

The  
**PALIMPSEST**  
JULY 1926  
**CONTENTS**

**The Jones County Calf Case 197**

**J. A. SWISHER**

**Fourth of July in 1860 209**

**BRUCE E. MAHAN**

**Boyhood on the Frontier 213**

**GRANVILLE STUART**

**Comment 230**

**THE EDITOR**

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



### 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

*Superintendent*

---

### THE MEANING OF PALIMPSESTS

In early times palimpsests were parchments or other materials 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—10c per copy: \$1 per year: free to members of Society  
ADDRESS—The State Historical Society      Iowa City Iowa



# THE PALIMPSEST

EDITED BY JOHN ELY BRIGGS

---

---

VOL. VII

ISSUED IN JULY 1926

No. 7

---

---

COPYRIGHT 1926 BY THE STATE HISTORICAL SOCIETY OF IOWA

## The Jones County Calf Case

Bob Johnson, a reputable and well-to-do farmer, lived in Jones County. He had come from Ohio, bought a farm, and built a new house. No one who knew him in the early seventies would have suspected that he would become involved in one of the most noted lawsuits in the legal history of Iowa. Indeed, it is probable that he himself never anticipated such a contingency. But "it is the little foxes that eat the grapes", and not infrequently little controversies lead to extensive litigation, impoverish the participants, and multiply court costs.

In 1874 Johnson sold four calves for twenty-four dollars. A dispute arose. Litigation began and continued for more than twenty years. The famous "Jones County Calf Case", commonly spoken of in the singular, really involved three separate forms of action — a note case, an indictment for larceny, and an action for malicious prosecution. The latter, a



damage suit, was the one which became notorious for the length of time it remained on the docket of various Iowa courts. This case was tried repeatedly in five counties of the State, argued by more than a score of lawyers, and heard by over a hundred jurors. Four times it was appealed to the Supreme Court. Court costs mounted to seventy-five thousand dollars. Johnson, a prosperous middle aged man in 1874, was old and many times insolvent before the case was settled.

Bob Johnson and S. D. Potter, who had been boyhood friends in Ohio, came west and settled in the same neighborhood in Jones County. Later Potter moved to Greene County. In June, 1874, he returned to Jones County to buy some calves, and stopped over night at the Johnson home. He told Bob of his mission, saying that he was going on to Big Rock "to pick up some calves", that he would return in a few days, and asked his friend to buy a few calves for him in the meantime.

The next day Johnson and his brother Newt went to the town of Olin to purchase some hardware for the new house. While there he asked the proprietor of the hardware store if he knew of any one who had calves to sell, whereupon a stranger who was sitting in the store came forward and said that he had four calves down on the commons by the river which he would be glad to sell. Johnson replied that he was going on down to Stanwood anyway and that he would go past the commons and look at the calves.



“By the way, what is your name?” he inquired. The stranger replied, “My name is John Smith. I am Clem Lane’s son-in-law.” With this brief introduction the three men — Bob and Newt Johnson and Smith — mounted their horses and went to look at the calves.

When they arrived at the commons, they found three dark-colored calves that Smith said were his, but they could not find the fourth one. Smith assured Johnson, however, that the fourth calf was as good as the other three, whereupon Johnson told him to put all four in Len Hines’s pasture and to call at the Johnson home for the money. Smith said that he had been sued and that he needed the money that day, so upon further consideration Johnson paid for the calves and left Smith to deliver them.

On the following day Johnson went to Hines’s pasture to get the calves. There were several cattle in the pasture but among them Johnson recognized the three Smith calves, and with them was another — also a dark-colored calf — which answered the description Smith had given him. So he drove the four calves to a place where, in accordance with a previous agreement, he was to meet Potter. There he found Pete Onstott. Pete was a cattle man, too and a keen observer. According to his testimony in the courts, Potter had four light-colored calves in his possession before Johnson arrived, whereas the calves which Johnson brought were dark. Upon



Johnson's arrival the calves were all put in a single herd and the three men parted — Potter taking the calves with him to Greene County and the other two men returning home.

About this time John Foreman lost four light-colored calves. He searched the neighborhood but could not find them. Finally he heard that Potter had been in Jones County buying calves, so he went to Greene County and discovered his calves in Potter's herd. Potter claimed that he bought them of Bob Johnson, whereupon Potter and Foreman returned to Jones County to see Johnson.

Bob happened to be at Mechanicsville, where Charles E. Wheeler, a young attorney just out of the law school at Iowa City, had entered the practice of law. Being somewhat perplexed over the calf problem, the men went to Wheeler for advice.

"Charley," spoke Johnson, "John Foreman here lost four calves, and he has gone out to Greene County and found them in Potter's herd, and Potter says he got them of me. I got them of Clem Lane's son-in-law, named Smith. Now, what am I going to do about it?" After thinking a moment the young attorney said, "Well, Bob, if you have handled the Foreman calves, why, you have got to pay for them, and then you go and jump on Clem Lane's son-in-law." Bob said that he did not have the money with him. He explained to Potter and Foreman that he had purchased the calves of Smith, supposing them to be his and that if he had been deceived in this he



would give his note for the value of the calves and settle with Smith. This was agreed to and Johnson gave his note to Foreman for twenty-four dollars. The three men went across the street, had a drink, shook hands, and parted.

