

A Territorial Centennial Number
Iowa in 1838

The
PALIMPSEST

NOVEMBER 1938

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JOHN ELY BRIGGS

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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.

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THE PALIMPSEST

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A Question of Dignity

"We think that we have demonstrated that the quarrel between the Council and Secretary has been narrowed down to a mere question of dignity." And, concluded the *Iowa Territorial Gazette* on December 8, 1838, "We have heard a great deal of *undignified* talk about dignity".

The history of the first Iowa Territorial Legislative Assembly might be characterized as the impact of character upon circumstance. Pioneer politicians, imbued with high hopes and a sense of the significance of the occasion, gathered at Burlington on November 12, 1838. Uncertain as to the proper scope of their activity but jealous of their position, some of the governmental officials soon found themselves embroiled in a quarrel over penknives.

Responsible for fitting up the legislative rooms, Secretary William B. Conway undertook this task soon after his arrival in the Territory. By November 24th the *Gazette* reported to its readers

that "Mr. Secretary Conway has caused the halls of both houses to be fitted up in a very handsome manner, which does great credit to his industry and taste." On the previous day, however, the Council, all ready to legislate in earnest, felt in need of "pen knives, stamps, half a dozen ink stands, and a tin pan for each stove in the Council Chamber." The Secretary was formally requested to furnish these articles.

Offended by the implied criticism of his work, Conway replied in a flippant and sarcastic manner. The request of the Council, he said, had "received that attentive consideration which the magnitude of the subject appears to demand". A few further remarks, "especially in relation to knives", were deemed necessary by the Secretary in order to maintain "that perfect harmony which has heretofore existed" between the legislature and "the Department of State".

Then, becoming more loquacious and insulting, the Secretary concluded his letter by explaining that much "exertion has been made to get knives, at Burlington, but knives of a suitable quality and in a sufficient quantity, cannot be procured in this town. And the Secretary can't make knives. If he could do so, he would do so, with expedition and pleasure. But if it should comport with his own wishes, and the wishes of all those whom it may

concern, that he should retain his present station until the next session, he will take especial care to supersede the necessity of any further legislation on the subject of knives; for it is the earnest wish of the Secretary that all the members should have knives and stamps, and folders, and all and singular such thing or things, device or devices whatsoever, as may facilitate the operation of the hands in yielding assistance to the deliberations of the head."

Conway's reply to the Council was referred to the committee on expenditures. But the Secretary was almost immediately informed privately "that doubts were entertained whether said reply was not deficient, as regards the respect claimed by and due to, the Honorable Council." On November 27th Conway wrote the Council another note stating that if he were to be accused of disrespect the Council should first inquire whether "disrespect was *intended* by said communication, or not?"

By that time the Council was ready to demand that Secretary Conway treat that body with respect. The committee on expenditures reported to the Council that "it is a source of much regret that the Honorable Secretary should have so far forgotten the dignity which he owed to himself, his office, and the Representatives of the people, as to

attempt to ridicule their proceedings and make their acts a subject of merriment and derision." If the Secretary's failure to obtain supplies was really due to providential interference, as he claimed, the Council did not wish to impute blame "for the frustration of his great designs, by the Creator of the universe," but the committee did think it "somewhat surprising that the acts of God should so far intervene, as to prevent" the Council from "getting upon the credit of the Legislature a few tin cups and a bucket to drink out of". The committee assured the "Honorable Secretary" that "the present Legislature will not tamely submit to the insults and derision of any officer of this Territory; and they, at all times, will defend to the last their honest rights, and the liberty of the people whom they have the honor to represent." This report the Council adopted by a unanimous vote.

Conway, hearing of this action with "perfect astonishment", immediately addressed another letter of rebuke to the Council. The Secretary asked that the "report *should* not only be reconsidered, but rescinded, as regards both *fact* and *principle*." When this blustering letter was presented to the Council the farcical nature of the whole controversy became apparent to the most dignified members. With suppressed mirth Coun-

cilman Payne moved that the communication be laid on the table until the Fourth of July.

Secretary Conway had resented criticism by the Council, but to be ridiculed by backwoods lawmakers was more than he could endure. In a spirit of bitter vindictiveness and self-defense, he wrote an exceptionally long letter on December 3rd, reviewing the entire controversy. He concluded by saying that the "Secretary is willing, Gentlemen of the Council, to renew the kindest relations with you, and with each of you, provided you do unto him, as you would that he should do unto you; — and that is, provided you do him justice. With less he cannot be satisfied, and more he does not ask. He is anxious to renew his friendly intercourse with you, provided this can be done on honorable terms; and these terms are now presented, — that is to say, that your condemnatory Report, *in its moral effect*, shall be rescinded, revoked, annulled, and made void."

Five days later, Editor James Clarke informed the readers of the *Burlington Gazette* that, "It is with much regret that we have heard of the existence of some misunderstanding between the upper branch of the Legislative Council and the Secretary of the Territory; and indeed we are almost ashamed to notice a matter so small as that which appears to be the subject of contention; or, per-

haps, we should have said, as that which gave rise to the unaccountable dispute. But as the matter has now become the *talk* of the town and country, it becomes our unpleasant duty to give it a passing notice."

