

## THE FIRST GENERAL ASSEMBLY OF IOWA

The Iowa General Assembly as organized today, under the Constitution of 1857, consists of 158 members — 50 Senators and 108 Representatives. The Senators are elected from the fifty senatorial districts of the State, to serve for terms of four years each. One Representative is chosen from each of the ninety-nine counties of the State, with an additional Representative from each of the nine counties having the largest population. Their term of office is for two years. The Lieutenant Governor presides over the Senate, while the Speaker of the House is elected by the members. Both the Senators and Representatives receive a compensation of \$1,000 per session, except that the presiding officer of each house receives \$2,000. Let us look in retrospect at the Iowa General Assembly of one hundred years ago.<sup>1</sup>

The Constitution of 1846 provided that the First General Assembly of the State should convene at a time to be designated by the Territorial Governor within four months after the ratification of the Constitution by the people. Governor James Clarke accordingly issued a proclamation calling the General Assembly, elected on October 26, 1846, to convene on November 30th. Although Iowa had not been formally admitted into the Union at that time, Governor Clarke decided to convene the Assembly on this date because, as he said, the necessary preliminary steps looking to a State organization had been taken, "and nothing remains to complete the admission of the State into the Union but a compliance with the few and simple forms ren-

<sup>1</sup> Constitution of Iowa, 1857, Art. III; *Code of 1946*, Secs. 2.11-2.15.



dered necessary by the Constitution and by usage." In pursuance of this proclamation the First General Assembly met, elected officers, and passed laws before Iowa was actually admitted into the Union.<sup>2</sup>

The General Assembly of 1846 met in what is now familiarly known as the Old Stone Capitol in Iowa City. The coming of the new State officers to the capital was a matter of much interest. The city was astir with officials, visitors, and spectators. Every tavern and boarding house was filled to overflowing. Perhaps some came to spend a few days of gaiety and pleasure with friends; others were there "to see the wheels of the new government set in motion"; still others were aspiring to become members of the United States Senate or Judges of the Supreme Court of Iowa, or they were influential friends of such aspirants.<sup>3</sup>

The General Assembly of Iowa of a hundred years ago consisted of 58 members — 19 Senators and 39 members of the House of Representatives. Under the Constitution of 1846 there was no provision for a Lieutenant Governor, so members of the Senate, as well as members of the House, selected their own presiding officer.

The frontier was not interested in biographical or genealogical details, but one Iowa newspaper took the trouble to tabulate some data on the first State Senators. Apparently the editor considered a similar inventory of the House too large a task.<sup>4</sup>

The nineteen members of the Senate had come to Iowa from a wide area — four from Ohio, three from Pennsylvania, two from New York, two from Kentucky, and one

<sup>2</sup> Constitution of Iowa, 1846, Art. III; Benj. F. Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, pp. 330, 360.

<sup>3</sup> Ethyl E. Martin's "A Bribery Episode in the First Election of United States Senators in Iowa" in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. VII, pp. 483-502.

<sup>4</sup> *The Bloomington Herald*, November 6, 1846.



from each of the States of Tennessee, Connecticut, Maine, Vermont, Maryland, Virginia, Alabama, and New Hampshire. Their occupational interests likewise varied widely. There were six farmers, five lawyers, four physicians, a merchant, a bricklayer, a printer, and a trader. Judging from the ages of the Senators the members of the First General Assembly were definitely young men. The Constitution of 1846 stipulated a minimum age of 21 years for members of the House and 25 years for members of the Senate. The records indicate that the youngest member of the Senate was 25, and the oldest member was 49. The medium age was 36, and only five members were more than 40 years of age.

Political parties were significant one hundred years ago. In the First General Assembly the House of Representatives was almost evenly divided on party lines. Twenty members belonged to the Whig Party and the remaining nineteen were listed as Democrats. Accordingly, the House elected a member of the Whig Party as Speaker. In the Senate, party lines were not so closely drawn; there were twelve Democrats and seven Whigs. As a result the Democratic Party controlled the upper house of the General Assembly, and elected one of its members as President of the Senate.

