

# THE PALIMPSEST

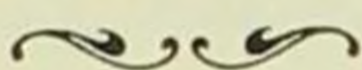
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## Regulating the Lead Miners

A Fox warrior was stealing furtively down the Mississippi below Prairie du Chien. Desperately wounded and half starved, he staggered along, wading streams and skulking through the underbrush. His strength was ebbing fast as he approached the Fox village at the mouth of Catfish Creek below present-day Dubuque. Fortunately he managed to reach his kindred and friends just in time to tell of the ambushade and massacre of their principal chiefs and headmen by the Sioux and Menominee. Then the lone survivor himself shuffled away to the happy hunting grounds.

A paroxysm of fear gripped the leaderless Fox Indians. For a score of years since the death of Julien Dubuque in 1810, they had worked the lead mines on the west bank of the Mississippi. No white men had been allowed to cross the river, for the Foxes jealously guarded their primary source of wealth. But with the enemy lurking near, the Foxes fled, leaving their lead mines unprotected.



Across the Mississippi in Illinois, lead miners had waited impatiently for an opportunity to try their fortunes on the western side. The precipitate flight of the Foxes was the signal to take possession of the old Dubuque lead mines. James L. Langworthy and Lucius H. Langworthy were among the first to arrive, swimming their horses over by the side of their canoe. By mid-June fully thirty men had followed. Finding themselves without a government and realizing that they must have some rules, the miners met around an old cottonwood tree on June 17, 1830. The meeting was organized in due form, and after the preliminary business was disposed of, a committee on mining regulations was appointed. The committee submitted the following report, written by James L. Langworthy on a half-sheet of coarse, unruled paper.

"We, a committee, having been chosen to draft certain rules and regulations, by which we, as miners, will be governed; and, having duly considered the subject, do unanimously agree that we will be governed by the regulations on the east side of the Mississippi River, with the following exceptions, to wit:

"ARTICLE I. — That each and every man shall hold two hundred yards square of ground working said ground one day in six.



"ART. II. — We further agree, that there shall be chosen by the majority of the miners present, a person who shall hold this article, and who shall grant letters of arbitration, on application being made, and that said letter [of] arbitration shall be obligatory on the parties concerned so applying.

"To the above, we the undersigned subscribe.

J. L. Langworthy,  
H. F. Lander,  
James McPheeters,  
Samuel H. Scoles,  
E. M. Urn."

This report was adopted and signed by all the miners present. Dr. Francis Jarret was authorized to issue the papers of arbitration. The Miners' Compact was undoubtedly the first set of laws for the government of white men adopted on the soil of Iowa, and it occupies as important a position in early Iowa history as the Mayflower Compact does in the story of Massachusetts.

From the beginning the disposition of mineral lands perplexed the government of the United States. The land ordinance of 1785 reserved "one-third part of all gold, silver, lead, and copper mines, to be sold, or otherwise disposed of as Congress shall hereafter direct." This reservation of minerals suggests how little was known of the western country. It is reminiscent of the mineral



reservations for royalty or sovereign dues in the crown charters of American colonies. Furthermore, it reveals the government's doubt as to what policy it should pursue with regard to holding, leasing, or selling mines and mineral lands.

Fifteen years later, on April 16, 1800, Congress authorized the President to employ an agent to collect information relative to the copper mines south of Lake Superior. The agent was also instructed "to ascertain whether the Indian title to such lands as might be required for the use of the United States in case they should deem it expedient to work the said mines had been extinguished." On the eve of the Louisiana Purchase it appears that Congress assumed that the government might operate the mines directly.

The United States inaugurated the policy of leasing mineral lands by an act of Congress passed on March 3, 1807. This act authorized the President to lease any lead mine in Indiana Territory (which included the Galena district) for a term not exceeding five years. In addition, the government reserved certain adjacent territory to be used by the lessees for dumpage ground. The timber on this land could be used for smelting.

