



RAY P. SCOTT
President Iowa Pioneer Lawmakers Association
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IOWA PIONEER LAWMAKERS ASSOCIATION

BY ORA WILLIAMS, Secretary

Former members of Iowa general assemblies, state officers and persons associated with them in the state government, met at the state capitol in Des Moines on February 24, 1886, and organized the Iowa Pioneer Lawmakers Association, and regularly since have held biennial sessions.

On February 24, 1943 there assembled a similar group in the same place holding the Twenty-eighth biennial reunion. The morning session of the association convened in the portrait gallery of the State Historical department on the second floor of the State Historical building and the afternoon session in the House Chamber in the state capitol, in conjunction with a joint meeting of the two houses of the Fiftieth General Assembly.

The features of the reunion were a forceful address by the president, Ray P. Scott, judge of the superior court of Marshalltown; the presentation to the Historical department of oil portraits of General Mathew A. Tinley of Council Bluffs, and of the late Justice Horace E. Deemer of Red Oak; addresses before the General Assembly by Colonel Claude M. Stanley, former senator; Francis Johnson, former speaker of the House, and Frederic F. Faville, former justice.

The members who registered were as follows:

Banta, George S.....	Manchester	S 39, 40, 40	Ex G. A.
Bradley, Edmond J....	Eldon	R 35	
Brockway, J. M.....	Des Moines.....	R 34, 35	
Clarkson, John T.....	Des Moines.....	S 33, 34, 35, 36	
Cosson, George.....	Des Moines.....	S 33	
English, Emory H.....	Des Moines.....	R 29, 30, 31	
Findlay, C. V.....	Fort Dodge.....	R 37, 38, S 39, 50	

Francis, Leslie E.....	Des Moines.....	S 33, 34, 35, 36
Garber, Frank A.....	Leon	R 37, 38
Larson, E. A.....	Red Oak	R 37, 38, 39
McCulloch, Fred.....	Belle Plaine.....	R 39
Mantz, H. J.....	Audubon	R 37, 38, S 39, 40, 40Ex.
Narey, C E.....	Spirit Lake.....	R 39
Olson, John.....	Calamus	R 39, 40, 40Ex.
Parker, Addison M..	Des Moines.....	S 36, 37, 38, 39
Rankin, John M.....	Keokuk	R 39, 40, 40Ex, 41
Reed, Carl W.....	Cresco	S 38, 39, 40, 40Ex, 41
Saberson, H. T.....	Des Moines.....	R 24, 25
Schulte, H. H.....	Manly	R 39, 40, 40Ex, 41
Scott, Ray P.....	Marshalltown	R 38, S 39, 40, 40Ex
Smith, I. A.....	Independence, Mo.	R 34
Titus, G. M.....	Muscatine	S 27, 28
Van Alstine, H. S.....	Gilmore City.....	S 37, 38, 39
Van Camp, G. W.....	Greenfield	R 34
Vance, Walter H.....	Winterset	R 38, 39
Wamstad, Brede.....	Osage	R 39, 40, 40Ex, 42, 42Ex, 43, 44, 50
Houghton, Jr., Mrs. H. C.	Red Oak Daughter of Horace E. Deemer, former justice of Iowa Supreme Court	
Stevens, Truman S....	Des Moines Former justice Iowa Supreme Court	
Williams, Ora.....	Des Moines Curator, Dept. of History & Archives Former Document Editor	

The transportation shortage cut the attendance, but several were present who did not register.

Upon calling the reunion to order, President Scott reported that the Governor, who was to have welcomed the association, had just returned from an eastern trip and would appear later. He, therefore, asked Ora Williams, the secretary, and Curator of the Department of History and Archives, to extend greetings. This was done briefly referring to the gallery of eminent Iowans whose portraits are displayed, and to the fact that a very eminent portrait painter,¹ on his last visit here had said to the curator:

GREETINGS FROM THE CURATOR

"The State of Iowa ought to be congratulated. You have here one of the finest collections of portraits of

¹Tribute by Willbur A. Reaser, reared in Fort Dodge, an eminent portrait artist, on a visit to the Iowa portrait gallery in 1940, at which time he left with the curator a portrait of Senator J. P. Dolliver and another of J. D. Edmundson. Portraits of Henry Wallace and James Wilson were made by him and are in the possession of the state.

state makers in the United States. I know of not more than one, or possibly two others, that are the equal of that which Iowa has in this room."

Secretary Williams continued:

"I appreciated the compliment, not for myself but for Iowa, for it was something with which I had little to do. My predecessors as curator of the Historical Department did a splendid job. Here you will find portraits of a hundred or more men and women prominent in Iowa affairs in the past century. So the public may get the most out of a visit here, we have made available a fine catalogue of these portraits and their painters. We want the people of Iowa to become history conscious through familiarity with the history of Iowa and the achievements of her men. I miss one picture that should be here, the portrait of Judge James L. Mitchell,² prominent in Iowa and Nebraska, whose tragic ending came during an address at the first reunion fifty-seven years ago. I was present and witnessed that sad event. I am sure that Mr. Aldrich tried to secure his portrait.

"It was a very notable group which attended that first reunion when this Association was organized. Some had been in the territorial legislature and some in the constitutional conventions. The State, as such, was not quite forty years old; the pioneering period was very close. So you will see that this association has quite an interesting history and tradition."

PRESIDENT'S ADDRESS

President Ray P. Scott, judge of the municipal court at Marshalltown, a former member of the House and of the Senate, then delivered the president's address as follows:

INDEPENDENT LEGISLATIVE AND JUDICIAL GOVERNMENT

When the Constitutional Convention was called in

²Judge James L. Mitchell, member of the Ninth General Assembly, wounded while a member of the Twenty-ninth Iowa, member of the Nebraska General Assembly and district judge, fell to the floor of the House and died instantly while addressing the joint assembly as a member of the Iowa Pioneer Lawmakers association, February 24, 1886.

1787 to frame a new form of government for this country, the Republican form was an untried experiment. Men had dreamed throughout the ages, of a country where the great mass of the people would have a voice in selecting the men who were to conduct the affairs of state, but all attempts made, as a result of those dreams, came to nothing. They were either crushed by outside forces or broken asunder from internal dissensions.

It was the executive who was always feared, for so often in other countries he had turned out to be a tyrant, that they had good reasons to distrust him. For many years, the Republic of Rome had two consuls with equal powers, as they were afraid that one would proclaim himself king. In spite of all these precautions, a king did mount the throne and blood-thirsty tyrants reigned for hundreds of years.

Under our Articles of Confederation, there was no executive, but a committee of congress exercised some of those functions and made as poor a job of it as could well be imagined. Opinions differed widely about what should be the powers of the executive. Some feared that he would be too powerful and would crush out all liberty, while others realized that unless there was a strong central government, it would soon be torn asunder by internal factions.

They finally agreed, that the people were not capable of electing an executive, so they provided that the voters would select electors, who should choose proper men for the positions of president and vice president. This plan was carried out during Washington's two terms, but as soon as political parties were organized, the choosing by the electors was abolished in practice. Now, the electors are nominated by each political party and they always vote for the nominees of their party without exercising any discretion in the matter. So the Constitution has been changed in practice, though not in wording.

The president of the United States is the most powerful executive in the world. No modern monarch or prime

minister has had the power that even approaches that of our president.

He is the commander in chief of the army and navy. He may grant reprieves and pardons, he appoints ambassadors, ministers and consuls, judges of the Supreme Court and all other officers of the United States, whose appointments are not otherwise provided for. When you reflect that this includes thousands of the highest officers we have, you realize that the powers and the responsibilities of the president are very great.

There was very little fear in the minds of the delegates to the Constitutional Convention, concerning the powers of the legislative branch of the government. The members had to go back to the voters so often for re-election, there was not much show for them to usurp powers.

The judicial branch of the government worried the constitutional committee the least of any. The following is the language of the constitution which established the United States courts:

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour; and shall at stated times, receive for their services a compensation, which shall not diminish during their continuance in office.

When the Supreme Court was established, no one thought of it overthrowing a law of congress, but now it may declare a law unconstitutional, thereby rendering it powerless. It has thus become the more powerful of the two departments of government, outside of the executive branch. The Supreme Court is presumed to be non-partisan, but in spite of that, its opinions have reflected the doctrine of the party to which the members belong.

