The Palimpsest

SEPTEMBER 1941

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PUBLISHED MONTHLY AT IOWA CITY BY
THE STATE HISTORICAL SOCIETY OF IOWA

ENTERED AS SECOND CLASS MATTER JULY 28 1920 AT THE POST OFFICE AT IOWA CITY IOWA
UNDER THE ACT OF AUGUST 24 1912

THE PURPOSE OF THIS MAGAZINE

THE PALIMPSEST, issued monthly by the State Historical Society of Iowa, is devoted to the dissemination of Iowa History. Supplementing the other publications of this Society, it aims to present the materials of Iowa History in a form that is attractive and a style that is popular in the best sense—to the end that the story of our Commonwealth may be more widely read and cherished.

BENJ. F. SHAMBAUGH

THE MEANING OF PALIMPSEST

In early times a palimpsest was a parchment or other material from which one or more writings had been erased to give room for later records. But the erasures were not always complete; and so it became the fascinating task of scholars not only to translate the later records but also to reconstruct the original writings by deciphering the dim fragments of letters partly erased and partly covered by subsequent texts.

The history of Iowa may be likened to a palimpsest which holds the records of successive generations. To decipher these records of the past, reconstruct them, and tell the stories which they contain is the task of those who write history.

PRICE — 10 cents per copy: $1 per year: free to Members
ADDRESS — The State Historical Society, Iowa City, Iowa

THE PALIMPSEST

EDITED BY JOHN ELY BRIGGS

VOL. XXII ISSUED IN SEPTEMBER 1941 NO. 9

Pioneers and Preemption

Congress in 1841 established preemption as the general rule of public land disposal. While the lawmakers had argued this issue, pioneers had moved the frontier westward. In many instances the settlers outran the surveyor and the surveyor usually outdistanced the Congressman. It was at the time Iowa was being peopled that the debate upon public land disposal culminated in the preemption law.

When the first frontiersmen found their way into the territory that was to be Iowa, the Congressional enactment of March 3, 1807, relative to occupation of the public lands was still in force. This statute was entitled an act "to prevent settlements being made on lands ceded to the United States, until authorized by law." It was aimed at the pioneers who had settled upon the public domain in advance of the surveyor and the land office auctioneer. The President was authorized to direct the United States marshal and "to em-

ploy such military force as he may judge necessary and proper" in removing any trespassers.

Persons who had located upon the public lands but who had not obtained legal title could request the register of the land office for permission to continue their residence temporarily. These requests were to be based upon actual settlement, to be limited to 320 acres, and to be abandoned if that part of the public domain should be either ceded or sold by the United States. Before being granted such permission for continued residence the applicant had to sign a declaration stating that he did not lay claim to the tract of land. If the area contained a lead mine or salt spring, special permission to work these resources had to be obtained from the United States government.

It is obvious that this statute was diametrically opposed to the doctrine of preemption and particularly unsatisfactory to the ambitions and wanderlust of the pioneers. To protect their improvements and to retain the soil they had tilled, the settlers formed "claim clubs" or "claim associations" which were designed to frustrate the speculator and the competitive bidder who came to secure title at the time of the land sales.

Meanwhile there were many violations of the statute. Being contrary to popular sentiment in the region to which the act of 1807 applied, it was

not respected. The irrepressible sweep of settlement continued to push the frontier westward ahead of land titles.

To use John C. Calhoun's characterization that these pioneers were "lawless bands of armed men" is very misleading. They were more like the Iowa settlers who in 1838 were described by William R. Smith in his *Observations on the Wisconsin Territory*. "Of course", he wrote, "the people are all 'squatters;' but he who supposes that these settlers on the public lands, whose enterprise has led them to seek a home in the 'Far West,' and who are now building upon, fencing, and cultivating the lands of the government, are lawless depredators, devoid of the sense of moral honesty; or that they are not in every sense as estimable citizens, with as much intelligence, regard for law and social order, for public justice and private right, and as much patriotism as the farmers and yeomen of the states of New York and Pennsylvania, is very much mistaken".