As early as 1810 Captain Henry Shreve is said to have worked his way up to Fever River and secured a small cargo of lead which he floated



back to the towns on the lower Mississippi. In 1816 the government obtained from the Indians "five leagues square" of land in the lead district. The first regular mining operations were carried on by Colonel James Johnson of Kentucky. Johnson seems to have been working the Fever River mines as early as 1820, apparently with the consent of the Indians but contrary to government regulations. J. G. Souldard, who passed up the Mississippi in 1821, saw Johnson's barges floating down the river loaded with lead. The district was still under the control of the General Land Office which was neither able nor inclined to exercise the vigorous authority that the War Department later exerted.

In November, 1821, jurisdiction of the lead mines was transferred from the General Land Office to the War Department. Leases were granted to four Kentuckians on January 4, 1822. A military escort under Lieutenant Clark Burdine was provided to accompany the lessees to the mineral region. Lieutenant Burdine was instructed to aid in the selection of land, offer protection from Indian attack, and make surveys of the ground for the information of the government. Subsequently other leases were granted, chiefly to Kentuckians who brought their negro slaves to work the mines in the free soil of Illinois and Michigan Territory.



During the year 1822, Major John Anderson, of the United States Topographical Engineers, was the government representative at Fever River. He occupied a shanty just below Galena at a place then known as "Anderson's Slough" but later called Harris Slough. Although Major Anderson was in charge of the lead district, his duties, like those of Lieutenant Burdine, seem to have been confined to surveying and protection of the miners. With no authority to lease mineral lands, neither Anderson nor Burdine had much to do. Accordingly the government failed to realize any financial returns from the lead mines.

A new era in the history of the lead district began with the arrival in June, 1823, of Dr. Moses Meeker and his colony of settlers aboard the keelboat *Colonel Bomford*. During the ensuing year miners continued to flock to the Fever River. Glowing reports of the number of miners and the rich deposits of lead reached Washington and the government promptly took steps to secure a firmer grip on the mines and obtain some revenue from their operation. Accordingly, on August 18, 1824, Lieutenant Martin Thomas was appointed superintendent of the lead mines of the Upper Mississippi with full authority to grant leases and permits to smelters and miners.

Lieutenant Colonel George Bomford of the



Ordnance Department ordered Thomas to "superintend the interests and general concerns of the government in the lead mine lands, more particularly those lying in the range of country within the limits of the Northwest or Michigan Territory." The leases and bonds specified the conditions under which the mines were to be worked. Thomas was ordered to keep regular accounts of all transactions. He was given the liberty to adopt some form "best calculated to give the *history* of each quarter section" and enabling him to furnish general statements quarterly and at any time. All lead on hand, together with that thereafter collected, was to be transmitted to the military storekeeper at Bellefontaine for safe-keeping.

Early in the spring of 1825 Superintendent Thomas posted the first regulations for the lead miners around Fever River. These fourteen articles were very important in the story of government control of the mines. No such regulations had previously been in effect and when they were promulgated their enforcement in Missouri was difficult because the miners were accustomed to lax supervision.

Furthermore, by 1825 the Missouri miners were flocking to the Fever River by the score. Fully 664,530 pounds of lead was mined at Fever River for the year ending September 30, 1825, compared



with 286,590 in Missouri. For the year ending September 30, 1829, the Fever River mines produced 13,343,150 pounds compared with a paltry 1,198,160 in Missouri. Not only were the lead mines at Fever River richer and more readily worked, but Lieutenant Thomas reported that the cost of transportation by steamboat and keel-boat to Saint Louis was actually less than from the Potosi mines to the depots on the Mississippi.

The regulations of the mines were strict but by no means onerous. All miners had to report immediately to the agent who entered their names on a register and gave them a written permit to mine on ground which was not leased. No miner could dig or mine for lead without a permit. Should he attempt to do so he would forfeit his discovery and all the mineral raised and be prosecuted as a trespasser. Any miner who gave false testimony in a dispute or arbitration, or who was convicted of stealing ore, setting fire to the prairie or woods, or cutting timber where prohibited would forfeit his permit to mine or dig. In addition to this no smelter was allowed to purchase lead from him or give him employment. At the diggings two or more miners had to work together. They were permitted to stake off three hundred yards square, with lines running north and south and east and west. A permanent post or stake had to be placed



near each digging, with marks designating ownership. A discontinuance of work for eight days in succession caused a forfeiture of ground. Miners and smelters were required to submit their disputes to arbitration. If they were unable to settle the dispute in this manner it was referred to the agent whose decision was final.