The facts of the case seem to verify Clarke's interpretation of the situation. Theodore Parvin, the protégé of Governor Lucas, was homesick in September. Partly on that account perhaps, Lucas had prevailed upon Conway to commission Parvin to go back to Ohio as an agent to purchase stationery and supplies for the legislature. Parvin made his purchases in Cincinnati, but found it impossible to bring the articles back with him. Meanwhile, Conway, himself, in order to provide for the comfort of the legislature, had gone to Saint Louis for furniture and other equipment needed by the Assembly. The Mississippi was so low, however, that steamboat transportation was suspended for several weeks and so some of the articles did not arrive in time. In the emergency the legislators proposed to supply themselves at the local stores and charge their purchases to the government of the Territory. The Secretary, however, feeling responsible to the national government for Territorial expenditures, refused to delegate public credit to individuals and requested that the Council members await the arrival of the

supplies that had been ordered from Cincinnati and Saint Louis.

Conway's reaction to the Council's rebuff can be understood in the light of his temperament and previous conduct. Assuming executive authority upon his arrival in Iowa Territory, he had already offended his political superior, Governor Robert Lucas. Vituperative and bellicose, though competent and conscientious, the Secretary was just the kind of a man who would magnify a petty issue.

That the Council would be assertive might also have been expected. Suspicious of the officials appointed by the President, the frontiersmen who gathered at Burlington were earnest in their acceptance of democracy. The organic act being expressed in general terms, the Territorial officials had wide discretion in their interpretation of its provisions. Thus the stage was set for political conflict. The character of Conway as well as the characteristics of the Council was the tinder from which the blaze of a petty quarrel was fanned into a conflagration of political hostility that nearly consumed the whole government.

The insignificance of the quarrel was emphasized by the simplicity with which it was settled. Conway's lengthy communication had been sent to the Council on December 3rd and it was not

until the 27th of the same month that further formal communication was resumed between him and the Council. Associate Justice Thomas S. Wilson prevailed upon the Secretary to adopt a conciliatory attitude. Thereupon, Conway sent a note to President Browne of the Council stating that he would withdraw his original letter of November 24th if the report of the committee on expenditures, "together with subsequent proceedings of the Council, in reference to said communication", were also withdrawn. Judge Wilson had already seen members of the Council and advised Conway that they were willing to accept a reconciliation. Payne, who had been partly responsible for the attitude of the Council, moved that the request of the Secretary be accepted. As a result the quarrel was finally settled.

The pride of position which raised the issue of dignity between the Secretary and the Council was soon to embroil the governmental officials in another quarrel. This time Secretary Conway aligned himself with the legislature in a struggle with Governor Lucas. Dignity was indeed important in frontier days.

JACK T. JOHNSON

The Tall Cedar of Lebanon

Jesse B. Browne was a man of stately mien and magnificent physique. In 1838, at the age of forty, he weighed 190 pounds and stood six feet, seven inches in his stocking feet; he was "as straight as an arrow, and in polished politeness — when sober — had no superior." The President of the Council of the First Territorial Legislative Assembly of Iowa was indeed a handsome fellow, with a high forehead and sharp, black eyes, the ability to wear clothes well, a proud stride, and a bravado air — a dashing, red-blooded individual whose friends called him "the tall cedar of Lebanon"!

With the previous experience of a successful military career and a sadly unsuccessful business venture, Jesse B. Browne began in 1838 to dabble seriously in politics. He had resigned his commission as captain of dragoons on June 30, 1837, and moved to Fort Madison, where he opened a general store. Though dry goods, groceries, hardware, boots, and hats were commodities in demand, Browne, never a keen business man, could not survive the depression of 1837. In April, 1838, he had to sell his stock of goods to Parrott

and Buchhalter. This failure was a hard blow to the proud captain, but his family was hit even harder; henceforth he was always poor and sometimes unable to provide bare necessities. He knew no more about saving money than about making it.

It was on the rebound from his business disaster that Browne endeavored to save his face and feed his family by achieving something in the field of politics. The death of Postmaster James Douglas was a fortuitous circumstance, for on June 21, 1838, the Fort Madison *Patriot* reported the appointment of Browne to fill the vacancy.

Beginning the same day that the postmastership was announced and continuing weekly throughout the summer months, the following item appeared in the Fort Madison *Patriot*:

"We are authorized to announce the name of CAPTAIN JESSE B. BROWNE, as a Candidate for the Council, from Lee County, in the Iowa Territory."

MANY VOTERS

The principal issue in Lee County was the location of the county seat. One faction favored Fort Madison; the other favored West Point but apparently would have preferred any place to Fort Madison. Browne, a Fort Madison Whig, was opposed by Stephen H. Burtis, a Democrat representing the West Point interests. The question of

creating a separate county from the Half-breed Tract further complicated local political opinion.

In explaining his candidacy, Browne announced on July 4th that he would "give undivided attention" to the matter of extending the northeast boundary of the county to the Skunk River, the natural dividing line. He was so much opposed to the division of Lee County that "he headed a delegation sent from Fort Madison to Keokuk to arouse sentiment against the measure." The conflict of Whig and Democratic principles had little influence in the campaign.

When the votes were counted on September 10, 1838, Captain Browne was elected to represent Lee County in the Council. He received 296 votes while his Democratic opponent polled 273. More remarkable was his selection unanimously as presiding officer of the upper house. Inasmuch as the Council was evenly divided between Whigs and Democrats, it is evident that he was chosen for personal rather than partisan reasons.

The first session of the Iowa legislature was a stormy one. Throughout the deliberations, however, President Browne seems to have retained his popularity. On the last day of the session the members of the Council unanimously tendered their thanks "for the prompt, impartial, and efficient manner in which he has presided".