Johnson then went to the office of a justice of the peace, filed an information against John Smith, got a warrant and a constable, and started out to arrest Smith. But when they inquired of Clem Lane about his son-in-law, much to their surprise he said, "I never had a son-in-law named Smith." Although Bob Johnson hunted for twenty years, he never could find John Smith, the son-in-law of Clem Lane, nor the man from whom he bought the four dark-colored calves.

Soon after giving his note to Foreman, Johnson learned that the Foreman calves found in Potter's herd were light-colored. Thereupon he and his brother Newt went to Greene County to ferret out the mistake. Potter pointed out the Foreman calves — four light-colored animals. "Why, Potter," said Johnson, "I never sold you any light colored calves." But Potter maintained that he had. With an oath Bob jumped from his horse and made for Potter, but Newt stopped the fight and the two men returned home.

Realizing that he had not handled the Foreman calves, Johnson concluded that Potter had stolen them and tried to place the blame on him. At all events he had been induced to give a note for which



he had received nothing. Accordingly, he refused to pay the note and defended himself on the ground that the instrument had been given without consideration. In the meantime the note had passed into the hands of a bank, which held it as an innocent purchaser. The case was tried "about every full of the moon for several years", but finally Johnson was beaten and ordered to pay the note and court costs which amounted in an aggregate to about fourteen hundred dollars.

About this time the Iowa Branch of the Northern Missouri Anti-Horse Thief Association was organized in Jones County. Some of the members of this organization advanced the idea that Bob Johnson had stolen the Foreman calves — and the fact that the alleged John Smith never could be found tended to substantiate this view. Foreman and Potter became members of the Anti-Horse Thief Association and through their efforts Johnson was indicted for the larceny of the Foreman calves.

With the beginning of this suit, Johnson obtained the legal services of Colonel Isaac M. Preston, an experienced member of the Linn county bar, to aid Charles E. Wheeler in his defense. "Preston was the kind of a lawyer that is seen only on the frontier — the Abe Lincoln type. He was six feet two, wore a silk hat about his everyday business, a long-tailed coat with brass buttons and diamonds. He had no education, but he was the best jury lawyer, the most accomplished advocate that you most ever saw."



Attorney Wheeler, now long since retired and living in Cedar Rapids, says, "Johnson retained me to hold the colonel's hat while the colonel tried the case. I helped Bob hustle the testimony—I had nothing else to do."

The larceny suit was started in Jones County. Attorneys for the defense at once moved to quash the indictment because of an error in drawing and impaneling the grand jury. While this motion was pending Johnson's house burned. At first, members of the Anti-Horse Thief Association were accused of burning it, but in the end spontaneous combustion was given as the cause. A little later, Johnson found a rope on his horse block with a hangman's knot in it, and attached to the rope was a note saying, "We advise you to appear and be tried under the indictment with the defects if any exist, or take the lamented Greeley's advice and go west, or take this." Shortly afterward his barn burned, also on account of spontaneous combustion! The whole neighborhood was aroused. The feud interfered with school. Children of the prosecutors would blat like calves at the Johnson children, and men carried guns for each other. Everybody took sides, and the concensus of opinion seemed to be that Johnson was a thief. Even his lawyers suggested that he forfeit his bond and leave the country.

But Johnson was a fearless man. He succeeded in having the indictment quashed, but another was returned. A change of venue was taken to Cedar



County. There he was tried but the jury could not agree upon a verdict. At the second trial he was acquitted.

After Johnson had paid his note and proved that he had not stolen the calves, he sued his adversaries for ten thousand dollars damages on the ground of malicious prosecution. He was determined to "get his character back". It was this suit, known in court records as Robert Johnson *vs.* E. V. Miller, *et al.*, which was destined to make the Jones County Calf Case famous. Bob Johnson was the plaintiff and seven of his neighbors — E. V. Miller, David Fall, George W. Miller, Abe Miller, John Foreman, S. D. Potter, and Herman Keller — who had been the most active members of the Anti-Horse Thief Association were made defendants.

Fearing that they would not obtain justice in their home county, the defendants secured a change of venue to Linn County, and from there to Benton County. On the first trial the jury disagreed, but the second time the case was tried Johnson received a verdict awarding him three thousand dollars damages, only to have it set aside by the court. A change of venue was then taken to Clinton County, where Johnson was given a verdict for seven thousand dollars damages. Again the verdict was set aside and the case was taken to Black Hawk County. At the first trial in Waterloo, Johnson obtained a verdict assessing damages at five thousand dollars. From this decision the defendants



appealed to the Supreme Court of Iowa. Horace Boies, one of the leading attorneys in northeastern Iowa, who later became Governor of the State, argued the case before that tribunal and secured a reversal. A second trial held in Black Hawk County resulted in a verdict in favor of Johnson with six thousand dollars damages. Again the defendants appealed and again the Supreme Court reversed the decision. In the third trial at Waterloo, Johnson received a verdict for one thousand dollars against six of the defendants, the court having instructed the jury to return a verdict in favor of Herman Keller, whose connection with the Anti-Horse Thief Association was not proved. The six remaining defendants filed a motion to arrest judgment and another for a verdict in favor of the defendants on the ground that the findings were in conflict with the general verdict. Both motions were overruled and judgment was rendered against the six defendants. This case was appealed to the Supreme Court and affirmed. Thus Bob Johnson, old and impoverished, was at last exonerated.