From this brief review of the three departments of government, we get some idea of the monumental task performed by the men who framed the constitution during the summer of 1787. They produced what Gladstone called "The most wonderful document ever conceived by the mind of man."

Every American should know the story of the manifold functions of his government. It can but make him a better citizen and prouder than ever of his birthright. And every alien who comes to these shores should be taught the story, for nothing could do more toward fitting him for citizenship. It is a well recognized fact, that this country is no longer a melting pot in the sense that it was during the first 50 years of the life of the republic. During that time, the peoples who came from other countries were attracted here, in most part, through their desire to enjoy the blessings of freedom, liberty, and justice in a larger measure than was possible in their native lands. Upon their arrival they began to learn our language and to study our form of government. Their highest ambition was to become assimilated and to lose their distinctive foreign characteristics, as rapidly as possible. Their success produced the typical American.

In more recent years, however, there has been a great change, not only in the character of the peoples who have come here from other countries, but more so in their habits and customs after their arrival. Instead of casting off their old traditions and native characteristics as their predecessors did, they have become congregated in distinctive groups, for the very purpose of perpetuating the same modes of life to which they were accustomed before they came to the United States.

They continue to speak and read their native languages, they make little or no effort to familiarize themselves with our form of government, and it goes without saying that their ignorance of it, inevitably, will breed unrest, prejudice and discontent—fertile soil for the seed sown by agitators and apostles of change, who would supplant our time-tried institutions with political vagaries and half-baked economic theories. The foreigner who understands the government of the United States will not become its enemy.

Through all the ages, humankind has struggled constantly against the tyranny of despots or the savagery

of mobs. The American government was born out of the agonies and the aspirations of the oppressed, and consecrated to liberty, to equality and to justice. It is a government for the people. Its institutions are enduring, its principles imperishable.

Governments derive their just powers only from the consent of the governed—never from one man or nine men or 531 men, but from the whole people.

The American people for 150 years, have been governed under a compact of specific and enumerated powers. This compact provides checks and balances against abuse of power by any one of the three departments of government.

Government in its best sense, is the art of adjustment of the majorities and minorities in an organized society. The constitution of the United States is the finest document designed by the mind of man, to adjust minority and majority viewpoints, in a free republic.

Disregard of minorities in other countries and in our own, has produced revolution and bloodshed throughout world history. Failure of statesmanship to adjust the minority and majority viewpoints in America, gave us a tragic war between the States in 1861, after 40 years of debate.

Today we have a conflict of view, which goes to the root of constitutional government itself.

Normal relationships among the three coordinate branches of the federal government, have been almost destroyed.

Increased responsibilities of the executive branch, at the expense of the legislative, form one of the distinguishing characteristics of the new pattern of government. It represents a distinct departure from the American form of government prescribed by the constitution.

First excused under a plea of emergency, the extraordinary powers remain in effect, despite partisan assertions that recovery has been accomplished. The exe-

cutive branch persists in its efforts to dominate the legislative, and to appropriate its constitutional prerogatives.

Obliteration of the constitutional dividing lines between coordinate branches, lays the foundation for a potential dictatorship. The destruction of the checks and balances in the division of powers, is part of a movement toward centralized government.

Following are significant facts with respect to the increased executive authority:

Legislative power, far beyond any in the past, has been delegated to the executive branch of the government in more than a dozen important laws, virtually all of which, except as nullified by the Supreme Court, remain in effect.

Control of industry, agriculture and the monetary system has been attempted by executive agencies along lines unchartered by statute.

Delegation of legislative power to the executive, has even invaded fields reserved to the States under the constitution.

The Supreme Court, until recently, has been emphatic in condemnation of the unrestricted delegation of legislative power, in such instances as have reached a final adjudication.

Legislative, and judicial powers as well, have been delegated to regulatory agencies, commissions and bureaus, created or strengthened by laws enacted on the recommendation of the administration.

A huge new pay roll, largely exempt from civil service, and including many important officials for whom no senate confirmation is required, has been established by executive authority.

New projects of an unprecedented character, visionary and impractical, have been entered upon by the executive without submission to congress.

Executive power has been used for experimentation with theories, neither sanctioned by congress, nor approved by authorities most competent to pass judgment.

The purpose of a separation of the powers of government is to prevent the exercise of autocratic authority by any single unit. The framers of the constitution thus sought to guard against too great a concentration of power. Through a system of checks and balances, it was intended that the three branches, the executive, legislative and judicial, each independent and with coordinate separate powers, should restrain excesses of authority, by each of the other two branches. Thus the executive was given the power of appointment of judges and the right to veto acts of Congress. The congress was authorized to enact the laws to be administered by the executive branch, to control the funds to be expended by executive agencies and to impeach either executive officials or judges. The judiciary had the right to pass on the constitutionality of laws enacted by congress, and upon the legality of administrative acts of the executive branch.

It is difficult to draw hard and fast lines between the prerogatives of the separate divisions of government. Courts have upheld the delegation of legislative power to the executive branch, when definite limitations are provided. The practice of delegating legislative power has steadily increased.

According to a report of a special committee on administrative law of the American Bar Association, published in July 1936, there were 19 instances of the delegation of legislative power to executive officials, in the first volume of the Federal statutes covering a period of about ten years. Now, according to the committee, the federal statutes show about 1,500 separate instances where the power to write law has been transferred from Congress to the executive branch of the government.

The committee of the American Bar Association summarizes recent findings of the Supreme Court, with respect to limitations imposed by the constitution on the delegation of legislative power, as follows:

- A. There must be an adequate definition of the subject to which the delegated power is addressed.

- B. There must be adequate declaration of a "policy" or "standard" by Congress, to guide the exercise of the delegated power.
- C. There must be a requirement of a finding, by the administrative agency, in the exercise of the authority delegated.

In general, the American system of government requires determination of basic policies by the congress, a limited amount of administrative discretion being allowed to the executive branch, in actions taken under the authority of law.

Much of the so-called administrative law is, in fact, executive law, applied without the protection of judicial procedure and restraints. It is significant that all overlapping of the three co-ordinate branches of the government invariably results in greater power for the executive at the expense of the legislative or judicial divisions.

Congress, in the first instance, delegates legislative power to the Executive. The second step is a redelegation of legislative power by the president through executive orders. Next, the officials to whom power is re-delegated, issue administrative orders with the force of law.

Whatever the people may have been willing to accept for an emergency, they have given no mandate for a permanent breaking down of checks and balances which, if zealously guarded, will make dictatorship impossible. The sweeping delegation of legislative power to the Executive, clearly is in conflict with the constitutional system.

Centralization of the powers of government is changing the respective roles prescribed by the constitution for the federal government and the States. The federal government is reaching for more power, at the expense of State sovereignty. The trend involves a modification of the dual form of government, to the extent of an increase in the economic and social fields, in which the federal government is sovereign, and a narrowing of the scope of power of the States.

Centralized power is consistent with, and encourages the European idea of a totalitarian state which recognizes no sphere of individual life as immune from governmental authority. Only so long as the courts and the people remain firm against laws which break down the system of dual sovereignty and destroy other checks and balances of the Constitution, will the United States be spared the sacrifice of democracy for dictatorship.

One of the just causes of complaint against the tyranny of King George, as set forth in the Declaration of Independence was: "He has erected a multitude of new offices, and sent hither swarms of officers, to harass our people and eat out their substance." Since that same condition exists today, have we not the same right, yea, the same duty, to object?

The solution of our governmental problems, the secret of the maintenance of the checks and balances as determined by our fathers is simple. It is embodied in the first three words of our Constitution, "*We, the people.*" All of the benevolences of government are bestowed upon *the people*. All of the powers of government are derived from *the people*. All of the responsibilities of government rest upon *the people*. "The people" is the aggregate of all the citizens of the United States. The attitude and the power of the people is good in direct proportion to the manner in which every person assumes his individual duty to his country and to his country's constitution.

Throughout the history of democratic governments, bureaucracy has been a lurking menace. By the term "bureaucracy", is meant government by bureaus and commissions. The menace lies in an excessive multiplication of power, which results in official interference in the private affairs of individuals, and in the conduct of business. "Bureaucracy" involves the accumulation of power in the executive branch of the government at the expense of the legislative branch. The issue of bureaucracy, in a broad sense, concerns the extent to which the

government properly may apply its regulatory powers over the life and property of individuals.