It appeared, then, that in a joint convention of the two houses, the Democrats would have 31 votes and the Whigs 27. It was supposed that the Democrats would have the advantage in naming the United States Senators, who at that time were elected by members of the General Assembly convening in joint session. But, alas, things are not always what they seem. It soon appeared that three members of the General Assembly from Lee County — Josiah Clifton and Reuben Conlee in the House and Jacob Huner in the Senate — listed as Democrats, were in reality Independents



and could not be relied upon to vote with the Democrats on every question. It was this peculiar quirk in political alignment that added much interest to the meeting of the First General Assembly.<sup>5</sup>

At twelve o'clock, noon, on the first day of the legislative session the Senators-elect were called to order by Senator Evan Jay of Henry County, and on his motion Senator Francis Springer of Louisa County was named president *pro tem*. Other temporary officers included a secretary, assistant secretary, sergeant-at-arms, and fireman. The secretary then called the roll of counties and members of the Assembly presented their certificates of election and were sworn into office.

In the House of Representatives a similar method of procedure was followed. There General Jesse B. Browne, a Whig member of the House from Lee County, called the meeting to order and on his motion Representative John T. Morton of Henry County was named speaker *pro tem*. Other temporary officers named were chief clerk and sergeant-at-arms. On the following day Thomas Baker of Polk County, a Democrat, was elected President of the Senate, and Jesse B. Browne was named Speaker of the House. They immediately assumed the duties of their office and carried forward the work preparatory to the acquisition of statehood.<sup>6</sup>

Addressing the House of Representatives, Speaker Jesse B. Browne said: "I regard this as *one* of the most important epochs — perhaps *the* most important — in our political existence. Just attaining, as we are, our political majority, and emerging from a *Territorial*, into a *State* form of government, it is emphatically a time when *political*

<sup>5</sup> Dan E. Clark's *History of Senatorial Elections in Iowa*, pp. 38-44; *The Iowa Standard*, February 24, 1847.

<sup>6</sup> *Journal of the Senate*, 1846-1847, pp. 3-5; *Journal of the House of Representatives*, 1846-1847, pp. 3-5.



*economy* in all its branches, and in every sense, should be made the order of the day." To this end he advocated "a strict adherence to virtue and prudence, and a faithful exercise of a sound discretion".<sup>7</sup>

Thomas Baker, President of the Senate, spoke very briefly, emphasizing the importance of the work that confronted the legislative session and expressing the hope that harmony might prevail and that members of the Assembly might discharge their duties with pleasure to themselves and with satisfaction to their constituents.<sup>8</sup>

The first item of interest to come before the Assembly was the selection of a full corps of permanent officers. In the House, Silas A. Hudson was named chief clerk; Francis C. Porter, assistant clerk; Solomon C. Spann, sergeant-at-arms; and Johnson C. Chapman, fireman. These were probably Whigs. In the Senate Jno. B. Russell was named secretary; Joseph Myers, assistant secretary; Thomas C. Young, sergeant-at-arms; John H. Anderson, messenger; and H. H. Welch, fireman. These, no doubt, were "deserving Democrats".

The next order of business was the appointment of standing committees and the adoption of rules of procedure. In each house the following standing committees were named: Ways and Means, Schools, Roads, Public Buildings, Elections, Enrolled Bills, Engrossed Bills, Claims, New Counties, and Agriculture. In addition to these, the Senate named committees on Federal Relations, Internal Improvements, Military Affairs, County Boundaries, and Incorporations. The House added committees on Judiciary, Militia, Expenditures, and Township and County Organization. Committees were named by the presiding officers.<sup>9</sup>

<sup>7</sup> *Journal of the House of Representatives*, 1846-1847, p. 5.

<sup>8</sup> *Journal of the Senate*, 1846-1847, pp. 5, 6.

<sup>9</sup> *Journal of the House of Representatives*, 1846-1847, pp. 6, 31, 32; *Journal of the Senate*, 1846-1847, pp. 6, 7.



The rules of procedure which had been used during the final session of the Territorial Assembly were adopted temporarily and committees were appointed in each house to prepare permanent rules. Very early in the session the House Committee on Rules reported, recommending that the rules of the Legislative Assembly of the Territory be used, subject to amendments. One of these amendments stipulated that "twenty" members of the House of Representatives should constitute a quorum, instead of "fourteen" members as in Territorial days. The committee also added the provision that rules of parliamentary practice, "as comprised in Jefferson's Manual" should govern the House, in all cases in which they were applicable, "and where they are not inconsistent with the standing rules of this House."<sup>10</sup>

The rules which were finally adopted were similar to those of today, but there were interesting points of contrast. Rule 41 provided that every bill should be introduced "by motion for leave, or by an order of the House on the Report of a Committee". One day's notice, at least, was required of the motion to bring in a bill. Rule 42 stipulated that every bill should receive three readings on separate days. This rule was frequently suspended. Members were, however, much more dependent on the readings than they are today for bills were not printed and distributed to the members. Rule 47 provided that all bills ordered to be engrossed "shall be executed in a fair round hand."<sup>11</sup> Printing bills for the General Assembly became the general practice about 1886.

