evening.

During the day the crowd was increased by fresh arrivals, and no little excitement prevailed on learning that the offender was absent, and that doubts were entertained of his return that night, and of his willingness to comply with the demand

for settlement. In order to induce him to come home, he was informed that if he did not appear before sunrise the next morning, his property would be destroyed. When night came without bringing the incorrigible Majors, after having sent the above threatening notification, it was evident that something more than gentle coercion would be necessary to bring him to terms.

At night some of the company went home, but the most of them remained, and camped on the ground, to see what would be the result; though we are informed that it was not the design of most of them to execute the threat. And it is quite probable that Majors also regarded it as a mere threat, believing that no one would dare to render himself liable to punishment, for a crime of such a grave character, and he therefore resolved to risk it.

But early in the morning the log stable was discovered to be in flames; and soon after, the corn cribs and other granaries, all of which were consumed, with their contents. There was no live stock in the stable, but a number of hogs were either burned, or killed, by the more excitable members of the mob, who were not disposed to make idle threats.

Majors, now hearing that his property was being destroyed, sent a promise that he would deed the land back to the claimants; and under this promise the settlers dispersed to their homes.

But in a few days, Mr. M. having reconsidered his promise, not only failed to fulfill it, but had warrants issued for the arrest of some of the more prominent leaders of the mob. Peter Parsons was arrested and taken to Oskaloosa, and the report went abroad that he was in jail there, and that the sheriff of Mahaska county was in pursuit of about fifty others, against whom indictments had been filed, among whom were George Gillaspy and John B. Hamilton.

All this was calculated to arouse the indignation of the people to a degree that rendered it unsafe for Majors to remain at home, and he found it prudent to keep out of the way of the settlers as much as possible. Hereupon the settlers called

another meeting, to rendezvous at Durham's Ford, and from thence to go to Oskaloosa, release the prisoners, and punish Majors. It was late on Saturday when the summons came. Next morning a large number collected at Knoxville, armed and equipped, and resolved to stand by the settlers' rights at all hazards. A flag was prepared, showing the "stars and stripes," and inscribed in large letters, "Settlers' Rights."

This company reached the neighborhood of Durham's Ford that day, and remained there till the next, some camping out, and some putting up at the houses in the neighborhood. Here large accessions were expected, which came in that evening and the next morning, from both counties, some on horseback, and some in wagons, swelling the number to about five hundred. When all were together, and organized in a kind of military order, with arms, flag, fife, and drum, they presented a somewhat formidable appearance. To render it still more so, and to make an impression that would be the more likely to secure the object of the expedition without serious difficulty, the horsemen were drilled as cavalry, by a Mr. Mulkey, who had seen some service in the Mexican war.

Thus the army marched into Oskaloosa, reaching that place at about the time the prisoner was to be tried. The arms were deposited in the wagons, under guard, and infantry and cavalry formed in the public square. When this formidable demonstration was observed, and its object made known, the trial of Parsons was indefinitely postponed, and he was released without bail, though he had not been confined in jail, as was at first reported.

I. C. Curtis, more recently a citizen of Pella, as spokesman for the settlers, stated the object of the visitation, and was answered by a Mr. Harbour, of Oskaloosa, in behalf of the authorities. Then followed other speeches and replies, that consumed the afternoon, and tended, and probably were intended, to kill time, and thus give excitement a chance to cool, rather than to effect any definite compromise.

During all this time Majors was there, but invisible to those who most desired to see him. But in the evening he again

promised to comply with the demands of the settlers, and next morning redeemed his promise by furnishing deeds to those persons whose land he had entered. Whereupon the army disbanded, and returned home.

This, then, was regarded as a treaty of peace — a final conclusion of the war. It was all that had been contended for. But Majors was not satisfied with such a conclusion. He was in a rage, considering himself a persecuted man, and the fire of revenge thus kindled in his breast rendered him rash, and regardless of consequences. A mob had followed him, destroyed his property, and forced him to surrender. The law was, therefore, evidently in his favor, and to the law he would appeal. Though the offense of Majors was such as to demand redress, and his persistent refusal to grant it voluntarily rendered compulsion the only means that could be employed for that purpose, yet, as a means unauthorized by civil law, the uprising could hardly be dignified by a better term than *mob;* but we are not prepared to say that in all cases a stigma should attach to the term; and reason will back us up in the conclusion that, in the absence of any civil law to right a flagrant wrong, *mob law is right.*

Not long after this, Majors made preparations to bring the matter into court, but such was the unpopularity of his course, that it was found almost impossible to secure the arrest of persons indicted. Just previous to this, John M. Jones, who was, politically, on the winning side, was beaten in an election for sheriff of Mahaska county, solely because he was a friend of Majors. The officer who was authorized to make the arrests, was kind enough, whenever he conveniently could, to notify the intended prisoners when he should call for them, and consequently, when he did call, they were often absent, and their whereabouts unknown.