Continual agitation for the repeal of the 1807 statute brought little change in the attitude of Congress. One of the reasons for the insistence upon retaining this measure has been well interpreted by Jesse Macy in his *Institutional Beginnings in a Western State*. "The law", wrote Macy in 1884, "seems to have been kept on the

statute-book by Congress out of deference to a sentiment in the older states that people ought to stay at home and not go gadding about through the wilderness in search of new homes. Generally, when a particular case was brought before Congress where trespassers upon the territory had made for themselves homes, Congress could be persuaded to exempt them from the operation of the law. Congress favored the law but was against its execution."

An obvious reason for the reluctance on the part of Congress to grant preemption rights was a financial one. The national treasury needed money. And one political faction continually insisted upon competitive bidding as a lucrative source of income.

Conflicting sectional interests also restrained Congress from altering the basic law of 1807. The slavery faction of the South was competing for the West with the industrial Northeast, and so western interests held a balance of power in Congress. Alliances between the South and West made possible the passage of temporary acts legalizing preemption.

In 1830, 1832, 1834, 1838, and 1840 special preemption measures were approved. These enactments did not grant preemption privileges to future squatters. Instead, they were of a legal-

izing nature. That is, they offered the right of preemption to settlers who had already located upon the public domain previous to the passage of each particular act and who could give proof of actual occupation of the land claimed. Usually the statutes applied to pioneers who were bona fide residents upon the land in the year previous to the legalizing act. The general preemption law applying to squatters without regard to the time of their settlement was not passed until 1841.

It seems that Congress preferred to keep the basic 1807 statute but grant exemptions to persons who actually settled upon the public domain. Obviously, the decade between 1830 and 1840 was one of innumerable petitions to Congress for preemption rights. Those who located each year desired to be pardoned for transgressing the 1807 law.

The pioneers on the frontier of Iowa were not exceptional in this attitude. When, in 1837, the inhabitants of the Territory of Wisconsin west of the Mississippi petitioned Congress for a separate government, the issue of preemption was an important factor. In addition to sending a memorial to Congress for the division of the Territory, the 1837 convention petitioned Congress for a squatters' rights law because the special exemption of 1834 had lapsed. They requested "a preemption

law by which the settlers on the public lands shall have secured to them at the minimum price, the lands upon which they live". The petitioners pointed out that none of the land in the "Iowa District" had been offered for sale and yet that area had an estimated population of 25,000. "An attempt", they argued, "to force these lands thus occupied and improved into the market to be sold to the highest bidder, and to put the money thus extorted from the hard earnings of an honest and laborious people into the coffers of the public treasury, would be an act of injustice to the settlers which would scarcely receive the sanction of your honorable bodies." The memorialists concluded by asking for the passage of a preemption law permitting a bona fide settler to purchase, previous to public sale, as much as one half section of land upon which he had located.

When the petitions of the Territorial Convention were presented to Congress the debate over the issue of preemption was as lively as the discussion on dividing the Territory of Wisconsin. The Iowa settlers were described as persons who, without "the authority of law, and in defiance of the Government, . . . have taken possession of what belongs to the whole nation, and appropriated to a private use that which was intended for the public welfare." Little wonder that the Iowa

pioneers thereupon continued to depend upon themselves for protection. The formation of the land clubs or claim associations was their only alternative. Then, when the land they claimed was offered for sale, the minimum price was obtained by pioneer law if not by Congressional statute.

On June 22, 1838, Congress again suspended the act of 1807. Claimants were authorized to enter title with the register of the land office of the district for not more than 160 acres at the minimum government price of $1.25 an acre. In order to claim preemption rights the settlers had to give proof of ownership "to the satisfaction of the register and receiver". Every "actual settler of the public lands, being the head of a family, or over twenty-one years of age, who was in possession and a housekeeper, by personal residence thereon, at the time of the passage of this act, and for four months next preceding" was eligible to enter a claim. The enactment was not to interfere with the Congressional authority to dispose of the public domain and was to be effective for only two years. It revived the exemptions of the first legalizing act of 1830, thus giving the men who had squatted in Iowa before February 22, 1838, the right to buy their claims within two years without competition.