On the third day of the legislative session the two houses of the General Assembly heard the message of the outgoing chief executive, Territorial Governor James Clarke.

<sup>10</sup> *Journal of the House of Representatives, 1846-1847, pp. 7, 36.*

<sup>11</sup> *Journal of the House of Representatives, 1846-1847, pp. 473-477.*



In his rather extensive address Governor Clarke commented upon the "many wise features of our excellent system of government" in providing for the admission of States into the Union. He commented upon Federal land grants for education and expressed the belief that the immediate sale of such land was a "questionable policy". He likewise spoke of land grants for the improvement of navigation and expressed the opinion that improvement of the Des Moines River was "an object of first importance". He said that the time had arrived when a "complete revision of the laws of Iowa" was expected. This, he explained, necessitated the coöperation of the executive and legislative branches of government, and he expressed the hope that their "joint labors may be characterized by harmony, and that a wise, pure, and economical administration of the government may be secured to the people".<sup>12</sup>

On the following day — December 3, 1846 — before a joint session of the two houses, in the Hall of the House of Representatives, Governor-elect Ansel Briggs was conducted to the Speaker's chair and the oath of office was administered to him by Charles Mason, Chief Justice of the Territorial Supreme Court. A brief address which had been prepared by Governor Briggs was then read by Senator Philip B. Bradley.<sup>13</sup>

Having only recently been notified of his election as Governor, Mr. Briggs did not attempt to outline definite policies of government in his first address. Rather he placed responsibility in the hands of the legislators and promised them his full coöperation.

"Having a country unsurpassed in beauty and fertility, and which is rapidly filling up with an intelligent and enterprising people", he declared, "we bid fair in a very short

<sup>12</sup> *Journal of the House of Representatives, 1846-1847*, pp. 10-20.

<sup>13</sup> *Journal of the House of Representatives, 1846-1847*, p. 331.



time to take a most enviable position among our sister States." "But, gentlemen", he continued, "it much depends upon your action at this first session of our Legislature, whether we shall advance to that position by rapid strides, or for years be left to 'draw our slow length along'. If you proceed with that calmness and caution, that fervent desire for the happiness and welfare of our country, which should, and doubtless will characterize your deliberations, all will be well; but if, unhappily, from any cause, the utmost care is not taken to guard against hasty and unnecessary legislation, lasting evils may be entailed upon our institutions."

In conclusion, Governor Briggs declared, "Permit me to assure you, that in all your efforts which are directed to the advancement and prosperity of our State, you shall have my hearty co-operation, trusting that if we place a proper reliance on that Supreme Being who rules and governs all nations, our labors at this first and most important session of the Legislature, will redound to the honor and happiness of our fellow-citizens."<sup>14</sup>

The compensation of members of the General Assembly is always a matter of interest. If legislative salaries sometimes seem to be low at the present time, they were even more meager one hundred years ago. The Constitution of 1846 stipulated that the compensation of members of the General Assembly should "not exceed two dollars per day for the period of fifty days" from the commencement of each regular session, and should "not exceed the sum of one dollar per day" for the remainder of the session. Provision was made, however, that during the first session of the General Assembly, compensation should be two dollars per day throughout the entire session. One hundred years later, members of the General Assembly were receiving ap-

<sup>14</sup> *Journal of the House of Representatives, 1846-1847*, pp. 34, 35.



proximately ten dollars per day. It should be remembered, however, that the purchasing power of a dollar is much less today than it was one hundred years ago. A dollar and a quarter at that time would purchase an acre of rich Iowa soil — land that is now worth \$200 to \$300 per acre. Measured in land values and in the values of many other commodities, it seems that legislators were paid more in 1846 than they are now.<sup>15</sup>

The Fifty-second General Assembly will probably be in session for a period of approximately one hundred days. It will consider something more than a thousand bills — more than five hundred originating in each house, some of which will be identical in the two houses. It will probably place on the statute books about three hundred legislative measures, each of which will constitute an amendment, revision, or addition to the present State law. The General Assembly that was in session one hundred years ago convened, as we have seen, on November 30, 1846, and adjourned *sine die* on February 25, 1847. Thus its session covered a total period of 88 days, with time taken out for fifteen days Christmas vacation. There were nine Sundays during the period so the Assembly was actually in session only 64 days.<sup>16</sup>

During this period 144 bills were presented in the House and 116 in the Senate. From these there evolved 125 laws and twenty-three joint resolutions — a total of 148 legislative enactments. Obviously, many questions of modern legislation were not touched upon. The railroad had not yet reached Chicago, so there was no railroad legislation. Some attention was given to the improvement of waterways and provision was made for the operation of ferries. But the most popular subject of legislation, judging

<sup>15</sup> Constitution of Iowa, 1846, Article III, Sec. 25.