For a decade last past, the executive branch of government has so dominated the legislative branch, that the latter has sunk to probably the lowest level in our history. Its independence and its initiative practically vanished. With few exceptions, hardly a bill or resolution which the executive opposed, was passed. Congress practically gave up. As has been well said, "The Executive absorbed its power and, to an unprecedented degree, operated as though he owned it, as indeed he did."

The investigation of governmental departments is one of the basic functions of Congress, the exercise of which is of great value to the Nation, and without which, there is no check upon waste, incompetence or dishonesty.

John Stuart Mill states in his book on "Representative Government":

The proper office of a representative assembly is to *Watch and Control the Government*; to throw the light of publicity on its acts, to compel a full exposition and justification of all of them which anyone considers questionable; to censure them if found condemnable, and if the men who compose the government abuse their trust, or fulfill it in a manner which conflicts with the deliberate sense of the nation, to expel them from office and either expressly or virtually appoint their successors.

No stronger condemnation of bureaucracy rule has come to my attention, than in the words of the Hon. Hatton W. Sumners, present member of Congress from Texas, when he said on February 1, 1943, (this very month), as follows:

When you begin thinking, it becomes clear that we have been traveling away from representative democracy toward centralized "bureaucracy."

Mr. Sumners, who is chairman of the house judiciary committee, asserted that while Americans are fighting for democracy there are unmistakable signs that Americans back home are reawakening to the peril to democratic government in the United States. He said:

You can't see your sons and brothers go out to risk their lives for a set of principles without some impetus to think about where we ourselves are headed in relation to those principles.

We have been tapping the sources of state revenue and sending the revenue to Washington. Then Washington has been sending it back to the states—loaded down with federal power. That's the trick by which we are destroying our democracy. Thank God the people are beginning again to look at the labels on the handouts.

Do I think there is real danger that our democracy may be destroyed? I don't think it, I know it. It is axiomatic that whoever controls the purse strings controls the government.

You can see this same axiom working through the period of Democratic progress. Beginning in the 13th century, when the kings and lords of England needed money they asked that the people send some representative who could talk it over and kick in.

But through a long period of time these outsiders kept increasing their power. How? By increasing the amount of money they contributed, and controlled. Finally, the former outsiders became the government. The house of commons took all the power away from the king, and the house of lords continued to exist only by a sort of sufferance.

Mr. Sumners said that approximately two and one-half million government appointees draw salaries of about five billion dollars a year, and added:

Many appointees have the power to make rules that have the force of law. They have the power to construe the rules and to enforce them. Those are all the powers any king ever did have.

The problem is so fundamental and so simple it is remarkable to me every one can't see it. We can't go in two opposite directions at the same time. Either we decentralize government or we have to make up our minds to be governed by the kind of government we are supposed to be opposed to.

The law of cause and effect applies to government as to everything else. We can't do the things that inevitably cause destruction of democracy and then expect democracy to continue.

Re-establishment and maintenance of our government as a democratic government is the most vital problem our country is facing. We are doing a good deal of fighting to preserve democracy—and we should not lose it at home.

The fundamental reason why the trend toward centralization grows dangerously is that a federal government can't possibly function in the business of the states and do too much interference to private business which no government should touch without ending up as a bureaucracy.

We are indebted to a celebrated son of Iowa for a lucid interpretation of the functions of the three departments of government. Mr. Justice Samuel F. Miller delivered the opinion of the Supreme Court of the United States, in the case of the United States vs Lee, 106 U. S. 196. In this case the defendants were certain agents of the president of the United States. It appeared a descendant of Martha Washington had started an action to recover possession of the land which is now the Arling-

ton cemetery. The defendants were certain agents of the president of the United States, and had seized the land under certain claimed rights, arising from the failure of the owner to appear personally and pay the taxes.

The legal questions included that of immunity of the defendants from suit, since they were acting for the president and the United States government. The opinion by Justice Miller, in a certain clarity and forcefulness of expression, pointed out the supremacy of the law, and the binding force of its restrictions upon all citizens, from the highest to the lowest. He said:

No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it.

It is the only supreme power in our system of government, and every man who, by accepting office, participates in its functions, is only the more strongly bound to submit to the supremacy, and to observe the limitations which it imposes upon the exercise of the authority which it gives.

Courts of justice are established not only to decide upon the controverted rights of the citizens as against each other, but also upon right in controversy between them and the Government, and the docket of this court is crowded with controversies of the latter class.

Shall it be said, in the face of all this, and of the acknowledged rights of the judiciary to decide in proper cases, statutes which have been passed by both branches of congress and approved by the president, to be unconstitutional, that the courts cannot give remedy when the citizen has been deprived of his property by force, his estate seized and converted to the use of the government without any lawful authority, without any process of law and without any compensation, because the president has ordered it and his officers are in possession?

If such be the law of this country, it sanctions a tyranny which has no existence in the monarchies of Europe, nor in any other government which has a just claim to well regulated liberty and the protection of personal rights.

It cannot be, then, that when, in a suit between two citizens for the ownership of real estate, one of them has established his right to the possession of the property according to all the forms of judicial procedure, and by the verdict of a jury and the judgment of the court, the wrongful possessor can say successfully to the court: *Stop here; I hold by order of the president, and the progress of justice must be stayed.* That though the nature of the controversy is one peculiarly appropriate to the judicial function; though the United States is no party to the suit; though one of the three great branches of the government, to which by the constitution this duty has been assigned, has declared its judgment after a fair trial, the unsuccessful party can interpose an absolute veto upon that judgment by the production of an order of the

Secretary of War, which that officer had no more authority to make than the humblest private citizen.

Then in his concluding paragraphs, in a manner not equalled in quality even by a corresponding discussion in the *Federalist*, he pointed out the weakness and also the strength of the judicial department of the government:

While by the constitution the judicial department is recognized as one of the three great branches among which all the powers and functions of the government are distributed, it is inherently the weakest of them all.

Dependent as its courts are for the enforcement of their judgments, upon officers appointed by the Executive and removable at his pleasure, with no patronage and no control of purse or sword. *Their power and influence rest solely upon the public sense of the necessity* for the existence of a tribunal to which all may appeal for the assertion and protection of rights guaranteed by the constitution and by the laws of the land, and on the confidence reposed in the soundness of their decisions and the purity of their motives.

From such a tribunal no well founded fear can be entertained of injustice to the government, or purpose to obstruct or diminish its just authority.

It is contrary to our scheme of government to place supreme power in the hands of a single individual, as has been done in European countries, where parliamentary bodies have become nonentities. Encroachment by the executive upon legislative prerogatives, in violation of the letter or even of the intent of the constitution, smacks of autocracy and despotism. It is subversive of popular government.

While "our country and its institutions" should be the burden of every morning prayer and evening supplication to the "King of Kings," the only sovereignty that will be tolerated in the American republic, is the sovereignty of law. This principle should be written in deathless letters above the portals of every abode of official power that stands within the territorial limits of the United States.

What I have said, are merely reminders of things you know. But repetition here is as important as repeating the Lord's prayer and the Sermon on the Mount.

Notwithstanding depressions and recessions and wars, we look at our own native land and see a free, united

and mighty people, secure in their constitutional liberties, confident in their destiny, and devoted to the great instrument which is both the source and guardian of our happiness.

We have but recently celebrated the birthday of the immortal Lincoln; therefore, let us now "highly resolve" that we shall have "a new birth of freedom;" that we shall return to a Government of law, enacted by *law-makers* in the exercise of their constitutional authority, *as lawmakers. THE GOVERNMENT OF THE PEOPLE, by the people and for the people.* May it never perish from the earth.

PORTRAIT OF HORACE E. DEEMER

Taking up the next order of procedure, the President said:

"Now we come to one of the most important rites which are observed on these occasions, that of the presentations of portraits of distinguished citizens, most of whom have gone on. At this time we are pleased to have the presentation of the portrait of the late Justice Horace E. Deemer, of Red Oak. This presentation will be made by former Justice Truman S. Stevens.³"

The portrait was unveiled and Judge Stevens spoke as follows:

Horace Emerson Deemer was born in Marshall County, Indiana, September 24, 1856, and died at Red Oak, February 26, 1917. He was admitted to the bar in 1879, and after spending a few months with a law firm in Lincoln, Nebraska, he returned to Iowa and formed a partnership with Joseph M. Junkin at Red Oak for the practice of law. This partnership continued until 1888 when Deemer became a Judge of the 15th Judicial District. In 1894 he was appointed to the Supreme Court where he remained until his death.