But the court costs remained to be paid and another controversy arose. The six defendants contended that they should not be required to pay more than six-sevenths of the entire amount, and that Keller, the acquitted defendant, should pay his share of the cost of the defense. This question likewise went to the Supreme Court, where, on December 20, 1894, a little more than twenty years



after the litigation started, the six defendants were directed to pay the entire cost.

Throughout the long legal battle Bob Johnson stoutly maintained that he was innocent. "I want my character back", was his insistent reply to every suggestion that the case be dropped. When he was indicted for larceny, Colonel Preston proposed that he "jump his bond" as the simplest way out of the whole difficulty. "I shall never forget", said Charles E. Wheeler years afterward, "what old Bob said and did, and how he looked when I told him. We were walking side by side. Bob stopped, and I stopped. He took me by the shoulder and turned me facing him. He looked to me as high as the second joint of a liberty pole. He looked like an infuriated lion, and he says, 'Boy, I never stole the John Foreman calves, and by God, I will go to the penitentiary off my door step before I will ever jump my bond!' And from that day, during all the years that followed, and up to this day, I have never doubted that he told me the truth."

No, Bob would not jump his bond. Instead he started the malicious prosecution case. Time and again he won that suit, only to have the verdict set aside. Disappointed but determined, he would go home "and work like a nigger to get ready to try his Jones County Calf Case again." Having raised a little money he and his attorneys would appear in court, win another verdict, perhaps get a judgment, "and then the enemy would take it to the Supreme



Court, and the Supreme Court would pick it to pieces, and reverse it; but not so but what there was enough left of the case to try again." There were always a few remnants around somewhere that could be pieced together for a new suit at the next term of court.

At the last trial in Waterloo, Horace Boies handled the defense in a masterly way and closed with a spirited plea to the jury. Charley Wheeler, who had stood by his client through every adversity, was fairly chilled with the force of that argument. The time had come for him to speak and he was cold. Then Bob Johnson leaned over and said, "Charley, tell them I don't care whether they give me a cent or a million dollars. What I want is my character back!" What Wheeler told that jury is not recorded, but in spite of the logic and eloquence of Horace Boies he convinced those twelve men that Bob Johnson had been the victim of malicious prosecution.

"I know I was right in this case", declared Johnson when the final verdict had been rendered. "I do not regret the tiresome litigation. My honor and integrity were questioned. It pays to fight under such circumstances. I lost my farm of one hundred and sixty acres and all my property but I feel well repaid. My wife, my children and my friends know now I was innocent and I can look any man in the face without a blush."

Bob Johnson was middle aged when John Fore-



man lost his light-colored calves, and after the last lawsuit was closed he was bowed beneath the weight of nearly three score years. But despite his age and his many defeats he always "came back". When the case was finally settled he returned to Anamosa where he had been indicted so many years before. There he remained for more than a decade. As his former adversaries died, one after another, the "old lion of the calf case" insisted that they had gone to hell, but after they were all dead he changed his mind. "There wasn't no necessity for sending them to hell", he said. "Look what I done to them."

To Charley Wheeler, his faithful attorney, Johnson gave in settlement for fees and loans a spavined stallion and one hundred and thirty dollars in cash with a promise to pay the balance when he could. But Wheeler refused to accept any more, and so the two men "shook hands and looked the other way and Bob went back to Anamosa."

Though many of his debts were no longer valid, he paid every dollar that he owed and in the end he once more owned his own home and had a little money besides. So successful had he been in "getting his character back" that his fellow townsmen twice elected him mayor of Anamosa.

To this day nobody knows who stole John Foreman's calves.

J. A. SWISHER



## Fourth of July in 1860

In 1860, Bedford, the county seat of Taylor County, was a town of almost five hundred people. It had been laid out six years earlier, but the panic of 1857 had paralyzed its prospects for a time. By July, 1860, however, it had recovered, and with the vigor of youth had begun to assume a leadership in the affairs of the county. Buchanan, now Siam, to the southwest, Platteville to the east, Lexington to the north, and Memory to the west were rival villages. Both of the latter have long since disappeared, and the two former, missed by the railroads of a later date, never fulfilled the dreams of their founders.

Bedford at that early day had six general stores, a drug store, a hardware store and tin shop, one hotel, one church belonging to the Missionary Baptists, a schoolhouse, a weekly newspaper, a sawmill, and two steam grist-mills. A crippled blacksmith worked all day at his forge while a trained dog pumped the bellows by means of a tread-wheel contrivance.

Stagecoach lines connected Bedford with Quincy, Illinois, to the east, and with St. Joseph, Missouri, to the south. The arrival of a stagecoach was an event which brought many of the adult portion of the town to the postoffice, there to wait impatiently



while the postmaster removed the mail addressed to Bedford from the sack and carried it into his office. In due time he would call off the names on the letters, and the person to whom a letter was addressed would raise his or her hand and cry "here".