<sup>16</sup> *Journal of the Senate*, 1846-1847, pp. 3, 130.



by the number of laws enacted, was that with regard to the building or laying out of roads. A total of 28 laws dealt with this subject alone.

Some of the legislative measures in this field were designated as dealing with "Territorial" roads. Before the first such measure was passed, however, Iowa had been officially admitted into the Union, and the roads were in reality "State" roads. The first road law which passed the Assembly was one relative to a road that would extend "from Rockingham, in Scott County, by Centre Grove and Moscow, in Muscatine county, to Iowa City, in Johnson county". Commissioners authorized to lay out this road were to meet at the home of Dan B. Shaw, in Scott County, on the first Monday in May, 1847.<sup>17</sup>

In some instances the point of direction was designated by the location of natural objects or by previously surveyed lines. Thus an early law provided for the relocation of a road from Bloomfield to the center of Appanoose County; "said relocation to commence at the town plat of Centreville, in said county; thence east, on or near the line of sections thirty-one and thirty-two; thence a north-east direction to a ford in Chariton river; thence on the nearest and best route to the Bluffs; thence, a south-east direction, to intersect said road again at or near the 'Bee trace'."<sup>18</sup>

In some cases familiar points of interest aside from cities and towns were used as points of direction. Thus one law provided for a road "commencing on the Sullivan line, so as to intersect the road leading to Churchville, in Missouri; thence west, to Bradford's tavern, in Van Buren county; from thence to B. F. Wilsons; thence to the house of John A. Drake, in Davis county; thence to Joshua Pat-

<sup>17</sup> *Laws of Iowa, 1846-1847*, pp. 22, 23, 35-37.

<sup>18</sup> *Laws of Iowa, 1846-1847*, p. 35.



terson's, thence the nearest and best route to the west line of Appanoose county." <sup>19</sup>

In some instances commissioners were authorized to use their discretion in laying out a road. Thus a road from Oskaloosa to Knoxville was to be laid out "on the nearest and best route for a road, taking into consideration the public interest, and at the same time doing as little damage to private property as the public interest will admit." <sup>20</sup>

Twenty laws were passed by the First General Assembly relative to county affairs. They included such subjects as county boundaries, the establishment of county government, the location of county seats, and the duties of county officers. County boundaries were established for Ringgold, Taylor, Page, and Fremont counties in southwestern Iowa, and for Clayton, Fayette, Allamakee, and Winneshiek counties in northeastern Iowa. Provisions were made for the organization of Dallas and Pottawattamie counties. <sup>21</sup>

An interesting phase of the law is one which dealt with the location of county seats. Typical of such legislation was a measure which provided that the voters of Jones County might vote upon such points within the county "as they may deem proper" for the seat of government. If any point should receive a majority vote, it should become the permanent seat of justice. If no point should receive such a majority, provision was made for another election to choose from among the three receiving the largest number of votes. <sup>22</sup>

At the election which followed, five Jones County towns entered the contest: Lexington, Newport, Rome, Monticello, and Scotch Grove. Newport and Lexington stood the

<sup>19</sup> *Laws of Iowa*, 1846-1847, p. 40.

<sup>20</sup> *Laws of Iowa*, 1846-1847, p. 53.

<sup>21</sup> *Laws of Iowa*, 1846-1847, pp. 37, 63, 81, 114, 115.