As a member of the bar, he quickly rose to a high position. The judicial history of the 15th Judicial District is famous for the character and ability of its judges. Associated with him on the bench when he became a district judge were Judges Thornell, Macy and Walter I. Smith, all of whom were recognized as very able district judges. They were much beloved by the bar and admired by the public. Judge Walter I. Smith later became a member of Congress and a judge of the United States Circuit Court of Appeals for the 8th Circuit. It is noteworthy that Judge Deemer was succeeded on the district bench by W. R. Green who also won

³Truman S. Stevens was appointed to succeed Horace E. Deemer on the Iowa supreme bench in 1917 and was twice re-elected.

distinction as a member of Congress, chairman of the Ways and Means Committee of the House and a federal judge in the District of Columbia. It will thus be observed that to win distinction as a district judge he must compete with his three distinguished associates.

Judge Deemer quickly had a high place at the bar. From the beginning as a district judge he won the confidence and esteem of the bar. Personally he was kind, genial and companionable. Judicially he was firm and conducted the business of the court with dispatch and ability. He possessed a keen, intelligent and quick perception and had a profound understanding of the law of which he was a great student. His power of analysis was great and it was seldom indeed that he committed error in the interpretation or application of legal principles. He was not only dignified and cultured but he possessed the highest integrity, sincerity and courage. He knew no favorites either at the bar or among litigants and at all times sought to administer exact justice. He had the capacity to grasp quickly the issues and to apply the law thereto. He was prompt in the performance of his duties and permitted no unnecessary delay in the discharge of business. He was in no sense arbitrary or dictatorial but promptly and vigorously dispatched the business before him.

As already stated, his associates upon the district bench were men of high character, ability and success. No doubt his experience on the district bench went far to prepare him for the distinguished services he rendered as a judge of the Supreme Court. Very shortly after he was elevated to the supreme bench, Judges Weaver, Ladd and Evans, whose high place in the judicial history of Iowa is freely conceded by all, became his associates. The court as then constituted was the ablest up to that time in the history of Iowa. From the beginning, Judge Deemer won the respect and affection of the bar and the public. He was dignified, learned in the law and was determined to maintain and improve our judicial system. The judge's opinions were marked by brevity, clarity and accuracy.

We have just listened to an able address on the subject "Independent Legislative and Judicial Government." Necessarily the relationship of the legislative and judicial departments of our government are close and dependent. The one enacts the statutory law, the other interprets and applies it. Statutes must always be given their just and proper interpretation and application by courts but all constitutional powers and limitations must be carefully guarded. Judge Deemer was the equal of any of his associates in the interpretation of statutes and the enforcement of constitutional law. The administration of justice was to him the highest function and greatest responsibility of all courts.

Judge Deemer's sense of justice was keen and comprehensive and he was, therefore, especially accurate in the trial and decision of equity cases. His passion was to become master of the facts and to do justice to all concerned in the case before him. The judiciary must be composed of men of the highest quality both as to character and ability. One of the arduous duties imposed on the Supreme Court is to preserve and maintain certainty and harmony in the definition and application of legal principles. To accomplish this, something more is necessary than the mere interpretation of statutes and the carrying out of legislative command. The great principles of the common law must be known, understood, and intelligently applied in the development of the

law. Certainty and harmony must at all times be recognized and firmly maintained. Indeed, the duty to do this is one of the highest in the building up of any judicial system. The accomplishment of this purpose has at all times governed judicial decisions of appellate courts. The responsibility of the bar in the establishment and maintenance of our judicial system and the certainty and harmony of the law must not be minimized. Judge Deemer devoted much study and thought to the history and value of the common law. In his opinions will be found the clearest possible comprehension and statement of the law as it has been interpreted, declared and applied by the court from its beginning.

Judge Deemer not only industriously and ably performed the labors imposed upon him as a member of the court, but he also wrote many articles upon important subjects pertaining to the law. He was the author of a work published in 1912 on the subject of pleading and practice. This volume at once found its way into the law offices throughout the state.

He was active in public as well as legal matters. He enjoyed the outdoors and was most companionable in his association with his friends and people generally. He forcefully advocated necessary reforms in all criminal procedure and other principles and practices of the law. In short, he took great interest in all matters pertaining to the law, the administration of justice, and the development of all legal and judicial systems.

The burden of judicial responsibility did not restrain Judge Deemer from full participation in local and public affairs generally. He was a member of many societies, particularly of the State and American Bar Associations. He attended the proceedings of the former and took an active part therein. He was a Christian gentleman and much devoted to his family. His only daughter, Mrs. Dorothy Houghton, is present on this occasion. He possessed high ideals in all public matters particularly in their relation to education. Early in his career he became a lecturer in the law department of the state university where he was greatly loved by the students.

It is indeed fitting and appropriate that his portrait should be added to this wonderful gallery in which we may see the faces of a long list of many great leaders and public officials. May I quote from a former address on a similar occasion before the Iowa Pioneer Lawmaker's Association:

"We are assembled in this wonderful portrait gallery in the midst of faces typifying the greatness of Iowa's citizenship. Here are gathered the faces of the brave and mighty heroes and heroines of each past and succeeding generation. We can feel the spirit of the pioneers and the builders of the decade in which they and their successors wrought, hovering over us. Men and women—toilers and leaders, compatriots all. Imbued with the same spirit, animated by the same purpose, inspired by the same hope they transformed the wilderness into homes, villages and prosperous cities. Each succeeding generation with renewed faith and determination took up and carried forward the task of building and equipping a commonwealth. Forward has ever been the watchword, and the march has not and never will halt. This great gathering of portraits constitutes and presents an illustration of our beginnings and of our progress as the builders of a great and enduring commonwealth."

It is my pleasure at this time to tender this beautiful portrait of Judge Deemer to the Historical Department of the State of Iowa.



Former Justice HORACE E. DEEMER, of Red Oak
Iowa Supreme Court 1894-1917

DAUGHTER OF JUDGE DEEMER

E. A. LARSON, of Red Oak: Mr. President, the only surviving member of Justice Deemer's immediate family, Mrs. Dorothy Deemer Houghton,⁴ of Red Oak, is present, and I take pleasure in presenting her to the membership of the Association at this time.

MRS. HOUGHTON: Mr. President, this is an unexpected pleasure. Members of the Pioneer Lawmakers Association, may I first express my appreciation to Judge Stevens for the beautiful tribute he has paid to my father. We have been very good friends, as you know, and he was my father's worthy successor, and it seems peculiarly fitting and proper that he was the one to make the presentation to this Historical Department of the State of Iowa this morning. I cannot help but think as I stand here how altogether right it is that this group is the one to whom we present this picture.

I wish that my mother were living. It was her idea. It was she who had Professor Charles A. Cumming down to Red Oak at the time my father died to make the death mask of him, with the thought that his portrait be made exactly right. So, with the death mask, and with the pictures and photographs of my father taken through the years, Professor Cumming went to work. Before this portrait was completed, Professor Cumming died, and his wife tried to finish it as he would have done.

To be perfectly frank, a somewhat intimate group, and also the family, were not satisfied with the portrait. It is not just the real person we knew. So we were a little hesitant for a time. You see, years have elapsed since my father left us. But finally in the last year I looked at it and thought, "After all it is my father, and it shall be hung." And so we are delighted at this time—I do wish my mother were here—to give to you this portrait, with our every love and affection and in mem-

⁴Mrs. Dorothy Houghton, of Red Oak, is a daughter of the late Justice Horace E. Deemer, and at present a member of the state board of education.

ory of a man who meant the most to us—his wife and his daughter.

When I have heard beautiful tributes from you members of the Pioneer Lawmakers and the Bar Association of Iowa, I have often times wished that as a daughter to her father I could pay tribute to him. I was so happy to hear Judge Stevens say that my father was genial, because many of you will remember that at the memorial to my father held in the courthouse after the funeral, one of the speakers said, "Judge Deemer did not have a sense of humor. Had he had, he would still be alive." I could hardly keep from speaking out and saying, "He had a very delightful sense of humor."