The First Legislative Assembly of the Territory of Iowa also undertook to define the legal rights of the settlers. On January 25, 1839, an act was approved "to prevent trespass and other injuries being done to the possession of settlers on the public domain, and to define the extent of the right of possession on the said lands." The statute provided that if the question of trespass or ejection relative to an area of land should be raised in court the individual should have his "claim" considered "without being compelled to prove an actual enclosure". The size of the claim (though not exceeding a half section) and boundaries were to be established "according to the custom of the neighborhood." To maintain a claim, actual improvements had to be undertaken and the land could not be neglected for a period of more than six months.

Ten days earlier, on January 15, 1839, the Governor had approved an act "to provide for the collection of demands growing out of contracts for sales of improvements on public lands." This measure, copied from the statute of the Territory of Wisconsin, provided that all contracts or promises made in good faith "for sale, purchase, or payment, of improvements made on the lands owned by the government of the United States, shall be deemed valid in law or equity, and may be

sued for and recovered as in other contracts." Quit claim deeds and other conveyances for all improvements upon the public lands were to be "as binding and effectual, in law and equity . . . as in cases where the grantor has the fee simple to the premises conveyed." It is obvious that if Congress did not believe in preemption the First Legislative Assembly of the Territory did.

Whether these Territorial enactments were contrary to United States statutes was not at once clear. In 1840 the Supreme Court of the Territory interpreted the law in the case of Enoch S. Hill *v.* John Smith and others. Hill on January 23, 1837, had signed a note promising to pay $1000 in one year to John Smith and Brothers of St. Louis. The "value received" for the note was a claim "or the possessory right to a certain tract or parcel of land, belonging to the United States".

Hill argued that the contract was void and the note was illegal because it was given "for a contract for the purchase of a claim, to a tract of the United States lands with the improvements thereon, in violation of the provisions of the several acts of Congress". The court, however, held the contract to be valid, the $1000 recoverable, and in addition, Smith was granted $63.83 damages.

When the case came before the Supreme Court, Chief Justice Mason stated the opinion of the

court on the question of preemption. The law of Wisconsin, of which the 1839 Iowa law was a copy, provided that contracts relative to claims upon United States lands were as valid as if the parties had title in fee simple. This enactment was in force at the time Hill and Smith executed their contract. "If this statute", said Mason, "is of any validity, it closes the door to all further controversy, in relation to this matter."

Thereupon the Chief Justice considered the propriety of the original Wisconsin statute. The general rule, said Mason, was that "illegality in the consideration will prevent the enforcement of any contract". But it is within the power of the legislature "to modify or abridge the rule, or even to abolish it altogether". Consequently, if, prior to the 1836 Wisconsin statute, such contracts were illegal that law made them legal. Such a procedure was of course dictated by public policy and public welfare. "At the time this law was passed," pointed out the Chief Justice, "there were more than ten thousand inhabitants within the present limits of this territory (then a part of Wisconsin) residing on the lands of the United States and daily dealing in what were denominated 'claims,' or the settlers rights to those lands. Public policy dictated that there should be some better sanction to enforce the observance of their contracts, than

the bludgeon or the rifle. The legislature therefore declared, that such contracts should be under the peaceful sway of the civil magistrate, rather than that the whole country should be overwhelmed with the miseries of violence and anarchy. We believe that in so doing they were not only promoting the public welfare, but that they were acting entirely within their legitimate province, and that the law therefore, for this purpose, is valid and binding."

The act of 1807, argued Mason, was not intended to prohibit settlement upon the public domain but to prevent title from being acquired without competitive bidding. "It is notorious", he explained, "that when this territory was organized, not one foot of its soil had ever been sold by the United States, and but a small portion of it [the Half-Breed Tract] was individual property. Were we a community of trespassers, or were we to be regarded rather as occupying and improving the lands of the government by the invitation and for the benefit of the owner?" The Chief Justice thought the latter.

"It is true", concluded Mason as if to ease his legal conscience, "that public opinion would frequently be a very unsafe guide for a judicial decision. The fluctuating feelings of the multitude frequently operated upon by the momentary ex-

citement, by prejudice or by caprice would very improperly be adopted as the standard of truth or sound reason. But where the same opinions are concurred in for centuries, and after passion and prejudice have wholly subsided, such opinions are always found in truth and justice, and can more safely be followed than those of the most learned and able judges."