<sup>22</sup> *Laws of Iowa*, 1846-1847, p. 38.



highest in the contest, and at the second election, a little later, a majority of the votes went to Lexington. The name Lexington was later changed to Anamosa, which at the end of a hundred years is still the flourishing county seat of Jones County.<sup>23</sup>

Twelve legislative measures were passed by the First General Assembly dealing directly with cities or towns. During Territorial days fifteen cities had been granted special charters — two by the Legislative Assembly of Wisconsin Territory and thirteen by the Iowa Legislative Assembly. At the first session of the State General Assembly the cities of Dubuque and Farmington were given new charters and Fairfield and Keokuk were granted their first special charters. One measure passed by the Assembly provided for the general incorporation of cities. Four measures were passed relative to the names of cities. The name Prairie Laporte was changed to Guttenberg, the name Chaldea was changed to Centerville, Newton City was changed to Newton, and the spelling of Belleview was changed to Bellevue. Another legislative measure provided for the repeal of the "charter of the town of Davenport" if the people should vote for repeal at an election called for that purpose. It may be noted, however, that the charter was not repealed under this law, and that at the end of a hundred years Davenport remains one of the few Iowa cities still governed under a special charter.<sup>24</sup>

Governor Briggs was an advocate of improved school legislation and, in accordance with his views, an extensive and comprehensive law relative to common schools was enacted. A part of this law provided for the election of school officers at a given date. Elections were held, but it was

<sup>23</sup> *History of Jones County, Iowa* (1879), pp. 332-334.

<sup>24</sup> *Laws of Iowa, 1846-1847*, pp. 21, 36, 49, 88, 95, 101, 104, 154; George F. Robeson's *The Government of Special Charter Cities in Iowa*, p. 25.



later found that this act had not been properly published and the elections under it were declared to be void. This left the State with school laws on the statute books, but with no school officers to administer them.<sup>25</sup>

The resolutions passed during the regular session of the First General Assembly, like the laws, covered a wide variety of subjects. Of the twenty-three joint resolutions which were passed, seven were relative to the establishment of mail routes. These included requests for mail routes from Iowa City to Council Bluffs, from Iowa City to Bloomfield, from Iowa City to Albany, Illinois, from Fairfield to Bloomfield, from Fairfield to Oskaloosa, from Dubuque to Keokuk, and from Keokuk to Fairfield. In each case provision was made for sending a copy of the resolution "to our Representatives in Congress". In most cases the resolution was sent by the Governor.

Two resolutions related to proposed improvements of the Des Moines River, one the Iowa River, and one the Cedar River. One resolution embodied a rather unusual request for a grant of ten thousand acres of land, the proceeds to be used to construct a levee to prevent the inundation of Muscatine Island.<sup>26</sup>

One hundred years ago, just as at the present time, petitions presented to the General Assembly were numerous and dealt with a variety of subjects, not the least of which was the subject of spirituous liquors. A comment in *The Bloomington Herald* gives evidence of this fact in language that is impressive. On Tuesday morning, January 5, 1847, the House of Representatives "was principally engaged in the reception of petitions of various subjects. Among them was a large number for the repeal of the present licence

<sup>25</sup> *Laws of Iowa, 1846-1847*, pp. 127-135; Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, pp. 370-378; *Calkin v. The State*, 1 Greene (Iowa) 68.

<sup>26</sup> *Laws of Iowa, 1846-1847*, pp. 191-203.



law, and requesting the enactment of a law leaving it with the people of each organized township to say whether they will permit the retailing of ardent spirits within their respective townships. The ladies — God bless them — appear here in numbers in the form of petitioners for the last named object. They cannot be blamed for a laudable desire for suppressing the use of ardent spirits, as they are the chief sufferers in the excessive use of spirituous liquors. It looks as if the House entertained these petitions with favor.”<sup>27</sup>

Harmony and coöperation are important factors in the passing of constructive legislation. Despite the fact that Governor Briggs, in his inaugural address, and both the President of the Senate and the Speaker of the House, in addressing the First General Assembly, expressed the desire that there should be coöperation among the various officers and that harmony should prevail throughout the legislative session, it soon became apparent that there was a decided lack of harmony. Both the Senate and the House seem to have had harmony as long as each conducted its own affairs as a separate body. But one house was presided over by a Democrat and had a Democratic majority; the other by a Whig with a Whig majority. Laws could be passed by each branch voting separately with some success, but when they met in joint session the lack of harmony was at once apparent. One of the chief duties that confronted the First General Assembly was that of electing two United States Senators and three Judges of the State Supreme Court. This could be done only in joint session. There was much debate as to whether Senators or Judges should be selected first.

In accordance with a resolution adopted by the Senate and the House after much bickering, the two houses met in

<sup>27</sup> *The Bloomington Herald*, January 15, 1847.



joint session on December 18, 1846, for the purpose of electing United States Senators. According to the resolution Judges were to be chosen the following day. When legislative bodies thus meet in joint session, it is a custom of long standing that the meeting shall convene in the hall occupied by the House of Representatives — usually the larger of the two assembly rooms — and that the honor of presiding at the joint session shall be tendered to the presiding officer of the visiting delegation — the President of the Senate. On this occasion the meeting convened in the House of Representatives, but the presiding officer of the House, Speaker Browne, did not yield the chair to the visiting President of the Senate. He continued to preside over the joint assembly. Moreover, the chief clerk of the House served as secretary of the convention.