Jesse B. Browne was a "man of much strength of intellect", a "remarkable character, both for the eccentricities of his mind and for his personal appearance", but "subject occasionally to the infirmities of intemperance." On one of those occasions when he had imbibed too freely, he is said to have fallen asleep in the President's chair. An exciting discussion was in progress, and the members, understanding the situation, went right on. When somebody started to speak in a stentorian voice, Browne awoke. For an instant, before he realized where he was, he thought it was an Indian attack and shouted: "Injuns, by thunder!"

All in all, his career as a legislator included membership in the Council during the first, second, third, and fourth sessions of the Territorial Assembly (two terms), in the House of Representatives during the eighth session in 1845 (one term), and, under the new State organization, in the House of Representatives of the First General Assembly, during the regular session, 1846-1847, and the extra session in 1848 (one term). In 1847 he ran for the office of United States Representative, but was defeated by William Thompson.

In the House of Representatives of the First General Assembly, the Whigs had a majority of one. Moreover, the three Whigs and two Demo-

crats from Lee County had been elected by a large independent vote which gave them the balance of power. It is not surprising that a Lee County Whig, Jesse B. Browne, was chosen Speaker. The Democrats acquiesced the more willingly because they hoped to win some independent support for the greater prize of two seats in the United States Senate. Apparently, however, the Speaker was not beguiled by this maneuver, for when the Senate came to the House chamber for the purpose of electing United States Senators, Browne "sternly refused" to surrender the chair to the President of the Senate, a Democrat. The Whigs almost won the election. To forestall that culmination the Democratic Senate thereafter refused to meet in joint session and consequently prevented the election of any United States Senators.

This deadlock caused much dissatisfaction and various compromises were proposed. One scheme was to throw Democratic votes to Browne in return for Whig support of A. C. Dodge. Browne himself repudiated this plan, however, because he had pledged his vote in caucus to Jonathan McCarty and G. C. R. Mitchell. To refuse such an honor must have been hard. The opportunity came at a time when he was in dire need of such a position. His brother Thomas implored him to

accept the nomination for the family's sake. But Jesse steadfastly kept his caucus promise.

What early training had inculcated such high standards of honor and loyalty to conviction? Jesse B. Browne was born in Christian County, Kentucky, about 1800. His father was a Baptist preacher of the "hard-shell, iron-side order", one who preached without pay, a man of "fair ability, excellent character, and independent means" who did not believe in temperance associations or missionary societies.

As a young man Jesse moved to Illinois, where he served for a time as the clerk of court in Edgar County. In the Black Hawk War he commanded a company of mounted rangers. Afterward he remained on guard duty along the northwest frontier. About the time the enlistment term of the rangers expired, a regiment of dragoons was organized and Browne became captain of one of the companies. Under the command of Colonel Henry Dodge he engaged in "the great Pawnee campaign" to the foot of the Rockies in 1834. Later that year companies B, H, and I, the latter commanded by Jesse B. Browne, were sent to Fort Des Moines at the head of the Des Moines Rapids of the Mississippi River.

Under the rigorous discipline of barrack life some of the soldiers deserted. On one occasion a

half dozen left the fort, crossing the Mississippi on the ice. Browne followed them, but detoured on the way to enjoy a little personal relaxation in Fort Madison. During this delay a spell of warm weather softened the ice: no one dared to cross the river. But Browne, a daredevil by nature and even more reckless under the influence of liquor, did not hesitate. Riding his powerful horse "like a Comanche Indian", he crossed the ice at a gallop. When he reached the Illinois shore, he waved his cap at the astonished crowd on the other side, gave an Indian yell, and rode away.

He lost the deserters at Rushville, Illinois, but tarried a while for his own pleasure. The town was settled by Kentuckians, many of whom Browne knew. At the tavern he bought whisky for the crowd. As his popularity spread, the number of his friends increased. Eventually tiring of the wholesale distribution of free liquor, Browne decided to disperse the crowd. Throwing into the stove a powder keg which he alone knew to be empty, he swore roundly and said that the population had lived long enough. Everybody rushed headlong out the door, after which Browne sauntered out, mounted his horse, gave a blood-curdling yell, and dashed away at full speed.

His life was spiced with many sprees and pranks. One day Benjamin Brattain, a lazy,

good-natured speculator, was reading in the lobby of the Madison House when Browne walked in, stretched Ben's ear, and ran a large pin through it. Ben picked up his chair and rushed at Browne, who stretched himself to his full six feet, seven inches, looked hurt and surprised, swore in "clear, square, Anglo-Saxon" style, and demanded what Ben meant by such conduct. When Ben pointed to his ear, the mischievous Browne looked even more astonished and said that it was a nice state of affairs when a man couldn't take liberties with his own friend without his becoming angry. Brattain pulled out the pin, sat down, and resumed his reading.

It was probably a combination of military prestige, political prominence, and civic leadership which caused Governor Lucas to appoint him major general of one of the three divisions of the Territorial militia in January, 1839. Soon after this appointment he was obliged to march his forces to Farmington for the protection of Van Buren County citizens in the Missouri boundary dispute. For a while war seemed inevitable, but before hostilities began General Browne sent three emissaries to negotiate with the enemy across the Des Moines. They found that the Missouri militia had gone home, whereupon Browne sent the Iowa "army" home too.

Through the influence of Congressman Daniel F. Miller, his former associate in the Territorial legislature, he was appointed by the President as one of the visitors to West Point in 1851. Wearing a suit of clothes given him by his friends and maintaining his best behavior, Browne made a fine appearance and received the special commendation of General Winfield Scott.