It is unlikely that this resolute decision had much effect upon Congress. The drift of political events in 1841, however, stimulated the passage of a general preemption statute. The election of the Whigs and the continued alignment of the South with the West caused the defeat of the conservative East on the question of the land policy. The retroactive, legalizing preemption policy was abandoned in favor of permanent preemption rights.

On September 4, 1841, President John Tyler approved a statute granting preemption rights to any person "who since the first day of June, A. D. eighteen hundred and forty, has made or shall hereafter make a settlement in person on the public lands to which the Indian title had been at the time of such settlement extinguished, and which has been, or shall have been, surveyed prior thereto, and who shall inhabit and improve the same, and who has or shall erect a dwelling thereon". Indi-

viduals qualified for such preemption privileges were "every person being the head of a family, or widow, or single man, over the age of twenty-one years, and being a citizen of the United States, or having filed his declaration of intention to become a citizen." Claims limited to 160 acres were to be filed with the register of the land office and title could be obtained upon payment of the minimum government price.

Other limitations upon preemption were: no person could claim more than one preemptive right; no person was eligible who was the proprietor of 320 acres in any State or Territory; and no person who had abandoned his home property to reside on the public land could enter a claim. Reservations made for internal improvements or school purposes or containing natural resources were of course exempt from preemption. The statute also prescribed that proof of settlement was to be made to the satisfaction of the register and the receiver of the district land office.

The statute did not propose to delay the sale of public lands. Nor did it apply to persons who failed to make proof and payment of their claim before the day of the sale. New settlers upon the public domain had thirty days in which to declare their intention to preempt a quarter section, and if within twelve months they failed to make proof

and payment to the land office their tract of land was open to the entry of other pioneers or subject to be offered for sale at the next public auction.

This statute is usually called the "Land Distribution Act" because the principal features pertained to the distribution of the income from the sale of the public land. After a ten per cent grant to certain States and the expenses of the General Land Office were deducted, the net proceeds of the land sales were to be divided among the States and Territories "according to their respective federal representative population as ascertained by the last census". These funds could then be applied to such purposes as the local legislatures might direct. Henry Clay, as chief advocate, was primarily interested in distributing the proceeds of public land sales to the States, and so, to accomplish this purpose, he was willing to adopt preemption as a permanent policy. This also explains why the procedure for acquiring a land title according to this act of 1841 is sometimes referred to as "the preemption clause".

In contrast to the views of Clay were the opinions of John C. Calhoun and Thomas H. Benton. Calhoun, leading advocate of state rights, favored giving the public land to the States for disposal. The Missouri Senator favored preemption. Therefore, when Clay sponsored the land distribution

bill with the "preemption clause" he was accused of compromising with Benton's views.

The passage of this measure immediately provoked debate between the Whig and Democratic factions in the Territory of Iowa. So heated were the arguments that they often evoked personal bitterness. One of the most pronounced exchanges of philippics was between Editor "Silly Billy" William Crum of the Iowa City *Standard* and Editor Verplank Van Antwerp, "the West Point jackass" of the *Iowa Capitol Reporter*. Beneath such exchanges of personal epithets, the two editors revealed the pioneer attitude toward the 1841 preemption law.

On September 17, 1841, the *Standard* quoted with approval a statement in the St. Louis *New Era* that the preemption statute had settled "forever all questions connected with the Public Lands". And by October 15th there must have been considerable discussion of the land law because Editor Crum pointed out that Iowa statehood, with the attendant cost of financing the government out of local taxes, would counterbalance the benefits of the Federal donation under the distribution clause.