In this growing town, then, where the arrival of the stagecoach was an event, little wonder was it that a proposed celebration of the "Glorious Fourth" in 1860 loomed large in the minds of all. Particularly so since the Bedford Sax Horn Band, organized scarcely two weeks earlier by a German barber who had learned to play in the Fatherland, was slated to head the procession and to furnish music throughout the day.

Couriers on horseback carried the news of the proposed celebration throughout the county. At an early hour on the morning of July 4, 1860, roads leading from the different sections of the country to Bedford were lined with wagons and horses moving toward the county seat. Young men on "spirited mounts", boys on "trusted nags", fathers in "homespun", and mothers and daughters in their "best calico" rode many miles to be on hand early for the celebration.

Soon the dusty streets of the little town were thronged "to their utmost capacity" by a good-natured, pleasure-seeking crowd. In a short time three local doctors acting as marshals of the day formed the crowd into a procession on Main Street.



Headed by the Sax Horn Band and a color bearer with an American flag, the parade, with veterans of the War of 1812 and the Mexican War in the van, followed by lodge members in full regalia, Sabbath school children, ladies and their attendants, gentlemen, and in the rear "carriages, wagons, &c" moved "in good order, to the grove north-east of town, where due preparations had been made for the occasion".

The program began with the reading of the Declaration of Independence. Then the orator of the day, the Hon. J. W. Warner of Leon, aroused anew the patriotism of his audience by his impassioned address. At the conclusion of his extended remarks the entire assemblage found places around a table five hundred feet long, "loaded with all the delicacies and substantials of life that the inner man could desire, or the mind suggest, which were partaken of with a gusto".

At the close of this bounteous picnic dinner the crowd again assembled before the speaker's stand where a flag made by Bedford ladies was presented to Clayton Township for bringing the largest delegation to the celebration. J. H. Turner, of Bedford, then offered the following toast: "The Constitution of the United States: — In its adoption a blessing — in its strict observance our present salvation — in its perpetuation the hope of the world". G. W. Friedley, a local attorney, responded "in an eloquent, and patriotic speech, which caused every



face to brighten with emotions of patriotism, and arouse them from their weariness". A toast to the Pilgrim Fathers whose "patriotism, heroism, and unconquerable fortitude, born and inbred in them, achieved the glorious results we this day celebrate", and another to the "spirit of 1860" closed the speaking program for the day.

Then a huge cake, made at the cost of twenty-five dollars by W. F. Walker, a local citizen, "received the attention of the audience." This cake was four feet high, and among other adornments had fifty-six flags implanted around the base block, each bearing the name of a signer of the Declaration of Independence. As in the miracle of the loaves and fishes, this huge cake divided into tiny pieces fed the multitude.

Throughout the exercises the Bedford Sax Horn Band played alternately the two tunes it had mastered, and the ump ta, ump ta, ump ta ta, of the huge bass horn set feet to keeping time. A choir, too, sang patriotic songs.

Although the day had been hot—indeed, quite the warmest experienced so far that year—it was late afternoon before the crowd dispersed "well pleased but somewhat wearied" with the extended exercises of the day. The local editor estimated that eighteen hundred people had marched in the parade, and a grand total of twenty-five hundred, he said, attended the exercises at the park.

BRUCE E. MAHAN



## Boyhood on the Frontier

I was born in Clarksburg, Virginia, August 27, 1834, of Scotch descent. The Stuarts seem always to have been pioneers. An old memorandum book of my grandfather's, James Stuart, tells of his trading with Indians in Virginia in 1793. My father and mother, Robert Stuart and Nancy Currence Hall Stuart, with their two children, James and Granville, left Virginia in 1837 to try their fortunes in the then frontier State of Illinois.

They loaded their household effects on a steamboat at Wheeling, Virginia, and went down the Ohio River to its mouth and then up the Mississippi to Rock Island. There they left the steamer and journeyed by wagon to Princeton, Bureau County, Illinois. They arrived in the early summer, having been one month making the journey.

There was a school in Princeton which my brother James attended and, although I was not of school age, I often accompanied him. The school teacher was not particularly desirous of my attendance and mother tried to persuade me to remain at home. Al-

[This narrative of the boyhood experiences of Granville Stuart in eastern Iowa is here reprinted from his book, *Forty Years on the Frontier*, by special permission of the publishers, The Arthur H. Clark Company of Cleveland. It is fully protected by copyright and must not be reprinted again without further consent of the publishers. — The Editor.]



though it almost killed me to sit still so long I preferred that to remaining home alone.

About this time the government purchased the land west of the Mississippi River from the Indians, and Iowa Territory was created and settlers began moving into that fertile region. In 1838 my parents also moved across the river and took up a claim, number sixteen, west of the river, on a stream called "Wapsanohock" which means crooked creek in the Musquawkee Indian language. The name, as is usual among Indians, exactly describes that miserable muddy little creek, which could not have been more crooked.

