

## Mandatory Thrift

“Annual income twenty pounds, annual expenditure nineteen nineteen six, result happiness. Annual income twenty pounds, annual expenditure twenty pounds aught and six, result misery”, counselled Mr. Micawber as he bade David Copperfield farewell. Governor Lucas would have given the same advice. In a letter to Secretary of State John Forsyth the Governor wrote: “A common opinion appears to prevail among the members of the Legislature and expressed by them without reserve, that, as the U. S. pays the expenses of the Territorial government, the greater the expenditure the better for the Territory. To this opinion I dissent.”

Because of this attitude Governor Lucas antagonized some of the members of the First Legislative Assembly of the Territory of Iowa. The quarrel between Secretary Conway and the Council had not been settled when the legislature and the Secretary aligned themselves against the Governor in a controversy over public expenditures which drifted into an irreconcilable conflict over the absolute veto power as exercised by Governor Lucas.

The trouble started innocuously. On December 5, 1838, the legislature by joint resolution provided for the payment of the Secretary of the Council, Chief Clerk of the House, and "additional clerks, Sergeant-at-arms, Doorkeepers, Messengers, and Firemen" upon the presentation of a properly signed certificate to the Secretary of the Territory. The next day Conway requested Lucas for a written opinion "stating whether the certificate in question, is or can be legally regarded as a sufficient voucher". The Governor's reply offended the members of the legislature who "raved, stamped, etc.", when they received the Chief Executive's message.

In describing "the nature of our government", Lucas observed that the legislative power was "vested in the Governor and a Legislative Assembly". He could find no authority for the Assembly to act independently of the Governor. The resolution therefore had no legal effect. Lucas concluded by saying the "officers named in the resolution and certificate are legally unknown to us, and must continue to be so until a law is passed creating these offices, fixing the salaries and defining the manner of payments."

Did the Governor have a right to dictate to the legislature? Perhaps a convention made up of the legislators and the Governor could settle the issue.

On December 8th members of both branches of the Assembly met in the hall of the House of Representatives, but Governor Lucas refused to attend. Thomas Cox, who had been appointed President of the meeting, thereupon appointed Councilmen Hempstead, Browne, and Payne, and Representatives Grimes, Wallace, Hastings, Taylor, Temple, and Swan to draw up an appropriate statement of their position.

The first of four resolutions contained the severest indictment of the Governor. It declared that the Governor of the Territory "is not invested by the organic law with advisory and restraining power over the legislature", other than the veto of bills. The second and third resolutions declared that the Secretary had full authority to disburse the Congressional appropriation for the Territorial expenses. The fourth concluded that these opinions were in "no way connected with political, religious or sectional prejudices, but contain an honest and deliberate explanation of the Organic law". All the charges were sent to the various newspapers of the Territory, and to Governor Lucas, Delegate Chapman, and President Van Buren.

Eight members of the legislature were opposed to adopting the resolution defining the powers of the Governor. "I protest against wasting

our time in the discussion of so unprofitable, not to say distracting a subject", said Frierson. "Had not the Governor the right to express his opinions, on this or any other subject when called to do so? Sir, my opinions are sacred, I claim the right to express them at all times; nor would I, while I claim this right myself, deny it to others, even to the Executive of this Territory." Mr. Bailey felt that the resolution did not promote the public interest, while Mr. Beeler complained that his constituents did not send him to the legislature "to go in convention upon a trivial matter of difference between this House and the executive officers". On the other hand Chauncey Swan claimed that he "did not wish to create any harsh feelings" in offering the resolution to call the convention.

And so the quarrel continued. Secretary Conway refused to pay for the furniture of the executive offices out of the appropriation made by Congress, but did allow bills authorized by legislative resolutions. When the Assembly proposed making the Secretary the sole fiscal agent of the Territory, and passed a bill "regulating the intercourse between the Legislative and Executive departments of the Territory of Iowa", the measures encountered the veto of the Governor — a veto which could not be surmounted.

The seeds of the controversy were inherent in

the organic act. Two provisions clearly stated the position of the Governor. The Territorial constitution provided that the Governor "shall approve of all laws passed by the Legislative Assembly before they shall take effect", and definitely made the Governor a third branch of the legislature. Thus Lucas had the weight of legality in his favor when he insisted that no legislative act was valid without his assent.

The quarrel actually arose out of a vague clause relating to Territorial expenditures. The salaries of the Governor, the Secretary, and the Supreme Court Judges were fixed, but there was an annoying ambiguity as to the compensation of other officials. The organic act pledged an annual appropriation of "a sufficient sum, to be expended by the Secretary of the Treasury, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the Legislative Assembly, the printing of the laws, and other incidental expenses". Furthermore, the Secretary of the Territory was made responsible for the manner in which the sum was expended. Lucas assumed that all Territorial expenditures were to be authorized through the regular channels of legislation. To this interpretation the Legislative Assembly would not agree. Claiming a traditional right of independent control over the

internal organization of each house, the Assembly insisted on choosing the legislative officers and fixing their compensation.

On January 8, 1839, William B. Conway denounced Lucas to President Van Buren. He insisted that "the time had arrived for a proper adjustment of the relations of the parties. The Secretary understands his duty, has performed his duty, and is disposed to perform his duty; — but notwithstanding all this, this superannuated and irritable Governor would ride down the Secretary, and every other object or thing that would not bend, with servile pliancy, before his rude and offensive assumptions."

On January 25th the General Assembly adjourned. The legislators were still "mad about money" and angry over the Governor's veto power. This controversy could be settled only by amending the organic act and so the debate was transferred to the floors of Congress. The formal struggle in Iowa was actually over. Secretary Conway, however, still sensitive and very egotistical, widened the breach between himself and the Governor during the summer months.

Lucas, disgusted with Conway's actions, had even refused to give the Secretary custody of the Territorial Seal. Thus a quarrel which began between the legislature and the Governor was con-

tinued by the Secretary. By mid-summer the Secretary was writing that "He seeks no triumph over Governor Lucas. He wages no war against obstinate imbecility. But to be a Secretary of State, *without a seal*; — a recording officer, *without the records*; — an accounting, and an accountable officer, *without evidence of the authority* which sanctions and requires his disbursements, is to possess very equivocal honors, with which even contented meanness could not hope to mitigate the severity of official responsibilities, under the rigorous system which enlightened opinion is very fortunately predisposed to enforce."

Meanwhile, Lucas was corresponding with the Secretary of State, John Forsyth. On March 12, 1839, the Governor reviewed the entire controversy and stated his opinion of Conway. He claimed that the Secretary "has not only done nothing to render me assistance, but, *is generally believed to be the prime mover of the opposition to my proceedings, and the author of the documents forwarded to Washington by members of the Legislature.*"

The agitation for the removal of Conway by friends of Lucas was stopped by the death of the Secretary in November, 1839. By the time the Second Territorial Assembly met, the organic law had been amended. A statute approved on March

3, 1839, provided that a two-thirds vote of both houses was sufficient to overcome the Governor's veto and that a bill not returned to the chamber in which it originated within three days would become a law without the Governor's signature. Thus the United States government solved the deadlock between the Chief Executive and the legislature of the Territory of Iowa.

Lucas in his second annual message on November 5, 1839, stated that the amendment "is truly gratifying to the executive. It defines the powers and duties of the executive, when those duties stand connected with the Legislative Assembly, relieves him from much legislative responsibility, and places it where all legislative responsibility should ever rest, with the immediate representatives of the people." And, concluded the Governor, "This amendment will doubtless tend to harmonize the proceedings between the Legislative Assembly and the Executive, and lead to a more convenient despatch of business."

JACK T. JOHNSON