The *Iowa Capitol Reporter,* a Democratic paper, made its first appearance at Iowa City on Saturday, December 4, 1841. By January 22,

1842, the editor felt confident that he could "convince those who do not know the fact already, that the Whig preemption act is a most odious law, and merits the reprobation of the western people." In the next issue he analyzed the measure and asked the question "Who does such a law benefit?" Whereas the *Miners' Express* of Dubuque had estimated that three-fourths of the Iowa pioneers were ineligible under the limitations of the bill, Van Antwerp had no doubt that "AT LEAST NINE-TENTHS!" could not claim any benefits from the law. Meanwhile, the Burlington *Gazette* referred to the preemption statute as "a law to prohibit settlements upon the public lands!"

The press complained that the provision of the law making eligible only those who had settled upon surveyed land excluded most of the Iowa pioneers. Only eleven persons in the Dubuque Land District, it was alleged, had come within the provisions of the measure, though it was rumored by the Burlington *Gazette* that "those who have been enabled to avail themselves of it in the Burlington district will much exceed that number." Settlers on surveyed land had already gained title by private entry, public sale, or in accordance with earlier preemption laws. Thus, only the squatters who had outrun the surveyor were interested in the preemption statute. To refuse preemption

rights until the lands were surveyed was tantamount to preventing settlement. Indeed, pointed out Editor Van Antwerp, such a provision if rigidly enforced would have been a bar to any pioneer moving westward.

Early in the spring of 1842 word reached Iowa that Congress was contemplating a change in the preemption statute. By April President Tyler's message with its reference to the $14,000,000 Treasury deficit and recommendation that the Distribution Act be repealed appeared in the local newspapers. Thereupon interest in the controversy was kindled anew. On May 7, 1842, Editor Van Antwerp announced to his readers that the Senate had approved certain amendments to the statute. He wanted to emphasize that the yeas and nays showed how "Democracy did the work for the settlers." As for Mr. Clay, he said he adhered "to his former odious project by the same instinct that the washed sow returns to the mire."

Specifically the Senate amendments repealed the prohibition of aliens preempting land, the provision that only surveyed land was eligible for preemption, and the 320-acre limit of land proprietorship as a bar to preemption privileges. These changes were calculated to remove the principal causes of criticism by the settlers.

But to such Democratic proposals Editor Crum

of the Iowa City *Standard* took exception. He thought the repeal of all land holding limitations as a prerequisite to preemption would benefit "the capitalist and speculator" as much as the squatter. Certainly, the restriction of preemption to surveyed lands did not prevent settlement. All that was intended was that the pioneers await the rod and chain before entering their claim. And surely aliens could not complain of being required to declare their intention to become United States citizens before requesting a portion of the country's public domain. However valid the attitudes of the Iowa pioneers may have been, the proposed modifications of preemption procedure were quashed in the House where the majority of Representatives were either indifferent or hostile to the preemption policy.

Late in 1842, another problem associated with the 1841 preemption statute was raised in the Territory. The Iowa settlers sent petitions to the President asking him to postpone the land sales announced for the following February 20th and March 6th. The reason they gave was "that the season of the year is an unfavorable one." Actually, however, "the larger portion of those who are settled upon the lands are extremely desirous to procure a postponement of the sales, from the fact that they are without the means to enter their

claims." Inasmuch as the preemptors were required to pay for the land before the public sale, many settlers were unable to meet this requirement. Therefore, their only alternative was the hope that their acreage, though offered, would not be sold at the sale. Later they might purchase it by private entry.

Besides the criticisms of the pioneers, eastern interests asserted that the preemption law was partial to the new States; that laborers and farmers lured by the cheap land would migrate westward and leave their jobs; that the price of the land in private hands would decrease; and that the pioneer would take all the best land first.

Notwithstanding these criticisms, the preemption law remained in the United States statutes at large until 1891 when the rules regulating the disposal of the public domain were completely revised. To be sure, Congress attempted to correct abuses. For example, pioneers managed to postpone the day of payment for their claims by filing "a chain of entries", and so, in 1843, Congress provided that an individual was entitled to file a preemption claim only once.

The discussion of preemption in Iowa soon merged into a debate on what should be done with Iowa's share of the proceeds of the Distribution Act. The entire amount acquired under the law

in 1842 was $693,444 of which only $1,860.23 was allocated to the Territory of Iowa. The purposes for which this fund should be used caused considerable debate. The Burlington *Gazette* suggested that the money be spent on "a thorough geological survey of the Territory", but Editor Van Antwerp of the Iowa City *Reporter* argued that $1000 would scarcely make a start in such an undertaking. Better yet, thought he, the money might be used to pay "the just debts of the Territory".