Majors was repeatedly advised not to appear against them, but he persisted in so doing, and thereby subjected himself to the accumulated wrath of his enemies. He having added insult to insult, they were now determiued to punish him at all events. For this purpose a select company was sent in search

of him, with orders to seize him wherever he could be found, and convey him to Knoxville. Majors, conscious of his danger, did not remain at his home, but frequently stayed at Dr. Buyer's, a few miles south-west of Oskaloosa. To this place the detachment went, but not finding him there, they continued the search till they discovered him in Hallowell's saw mill, near the mouth of Cedar creek, a little south of Bellefontaine. He was at work in the mill, sawing his own lumber, and it was observed that he kept a gun near him, and carried it with him as often as he had occasion to leave the mill, if only for a moment. Thus it was evident that great caution was requisite to effect his capture without serious consequences. To this end the men secreted themselves near by, and sent one of their number, who was an entire stranger to him, to decoy him out, if possible, or throw him off his guard, till the others could steal in and seize him. The plan proved quite successful. Majors was soon engaged in conversation with his visitor, who had come to inquire after estray horses, in the meantime getting between the former and his gun, without exciting any suspicion.

Now was the crisis! Ere the victim was aware of the presence of another person, he felt himself seized by strong hands and carried out of the mill. As speedily as possible they placed him upon a horse, tied him on, and then set out for Knoxville. On their arrival here another select committee took charge of the prisoner. They were blacked, so that their identity could not be easily ascertained; and to this day, but few of those known to the circumstance can give their names. Perhaps for prudential reasons, this is kept a profound secret, for Majors still lives in Missouri, and might yet be disposed to avenge the insult he was then made to suffer.

By this committee he was taken about a mile north of town, at, or near the present site of the county fair grounds, where a preparation of tar and feathers was in waiting. Here they stripped him of all his clothing, and applied a coating of the tar and feathers to his naked body. Over this they drew his clothing, and then completed the job by adding another coat

ing of the same materials, giving to the wearer a very portly appearance. He was then permitted to go his way, with the admonition never to repeat the offense for which he had been thus severely punished.

Instead of taking a more private route homeward, to avoid being seen in his ridiculous plight, he passed directly through Knoxville, and took the most public road thence to his place. It was sometime during the night when he reached home, and in order to avoid frightening his family unnecessarily, he stopped at some distance from the house and called to them; and when he had thus aroused them he informed them of his condition.

Sometime afterwards Majors made another attempt at prosecution, but was unable to bring his case into court for the reason that the court house was guarded at about the time set for trial, and everyone, lawyers and witnesses, known to be for the prosecution, were egged away when they attempted to enter. Thus foiled again, he abandoned the case finally.

Not long after this the family sold their possessions and moved away.

Since the above was written, the following additional account appeared in a communication to the Voter:

"After receiving the generous coat of tar and feathers, Majors was indefatigable in his efforts to prosecute and convict the leaders in the various raids against him. The state of feeling, as exhibited in the late proceedings in the vicinity of Knoxville, affording but little prospect of success in Marion county, he resorted to the courts of Mahaska, where he fancied a more favorable tone of public sentiment existed. After a number of failures, he finally succeeded in obtaining bills of indictment against a number of individuals who had been disturbers of his peace during the claim difficulties.

"A young man named Bush, was among those indicted. Bush had incautiously allowed himself to be arrested, against a well understood arrangement, and entered into bonds to appear at the term of court then next ensuing at Oskaloosa. Notwithstanding this violation of the rules by Bush, his friends

resolved to stand by him, as they were solemnly pledged to aid and assist their friends in every emergency growing out of their difficulties.

"Accordingly they arranged matters for the approaching trial. One of their number, who very strongly resembled Bush in personal appearance, was chosen to represent him during the trial of the case. This was a bold step, but they ventured upon it.

"At the sitting of the court, Bush and his substitute were surrounded by their friends. When the case was called, the pretended Bush responded, took his seat in the criminal box, and plead "not guilty" to the indictment; but when, in the progress of the suit, it became necessary to identify the criminal at the bar as the real offending Bush, the similarity between the two individuals became at first embarrassing and then inexplicable, and caused no little delay in the proceedings; and the court finally lost its temper, and dismissed the case. The ruse was a success, and the case was literally laughed out of court, to the utter confusion of Majors and his attorneys, who were unprepared for this sharp practice.