For many years, he served as justice of the peace in Keokuk. It is said that in most matters he paid more attention to his own idea of justice than to an exact application of the law.

In the late fifties he went to Covington, Kentucky, to live with his married daughter. There, on the eve of the Civil War, excitement ran high. As an ardent adherent of Lincoln and a vigorous Union man, he was frequently engaged in fighting secessionists. It is said that "Browne would never hit but once, and then he was almost sure to bring down his man." Before the end of the struggle he died at his daughter's home in 1864.

Soldier, legislator, public servant, and popular leader, Jesse B. Browne, with all his faults, stands out among the Iowa pioneers as conspicuously in his civic contributions as in physical stature. His convivial nature, generosity, and patriotism were important factors in his political success.

FLORENCE GREEN

A Whig of Many Parts

Political ambition motivated the Wallace family of Henry County. Benjamin Franklin Wallace, the elder son, was a candidate in 1838 for the position of Delegate to Congress, while his younger brother, William Henson Wallace, solicited the electors as candidate for the Territorial House of Representatives. The defeat of Benjamin F. highlighted the success of his brother.

Elected as "an ardent Whig", William Wallace found himself among the minority in the House. His triumph at the polls, however, was only the preface to a more significant victory. On the second day of the session, "Hank", as he was familiarly called, was elected Speaker. With four competitors (John Frierson, Thomas Cox, Andrew Bankson, and James W. Grimes), he received eleven of the twenty tabulated votes. This was remarkable because the House was predominantly Democratic.

William H. Wallace was well and favorably known in the southern portion of the Territory. Before he had lived in the Black Hawk Purchase a year he became active in promoting the division of Wisconsin Territory. He was sent as a dele-

gate from Henry County to the convention that met in Burlington in November, 1837, to petition Congress for the creation of the Territory of Iowa.

An anecdote indicative of his talent for popularity occurred during his campaign of 1838. The voters of Lockridge said that they would not vote for any one who failed to join in the festivities of their barbecue and the hilarity of their stag dance. Wallace won enthusiastic support with his spirited gaiety.

Born in Troy, Miami County, Ohio, on July 19, 1811, William H. Wallace was twenty-seven when he rode to Burlington for the First Legislative Assembly. He had come to Iowa in 1837, having previously migrated from his native State to Indiana where he received his common school education. In contrast to Jesse B. Browne, who was President of the Council and the tallest man in the upper chamber, Wallace who was Speaker of the House was the smallest of the Representatives. Nevertheless, a contemporary said he was "impressive in person, manner and voice."

During the first session of the Territorial legislature, one of the major issues was the location of a permanent seat of government. Through a controversy of petty jealousies and ardent localism, Wallace was a faithful supporter of the interests of Mount Pleasant. He seems to have been a

satisfactory presiding officer, maintaining decorum and conducting parliamentary business impartially.

On one occasion, during a discussion of a project to improve Muscatine slough, Robert G. Roberts of Cedar County arose and challenged the House. "Mr. Speaker, is Cedar in that air thing? If Cedar is not in that air thing, I will not support it!" Without hesitation Wallace informed the gentleman that Cedar was "not in that air thing". Hawkins Taylor, who represented Lee County in the House, declared that he had "never seen finer presiding officers, in legislatures or Congress," than Browne and Wallace.

Wallace did not return to the House in 1839. In the following year, however, he was elected to the Council and reelected in 1842, thus serving in the Third, Fourth, Fifth, and Sixth Legislative Assemblies. In the Fifth Assembly, he was President pro tem of the Council and in the sixth session he was the Whig candidate for President. By 1843, however, Wallace was ready for larger fields. He opposed Augustus C. Dodge for the office of Delegate to Congress. Both of the candidates stumped the Territory, speaking in nearly all the counties. But when the votes were counted Dodge again went to Washington as Delegate.

When Iowa reached Statehood, a bitter parti-

san strife prevented the legislature from choosing the first United States Senators. In the Second General Assembly, however, the Democrats had a majority in both branches. William H. Wallace received the empty compliment of being the nominee of the Whig caucus. On the afternoon of December 7, 1848, Philip B. Bradley named Augustus C. Dodge for the Democrats and Hugh R. Thompson proposed William H. Wallace for the Whigs. There was no doubt as to the outcome: Dodge was elected as one of the first Senators from Iowa by a vote of thirty-eight to nineteen.

In spite of his membership in a dying party, Wallace's interest in public affairs never flagged. In 1848, as a Whig candidate for Presidential elector, he was defeated by the Cass ticket. During the administration of Millard Fillmore, however, he was United States Receiver at the Fairfield land office, a position which he filled until the advent of President Franklin Pierce. On February 13, 1852, he presided at a railroad convention in Ottumwa interested in the construction of the Lafayette, Burlington, and Council Bluffs Railroad. The next year Wallace answered the call of the West and migrated to Washington Territory, where a new political future awaited him.

About this time William H. Wallace was described "as being a young lawyer who was genial

in his intercourse with the people, popular in his manners and possessed of great magnetic powers, which won the admiration and esteem of his followers." Through the late fifties his warmth of personality made him a leading figure in his newly adopted home.

In politics he experienced a renaissance. Elected to the Washington Legislative Council in 1855, he was chosen President of that body in the following year. Meanwhile, during the Indian outbreaks, he served as captain of the militia in the suppression of the red men. In Iowa he had been elected colonel of the Territorial militia.