The Territorial Legislative Assembly had already passed an act "to provide for receiving the proportion of money to which Iowa will be entitled under the Distribution law." Approved on February 17, 1842, the statute authorized the Territorial Treasurer to receive the Federal money "subject to appropriations hereafter to be made by the legislative assembly." It seems that the lawmakers followed Van Antwerp's suggestion because both the Fifth and Sixth Legislative Assemblies endeavored to liquidate previous deficits.

The entire history of preemption is the story of attempts to encourage pioneers to move westward. But the settlers' criticisms of the statutory provisions continually reflected the hope for a more liberal land policy. Probably what they really desired was a homestead law. Indeed, Thomas H.

Benton in his *Thirty Years View* indicated that homesteading rather than preemption was his preference. Twenty years after the passage of the 1841 preemption law this pioneer dream was achieved.

JACK T. JOHNSON

With the Indians

Most of Iowa a hundred years ago was occupied by red men. According to a treaty in 1837 the Potawatomi Indians from the area around Lake Michigan, together with some Ottawa and Chippewa, were removed to southwestern Iowa. The emigration records indicate that 5297 were transferred. In 1840 United States soldiers escorted several bands of the Winnebago to the Neutral Ground in northeastern Iowa. By the fall of 1842 they numbered 2183. Meanwhile, hunting parties of Sauk and Fox roamed over the prairies from the western edge of settlement to the Missouri slope and as far north as the scattered bands of hostile Sioux would permit. Though indigenous to that region, the confederated tribes were not as large as their alien neighbors, for only 2300 were counted in the fall of 1841.

The large tract of country occupied by the Sauk and Fox Indians was described as "undoubtedly equal, if not superior, in value, to any north of Missouri; abounding in groves of the most valuable timber, intersected by streams; and adapted to every kind of agriculture." But the Indians were not much interested in agriculture.

"The chase, with the labor bestowed by the females on the cultivation of corn, beans, melons, &c." was their principal employment. To stimulate an interest in agriculture Agent John Beach sowed seventy-two acres of wheat in 1840, but the Indians used the field for a pasture so that the harvest was a failure. In 1841, however, conditions were more encouraging. The farm was enlarged to 177 acres and nearly 100 acres were enclosed by a rail fence. Seventy-five acres were in corn, fifteen acres in oats, and large potato and turnip patches were expected to yield abundantly. In the fall of 1841 ninety acres were seeded to wheat. But the crop which the Indians liked best was watermelons. About half the Indians in the Des Moines River villages were invited alternately once a week to visit the agency for melons. "As this is the only article which they prefer to whiskey," reported Agent Beach, "they readily come several miles to procure them."

Though the Sauk and Fox Indians had been long exposed to the vices and virtues of civilization they retained their primitive barbarity. "Still, with all their wildness," in the opinion of Agent Beach, "they are a people possessing many estimable and redeeming characteristic features; and it should be a subject of deep solicitude, that they be efficiently protected from the villany of those

who are rapidly wasting and depraving them by the murderous draught of intoxication. That untutored ferocity which, in war and among their enemies, derives the most exquisite delight from the highest refinement of agony and torture inflicted upon their victims, in peace, and among friends, is replaced by the most bland and amiable deportment. They are emphatically a religious community; are, with a rare exception, very honest; and of the sincerity of the friendship cherished by at least the mass of them towards our Government and people there need exist no doubt."

Only two Indian schools in the Territory of Iowa were officially reported in 1841: one at Little Crow's village near Fort Snelling, and the other at Lac qui Parle. A new Winnebago school was opened late that year. The Sauk and Fox chiefs were opposed to the white man's education; and "neither farmer nor school teacher" was employed for the instruction of the Potawatomi.