But he took his profession seriously and he believed that his position should be dignified. And most of you know that he loved his profession very dearly. He carried the burdens of many people. I wish I could tell of our home life, his delightful sense of humor, and the number of people, perhaps in menial places, to whom he meant very much. The tribute which came from those people at the time of the death of my father has meant more than that of any other group which paid tribute to him.

How he loved this building! Father worked here with Mr. Aldrich, and with Mr. Harlan; he worked with Johnson Brigham over there; he has worked with a good many people who loved this building. So it is an honor that his picture should hang here. It is right that it should be given in the month of February, for Lincoln was his great hero. On the Iowa University campus Father and Dr. Shambaugh used to talk about Abraham Lincoln until two or three o'clock in the morning.

I am glad the presentation was in this building. I am glad it was done before this body. I am so happy tribute was paid by Judge Stevens, for whom my father had such great affection.

As a daughter of Judge Deemer I am most happy to give this portrait. I hope it will live through the years and be an inspiration to his four grandchildren. I think

my father would be happy in the knowledge that three of them are now in the service of their country helping to preserve and protect those things which he loved. Thank you very much.

PRESIDENT SCOTT: I am sure we are very much gratified, Mrs. Houghton, that you can be with us on this occasion and take part in the unveiling of this portrait of your very distinguished father.

PORTRAIT OF MATHEW A. TINLEY

The presiding officer emphasized the propriety of having presented at this time a portrait of a distinguished military man of Iowa. Then followed the unveiling of a portrait of General Mathew A. Tinley, the presentation being by Captain Frank F. Miles,⁵ as follows:

Mr. President, Ladies and Gentlemen: I deeply regret that General Tinley could not be here today, but his duties, his health, the rationing and one thing and another prevented.

Mathew Adrian Tinley, of Council Bluffs, Iowa, whose presentation of his portrait⁶ to be hung in this Iowa Shrine is the reason for my speaking on this occasion, has a record of service to God and country which makes me fully conscious of how incapable I am of doing him justice. In deep humility I consider my selection for this delightful duty one of the highest honors which has ever come to me; moreover, I am immensely proud that for more than a decade I have been privileged to have his friendship, and that for ten years of that period I was one of his military aides when he was a major general commanding the 34th division of the National Guard.

Mat Tinley, as he is known to his multitude of friends throughout our country, is an industrial surgeon by profession. He was born in Council Bluffs, on March 5, 1876, the son of Mathew Hugh and Rose Dolan Tinley. He graduated in medicine at the University of Nebraska in 1902, then took post graduate work in the New York Post Graduate School.

On October 8, 1902, he and Lucy Shaw Williams, a lovely character, were married. They have two children, Winnifred and Robert, now a major in the U. S. army medical corps, somewhere abroad.

Dr. Mat Tinley joined the staff of the Jennie Edmundson hospital in 1903; has been a surgeon of the Union Pacific Railway since 1905; the Wabash Railway since 1920; the Burlington Railway since 1922; the Chicago and Northwestern Railway since 1936, and is an examiner for the Aetna and Connecticut Mutual Life Insurance Companies and the Employers Mutual Insurance Company.

He was nominated for vice president of the United States by the Iowa delegation at the national Democratic convention in

⁵Capt. Frank F. Miles, of Des Moines, is the editor of the Iowa Legionnaire, active in the American Legion and many civic movements.

Chicago in 1932, and in several election years could have been the nominee of his party for governor of Iowa had he consented to let himself be entered.

Mat Tinley is not only one of Iowa's but one of America's greatest citizen soldiers of all time. No more evidence of that is needed than the statement General Douglas MacArthur recently made about him out from their association in the Rainbow division in France in World War I.

In 1898-'99, this noble Iowan served in the Philippine campaign; he was in the Iowa National Guard until the 168th Infantry was formed in the last war when he was made a lieutenant colonel in it and later became its colonel. For his service then he was awarded the Distinguished Service Medal, was made an officer of the Legion of Honor of France and wears the French Croix de guerre. He also has the Philippino Congressional Medal.

The National Flag Association awarded him a Gold Medal for the best act of law enforcement in America in 1934, as a result of service he did on active duty in the National Guard.

He is a former national president of the Rainbow Veterans Association; a former president of the National Guard Association of the U. S.; was the first commander of the Iowa Department of The American Legion, and belongs to the Veterans of Foreign Wars and the Order of Carriboa, a Philippine organization.

Mat Tinley is a Fellow in the American College of Surgeons, belongs to the American Medical Association, and the Iowa State Medical Society of which he was vice president in 1920; was president of Wabash Railway Surgeons in 1934, and president of the American Association of Railway Surgeons in 1939.

He is a lifelong Democrat, a Catholic, a Knight of Columbus, an Elk, a brother of Rho Sigma and an outstanding public servant of his community and state in many fields.

On March 5, 1940, he was retired from the National Guard because he had reached the age of 64 years, with the rank of lieutenant general, and now is with that rank in command of the Iowa State Guard.

Boundless ability, flaming zeal, clear vision all mark this man, but to those who know him best, the soul of Mat Tinley, as often reflected before the responsibilities and trials of life, stands out most vividly.

He is a devout Christian who appreciates other creeds the more because of his faith in his own, and he loves humanity because he loves God; he is an ideal husband of a lovely woman; he is the father of two fine adopted children—a son and a daughter; he is a lion in his political party because he puts Americanism above labels.

Once at dusk in France he came upon a dying doughboy who was cursing violently.

"Why don't you repeat the Lord's prayer, lad?" he asked.

"I don't know it," was the halting reply.

"Say it after me," he said, and together they communed with their Maker.

Comrades relate how once over there when he was almost famished he refused to eat of food just arrived until his men had eaten; how he was infuriated at seeing soldiers loading the rear end of a two-wheeled cart in an attempt to lift a hitched burro's feet from the ground; how he stood in the rain and mud at night speaking cheering words to youths marching to the front.

"Before my husband died I shunned bereaved people," said the

widow of one of his guard officers who had passed a few months before." "Now because of the comfort General Tinley brought to me in my sorrow I strive to comfort others in grief."

"Excellent, young man," he once said to a guard officer who was doing splendidly.

"That officer is the son of a man who would 'get' you if he could," the general was reminded.

"Military service is one thing—religious prejudice another," he smiled. "And why should a boy be punished for the sins of his father?"

Near the close of his last camp at Camp Dodge, as was his custom, he wrote a number of kindly letters to officers serving with him.

"Why write like that to those birds?" inquired an aide, pointing to two of the letters, "When you know they would cut your throat?"

"I find it more pleasant now to describe things concerning me as I wish they were rather than as they actually are," he explained gently.

When he is angry, which is rarely, strong men fairly quail before his wrath, but he has never known the meaning of grudge.

Many a patient about to cross the divide has found in him—the physician—all that might be expected of priest or pastor at such a time; many a patient hard pressed financially has had his bill marked "paid in full" as a Christmas present, and like so many of his profession he treats as friends many people who might have paid him but have not.

His is the spirit of his Christ; his is the loftiest spirit of Americanism—a spirit which will forever leave an indelible print on humanity.

Mat Tinley is in "Who's Who In America;" "Who's Who In Surgery," and "Who's Who In Politics." We who know him believe he will be in "Who's Who In Heaven."

BUSINESS PROCEEDINGS

The presiding officer announced the appointment of two committees as follows:

Resolutions—John M. Rankin, George M. Titus and Emory H. English.

Nominations—H. S. Van Alstine, Henry L. Adams and George W. Van Camp.

The resolutions committee reported no resolutions desirable, and the nominating committee reported its recommendations for officers:

President—Israel A. Smith, Independence, Mo.

Vice President—John M. Rankin, Keokuk.

Secretary—Emory H. English, Des Moines.

These were unanimously elected as officers of the association and authority for naming district vice presidents

and an executive committee was given to the officers elected.

REMINISCENCES

PRESIDENT SCOTT: Now we have arrived at the time which is always a very happy one, when we shall turn back the curtain of time and reminisce on some of the incidents during the legislative careers of those present. I remember with a good deal of pleasure this part of some previous meetings when some anecdotes and some experiences of the members of this Association were related. Now for a while let us look in retrospect over all these years and think of some of those incidents that took place in the General Assemblies here represented. Judge Mantz, you start out with some of these incidents that took place back when you were a member of the Thirty-eighth, Thirty-ninth and Fortieth General Assemblies.