Upon roll call it was revealed that all members of both houses were present. Thereupon, Senator Thomas H. Benton, Jr., and Representative G. W. Bowie were named tellers, and the convention proceeded to vote upon candidates for the office of United States Senator. Party caucuses had previously named Jonathan McCarty as the Whig candidate for the first seat to be filled and Thomas S. Wilson as the Democratic candidate. Upon the first ballot, McCarty, the Whig, received 29 votes, Thomas S. Wilson, the Democrat, 28 votes, and G. C. R. Mitchell, a Whig, 1 vote. Thus no one man had a majority of all votes and no one was elected.

A recording of the votes indicated that the three Independents from Lee County had voted with the Whigs, while Senator Samuel Fullinwider, a Whig from Des Moines County, had voted for Mitchell. If he had voted with his party for Jonathan McCarty, McCarty would have had a majority vote and would have been elected. It appeared very clearly to the Democrats that if the Independent mem-



bers were going to vote with the Whigs, it would be difficult, if, indeed, not impossible, to elect Democrats to the United States Senate. Their strategy called for an adjournment before the Whigs could bring pressure on Senator Fullinwider and realign him with the Whig Party.

In this critical situation Senator Philip B. Bradley, Democratic leader of the Senate, promptly moved that the convention adjourn. This motion was lost by a vote of 28 to 30. This was followed by a motion "to adjourn until the fourth day of January" and another motion "to adjourn until the fifth of January". Both of these motions having been lost, Francis Springer moved that "no further motion to adjourn be entertained by the chair previous to the taking of another vote." In parliamentary practice a motion to adjourn takes precedence over other motions, and so this motion did not prevent another motion to adjourn, which was promptly made. This motion was lost and there was a period of debate, after which Senator Bradley again moved "to adjourn to meet on the fifth of January next, at 2 o'clock, P. M." At long last the adjournment deadlock was broken — the motion passed by a vote of 30 to 28 and the convention adjourned without having accomplished anything in the way of electing United States Senators.<sup>28</sup>

When the Senate convened in the Senate Chamber in the afternoon following the joint session, Senator John Selman of Davis County proposed the following: "Resolved, That the attempt on the part of the Speaker of the House of Representatives to be the presiding officer in joint convention, on the 18th instant, to elect United States' Senators, is a gross insult to the Senate." Thereupon Senator Evan Jay of Henry County proposed to amend the above resolution by adding thereto the following: "And that a motion made by any member of the Senate, when in convention, for

<sup>28</sup> *Journal of the House of Representatives, 1846-1847, pp. 94-99.*



the Senate to retire to the Senate chamber, was no less an insult to the House of Representatives." On motion of Senator James Davis of Wapello County, both the resolution and the proposed amendment were laid on the table.<sup>29</sup>

Again and again during the first legislative session attempts were made to convene the Senate and House in joint session to elect United States Senators. But in each case the Senate declined to join in the meeting. Nor was it merely a matter of declining to hold a joint meeting. Early in the session there were charges of bribery relative to the election of a Senator. This added to the already strained relations that existed between the two houses and led to increased bitterness among members of the Assembly.

To add to the confusion and hard feelings, on the afternoon of December 9, 1846, Nelson King, Whig Representative from Keokuk County, usually Democratic, arose from his seat in the House and asked permission to make a statement. Not knowing what the statement contained, members of the House gave unanimous consent. Amid suppressed excitement King stated that since he had become a member of the House he had been approached by various individuals relative to casting his vote for United States Senators, and in each case money and other rewards had been offered him if he would vote for A. C. Dodge or J. C. Hall. To protect King from censure or blame, these persons had promised to obtain a paper signed by his constituents instructing him to vote for the Democratic candidates. King further stated that on the preceding evening S. T. Marshall had given him two receipts of indebtedness and a five-dollar note, and had promised him one hundred dollars or "any amount he wanted". Marshall, King said, had told him that the money belonged to Dodge.