The reason for Wallace's sudden success was his change of political affiliation. He had become a Republican. In April, 1861, President Abraham Lincoln appointed him Governor of Washington Territory. The people of the Territory, however, had already elected him to be Delegate to Congress. And so, instead of going to the Territorial capital, Wallace went to the national capital. From March 4, 1861, to March 3, 1863, he attended the sessions of the Thirty-seventh Congress.

At the close of his term, he had been home only a few months when President Lincoln on July 10, 1863, appointed him Governor of the new Territory of Idaho. Through the summer and early

autumn, Governor Wallace was busy organizing the Territorial government. Then, in the September election, he was elected first Delegate to Congress from Idaho. Wallace thus occupied the unique position of serving Washington in the Thirty-seventh Congress and representing Idaho in the Thirty-eighth.

Delegate Wallace comported himself with distinction. During both terms he favored internal improvements — the building of highways and the construction of railroads. He also advocated “hard money” and urged a liberal policy toward the Indians. While the bill relative to the creation of Montana was debated, he proved to be a staunch friend of the proposed statute. His speeches were examples of logic and conciseness, and throughout his career he was noted as a polished orator. On several occasions he disputed with J. B. Grinnell on the issue of economy in public expenditures. Wallace saw no reason to purchase future inequalities at the price of immediate economy. His hobby while in Washington seemed to have been the amicable settlement of controversies between the settlers and the Indians. Certainly he actively promoted the interests of the Territories he represented.

After the Thirty-eighth Congress had adjourned in March, 1865, Wallace returned to

Washington Territory and established his home at Steilacoom on Puget Sound near Tacoma. Tired of politics, a career which he had so long pursued, he sought contentment during his last years musing about the past. He died on February 7, 1879. It was a tribute to his sincerity and ability that friend and political foe both praised his deeds.

William H. Wallace tried to promote the public good. Fortune smiled and frowned upon his efforts. Through the years of American political growth this Whig of many parts kept a firm grasp upon the ideal of public service. Without men like him neither Territories nor States could fulfill their highest destiny.

JACK T. JOHNSON

The First Land Sales

Paradoxical as it may seem, the first so-called land sales in Iowa were, indeed, not land sales at all. "Squatters" came into the Iowa country before land titles were available. They occupied the land by virtue of "squatter sovereignty", improved their claims, and transferred their interests in them to others. Thus the negotiations were, in fact, sales of improvements and acquired rights. The title to the land remained in the national government.

Prior to the fall of 1838 town lots in Burlington, Dubuque, and other places were claimed, and the land for several miles around was occupied by settlers, most of whom had fields under cultivation. Houses were built and commercial interests were developed, and yet not an acre of farming land or a single town lot was owned in fee simple by any individual. One of the squatters, in characteristic frontier fashion, said, "We 'poor devils' did not own a foot of land."

Notwithstanding this fact, a provisional system of real estate transfer had been established. Conveyances were made by a form of quit-claim deed — sometimes called "squatters' title" — and rec-

ords were kept of the transfer made. The holder of the provisional title, it was understood, would eventually be allowed to purchase the legal title from the government and thereby acquire full and complete ownership.

Squatters, pioneers, and old settlers are words that have a similar connotation, yet there was a difference in their meaning. Squatters came before land titles were available. They occupied the land and later acquired title. The term pioneer is broader and more comprehensive in meaning. The pioneer might have been an original claimant or he might have acquired title through another person. He might have possessed the land and later obtained the title, or he might have had at least a color of title before taking possession. Old settlers include not only squatters and pioneers, but any citizen who remained in a community for a long period of years.

Squatters clubs and claim associations enforced the provisional land titles before the government sales. Membership in these organizations was not limited to squatters alone, but was open to all settlers in possession of land to which they claimed title. All were pledged to protect the claims of others, and they did it effectively through a coöperative plan that made "claim jumping" a serious offense.