To prevent too great an influx of settlers other than miners, one section of the regulations declared that no person was permitted to build a cabin, cultivate the land, or cut timber, without the written permission of the agent. Whenever surveys of discovery were required they were to be laid out in tracts twenty rods by forty, the length to correspond with the course of the lead. The discoverer was entitled to the certificate of survey. No miner was allowed to hold two discoveries at the same time, nor to go on other ground until his lead was dug or sold. Upon abandoning his diggings he was required to turn in his old certificate of survey before attempting to present a new discovery. The certificate of survey could be sold only to a miner having a written permit or to a smelter with a license. Miners were expected to report to the agent the name of the smelter to whom they delivered their mineral and the amount they delivered in each quarter of the year. The government thus had a double check on the amount of lead mined,



for the smelter was also required to keep an accurate account of the amount of mineral he smelted.

The regulation of the smelter was in many respects similar to that of the miner. He was expected to furnish a bond for the faithful performance of his duties. The smelter agreed among other things not to purchase ore from any one but an authorized miner or lessee. He promised to smelt with a log furnace or furnaces whenever one hundred thousand pounds or more of ore was on hand. He was expected to build, free of expense to the United States, a strong log warehouse, sixteen by twenty feet and one story high, made of squared logs so that a bar of lead could not be passed between them, and equipped with a strong door and a good lock. In this warehouse the smelter was required to deliver, free of expense, a tax of one-tenth of all lead manufactured, to be paid monthly in clean, pure lead.

Lieutenant Thomas made his headquarters at Saint Louis, visiting the Missouri and Fever River mines as occasion demanded. The routine work at Fever River was done first by sub-agent Charles Smith and later by Thomas McKnight. Two volumes marked "A" and "B", which have been preserved in the Jo Daviess County archives, contain the transactions of Lieutenant Thomas's agency from 1825 to 1827. The following extract from



sub-agent Charles Smith's report to his superior officers is typical of conditions at the mines.

"June 11, 1825. — [Joseph] Hardy and [George E.] Jackson are running an ash furnace; [Moses] Meeker is smelting in his log furnace; [A. P.] Van Matre's ash furnace will be in operation to-day. Perfect harmony exists among the diggers. The regulations appear to give universal satisfaction. Every man appreciates the protection which they afford, and the security they give to their operations presents a stimulus to enterprise, and prevents encroachments upon the rights of others. The difficulty of borrowing or hiring a horse when wanted, has rendered necessary the purchase of one. I have accordingly bought one, old, to be sure, but serviceable — the price, \$20. He will be worth as much, probably, a year hence."

On the same day Smith reported that he had just visited "a discovery made by C[uyler] Armstrong and I. Thorn, about three-quarters of a mile south of the Cave Diggings. They dug twenty or thirty feet before they struck mineral. Two thousand pounds were taken out in three hours — six thousand pounds at least, are in view on the west side of the diggings, and I struck mineral over one-half of the bottom. The hole is about five feet in diameter."



A month later Smith noted that the diggers were refusing to deliver their lead, waiting in hope that the market price would rise. On July 11, 1825, Lieutenant Gideon Low arrived with a force of twenty-five men to enforce the regulations and the collection of the lead rent, as well as to compel the miners to deliver their mineral to the licensed smelters, whether they desired to do so or not. Before serious friction developed these orders were countermanded and Lieutenant Low promptly withdrew.

Although the miners grumbled at the close government supervision, their lot was by no means as hard as their complaints might indicate. In May, 1826, Lieutenant Martin Thomas made the following observation to Colonel George Bomford: "Were the Government to prohibit working the public mines under leases, and offer the mines for sale, the present inhabitants of the district, who are destitute of capital, could not of course be the purchasers. It would be the large capitalists of other sections who would become the owners, and the present inhabitants would have to labor on such terms as the proprietors chose to afford. It is not to be supposed that terms as liberal as those of the Government, would be given by individuals. Of this fact, if I am not in error, the present population of the mine district are becoming aware;



they are certain of obtaining leases on liberal terms from the United States, but they are by no means certain that they would obtain the mines if offered for sale."