A Methodist missionary named W. B. Kavanaugh, with the able assistance of two other teachers, had interested about fifteen Sioux and twenty half-breed children in learning to read and write. But in the spring of 1841 Little Crow had forbidden the boys to attend "under the ill-conceived idea that, if they were educated, they would not make soldiers". By the following September

this school was reported to have been "broken up" and "discontinued".

Another mission school was operated at Lac qui Parle by Dr. T. S. Williamson, Stephen R. Riggs, Alexander G. Huggins, and their wives. Although 101 pupils were enrolled, the average attendance during the winter term was only thirty-five, in the spring seven, and in the fall of 1841 twelve. English and arithmetic were the principal subjects taught. The girls had spun and woven three blankets and eight gowns. This mission also had to be abandoned in the winter of 1842-43 because of a food shortage.

Meanwhile, on October 1, 1840, the Indian school on Yellow River was closed preparatory to establishing an agency and school for the Winnebago on the Turkey River in the Neutral Ground. The Reverend David Lowry, sub-agent at that post, admitted that probably no material change could be wrought in the habits of the adult Winnebago, but, he said, "their children are objects of bright promise. They possess beyond doubt all the elements of a capacity for a higher life, and ought to be furnished with ample means for intellectual and moral improvement. Every opening chink that lets into the mind the least light of knowledge should be carefully watched and improved, and everything done in the power of the

Government to afford such protection to the half-formed habits imbibed in school by these children, as will prevent their going back to savage manners on returning to their parents."

J. W. Hancock began his work as a teacher at the new school on Turkey River in the fall of 1841, and during the first year instructed more than one hundred different pupils. Eighty-five attended with enough regularity to derive some benefit. Of these, forty-six were boys and thirty-nine were girls. They studied chiefly reading, spelling, writing, arithmetic, geography, astronomy, and "the construction of sentences". One group was "ciphering in the rule of interest". Another was working "in fractions". The advanced class could spell words from the reader correctly, and could write "tolerably well". Vocal music was also taught "with very good success". The boys who were old enough labored two hours a day on the farm, while the girls spent a part of their time "in the sewing-room".

In spite of the diligent efforts of agents and missionaries, the general condition of the Indians was deplorable. The birth rate was declining, infant mortality was high, and drunkenness was increasing. In the opinion of Agent Cooper at Council Bluffs the principal obstacle to civilizing the Potawatomi was their thirst for "*ardent spir-*

its" which were kept along the boundary of Missouri and conveyed to the Indians by the half-breeds. The whisky trade had doubled there during 1841. "The Indian", it was said, "will sell anything for liquor; not infrequently bartering off his horses, guns, and blankets".

Similar conditions prevailed at the other agencies. Amos J. Bruce declared that if any change had occurred among the Sioux it was "for the worse". After spending much of their annuity for whisky, they had "sold a great part of their flour, pork, and nearly all the corn furnished" by the government to buy more liquor.

Agent John Beach deplored the iniquity practiced upon the Sauk and Fox Indians by those "depraved and lawless individuals who hover upon the confines of their country, engaged in the detestable occupation of providing them with whiskey". Though the Indians were advised not to pay their liquor debts, they feared to offend the traders who threatened to cut off the supply of whisky and so the Indians liquidated these obligations "with a most scrupulous integrity".

Though the relations between the two races on the Iowa frontier were deplorable, the Indians exhibited no inclination in 1841 to raise the tomahawk against their unscrupulous white neighbors. Indeed, it seems to have been a relatively peaceful

year among the tribes themselves. "No incident has occurred," reported Beach in September, "to disturb that harmony between the Sacs and Foxes and their neighboring tribes, so essential to the repose and safety of our own frontier." Their hatred of the Sioux was unabated, however, and he attributed the absence of conflict more to the lack of opportunity than to inclination.

Fear of the Sioux prompted the Potawatomi to seek an alliance with neighboring tribes and go on the warpath against the aggressors from the north. Agents were advised to dissuade them with promises that the government would provide adequate protection. According to Agent Bruce at St. Peter's, the Sioux warriors were pleased to have the alliance prevented and promised to stay at home unless "drawn into war by the attacks of their enemies."