The bottom land, along this and other small creeks, was covered with timber of good size; consisting of walnut, elm, linden, hackberry, oak, hard maple (the blessed sugar tree), butternut, hickory, and some other kinds. These strips of timber land, however, were narrow, from a quarter to a half mile wide, while all the rest of the country was treeless, but covered with good grass and many wild flowers. The distances between streams were great, often being from ten to twenty miles. After the grass became dry in the autumn, fires of great extent, driven by high winds, became a source of great danger and serious loss to the settler, who for this reason usually built his cabin on the edge of the woods where the fire could be more easily checked.

My father built his one-room log cabin in the woods a short distance from the creek, on a little



run (the Virginia name for a small brook) which took its rise out on the prairie and flowed into the creek. This was pretty safe from the furious prairie fires, but Oh! Oh! the mosquitoes that swarmed there, and almost devoured us in the spring, summer, and fall, until frost came. Some idea of their incredible number may be gathered from the fact that the water in the run (which we had to use) was so full of their larvae, commonly known as "wiggletails," that we could neither drink nor use it until it was strained through a cotton cloth. I think that many of these mosquitoes must have carried the germs of malaria fever for we all had fever and ague, for several years, it being the worst in the autumn.

A few families of Musquawkee Indians lived in bark huts near us; my brother James and I used to play with the little Indian children of about our age and their good mothers would give us all the maple sugar we could eat, and then give us a cake of it to take home to our mother. These were good kind-hearted people although the whites were rapidly settling up their old hunting grounds, and exterminating the game. In about a year after we came, they moved further west and we saw them no more.

One of our neighbors, named Andrew Phillips, had three sons, William, John, and Solomon. One day the Phillipses, my father, James, and I were at the bridge crossing the creek, near where some Indians were camped. William Phillips, who was then



about sixteen years old, was wrestling on the bridge with a young Indian of about his own age. Getting a good hold he flung the Indian over his shoulder, off the bridge and into the creek. He swam out in a furious rage, and ran to the camp to get his bow and arrows, saying he would kill young Phillips. The older Indians and women caught and held the young one, and William's father and mine went to explain how it happened, gave them some trifling presents, and the trouble ended. These Indians would listen to reason, and were not vicious.

In the spring of 1840, my parents moved out of the creek bottom into a house on high ground, on the edge of the prairie. There was more or less wind and consequently a few million less mosquitoes. Near-by, a small schoolhouse was built by the three or four families of the vicinity, and James and I went to school with five other young children.

The first school building I remember was a small cabin. The logs composing it were not even hewed or peeled. The windows — there were none — but in their stead a log was cut out of each side of the cabin, about three feet from the ground, and nearly the full length of the room, and in this space were fastened sheets of greased paper, which let in a somewhat dim and uncertain light, especially on dark, cloudy days. The door was at one end of the house, while a large open fireplace occupied the other end, and the floor was simply earth, wet and then beaten down smooth and solid. All the chil-



dren attending the three months term of school in summer time, were barefooted. The seats, however were triumphs of mechanical genius, being nothing more than rough unplanned slabs, without backs or desks of any kind. It was pretty rough sitting I can tell you. These slab seats were about ten inches wide and had slanting holes bored in them near the ends, into which short pieces of saplings were inserted for legs. They were made so high that the children's feet were from six inches to a foot and a half from the floor. Of course the trustees were not to blame for the children being too short to fit the benches. At any rate the effect was to effectually double us up, and we could beat Wellington at Waterloo in wishing that night would come. For a teacher we had some young woman in the neighborhood whose educational possibilities were embraced in the three R's (reading, ritin, and rithmetic) and who was generally a little shaky on the last R. This fortunate young woman commanded the large salary of five or six dollars a month and the right to board in turn among the parents of her scholars.

I remember one of my first teachers giving me a reward of merit which was a kind of thumb stall which was put on my left thumb with which I held my book open, and was to keep my thumb from soiling the book. It was made with wings on each side and painted red and yellow to resemble a butterfly. I thought it very beautiful and kept it for long years



afterward, until the house burned down and destroyed it along with my carefully preserved early school books. Perhaps this little work of art is responsible for my love for red and yellow colors to this day.

This summer saw the famous political campaign between the Whigs and Democrats. The Whigs nominated William Henry Harrison for President and the Democrats nominated Martin Van Buren. Harrison was familiarly called "Old Tippecanoe," because he defeated the Indians in a battle of that name, where the famous Indian chief Tecumseh was killed by Colonel Richard Johnson of Kentucky. While this campaign was in progress my father was building a frame dwelling house, and had in his employ several carpenters. Among them was an old chap named Ben Sailor, and I well remember one of his quaint sayings. There were large numbers of prairie chickens all about, and in the spring when mating, they had a melodious song or refrain which sounded like "Boo-oo-oo Boo-oo-oo" long drawn out. One morning when the air was full of their music, Ben, who was an ardent Whig, said, "There, listen to that, even the birds are saying, 'Tippecanoie-oo and Tyler-too-oo-oo.'" If the Democrats had any rallying cry it escaped my infantile memory.

During all this time we just shook, and shook, and shook, with the ague. We could only eat when the chill was on us, being too sick when the fever was on. I well remember how the cup would rattle against my



teeth when I tried to drink and how, while trying to put the food in my mouth, I would nearly put it in my ear, and how my spleen (commonly called the "melt" in those days) was swollen and felt hard as a piece of wood just below my ribs. This was known as ague cake. Almost everybody in that thinly settled part of Iowa would have the ague part of the time. Fortunately it was seldom fatal, but I can still see how thin and pale and woe-be-gone everyone looked.