"At this unlooked-for failure when everything had promised success, Majors became mortified, chagrinned and discouraged, and gave up in despair. He made no further efforts to prosecute the matter, being convinced of the impossibility of procuring a conviction in a community where the hand of every man was arrayed against him. He soon after 'left the country for his country's good.' Finding kindred spirits in Missouri, he sought a home among them, where he still resides.

"It is by no means certain that the court, bar, or spectators of the trial, ever became aware of this ruse. It was known only to the initiated. B."

CHAPTER VIII.

FIRST ELECTION — FIRST POLITICAL CONVENTION — NAME PROPOSED FOR THE COUNTY — ORGANIZING ACT.

At the time of its first settlement, the territory now embraced by Marion county belonged to, and was under the ju-

dicial jurisdiction of, Washington county, together with the counties of Mahaska, Keokuk, Warren, and all other territory west of it, so far as the purchase extended. Washington was then the most western organized county in the same belt now included in the above named counties, and was, therefore, necessarily their seat of justice, and the authority from whence they derived such temporary organizations as were needed for election and judicial purposes.

In 1843, several election precincts were organized by authority of Washington county, extending through these sparsely settled districts, and one of them (perhaps the most western) included a large portion of Marion. This was called "Lake Precinct," and the election came off on Lake Prairie, on the first Monday in October, 1843. In 1844, three or four precincts were established in the county, and another election was held on the first Monday in April of that year. This was on the occasion of the organization of Mahaska county, and Stephen Druilard, who lived on White Breast Prairie, was elected as one of the county commissioners for that county, of which Marion was made an attached part, as it had been to Washington. At that election each precinct also elected two justices of the peace, and two constables, to serve until the August election of that year, the names of whom we have not been able to obtain. The last elections held in connection with Mahaska county, were in April and August, 1845.

In the spring of 1845, a movement was made to secure a separate county organization. A meeting, or convention, composed of a few of the more prominent citizens of the county, interested in the movement, was held at the house of Nathan Bass, on Lake Prairie.* The following named persons were present: Lysander W. Babbit, George Gillaspy, Reuben

*The cabin at which this meeting was held, stood on the north bank of the Des Moines river, in the north-west corner of section 19, township 76, range 18, now Lake Prairie township. It has long since disappeared, and repeated freshets have washed away the bank for several rods inland from where it stood. Mr. Van Lent, a Hollander, now owns the land then claimed by Mr. Bass. We are thus particular, because it may interest the reader to be able to find upon the map, or know when he passes it, a place rendered in some degree memorable by the scene of the first political movement in the county, looking to its distinct organization.

Matthews, Homer Matthews, David T. Durham, Nathan Bass, Joseph Druilard, John Williams, Levi Bainbridge, Isaac N. Crum, Simon Druilard, John W. Alley, and a few others. The meeting was organized by the appointment of Simon Druilard, chairman, and John W. Alley, secretary.

One object of the meeting was to propose a name for the county, and another was to recommend some person to act as organizing sheriff, subject to appointment by the legislature; also to choose some of the candidates for county offices, to be voted for at the first election to be held for that purpose, the time of which was designated by the organizing act, a complete copy of which will be given in this chapter. But perhaps the most important object of the meeting was to influence a river location for a county seat. The residences of most of the above named citizens were along the river and in its neighborhood, and consequently their interests had much to do with whatever influence they could lawfully exercise to secure its location on the river. Red Rock was once an aspirant for the honor of being the seat of justice, and contended for it on the ground of its location on the river, by the navigation of which she would have the advantage of commercial communication superior to any inland location. This argument might have secured her the place, but for the overwhelming fact that the town plat was occasionally found to be below high water mark. Evidences of floods that covered the place to the depth of several feet, at some remote period, are still visible upon the bark of the trees. In the spring of 1849 the town was nearly covered, and again in 1851 it was subjected to an overflow that forced the inhabitants to leave it.

This object of the meeting was opposed by the inhabitants of other parts of the county, who derisively gave it the name of "Cornstalk Convention." Perhaps this was partly suggested by the fact of immense crops of corn being produced on the rich bottom prairies along the river.

After the meeting was organized, several names were proposed for the new county. The president offered *Nebraska;* L. W. Babbit, *Pulaski;* Reuben Matthews, *Center;* after

which, Mr. Bainbridge spoke at some length on the fitness of names, denouncing the too common custom of honoring foreigners and noted Indian chiefs, by giving their names to our states, counties, and towns, and concluded by proposing MARION, the name of a distinguished patriot of the War of Independence, as the most suitable one that could be chosen. The proposition was seconded, and adopted by a unanimous vote.