H. J. MANTZ: Mr. Chairman, and Members of the Pioneer Lawmakers: I am one of the freshman members here. Of course it is a pretty big field to go back over a lot of incidents that happened. I do recall with satisfaction, though, of having served several sessions in the legislature and the fine acquaintances and fellowships that were formed at that time, and after all that was to me the most valuable part of the whole experience.

I recall one incident that was rather outstanding. I used to recall it with considerable satisfaction. We had, I believe from Van Buren County, Keosauqua, an old war horse named John Rowley. Some of you may remember him. It seemed like Mr. Rowley's pet theme was opposition to enlarging the capitol grounds. He made it a campaign issue. And when he came to the legislature he had a bill which he fathered to do away with Capitol Extension. When the bill was presented for consideration it was loaded with amendments so that he didn't like it very well himself.

But during the course of the debate, when he was trying to defend his child, he got into an acrimonious con-

troversy with Orville Lee, representative from Sac County, who at one time had been a minister and afterwards had taken a sophomore year as auctioneer. Lee had a very loud, high-pitched voice, and he and Rowley were chewing up one another across the hall; finally Lee's voice was too much for Rowley and Rowley sat down. And as he sat down—I happened to be sitting alongside of him—he said, "You would not expect me to out-holler a damned auctioneer."

GEORGE COSSON: Mr. President, I was in hopes Senator Van Alstine would entertain you by taking the floor. I served in the Thirty-third General Assembly. I was on the ticket with the great Theodore Roosevelt as a candidate for County Attorney of Audubon County, the same county Judge Mantz comes from.

I recall very well those days, the Spanish-American War, the campaign made by Theodore Roosevelt, the type of men we had in the United States congress, and I tell you in those days we had fighting men. I remember when Theodore Roosevelt said, "We are now out of our swaddling clothes, and we are going to do our part of the world's work."

And I remember when the missionary down in Morocco was captured and they wanted \$25,000 ransom. Theodore Roosevelt started the battleship Oregon, and that was announced in the press of the world. Then Elihu Root sent a message: "Perdicaris alive or Raisuli dead within twenty-four hours" and signed "Elihu Root, by order of the President." Within fourteen hours he was produced. We had no appeasers in those days who dared not open their mouths. We fought in those days for virtue and righteousness, and those were great days.

Do you remember when Cummins and Dolliver were in the United States Senate? Do you remember the great debate on Schedule K? Do you remember how Borah talked all the time with the liberals and then voted all the time with Senator Warren? Do you remember when Dolliver reached his great climax in that debate?

You will recall that just the previous year Dr. Cook said he had discovered the North Pole. Dr. Cook came back and was entertained by the King and Queen of Denmark and then came over and was accepted by the president. When Dolliver reached his great climax he said: "The past year has witnessed two great events, each in itself a unique hoax. One was the discovery of the North Pole by Dr. Cook. The other was the revision of the tariff downward by the senator from Rhode Island, and the highest executive authority felicitated upon both occasions." And Aldrich left for the cloak room. Ah, those were great days!

And in the days of the 33rd General Assembly we had fighters, too! There were Abe Funk and Emory English, Tom Healy and James A. Smith of Osage. Smith of Osage was in our session, as were also Leslie Francis, Joe Allen and John Clarkson, who is here. He always called me the senator from Audubon. Well, we had a whole lot of fellows who fought in those days. And they usually fought to a finish.

Now, I don't think that all the bravery and all the statesmanship was in the past, but I do say to these people here that Iowa had the most influence in congress in the days of Dolliver and Cummins, and Hepburn and Lacey and Henderson, and Walter I. Smith, and a score of those men back there—the greatest influence of any delegation in congress. She has never lived up to it since, and I don't want to say an ill word against anyone now.

We had great men in the legislature in those days, and I am casting no reflection upon the men we now have. But in any event the things that the old pioneers stood for, whether we go clear back to the early days of our forefathers or the pioneers back in the days that I am talking about—of Cummins and Dolliver and that era—the spirit that never sells America short, that never sells their country short, that never sells their state short, that is the spirit that will always make America great and keep her great.

H. S. VAN ALSTINE: Mr. President, I am very much interested in these talks. It is hard to actually reminisce on historical incidents. In order to give you just a little picture of the past—some forty or fifty years ago—when in Washington I went over to Arlington Cemetery and met an old gentleman with a great deal of reverence for the past who was sight seeing. He seemed to be very well posted, and in the course of the visit told me with much detail how the title to that cemetery passed to the United States.

Without following that detail, he said that the then Confederate General Lee, who was the owner of the Arlington plantation, had tendered the taxes on this property, but the Government authorities—I suppose that would be the local authorities—refused to accept the taxes on the ground that Lee was a traitor, and was not entitled to protect his interest in the property. And as I recall the story, the title passed by tax sale and was on that basis acquired by the government. Your reference to that decision was very interesting. But this question arose in my mind. I wanted to ask your opinion as to the attitude of the courts at the present time on the construction and enforcement of these modern “decree” laws which are being made under congressional delegation of power. I understood you to say that in that case, the decision was against the law authorizing the delegation of power.

PRESIDENT SCOTT: Yes sir, a five to four opinion.

MR. VAN ALSTINE: I would like to hear from you on the present attitude of our courts towards that kind of legislation.

PRESIDENT SCOTT: In answer to your question, I think it must be agreed that in many instances we do not have the four-fisted attitude on those matters which we had then. That opinion was by Justice Samuel F.

⁹The portrait of Gen. Tinley was painted for him by Allen E. Philbrick, who served with the American forces in World War I in France.

Miller,⁷ who was a son of Iowa, and who was appointed by Lincoln in 1862 and served on that high court until 1890.

Justice Miller's decisions are studied by every boy in the law school. I have always been very much impressed by his clarity and the position which he took in cases of that kind. There are several of them, of course. In our legislation we have got away from some of that period and that day. We have so many more delegated powers than we had then. I think I ought to call your attention to the situation back there. There were some fifteen instances in the report of the American Bar Association of delegation of authority to Commissions and Bureaus, and now there are 1,500. That shows the road upon which we have traveled since that time.

Sometimes, as I tried to point out, it is rather difficult to chart that road. They hold repeatedly that on those delegations there must be some basis or findings upon which such authority rests, and the question arises, What is necessary in those findings? So, it has made a very, very difficult road to travel, and it has been the subject of never-ending judicial controversy. Unless somewhere we come to the point where we revert to law enacted by lawmakers, as I tried to point out, instead of by Commissions and Bureaus, I don't know what the future can spell for us.

MR. VAN ALSTINE: Mr. President, it is a fact, is it not, that people, the citizens, are being deprived of property and of liberty, under those delegated boards instead of the courts?

PRESIDENT SCOTT: Yes, no question about it.

SECRETARY WILLIAMS: I would like to hear from Mr. Smith,⁸ who was a member of the legislature and

⁷Samuel F. Miller, appointed by President Lincoln as a member of the Supreme Court of the United States. A fine portrait of Judge Miller hangs on the west wall of the Iowa portrait gallery.

⁸Israel A. Smith, the newly-elected president, was elected to the Thirty-fourth General Assembly from Decatur county. He was living then at Lamoni, but has since moved to Independence, Mo., where he is engaged in educational and editorial work. He has recently been elected to be a member of the Constitutional convention to frame a new constitution for the State of Missouri.

who helped to very nearly elect Judge Deemer to the United States Senate.

ISRAEL A. SMITH: Mr. President, I want to say first that it certainly is an unexpected honor that this body should select me for its president. I had never dreamed of such a thing. I have been interested in coming here and meeting old friends and getting acquainted with new ones. I was about to desert the building for a few minutes when Mr. Adams said, "You better go back." Mr. Adams was one of my good friends in the 34th General Assembly.

One of the high lights of the meeting today was to hear the daughter of Judge Deemer. It certainly was a pleasure to see and become acquainted with her, and to hear her splendid remarks at the unveiling of her father's portrait.

When I came here I was pretty new and inexperienced, like all new single-term members, but some of the outstanding members of the Thirty-fourth General Assembly in the House like Speaker Paul Stillman and "Bill" Harding, took me under their special care, and so we had a very interesting time. As you will recall, that was the last time the legislature of the State of Iowa ever elected a United States Senator.