In 1843 my parents moved a few miles to a farm on the bank of Red Cedar River, a lovely stream, about two hundred yards wide, with sandy bottom and water as clear as crystal. Best of all, it contained great numbers of fish, which were a welcome addition to the rather limited variety of our menu; although there was never any lack of enough, such as it was. In the winter of 1843 there was a two-months term of school a mile and a half up the river, and on the farther bank at a little village called Moscow. The river was frozen over and brother James had a pair of skates, and we just flew up that lovely river to school. James did the skating and I just squatted down and held to his coat tail. For text books we had Webster's spelling book, with that discouraging frontispiece, a picture of a very lightly clad young man weakening when half way up a high mountain with a little cupola on top of it and on its front gable the word "Fame" in large letters, and a rough looking female ordering him to climb or bust. I attribute my failure to achieve greatness to that



picture. The constant contemplation of it so impressed the difficulty of being famous (in that costume) upon my youthful mind that hope died within me. After we had worn our spelling books all to tiny little bits, we began on arithmetic, and each scholar seemed to have a different kind. There were Doboll's, Pike's, Colbert's, and many others whose names as well as their contents have escaped me. Along toward the close of my education we had McGuffey's readers, which I thought were the very "ultima thule" of progress in the way of a reading book. Attending this school was a red-headed boy about ten or eleven years old, a bright intelligent lad named Erastus Yeager, who twenty-one years later was hanged by the Vigilantes in Montana for being a road agent. In Montana he went by the sobriquet of "Red" and it was not until he was hanged that I learned he was my former schoolmate in Iowa.

The winter of 1843-4 was one of great severity in Iowa. Snow fell to a depth of two feet and laid nearly all winter with much weather below zero. The spring was very late. The ice in Cedar River did not break up until April 8, 1844, when we saw many fearful gorges, the ice piling up in huge mounds and ridges, and all pushed far out of the river banks wherever the shore was low and flat. The snow was hard-crusted that winter, and many deer and wild turkeys perished from the extreme cold and the great difficulty of getting food.



In the summer of 1844 my father and two other men went up Red Cedar River with a pair of horses and a wagon on a hunting trip. There were but few people up the river in those days and they found plenty of elk and deer, where is now the town of Cedar Falls, and also many bee trees full of wild honey. They killed much game and trapped a few beavers. They dried a quantity of elk meat and filled a barrel with honey; they sold their horses and wagon, and made a large canoe out of a big walnut tree, and floated down the clear waters of Cedar River, feasting by the way on game and fish of all kinds which were there in greatest abundance. They met a few Indians, but they were all friendly. I remember how well we feasted on that dried elk meat, which was the first we children had ever eaten. The honey in the barrel was all candied and was delicious.

The big walnut canoe was so broad and steady that it could not be overturned by two men standing on one edge of it. Mother let brother James and me use it, and we soon became expert canoe boys and fearlessly went everywhere in it. We very often paddled it at night for our father, who would place on its bow a tin lamp holding about a quart of lard with a rag wick in its spout which, when lighted, would cast a strong light for several yards in front of the canoe. The water of the river being as clear as glass our father could plainly see every fish as far as the light shone on the water. He used a



three-prong spear called a gig, with a red cedar shaft about ten feet long. Fish were attracted by the light and did not seem alarmed by the canoe. In two or three hours he would spear fifteen or thirty fine large ones of various kinds with occasionally a gar, which was a fish three or four feet long, not fit to eat but which had a snout over a foot long filled with long sharp teeth. The next morning after a night's fishing James and I had the task of carrying the surplus fish as presents to the neighbors.

About half a mile from our house there was a pretty little lake about seven hundred yards long and four hundred yards wide; along its shores on the west side were pleasant woods with some crab-apple and plum thickets. Amid these beautiful surroundings on the shore of the lake the settlers of the vicinity built a small log schoolhouse which was rough plastered inside. It had glass windows and a real board floor, but best of all, there was a good swimming hole near-by. We scholars just thought that anyone who wanted a better schoolhouse than that was too hard to please for any use. In this schoolhouse was held a summer school for three months (in 1844) where my three brothers and myself increased our small supply of knowledge.

At this time, 1843 to 1850, there was an abundance of game in the wooded creek bottoms and on the prairies and as my father was a good hunter we always had plenty to eat of squirrels, prairie chickens, wild turkeys, deer, and elk, and after the first



year there were cornmeal and vegetables. The scarce articles for the larder were coffee, tea, and sugar, although we had plenty of maple sugar and syrup, pure from the tree, something that one seldom ever gets in this year, 1916.