A vote was then taken on the choice of a candidate for organizing sheriff, and the choice fell upon Joseph Druilard.

Immediately after the convention, petitions were circulated and sent to the legislature, proposing the name of the county as chosen by the convention. By private letter, also, directed to S. B. Shelledy, representative from Mahaska,* George Gillaspy was recommended for sheriff. But, for some reason, that body disregarded the applications of the people for the appointment of either of the above named candidates, and appointed William Edmonson, the then sheriff of Mahaska county, to the post of organizing sheriff of Marion.

Having obtained the above facts by much labor and research, revising and correcting from time to time, as additional information rendered it necessary so to do, in order to arrive at the correct and connected details, we here introduce—

"AN ACT

"TO ORGANIZE THE COUNTY OF MARION.†

*During that session Mr. Shelledy introduced a bill for the partial organization of two tiers of counties, designating their boundaries, and applying their names. Four of these counties, Webster, Story, Madison, and Warren, still retain the names then given them.

†The following is an extract from the journal of the council of the seventh general assembly, dated May 5, 1845, giving the proceedings of that body upon this act, just previous to its passage:

"Mr. Selby, from the committee on the Judiciary, to which was referred,—
"No. 61, H. R. file, A bill to organize the county of Marion,
"Reported the same back to the council, with amendments.
"To which the council agreed.
"On motion of Mr. Coop,
"The 13th rule was suspended, and the bill was read a third time.
"A motion was made by Mr. Hempstead,
"That 'Marion' be stricken out, and the word 'Polk' inserted.
"Which passed in the negative.
"Yeas 4—nays 8.
"The yeas and nays being demanded,

"SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, That the following shall constitute and be the boundary of a new county, to be called MARION; to-wit: Beginning at the north-west corner of Mahaska county, and running west on the township line dividing townships seventy-seven and seventy-eight, north, to the north-west corner of township seventy-seven, north of range twenty-one west, thence south to the south-west corner of township seventy-four, north of range twenty-one west, thence east along the township line dividing townships seventy-three and seventy-four north, to the south-west corner of Mahaska county, thence north along the range line dividing ranges sixteen and seventeen, to the place of beginning.

"SECTION 2. That the county of Marion be, and the same is, hereby organized from and after the first Monday in August next, and the inhabitants of said county shall be entitled to the same privileges to which, by law, the inhabitants of other organized counties of this territory are entitled.

"SECTION 3. That for the purpose of organizing said county, it is hereby made the duty of the clerk of the district court of said county, and in case there should be no such clerk appointed and qualified, or for any cause said office should become vacant on or before the first Monday in August next, then it shall be the duty of the sheriff of Mahaska county to proceed immediately after the first Monday in August, to order a special election in said county, for the purpose of electing three county commissioners, one judge of probate, one county treasurer, one clerk of the board of county commissioners, one county surveyor, one county assessor, one sheriff, one coroner, one county recorder, and such number of justices of the peace and constables as may be directed

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"Those who voted in the affirmative were — Messrs. Abbe, Hempstead, Summers, and Mr. President.

"Those who voted in the negative were — Messrs. Bradley, Brattain, Brierly, Coop, Lefler, Selby, Stephenson, and Thompson.

"The bill was then passed,

"And its title agreed to.

"Ordered, that the secretary acquaint the house of representatives therewith.

by the officer ordering the same, he having due regard for the convenience of the people, which special election shall be on the first Monday in September next; and that the officer ordering said election shall appoint as many places of election in said county as the convenience of the people may require, and shall appoint three judges of election for each place of holding in said county, and issue certificates of their appointment; and the officer ordering said election shall give at least ten days notice of the time and place of holding said election, by three advertisements, which shall be posted up at three of the most public places in the neighborhood, where each of the polls shall be opened.

"SECTION 4. That the officer ordering said election (aforesaid) shall receive and canvass the polls, and grant certificates to the persons elected to fill the several offices mentioned in this act; the officer ordering each of said elections shall discharge the duties of a clerk of the board of county commissioners, until there shall be one elected and qualified for said county.

"SECTION 5. Said election shall, in all cases not provided for in this act, be conducted according to the laws of this territory regulating general elections.

"SECTION 6. The officers elected under the provisions of this act shall hold their offices until the next general election, and until their successors are elected and qualified.

"SECTION 7. The officer ordering the election in said county shall return all the books and papers which may come into his hand by virtue of this act, to the clerk of the board of county commissioners of said county forthwith, after said clerk shall be elected and qualified.