It appears that upon the death of Senator Dolliver, a great man in 1910, Governor Carroll appointed "Lafe" Young, as we called him, with a sort of an understanding that Young should not be a candidate for election, but that he would be unopposed for Lieutenant Governor in 1912. If I am wrong in this statement Mr. Williams can correct me, because I am sure he understood the situation very well. But when the time came for selection by the legislature of a successor, Mr. Young didn't want to give up. He liked the job down there. He had had a chance to spread himself. He was an unusual speaker, as you all remember, and he had a certain following going along with him. Mr. Harding and some of the others supported Lafe Young for a while in a few complimen-

tary votes. And then we switched, some of us, to a man that we thought one of the greatest men in the State of Iowa—Judge Horace E. Deemer.⁹

I never gave up. I told his daughter this morning that I was glad that I never did change my vote. I voted for Deemer on the very last ballot. Mr. Van Camp was wiser than I; he changed his vote and helped elect another great Iowan—to the United States Senate, Judge Kenyon.

I very well recollect what Senator Adams said to us one day. Every day we would send a committee over to the senate to notify them that we were ready to receive them in joint session, and the Speaker one day became a little facetious and said, "The complexion of the committee will be Black, Brown and Greene," naming the three members instead of giving their counties. They went over and duly notified the senate that we were ready to receive them in joint session, and when they came back and reported that they had duly notified the senate, Speaker Stillman said, "The colored committee will be discharged."

One time the Speaker appointed me to head the committee over to the senate, and afterwards Senator Adams said, "Smith, you did a good job. Some of these fellows try to call us out on bawls."

I remember, too, some very funny things that happened in the legislature. One of them had to do with "Bill" Harding and the man who afterwards served as Reporter of the Supreme Court for so many years, U. G. Whitney. One day a man named Kull of Howard County was speaking. He was an immense fellow, about six feet four inches tall. He had a voice I think if the windows had been open could have been heard at the Savery Hotel. He was talking about something he was specially interested in, but the others were not. Pretty soon a pause

⁹Judge Horace E. Deemer had been prevailed upon to permit use of his name in the joint session of the Thirty-fourth General Assembly in an effort to break a deadlock which continued from the first to the last day of the session. He received thirty-six votes, and it was the belief of many that if another ballot had been necessary he stood a good chance of election to be United States senator to succeed the late Jonathan P. Dolliver.

came in the chamber, and Mr. Harding rose to a point of order and said, "we are unable to hear the gentleman." That provoked a laugh. The member resumed his speech, and in a few minutes voices began to come from various parts of the House, "Louder! Louder!" That continued until he got so angry he threw his waste basket at Harding and knocked old man Newell out of his chair.

The next time Kull spoke a thin voice came through the chamber, "Louder!"—I looked over on the west side of the room and saw Harding crouched under the seat of another member and knew where it came from. Kull was mad, and he said: "Mr. Speaker, if I cannot get up here and speak to a bill in this house without being interrupted by the gentleman from Woodbury, I am going to move that the Sergeant-at-Arms throw him out of this chamber." Whitney was the other member from Woodbury. He was sitting right in front of me. He looked around to Harding's seat and didn't see him there. He jumped up and said, "Mr. Speaker!" getting the attention of the house, he continued, "Bless your soul, I am as innocent as a newborn babe." I whispered to Whitney and pointed to Harding over behind this desk. Then Whitney appreciated the situation very well. He said, "Mr. Speaker, at the end of all time, when Gabriel blows his trumpet I suppose there will be some damn fool hollering out 'Louder.'" But I understand that was not original. Abraham Lincoln said that in a public address down East.

Mr. Whitney had a keen sense of humor, in spite of the fact that he was very serious in appearance. One day when they were trying to regulate the barber business in this state—I don't know whether it was successful or not, I think it was afterwards—a man by the name of Odendahl, from Carroll County, who was the most bewhiskered man you ever saw, his hair and whiskers sticking out in all directions, was talking about this barber bill. Whitney finally rose to a point of order. Odendahl had no idea what he had in mind. He said,

"Go ahead." Whitney said, "I rise to a point of order." The house became very quiet. He said: "This gentleman," and he made a sweeping gesture towards him, "surely has no business talking about the barber bill."

F. A. GARBER: When I was elected to the house from Decatur County, I was not as fortunate as Mr. Smith, because I was a democrat and I did not have anyone to take me under his wing to protect me. I was, of course, over in "Cherokee strip" and we were so few in number that if we accomplished anything worth while, we had to depend on big-hearted republicans to help us. But there was a man in "Cherokee strip" who really didn't belong there as he was a republican. He was Charlie Scott, of Appanoose. He was one of the most interesting figures of the House. He had ideas of his own and he didn't care whether he was in "Cherokee strip" or somewhere else. But he was a man of great natural ability although his education was not of the public school type. I remember one circumstance that will show how resourceful he was in the matter of wit and repartee. Douglas Rodgers was Democratic leader of the house and Scott had introduced a resolution in the house calling on the Secretary of State to apologize for having put Dunklehurg's picture instead of Scott's in the red book with Charlie's biography. The resolution passed and the secretary apologized. Then one evening Charlie was over in the Wellington Hotel and Rodgers trying to joke him said "you have gotten that matter fixed up, now you will have to offer a resolution explaining what you are doing in "Cherokee Strip." Scott, without a moment's hesitation drew himself up to his full height and pointing his fore finger at Rodgers said, "I can say with one of old that I came not to call the righteous but sinners to repentance."

JAMES M. BROCKWAY: While we are reminiscing there is one instance I have thought of many times. I have always been very proud of the Iowa legislature, the way it turned out, at least, at the time of the Thirty-

fifth. They elected Ed Cunningham as Speaker, and this happened in the republican caucus. There were three very active candidates, Will Larrabee, Gerrit Klay and Ed Cunningham. It happened to be my lot to be the manager of Ed Cunningham. There were sixty-six republican votes in the House. Of course it took thirty-four votes to nominate. The campaign had been carried on on a very high plane, very vigorously, and just as we were about to vote for Speaker in the caucus in the old Savery Hotel, Ed came to me and his first words were: "Jim, we are licked. We are not going to have enough to nominate." "Ed, wait just a minute," I said. "You are going to have thirty-eight votes in the hat the first time it goes around." "Oh, Jim," he said, "you believe everything everybody tells us. There won't be that many. I am going to get licked in this thing. I haven't got enough to nominate." I was always very proud of the fact there were just thirty-eight votes for Cunningham in the hat when they were counted out.

And another incident in that same connection was the manner in which Ed handled his appointments. So often you see those handled so that sore spots are left behind. Ed did not say, "To the victor belongs the spoils," but he gave to his opponents some of the most important committee appointments. For instance Gerrit Klay was head of the judiciary committee, and Will Larrabee was head of the appropriations committee. I believe that we get a little better results sometimes in our legislatures if the chairmen of committees are not always appointed on the basis of how they voted or campaigned on the speakership.

In the session before, the Thirty-fourth, I have never seen any place in politics where men were doing everything within their might to elect their candidate as they were in the election of United States senator. There wasn't a thing that anybody would not do, and yet there wasn't a thing in that whole session against which the most critical person could have voiced any reproach.

G. M. TITUS: Mr. President, I have been doing a good

deal of thinking, and I want to give this body something to think about, some post-war matters. Senator Van Alstine and I have discussed it a good deal.

In '96, I never campaigned as industriously as I did in an effort to defeat Bryan on the platform of free and unlimited coinage of silver on the ratio of 16 to 1 applying to this country only. I would oppose such a plan *now*. To my mind, as I wrote Vice President Wallace a few weeks ago complimenting him on his speech of December 26, that in my judgment the most difficult problem that we will have before us in the post-war period is the money question.

My hobby all my life has been to write to so-called "big shots" to see if I could get a response. In '36 I read three different articles published in the Saturday Evening Post by Sir Henry Deterding, an oil man, who was the first foreigner ever to be knighted by England. He was the Rockefeller of Europe. In one of those articles he said: "My message to the world on the money question can be expressed in three words, 'Gold be damned.'" And he stated in his article there is not enough gold in the world to do the business of the world. Three-fourths of the world is doing business on silver only.