Following this statement by Representative King, a com-

<sup>29</sup> *Journal of the Senate, 1846-1847, p. 61.*



mittee of five (subsequently increased to seven) was named to investigate the charges. At the same time a motion was made to extend a vote of thanks to Mr. King for "his honest, high-minded and patriotic conduct" in exposing the attempted bribery. Members of the House, however, were reluctant to issue a vote of thanks before investigating the case. Some members of the House were desirous of having the statement made by Mr. King entirely excluded from the record, but this desire did not prevail.<sup>30</sup>

The arrest of Marshall gave rise to much bitterness and to many political editorial comments on both sides. Meanwhile, Marshall asked the privilege of appearing before the House by his attorneys, Frederick D. Mills and James Grant. But because the case was in the hands of a committee for investigation, this privilege was denied.

As a result of many personal charges and critical newspaper comments an exciting affray took place in the House of Representatives on January 20, 1847, between Representative King and A. H. Palmer, editor of *The Iowa Capitol Reporter*. This only served to widen the breach between the two political factions and made it increasingly difficult to pass constructive legislation or to elect United States Senators.

The only action taken by the House of Representatives against any of the parties directly concerned in the investigation, however, came on the last day of the legislative session, when upon the motion of Representative Elijah Sells of Muscatine County, the following resolution was adopted:

Resolved, That Samuel T. Marshall has been proven guilty of a contempt of this House in offering a bribe to one of its members and deserves its severest reprehension.

Resolved: That these resolutions be entered on the Journals of this House, as a public reprimand for said contempt.

<sup>30</sup> Martin's "A Bribery Episode in the First Election of United States Senators in Iowa" in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol.



An attempt was made to amend the resolution to include the name of "Nelson King" as receiving bribes, but the amendment was not adopted. The General Assembly adjourned without having elected United States Senators or State Supreme Court Judges.<sup>31</sup>

## SPECIAL SESSION

Due to the fact that one of the important school laws passed by the regular session of the First General Assembly had been declared invalid, Governor Briggs decided to call an extra session of the Assembly and recommended that prompt attention be given to school legislation. Other laws were suggested by the chief executive and for the purpose of passing these much needed laws the Assembly was convened in special session on the first Monday of January, 1848.<sup>32</sup> Possibly the Governor also hoped for the election of Democratic Senators.

The special session was of brief duration, continuing for only twenty-three days, three of which were Sundays. In this period of twenty working days, however, 124 laws and 25 resolutions were passed<sup>33</sup> — virtually the same number as had been passed at the regular session. As in the previous session, the laws covered a wide variety of subjects. Chiefly, however, they provided for the incorporation of cities, the building of State roads, the organization and management of counties, the development of schools, and the operation of ferries.

VII, pp. 483-502; Clark's *History of Senatorial Elections in Iowa*, pp. 24-38; Charles Negus's "The Early History of Iowa" in *The Annals of Iowa* (First Series), Vol. IX, pp. 642-652.

<sup>31</sup> Clark's *History of Senatorial Elections in Iowa*, pp. 38-44; *Journal of the House of Representatives, 1846-1847*, p. 425.

<sup>32</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. I, pp. 370-378.

<sup>33</sup> *Laws of Iowa, Extra Session, 1848*, pp. 1-85.



Despite the fact that the Governor emphasized the importance of school legislation and called special attention to the act of February 24, 1847, which had not been properly published, no direct remedial law was passed by the special session. Perhaps the reason for inaction at this point was the fact that prior to the convening of the special session the law had been properly published and officers were to be elected at the next ensuing election. Only one significant school law was passed at the special session — an act authorizing a district tax for building purposes.<sup>34</sup>

It is significant to note, however, that at the special session a law was passed relative to the publication of laws in newspapers. This measure was designed to prevent the repetition of an error such as had occurred the previous year in connection with the school law.<sup>35</sup>

Laws were passed for the amendment of the charter or a development of city planning in the cities or towns of Farmington, Keosauqua, Cedar Rapids, Burlington, Portland, Keokuk, Fort Madison, and Dubuque. Ten laws were passed relative to roads. Provision was made for roads from Eddyville to Chariton Point, from Walling's Landing to Columbus City, from Iowaville to Lancaster, from Elkader to Quasqueton, from Davenport to Iowa City, and from Fort Madison to Fairfield.

Five laws were passed relative to the operation of ferries. One of these provided for a ferry crossing the Missouri River at Council Bluffs. Another authorized a ferry crossing the Mississippi River at the town of Nashville in Lee County. Other laws provided for ferries at Keokuk and another to cross the Mississippi River at a point opposite the town of Keithsburg, Illinois. A rather unusual law

<sup>34</sup> C. R. Aurner's *History of Education in Iowa*, Vol. I, p. 17; *Laws of Iowa*, Extra Session, 1848, p. 76.