This was still the era of tallow-dip candles for lighting and of open fire-place for heating and cooking and the cast-iron skillet and Dutch oven for baking. The first cooking stove I ever saw was in 1845 and it was rather a crude affair, but a great relief from cooking over an open fire, although some of the first to use the new invention had more or less trouble getting used to it. My father-in-law used to tell a story about an old couple who were the first to invest in a cook stove in his neighborhood. They got the stove in St Louis and brought it up the Mississippi River and home. The neighbors came from near and far to view the stove and it became the center of interest and subject of gossip for the entire neighborhood. Finally the excitement subsided, and little was said or heard of the new stove, when one day someone asked Mr. Jones how he liked the new stove by this time. "Well," the old man answered, "the stove is all right I reckon, but mother and I are getting too old to lift the tarnal thing on and off the fire-place, so we jest cook the old way."

The guns used for hunting in those days were flint-lock rifles brought by the frontiersmen from Virginia and Kentucky. They were full-stocked,



that is, the wood of the stock reached to the muzzle of the barrel. They were heavy, weighing from eleven to thirteen pounds, all hand work with small calibres, running from about sixty round bullets to the pound of lead. A cousin of mine bought a four-foot barrel, full stock rifle, carrying one hundred and fifty bullets to the pound of lead, for which he paid six dollars in cash. Money was very scarce, nearly all trading being carried on by barter.

Father had two guns which I well remember, as it was with these guns he taught me to hunt. One was a flint-lock that he used when hunting along streams where there was timber and little wind. If the weather was cold and snow on the ground he could quickly start a fire with his flint-lock by which he would dress the deer he had killed. With the gun he was sure of killing a deer, if it was within one hundred and twenty-five yard distance. The other gun he used while hunting on the prairies or out in the wind. It was a small-bore rifle fired with percussion caps placed on the nipple. The cap would not blow off as did the powder in the pan of the flint-lock.

In our neighborhood was a widow with several children whose husband had been a good hunter. His rifle was a flint-lock half stock, of large calibre for those days, using forty round balls to the pound of lead. A half-stock rifle was one in which the wood only extended along the barrel about one-third of the way to the muzzle, and from its end to



the muzzle, on the under side of the barrel was a slender piece of iron called a rib, on which was soldered from two to four small pieces of iron or brass tubing called thimbles, in which the ramrod of tough hickory wood was carried. All rifles in those days were muzzle loaders and the Johnson one was the first half-stocked gun I ever saw. My father used to borrow it occasionally because its large balls were more fatal to the deer than those of his small calibre rifle. When he was successful the Johnson family always received half of the venison. This rifle was much better finished than most of the guns then in use. It had an oval silver box set in the butt stock on the right side, a few inches forward was a hole in which to carry an extra flint for the lock, and a greased piece of rag to use in keeping the gun from rusting if it got wet. On the inside of this lid Johnson had scratched or roughly engraved three letters, "B", and just below it, "D", and below that, "F". After B he marked the list of bucks killed by him (numbering 16); after D, the list of does (numbering 13); after F the list of fawns (numbering 10). My father, leaving a little space after each of Johnson's list, added those killed by him when he used the gun. How I would like to have that gun now as a souvenir of the ancient days and conditions when life was just unfolding to me.

In the spring of 1849 the news of the discovery of gold in California reached Iowa, and my father at once determined to go to the gold fields. He formed



a traveling partnership with three other men and they bought a wagon and four yoke of oxen and about four months' supply of provisions, clothing and ammunition. About the middle of April, 1849, they started on the long dangerous journey across the plains and mountains; eighteen hundred miles through an unknown and uninhabited country, save the settlement of Mormons in Great Salt Lake valley and the roving tribes of Indians who had no fixed abode. They reached Sacramento valley without a loss, late in the fall of 1849.

My father mined part of the time, hunted large game, elk, deer and antelope, which he sold at a good price.

In the winter of 1851 he returned home to Iowa via the steamship line to Nicaragua, across that country, and then by Garrison's steamer to New Orleans and up the Mississippi river. He kept a journal all the time but unfortunately our house burned down and with it many other valuable family records were destroyed. I remember well reading his journal which was a perfect pen-picture of the days of forty-nine.

In the spring of 1852, in company with my father, my brother James, and a jovial Irishman named Fayal Thomas Reilly, I started from near the village of West Liberty, Muscatine County, Iowa, on the long adventurous journey to California; overland across the vast uninhabited plains, then known on the maps as the "Great American Desert," but



now (in 1916) forming the wealthy States of Nebraska, Kansas, Colorado, and Wyoming. Iowa then was very sparsely settled, and there was not a single railroad west of the Mississippi River, and I had never seen one, and never did until fourteen years later in 1866, at Atchison, Kansas.

Our outfit consisted of two light spring wagons each drawn by four good horses. In the wagon boxes we carried our supply of food and extra clothing. A loose floor of boards was placed across the top of the wagon boxes on which we placed our bedding, and on which we slept at night. The wagons had the usual canvas curtains which buttoned on to each end of the canvas roof. Inside we slept dry and comfortable through the worst storms. The storms along the Platte River were regular cloudbursts, accompanied by such fierce gales of wind as often to blow down the tents, which were used by most of the emigrants, and thoroughly soak their bedding. My father having had that disagreeable experience when he crossed this region in 1849, had so arranged that we slept in our wagons, using no tents, and thus were always dry, though many times we were obliged to picket the wagons to the ground to prevent their blowing over.