I was interested in the item so I wrote him, wondering if I would get a reply, and I did, and we exchanged half a dozen letters. Well now, I want to give you this thought, and my courage to do it develops from the fact that I was talking to a pearl button manufacturer in our town recently telling him about the money question. "Well," he said, "the trouble is the difference in values of the various countries. We have a customer in Mexico, a million dollar company that we do considerable business with. They regretted to pay us in their depreciated dollar and asked us if we wouldn't take some Mexican products."

I am impressed with the fact that as we grow older we are wiser. The thought I wish to give to you—What would you think about an international non-profit bank,

with the use of both silver and gold because three-fourths of the world does business in silver only?

Sir Henry Deterding in his letter written before we went off the gold standard — I have his letter in my pocket, but I won't take the time to read it — "The gold maniacs think they are increasing the value of their bank when they are piling up their gold in their reserves. They forget the fact as gold piles up unemployment increases."

But here is the thought I want to leave with you. Suppose our manufacturer in Muscatine sells buttons to Mexico. Should an international bank, started, say by England, the United States and Russia, with facilities open to all nations, stabilize their currencies?

I belong to the Muscatine Rotary Club which sponsored four lectures on international affairs by prominent men. One lecturer, speaking very intelligently about South America, stated that in reality Brazil is richer in material than is the United States. Among the several inquiries by club members was mine: "What about the money question?" To which he replied: "That is the trouble. Their money has no certain value, and it is difficult for us to deal with them."

Now, don't say that Titus has turned to silver because I advance these thoughts. But suppose that an international bank were established mutually, the various nations or the most of them, stabilizing their money, using gold and silver to do business, it would in my judgment facilitate world trade.

Sir Henry Deterding died a little over a year ago. About a year before his death a man by the name of Roberts wrote his history. I have that book and I have read it. Its title is "The Most Powerful Man in the World." He criticizes him some, but points out that Deterding is the man who stopped Rockefeller in his effort to secure a monopoly of the oil in this country, and the first man in the world who set apart a fund allowing an annuity for his employes. He sent his employes, five hundred, on a trip through Europe at his

own expense. And in the campaign before '36 he advocated the increased use of silver on some fair, reasonable basis so that we could do business with the world.

The Chicago Tribune accused him of having an interest in silver mines. He telegraphed his lawyers in Chicago to notify the Tribune that they must retract or face litigation. They retracted with a two-column article reviewing Sir Henry Deterding's life. While he was like all rich men in that he wanted to get more power, yet the interests of the whole people were not forgotten and he wanted them to prosper.

If after this war they could buy with the Mexican dollar, whatever it is, on some basis of equality to the United States dollar, then what would be true of Mexico and the United States would be true of Brazil and the United States.

I give you these thoughts to think about, because we know through the press we get requests for ideas about post-war matters. I sent Mr. Morgenthau a copy of Sir Henry Deterding's letter, the suggestions about an international bank, and I received a very nice reply. Of course he could not commit himself. It is really a non-partisan matter. It should not be dictated by republicans or democrats in particular. It should be non-partisan just as finally we have the ever normal granary as a non-partisan basis. I cannot see anything, I cannot study out anything that will bring greater world prosperity than to have the dollar of equal value.

At this point, the chair called for a report from Mr. Williams, Secretary, as to letters from members unavoidably absent, and similar responses, and the Secretary read many, to be given in a later report.

MR. WILLIAMS, continued: I think you will appreciate my adding a postscript to something said here about Justice Samuel F. Miller. His portrait is high on the west wall here, and a very splendid picture of a great man. You will bear with me in just a short personal comment.

When the supreme courtrooms, now occupied by Judge Mantz and his associates, were used for the first time and formally dedicated on June 8, 1886, I was a young reporter on the Iowa State Register, then edited by the brilliant James S. Clarkson. I was informed that someone else would make the report for the paper of the dedicatory ceremonies; but out of curiosity I slipped into the back door of the courtroom and stood upon a chair to hear and see, and naturally took some notes. The dedicatory address was by Justice Miller. Back at the office I was surprised to learn that it had been expected I would report the ceremonies. I was embarrassed, because I had not prepared for a complete report, and anyway it was a pretty big job for a reporter not long off an Iowa prairie farm.

But, according to arrangement later made, I went to the Kirkwood hotel with Charles Dahlberg, shorthand reporter for the courts, and we went to an upper room where we found the distinguished member of the United States supreme court. I sat down on one side of a rough table, the judge on the other, the reporter at the end, a kerosene lamp dimly lighting the room.

"Now, young man," said the judge in kindly voice, "what was it that I first talked about, as shown by your notes?"

I read the brief heading I had made.

"O, yes, now I remember," he continued. "Take this down," the latter said to the shorthand man.

"Now what next was it I said?" The question was repeated, the notation given, the dictation made, and we proceeded with building up a little at a time substantially the same speech as that which had served as the dedicatory address for the court rooms. I never forgot the kindness and consideration of the distinguished man toward me, a young reporter, and how he thanked me for my modest part.

That is not all. In after years, many years later, I chanced upon a book in the public library giving quotations from the bench and bar, and saw one attributed to

Justice Miller as a tribute to the lawyers of Iowa and of the rural districts. I delved into it and found that this was the very speech built up by that dim light in a Des Moines hotel, printed first in the newspaper, later copied into Stiles' "Recollections" and finally placed in a book of notable quotations.

EMORY H. ENGLISH: Mr. President, just briefly I want to pay a tribute to Mr. Williams. How fortunate this Association is that we have among us a man whose memory reaches back to an age that few of us knew personally. There are very few men in the State of Iowa who have known more public men and been in touch with more public affairs than the Secretary of this Association, and his memory holds a wealth of information. I think it was a fortunate thing that the Trustees of the State Historical Department selected him as Curator. As he was speaking I felt that it would be a fine thing if this record could show our appreciation of his being a member and officer of this Association.

ADJOURNMENT AND LUNCHEON

President Scott noting the time for adjournment and the luncheon downstairs in the Dodge room, and called attention to the fact that there was in attendance, Henry T. Saberson,¹⁰ now ninety-one years old; and spoke also in appreciation to Senator Banta for his presence.

Before leaving the State Historical Building, to proceed in a body to the Statehouse for the afternoon meeting with the joint session of the Fiftieth General Assembly, the members were served lunch in the "Dodge Room" on the first floor, where are preserved the valuable papers and records of General Grenville M. Dodge, as civil war engineer and railroad builder.

Governor Bourke B. Hickenlooper, who had been detained, appeared at the luncheon and spoke briefly in welcome to the former legislators and assured them of

¹⁰Henry T. Saberson, of Des Moines, was oldest of the pioneer lawmakers present, his service dating back beyond any other. He was ninety-one years old and had served in the Twenty-fourth and Twenty-fifth General Assemblies. He participated with pleasure in the meeting, but on March 29 he passed away.

the deep appreciation of this generation for their work in the past.

The report of the afternoon proceedings before the joint session of the Fiftieth General Assembly will be given in a later issue of this publication.

From many sources came the comment that the Twenty-eighth biennial session was most satisfactory. The program was carried through with precision. Members enjoyed visiting with old friends and recounting past experiences.

AN IOWA INTERNATIONAL SUGGESTION

In his talk at the meeting of the Iowa Pioneer Law-makers Association in February 1943, Senator Geo. M. Titus of Muscatine, referred to his proposals for an international monetary agreement, and upon inquiry it was found he had embodied them in the following memorandum:

1. An international nonprofit bank supported at first by England, United States and Russia.
2. Located in this country because we have, I understand, 80% or more of the gold of the world.
3. The facilities of this bank open only to nations who will stabilize their currencies in conformity with the regulations of the bank.
4. The charges of the bank only sufficient to pay expenses and properly conduct the same. This would indicate to all nations that the bank was established to facilitate international trading.
5. Since the business of three-fourths of the world is done with silver only, gold should be the base but gold and silver on some reasonable ratio should be used.
6. If this were done, it would, in my judgment, secure greater world prosperity than has hitherto been known.
7. In my judgment, the postwar money question is the most important problem for solution.
8. It would probably be necessary for this country to pledge some portion of its gold reserve to stabilize its interest in the international bank.
9. In my judgment, it would be very desirable if the suggestion for such a bank would come from England.
10. This whole money question should be acted upon in a non-partisan way. In other words, the solution should be on the part of both democrats and republicans in this country.

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