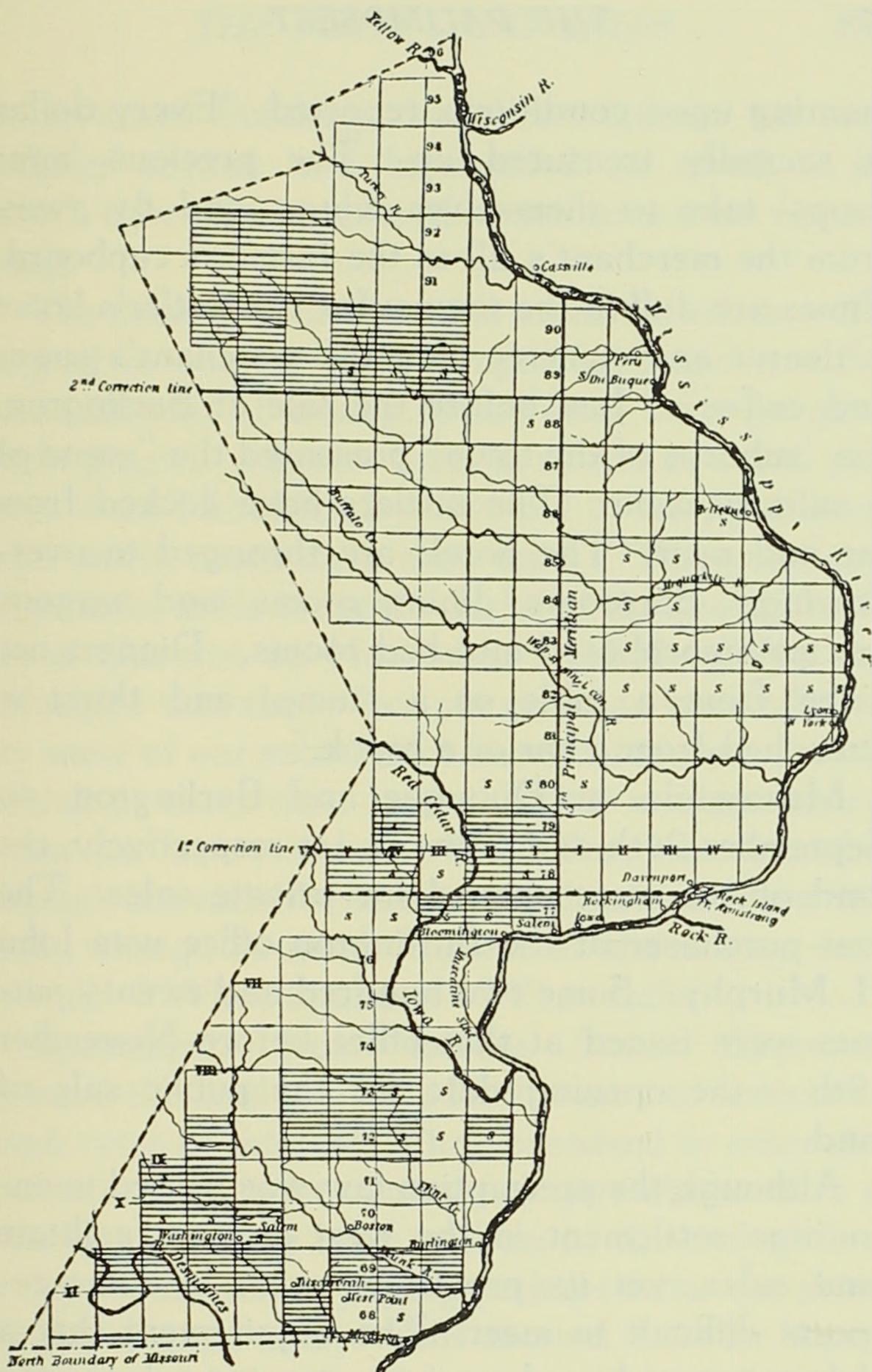
To facilitate land sales, Congress, on June 12, 1838 — the same day on which Iowa was made a separate Territory — established two land offices in the Iowa country. One of these was at Burlington, the other at Dubuque. President Martin Van Buren appointed Joseph H. Worthington, Register and Thomas McKnight, Receiver for the Dubuque office; and Augustus C. Dodge, Register and Ver Planck Van Antwerp, Receiver for the Burlington office. Worthington resigned before the first sales and was succeeded by B. Rush Petrikin. McKnight and Petrikin were both prominent attorneys in Dubuque. Van Antwerp, who came to Burlington from Terre Haute, Indiana, was also an attorney, "but deserted that field for that of politics". Augustus C. Dodge, the son of Governor Henry Dodge, was later Delegate to Congress and United States Senator.

For more than a year before the establishment of the land offices, there had been agitation for a preëmption law by which land titles in the Iowa country might be legally acquired by the settlers. In response to this demand, Congress, on June 22, 1838, passed a measure providing that any "actual settler" on public lands, who was the head of a family or was twenty-one years of age, and who was in possession of the land at the time of the passage of the law and had been "a personal resi-

dent thereon" for a period of four months prior to that date, might privately purchase from the government not to exceed 160 acres at the minimum price. After 1840 the maximum acreage was increased to a half section.

President Van Buren proclaimed, on July 10, 1838, that public land sales would be held at the land office in Dubuque, beginning on November 5, 1838, and at the office in Burlington, beginning on November 19th. In this proclamation he designated, by number, twenty-five townships or fractional townships which would be sold at the office in Burlington, and twenty-three townships which would be sold at the Dubuque office. A glance at the map of this area reveals the fact that the townships designated for public sale were in the newer, sparsely populated, and less improved areas. Land in the more densely populated sections, around Burlington and Dubuque, were not subject to public sale, but might be bought privately by the settlers in possession, through the land office in their respective district.

The order of the President was not popular with the settlers. They wanted more time. Throughout the summer and early autumn claimants adjusted boundary lines and prepared to prove their claims and pay for their land patents at the designated dates. John B. Newhall, com-



THE SHADED TOWNSHIPS WERE THE FIRST OFFERED FOR PUBLIC SALE IN IOWA. THOSE NORTH OF THE BROKEN LINE RUNNING WEST FROM ROCK ISLAND WERE SOLD AT DUBUQUE, THOSE SOUTH OF THE LINE AT BURLINGTON.

menting upon conditions, reported, "Every dollar is sacredly treasured up. The precious 'mint drops' take to themselves wings, and fly away from the merchant's till to the farmer's cupboard. Times are dull in the towns; for the settler's home is dearer and *sweeter* than the merchant's sugar and coffee". Just before the sale at Burlington, the "suburbs of the town" presented the "scene of a military camp. The settlers have flocked from far and near. The hotels are thronged to overflowing. Barrooms, dining rooms, and wagons are metamorphosed into bed rooms. Dinners are eaten from a table or a stump; and thirst is quenched from a bar or a brook."