During 1827 it was necessary to warn miners individually and by circular to confine their activity to the "Five Leagues Square" that had been purchased from the Indians. On August 8, 1827, Michael Dee was convicted by arbitration of having stolen certain articles from Thomas Williams and all miners and smelters on Fever River were forbidden to harbor Dee or give him employment. It was the first conviction for theft of which any record is known.

Lieutenant Thomas served as superintendent of the lead mines from 1824 to 1829. "In the history of government mining in the United States," a congressional committee declared, "there seems to be but one point of time during which the operation may be truly said to have been productive of revenue, and that era is to be found during the superintendence of the man [Lieutenant Thomas] whose memorial now forms the subject of consideration. Prior and subsequent to his appointment, the leases seem to have yielded not enough to pay the expenses chargeable upon the rents of the mines." Before Lieutenant Thomas took charge the largest annual rent received was 17,000



pounds of lead. He collected 143,000 pounds of lead in his first year and 1,350,000 pounds during the last year of his superintendence. During his entire agency he received nearly four million pounds which was valued at upwards of \$145,000.

Lieutenant Thomas was succeeded by Captain Thomas C. Legate of the Second United States Artillery. Captain John H. Weber served as assistant superintendent. The system instituted by Lieutenant Thomas generally prevailed until 1836, except that in 1830 the rental was reduced from ten per cent to six per cent. By 1830, too, the miners were not only trespassing beyond the Fever River tract but were pushing westward across the Mississippi into the Iowa country. It was the first spray of this advancing tide that drew up the Miners' Compact.

The occupation of the Dubuque mines was clearly illegal. When news of these trespassers reached Lieutenant Colonel Zachary Taylor at Fort Crawford, he drove them back across the Mississippi during the summer of 1830. William Clark, Superintendent of Indian Affairs at Saint Louis, was thinking of buying the Dubuque land from the Foxes but when he learned that their price would be \$32,000 per year for fifty or sixty years, with salt, tobacco, and the payment of about \$60,000 toward the debts due their traders he



quickly changed his mind. The Superintendent of the United States Mines had no authority to grant permits on Indian territory. Furthermore, both the lead agent and the Department of Indian Affairs had to call upon the United States Army to enforce their decrees.

After the Black Hawk Purchase in 1832 the lead miners once more crossed over into Iowa before the country was open to settlement. Presently they were persistently importuning Superintendent Legate with applications "for *mineral surveys* for *mining*, and *groves* for the purpose of *smelting lead ore*" on the west bank of the Mississippi. "To prevent misunderstanding, and to save trouble," Legate replied in the *Galenian* on October 3, 1832, "I hereby give notice, that I have not the authority to grant either at present." He concluded by pointing out that all permits and arrangements were done in writing at his office and could be shown by the holder.

Despite Legate's warning the miners continued to cross the river and on December 15, 1832, Indian Agent M. S. Davenport warned them off until after the ratification of the treaty and suitable arrangements had been made for their entry. Troops arrived the next day and expelled them. Meanwhile 147 miners had signed a petition to Secretary of War Lewis Cass asking that the In-



dian Agent's orders be rescinded. The *Galenian* of December 26, 1832, was delighted at the exemplary conduct of the miners who, although "on the verge of a savage wilderness" respected the laws of the land so highly "that it was only necessary for the constituted authorities, to signify the will of our beloved government, to insure a prompt & peaceable acquiescence, even at the hazard and sacrifice of fortune."

Such confidence in the amenability of the miners was not entirely justified however. Many returned in a few weeks to their Iowa diggings. This time Lieutenant Jefferson Davis went personally to each miner's cabin and explained that all must return to the Fever River country. Davis promised the miners, however, that as the "intimate friend" of Captain Thomas Legate, he would seek "to secure through him to every man, the lead or prospect then held; if, and as soon as, the treaty should be ratified, to extinguish the Indian title."

On June 1, 1833, the Black Hawk Purchase was opened for settlement and the miners were free to resume their digging without molestation. It remained for Legate and his assistant superintendent, John P. Sheldon, to administer the regulations that had been established at the Fever River mines and voluntarily endorsed by the Miners' Compact.

WILLIAM J. PETERSEN