"SECTION 8. That it shall be the duty of the sheriff of Mahaska county to perform the duties required by this act, until the first Monday in September next, and until a sheriff shall be elected and qualified for said county of Marion, and the said sheriff shall be allowed the same fees for services rendered by him under the provisions of this act, that are allowed for similar services performed by the sheriff in similar cases.

"SECTION 9. That the clerk of the district court of said county of Marion may be appointed by the judge of said district, and qualified at any time after the passage of this act, but he shall not enter upon the duties of said office prior to the first day of August next.

"SECTION 10. That all actions at law in the district court for the county of Mahaska, commenced prior to the organization of the said county of Marion, where the parties, or either of them, reside in the county of Marion, shall be prosecuted to final judgment or decree, as fully and effectually as if this act had not passed.

"SECTION 11. That it shall be the duty of all justices of the peace residing within said county, to return all books and papers in their hands, appertaining to said office, to the next nearest justice of the peace which may be elected and qualified for said county, under the provisions of this act, and all suits at law which may be in the hands of such justice of the peace, and unfinished, shall be completed or prosecuted to final judgment, by the justice of the peace to whom such business or papers may have been returned.

"SECTION 12. That the county assessor elected under the provisions of this act for said county, shall assess the said county in the same manner, and be under the same obligations and liabilities, as now is, or may hereafter be, provided by law, in relation to the county assessor.

"SECTION 13. That Ezra M. Jones, of Van Buren county, Joseph Robinson, of Scott county, and James Montgomery, of Wapello county, be, and they are, hereby appointed commissioners to locate and establish the seat of justice of Marion county. Said commissioners, or a majority of them, shall meet at the house of Wilson Stanley,* in said county, on the second Monday in August next, or at such other time in the month of August next as may be agreed upon by them, in pursuance of their duties under this act.

*The residence of Wilson Stanley was on Lake Prairie. Ezra Jones failed to meet the other commissioners.

"SECTION 14. Said commissioners shall first take and subscribe to the following oath, or affirmation; to-wit: 'We do solemnly swear (or affirm) that we have no interest, either directly, or indirectly, in the location of the county seat of Marion county, and that we will faithfully and impartially examine the situation of said county, taking into consideration the future, as well as the present population of said county, and that we will take into consideration the best interests of the whole people of the county, and that we will not be influenced by any fee or reward, or any promise thereof'; which oath shall be administered by the clerk of the district court, or by some justice of the peace of said county of Marion, and the officer administering the same shall certify and file the same in the office of the clerk of the board of county commissioners of said county, whose duty it shall be to record the same.

"SECTION 15. Said commissioners, when met and qualified under the provisions of this act, shall proceed to locate the seat of justice of said county; and, as soon as they have come to a determination, they shall commit to writing the place so selected, with a particular description thereof, signed by the commissioners, in which such seat of justice is located, whose duty it shall be to record the same, and forever keep it on file in his office, and the place thus designated shall be the seat of justice of said county.

"SECTION 16. Said commissioners shall receive the sum of two dollars per day, while necessarily employed in the duties assigned to them by this act, and two dollars for each twenty miles travel in going and returning, to be paid out of the first funds arising from the sale of lots in said seat of justice.

"SECTION 17. The county of Marion shall form a part of the second judicial district, and it shall be the duty of the judge of said district to hold one term of said court in the same, on the twelfth Monday after the first Monday in March, in each year.

"SECTION 18. This act to take effect and be in force, from, and after its passage.

"(Signed.) "JAMES M. MORGAN,
"*Speaker of the House of Rep's.*
"S. C. HASTINGS,
"*President of the Council.*

"Approved June 10, 1845.
"JOHN CHAMBERS, *Governor.*"

(To be continued.)

A SCENE IN THE EARLY HISTORY OF IOWA.

BY ELIPHALET PRICE.

Few individuals are aware of the many ludicrous and amusing scenes that were wont to transpire almost daily in the land office at Dubuque, during the early period of its location at that place, which are to be attributed to a want of a knowledge of the laws of congress regulating the disposal of the public domain, and prescribing the metes and bounds of its sub-divisions by ranges, townships, and sections. There perhaps has been no person who has ever acted in the fiduciary character of register of that office, who was more esteemed and more extensively acquainted with the settlers upon the public domain than Colonel Thomas McKnight, being one of the early pioneers of Dubuque, who had realized, in common with the first settlers of the country, many of the hardships and privations incident to a frontier life. His sympathies and friendship in consequence, were always warmly enlisted upon the side of the settler, whenever the entry of his home was threatened by a speculator, or endangered by the grasping desire of a neighbor to extend the area of his possessions. His social qualities, politeness, and good humor, always secured for him a visit from the farmer whenever business brought him to town.

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