My father and brother occupied one wagon, and Reilly and myself the other. We each had a rifle and father had a small five-shooter revolver of twenty-five calibre, using black powder and round balls. I think it was called "Maynard's patent". No one



would carry such a pistol nowadays, but revolvers were then just invented. This was the first one I had ever seen and I longed for the day when I could possess one, and bid defiance to whole villages of Indians, little knowing that the Indian with his bow and arrows, was quite beyond the reach of such a puny weapon. Our rifles were hung up in leather loops fastened to the sides of the wagon boxes, always loaded (they were all muzzle loaders), and ready for instant use. Our journey across the State of Iowa was a most disagreeable one. The western half of the State was very thinly inhabited. We had great difficulty in crossing the deep miry sloughs that at that period filled every low place. There being few people, there were still fewer bridges, and when our horses and wagons mired down, which usually happened about twice a day, we were forced to wade in mud and water up to our knees while unloading our wagons and then lift with all our strength on the wheels to enable our horses to pull them out. Somewhere between Des Moines (then a small village) and Council Bluffs, we came to a Mormon village called Kaneshville. These people, mostly Welsh and English, had wintered here in 1851 while on their way to Great Salt Lake, and now found it profitable to stay this summer and repair the wagons and shoe the horses of the emigrants, who were passing through in large numbers on their way to California. We remained with them two days waiting our turn to get our horses shod.



After many annoyances and much profanity we at last arrived at Council Bluffs on the east bank of the Missouri River. The village consisted of some twelve or fifteen one-story log cabins. We had to cross the river here, and when I saw the ferry boat, a flat scow, large enough to hold one team and wagon, the motive power of which was three men with oars, I looked at the wide swift flowing muddy river and thought we might possibly get across safely, but that the chances were rather poor. The price for crossing was ten dollars for each wagon and horses, which seemed to me exorbitant. However, we got across and from the way those oarsmen had to pull I concluded the price was reasonable enough. On the west side of the river to our astonishment, we found a considerable town of log houses, but every house was dismantled. We afterwards learned that this had been the town where the Mormons had waited in 1846-47, until their leaders went on ahead and looked up a future abiding place for them. They called the settlement on the bank of the Missouri, "Far West". This is the site of the present city of Omaha.

GRANVILLE STUART



## Comment by the Editor

### IN EQUITY

In an atmosphere of thick fog the Lord Chancellor sat on the bench of the High Court of Chancery at Westminster Hall, apparently listening to solicitors and advocates mistily engaged with interminable briefs, tripping each other up on slippery precedents, and groping knee-deep in technicalities. Before them lay innumerable bundles of bills of complaint, cross-bills, rejoinders, demurrers, injunctions, pleas, answers, and affidavits — “mountains of costly nonsense” — compiled in the name of equity and justice. The case of Jarndyce and Jarndyce, “a monument of Chancery practice” representing every contingency, legal fiction, and form of procedure known to equity, was before the court. Some trivial progress was to be made.

Jarndyce and Jarndyce, begun by a remote kinsman of John Jarndyce of Bleak House, was a suit over a contested will. It had been in process so long and had become so complicated that the original issue was inaccessible in the maze of legal formalities, even if any one knew what it was. Lawyers could not talk five minutes without disagreeing on all of the premises. Children had been born into the suit, young people had married into it, and old



people had died out of it. But Jarndyce and Jarndyce dragged on, perennially hopeless, blighting the lives of the principals. It became a Cause. Authority for every conceivable action could be found in it, the lawyers had all been counsel in it for somebody or other, and the clerks had used it to sharpen their legal wit. The heartsick parties to the suit would have gladly compromised if they could; but the case could not be got of, or through, Chancery. Such and such a thing might happen, people said, when the sky rained potatoes or when Jarndyce and Jarndyce was finished. Fortunes were squandered by this litigation which finally ended when the court costs had consumed the entire proceeds of the will.

The Jones County Calf Case, like Jarndyce and Jarndyce, has become a tradition — a monument to judicial delays in Iowa which pervert the meaning of equity. As Charles Dickens satirized English “equity” in fiction, so the story of the calf case is truly eloquent of the injustice and expense of American legal practice. *Johnson vs. Martin* probably enriched the law of malicious prosecution with many precedents, but it also brought financial ruin to the litigants and warped their lives. The determined of right in a dispute over the sale of four calves cost twenty years of bitter strife and more than seventy-five thousand dollars. And in the end, one man regained his good name; but the whole truth was never revealed.

J. E. B.



# THE STATE HISTORICAL SOCIETY OF IOWA

Established by the Pioneers in 1857  
Located at Iowa City Iowa

---

## PUBLICATIONS OF THE SOCIETY

The Quarterly Journal of History  
The Palimpsest—A monthly magazine  
The Public Archives Series  
The Iowa Biographical Series  
The Iowa Economic History Series  
The Iowa Social History Series  
The Iowa Applied History Series  
The Iowa Chronicles of the World War  
The Miscellaneous Publications  
The Bulletins of Information

---

## MEMBERSHIP

Membership in the State Historical Society may be secured through election by the Board of Curators. The annual dues are \$3.00. Members may be enrolled as Life Members upon the payment of \$50.00.

*Address all Communications to*

THE STATE HISTORICAL SOCIETY

Iowa City Iowa