Meanwhile, at Dubuque and Burlington, on September 24th and October 1st respectively, the land offices were opened for private sales. The first purchaser at the Burlington office was John H. Murphy. Some two hundred and twenty patents were issued at that office before November 19th — the opening date for the public sale of land.

Although the preëmption law was passed to encourage settlement in the west and to facilitate land sales, yet its provisions were in some respects difficult to meet. The requirement that a claimant must have been in possession prior to the passage of the law disqualified newcomers. In

other cases buildings had been erected on one quarter section and land tilled on another, in which case adjustments of boundaries were necessary.

The most difficult situation arose, however, with regard to obtaining the proper kind and a sufficient amount of money to pay cash for a government patent. Interest rates in excess of seven per cent were forbidden by law, but in reality money was worth much more than that. "The great cry at present is for money", declared the *Iowa Territorial Gazette*, on November 3, 1838. "We are informed that thirty-five per cent has been offered by some of our substantial farmers for money with which to enter their lands. What a commentary upon our usury laws!" The effect was to make capital unavailable because lenders could not legally charge as much interest as the money was worth. "What injustice! What folly!"

Speculators from eastern States clustered around the land offices to lend money to settlers at high rates of interest. They promised to enter the lands in their own names and give the settlers a bond to deed the land to them at the end of two years — the settler paying perhaps twice the price of the original entry. This seemed to be an imposition upon the settlers but in some instances it was the only alternative to losing a claim that was

worth the additional cost. It also circumvented the usury law. One such speculator — Richard F. Barrett of Springfield, Illinois — loaned \$100,000, which he had borrowed from the State Bank of Illinois. The bank later failed and Barrett lost a fortune when his debtors paid with paper issued by the bank, which cost them only fifty cents on the dollar.

Difficulties sometimes arose from the requirement of the land office that money received for land be deposited in the Bank of Missouri at Saint Louis. This bank would accept only gold, silver, United States treasury notes, bank notes of its own issue or those issued by the Bank of Illinois or the Bank of Mineral Point, Wisconsin. Difficult as it was to obtain money, it was even more difficult to get issues from the banks designated. After going all the way to New York and paying a high premium to be certain that he would have enough "land office money", one settler found that his New York bank notes were not acceptable and he had to pay another premium of twelve and a half per cent to get the right kind of currency.

Notwithstanding the difficulties accompanying the land sales, many purchases were made. The *Iowa News* reported that during the first four days of the public land sales the Dubuque office received \$30,000 in payment for lands. At Burl-

ington there had been no bidding against settlers, and it was believed that this would be "the best sale in the United States". More than \$300,000 were received there within three months.

Before the public sale, the settlers in the townships concerned planned to protect themselves against speculators. They usually selected one of their number as the official bidder who was responsible for buying each piece of claimed land as it was offered for sale. According to a contemporary description, "The sale being announced from the land office, the township bidder stands nearby with the registry book in hand, and each settler's name attached to his respective quarter or half-section, and thus he bids off in the name of the whole township for each respective claimant. A thousand settlers are standing by, eagerly listening when *their* quarter shall be called off. The crier has passed the well known numbers. His home is secure. He feels relieved. The litigation of 'claim-jumping' is over forever. He is lord of the soil. With an independent step he walks into the land-office, opens the timeworn saddle-bags, and counts out the 200 or 400 dollars, silver and gold, takes his certificate from the general government, and goes his way rejoicing."

J. A. SWISHER

A Commonplace Calendar

Winter began early in Iowa a hundred years ago, threatening unusual hardship, while the public land sales were in progress and the first Territorial legislature pioneered in law making.

Thursday, November 1. Cyrus S. Jacobs died of the wound inflicted by David Rorer. § The *Gypsy*, passing Burlington on her way down stream, reported that the *Palmyra* had sunk on the upper rapids. § Merchant W. S. Edgar married Lavinia Janes.

Friday, November 2. The funeral of Jacobs was attended by "one of the most numerous and respectable concourses of people" Burlington had witnessed. § William Luster offered a reward of \$20 for the return of his old bay mare which the intemperate, fiddle-playing Peter Lloyd had borrowed "a week ago" to "ride a few miles".

Saturday, November 3. Citizens of Burlington were invited to attend a meeting of the Iowa Territorial Thespian Corps. § Tailor A. J. Lucas promised to give particular attention to the cut of gentlemen's garments, following eastern fashions. § Richard Plumbe wished his boarders at the Washington Hotel "would endeavor to be punc-

tual at meals". § E. Mattox and J. W. Markle of Dubuque dissolved their partnership. § A store in Burlington offered fifty cents a bushel for potatoes.

Sunday, November 4. L. G. Bell did not preach because no "proper house" for public worship could be procured in Burlington. § E. C. Remington lost his pocketbook.

Monday, November 5. The first public land sale began at Dubuque. The town was crowded with settlers ready to buy "the places upon which they have expended their labor". § James M. Morgan, who had "connections with Washington", opened a land agency at Burlington to obtain land patents promptly. § Judge T. S. Wilson opened district court in Lee County.

Tuesday, November 6. W. W. Chapman started to Washington to take his seat in Congress. § Dubuque legislators Hempstead, Lewis, Swan, and Bankson, accompanied by Editor J. B. Russell, set out for Burlington in canoes.

Wednesday, November 7. "Winter is upon us." The ground was covered with snow, five inches deep at Dubuque, and the weather turned "bitterly cold". § Settlers were paying a high premium to exchange their Indiana bank notes for "land office money".