These conciliatory measures were apparently no more trustworthy than modern diplomatic negotiations, for late in the fall of 1841 a roving band of Sioux destroyed a small party of Potawatomi and Delaware. A Sauk and Fox hunting party in the following summer came upon the place where the tragedy had occurred. It was reported to be "clearly within the territory of the Sacs and Foxes, being several miles below the southern boundary of the neutral ground."

This massacre may have been the basis of the somewhat legendary story of a terrible fight in which twenty-three Delaware and twenty-six Sioux warriors were killed. One Delaware escaped to a large Sauk and Fox encampment at the mouth of the Raccoon River. Incited by his account of the episode, "five or six hundred" Sauk and Fox braves immediately went on the warpath against the Sioux. After following the trail for about a hundred miles toward the northwest they overtook the enemy and killed 300 warriors.

No such battle was mentioned by any of the Indian agents in the Iowa country either in 1841 or later. Indeed, the relations between the tribes seemed to become more pacific. Though the Potawatomi, Sauk and Fox, Delaware, and tribes west of the Missouri River hated and feared the Sioux, only occasional minor conflicts were mentioned in official reports. In the spring of 1842 the Potawatomi still talked of forming a military alliance against the Sioux, but a company of dragoons was sent to Council Bluffs to allay their fears and prevent a concerted uprising. Another company marched across country that summer from Fort Leavenworth to Fort Atkinson and thence to the Sauk and Fox agency. No general outbreak of Indian warfare occurred.

J. A. SWISHER

Comment by the Editor

THE GENEALOGY OF A LEGEND

Leonard Brown of Des Moines wrote a poem entitled "Pash-a-pa-ho" in which he described the massacre of a band of Delaware Indians near Fort Des Moines and the terrible revenge of a Sauk and Fox war party on the Sioux. He said he copied the names from a day book which he had seen in 1857 in the possession of Benjamin Bryant, a fur trader who came to Des Moines in May, 1843. Perhaps Bryant told him the story. This version, said to be well known, was printed in a Polk County history in 1880.

Two years later, in his book on *The Red Men of Iowa,* A. R. Fulton credited the story to John Evans, a trader who claimed to have been with a large party of Sauk and Fox Indians encamped on the present site of Des Moines "about the year 1841". Evans related in vivid detail the circumstances of the massacre as told by the lone Delaware brave who escaped. The exact words of the chief were quoted: "We are all dead men. We will fight as long as we can." When Evans and two other traders, Thomas Connelly and James Ewing, visited the scene of the tragedy they found

four Sioux braves lying near the body of the mighty Neswage, apparently slain by his tomahawk, as if in verification of the Delaware's description.

This much of the story appears to be corroborated by the brief statement in Agent Beach's report in 1842 that a "small party of Pottawatomies and Delawares was destroyed toward the close of last year by a body of the Sioux." It seems strange, however, that he was not more impressed by a fight in which forty-nine Indians were killed. According to his account the massacre occurred south of the Neutral Ground, which implied that it was east of the Des Moines River. Moreover, he ignored completely the Sauk and Fox punitive expedition. Brown was apparently mistaken in dating the incident after Fort Des Moines was established in 1843.

Fulton's version of the great battle of the Sauk and Fox warriors with the Sioux has been often repeated, though it must have been based upon the boastful tales of the victorious Indians. Of course they took 300 scalps and lost only seven. No one has reported what the Sioux braves said in their war councils. There is no evidence in contemporary records to support the veracity of the traders and Indians.

Early settlers in Carroll, Ida, Sac, Webster, and

other counties found certain places along the streams and on the prairie strewn with bones and arrowheads, which they construed to be evidences of a recent Indian battle. Local tradition has associated these places with the alleged massacre of the Sioux in 1841. But all the bones may not have been human and the accumulation of arrowheads might indicate village sites. Furthermore, it seems improbable that so many Sauk and Fox Indians were in the vicinity of the Raccoon Fork in the fall of 1841, because they did not move their villages to that locality until after the treaty of 1842. By that time the presence of companies of dragoons at Council Bluffs, Fort Atkinson, and the Sauk and Fox agency must have curbed their belligerency. Maybe the battle was no more than wishful imagination.

J. E. B.

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