<sup>35</sup> *Laws of Iowa*, Extra Session, 1848, p. 11; Aurner's *History of Education in Iowa*, Vol. I, p. 369.



authorized a penalty for any one operating a ferry across the Mississippi River at the town of Bloomington (now Muscatine) or within a mile either side of the city, without first procuring a license for the operation of such ferry from the Bloomington government.

The resolutions passed by the special session of the First General Assembly were quite as interesting as were the laws. One forward-looking resolution stipulated that "our Senators when elected, be instructed, and Representatives in Congress be requested, to procure from the Government of the United States, a grant of land to aid in the construction of a Rail Road from Davenport, by way of Iowa City, Monroe City, Racoon Fork, to some point near Council Bluffs, on the Missouri River in this State."<sup>36</sup>

Resolutions relative to mail routes are also significant, viewed in the light of a hundred years of progress. One resolution stipulated that the Postmaster General be requested to change "the mail now carried from Montrose, through Charleston, Franklin, West Point, Lowell, Mount Pleasant, Trenton, Washington to Iowa City, from horse back service to a tri-weekly mail carried in two horse coaches." It also requested that "the weekly mail from Keokuk to Fairfield" be extended to a "tri-weekly" service. Another resolution requested that mail from Fairfield to Fort Des Moines be "carried weekly in a two horse hack".<sup>37</sup>

During the special session, attempts to elect United States Senators were continued in much the same fashion as in the regular session. There was, however, one important difference in the method of procedure. This came about by a change in the personnel of the Assembly. Representative G. W. Bowie, a Whig, resigned and was suc-

<sup>36</sup> *Laws of Iowa*, Extra Session, 1848, p. 89.

<sup>37</sup> *Laws of Iowa*, Extra Session, 1848, pp. 91, 92.



ceeded by T. L. Sergent, a Democrat. Reuben Conlee, one of the three Independents from Lee County, had died during the regular session of the Assembly and was succeeded by D. S. Baker, whose place was taken in the special session by Josiah Kent, a Democrat. This gave the Whigs nineteen Representatives and the Democrats nineteen, with Representative Josiah Clifton, the Independent from Lee County, holding the balance of power.

On January 4, 1848, it was charged that John N. Kinsman, the Representative from Marion, Polk, Dallas, and Jasper counties, was not entitled to his seat, because he had removed from the district which he was elected to represent. In the Senate on the following day a similar charge was made relative to Senator James Davis, and the right of Thomas Baker and John M. Whitaker to represent their respective districts was questioned because each had, since his election, accepted a lucrative office. The men involved were all Democrats. In each case a committee was appointed to investigate.<sup>38</sup>

The House committee reported on the case of Representative Kinsman without recommending action, but the House finally voted to declare the seat vacated, Josiah Clifton, the Independent, voting with the Whigs to unseat Kinsman and Kinsman not casting a vote. The Senate likewise voted along party lines. Perhaps not entirely in accordance with the true merits of the case, the Democrats in that body voted to retain their Democratic colleagues — Thomas Baker, James Davis, and John M. Whitaker. This left a situation in which the Senate was clearly Democratic as it had been before, seven to twelve, while the House had nineteen Whigs and nineteen Democrats, if Clifton were counted in that party. It was clear that in any joint session the Democrats would have a majority vote. It was presumed

<sup>38</sup> Clark's *History of Senatorial Elections in Iowa*, pp. 40-43.



that Clifton would vote with the Democrats. But when he discovered the methods that were resorted to by Democratic members of the Senate, Clifton decided to vote with the Whigs — making the lineup in any joint session twenty-seven Whigs and thirty Democrats.

Thenceforth, the Whigs in the House, in the extra session, played the rôle that the Democrats in the Senate had played during the regular session. Insisting that at least two Democratic Senators were clearly disqualified, they refused to meet in joint session and thus precluded the possibility of electing United States Senators or Judges of the Supreme Court.

On January 25, 1848, the stormy extra session of the First General Assembly, like the regular session, adjourned without having accomplished one of the major functions for which it was convened. It chose neither United States Senators nor Judges of the State Supreme Court. The Territorial Judges held over, but for almost two years Iowa was to remain without Senators at Washington. The First General Assembly did, however, do its share in formulating the foundations of the new State so far as affairs within the Commonwealth were concerned.

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