Thursday, November 8. Ice began to form in

the river. § Some of the Dubuque legislators abandoned their canoe at Lyons and went on by carriage. § Proceeds from the Dubuque land sale at the end of the fourth day amounted to nearly \$30,000.

Friday, November 9. The Methodist Church was nearly ready for the legislature, "notwithstanding the numerous drawbacks experienced by the enterprising gentleman under whose care it has been fitted up." § The *Gazette* shop was ready to do the printing for the legislature "with the utmost dispatch".

Saturday, November 10. News came that John Plumbe had been appointed postmaster at Sinnipee, Wisconsin. § Michael O'Brien "took up" a stray brown ox on "Whiskey Hill, within one mile of Du Buque". § J. J. King again opened his boarding house on Third Street in Burlington to accommodate legislators and other transients. § J. B. Lawson offered to meet settlers at the land sale and pay cash for corn and cattle.

Sunday, November 11. The Reverend Mr. Reynolds preached in Burlington. § Neighbors in Bellevue exclaimed over Kirkpatrick's big cucumber 18 inches long, and 16 inches around.

Monday, November 12. The First Legislative Assembly of Iowa met in the Methodist Church at Burlington. § In a message "characterized

throughout for high toned morality", Governor Lucas admonished the legislators to perform their duties with prudence and vision. § Judge Wilson opened court in Van Buren County.

Tuesday, November 13. The river was full of floating ice at Dubuque. § Contrary to his expectation, J. B. Browne was elected President of the Council. William H. Wallace promised to preside "faithfully and impartially" as Speaker of the House. § J. B. Russell arrived at the capital, glad to end his cold, tedious canoe voyage. § Choir members in Dubuque were invited "to learn sacred music" from Azor Richardson.

Wednesday, November 14. The mail from the east failed to reach Burlington, but from Van Buren County came a letter that had been four weeks on the way. § James A. Burchard contested the election of S. R. Murry to the House.

Thursday, November 15. E. A. M. Swazy arrived from Van Buren County and took his seat in the Council. § A Male and Female Academy was opened by Allen M. Scott "in the beautiful and lovely town of Mount Pleasant" to provide a thorough education "without that smattering of science, by which the mind of the pupil is made a lumber-room without order or harmony."

Friday, November 16. A large, unfinished two-story frame house, suitable for a hotel, was for

sale at Parkhurst. § Isaac Cook died at Burlington. § The House refused to hire James G. Edwards to print the laws.

Saturday, November 17. George H. Beeler was elected to the vacant seat of C. S. Jacobs. § The legislature adjourned until Wednesday so that the members could attend the land sale. § O. L. Huntington had for sale at Danville "several sets of elegant coach harness silver and brass mounted". § The weather continued cold. § James G. Edwards announced that he would issue the first number of *The Burlington Patriot* next Saturday.

Sunday, November 18. The Reverend Mr. Arrington preached in Representative Hall in the morning and A. M. Scott of Mount Pleasant in the same place "at early candle lighting".

Monday, November 19. Judge T. S. Wilson opened district court at Mount Pleasant. § The public land sale began at Burlington. Settlers were warned to "come prepared to bivouac, for our hotels and boarding houses even now are pretty well filled."

Tuesday, November 20. David Rice married Levara Griffey of Burlington. § Squatters had to pay a twenty per cent premium to exchange bank notes of small denominations for \$20 bills to meet land office requirements.

Wednesday, November 21. The legislature reconvened. Hughes, Whittlesey, and Murry arrived and took their seats. § Judge Mason, at the request of a Representative, submitted a bill regulating court procedure in criminal cases.

Thursday, November 22. Hempstead's bill to divorce Rhoda P. Mallet from Paschal Mallet was rejected by the Council. § Cash receipts from the land sale at Burlington were averaging over \$25,000 a day!

Friday, November 23. Secretary Conway submitted to the Council wax impressions of the Great Seal of the Territory, designed to be "perfectly expressive of a distinct idea, intimately associated with the history of the delightful country which we have the happiness to inhabit". § The establishment of a Territorial University was proposed in the Council. § A Presbyterian Church was organized at Burlington.

Saturday, November 24. The capital was crowded with strangers attending the land sale. § Alexander Hilleary promised that any one who returned his stray ox with the "crumple horns" would "be satisfied for their trouble". § The first issue of the Burlington *Patriot* did not appear.

Sunday, November 25. Citizens in southern Iowa were wondering whether the Mormons, driven out of Missouri, would settle in Iowa.

Monday, September 26. The sheriff sold the livestock, wagon, and "one mantle clock" to pay Michael Harris's debt to L. N. English. § District court convened in Burlington.

Tuesday, November 27. Commissioners met to adjudicate claims to town lots in Fort Madison. § Clarke & McKenny were hired to print the journals of the legislature and Russell & Reeves got the contract for publishing the laws.

Wednesday, November 28. The House resolved to change the method of voting in elections to *viva voce*. § The first session of the Territorial Supreme Court was held in the parlor of a Burlington pioneer home.

Thursday, November 29. A legislative committee went to Dubuque to investigate the Miners' Bank. § B. Rupert invited interested citizens of Dubuque to reorganize the Lyceum. § Thanksgiving Day was not yet observed.

Friday, November 30. The House petitioned Congress to give two townships of land for the erection of a penitentiary, which prompted the editor of the *Gazette* to denounce capital punishment. He was "well satisfied that the day is fast approaching when this relic of savage brutality shall no longer deform the statute book of young Iowa."

JOHN ELY BRIGGS

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