

A Territorial Centennial Number
Iowa in 1838

The **P**ALIMPSEST

SEPTEMBER 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

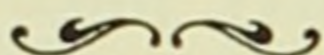
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Frontier Democracy

In harmony with conditions of equality on the frontier and the democratic spirit of the times, the Organic Act for the Territory of Iowa provided for the popular election of most of the public officials. The thirteen members of the Council were to be elected for two years, and the twenty-six members of the House of Representatives were to be elected every year. Besides the Legislative Assembly, "all township officers, and all county officers, except judicial officers, justices of the peace, sheriffs, and clerks of courts", were to be elected by the citizens in the Territory.

Iowa pioneers were vitally interested in their government. The maintenance of order, the protection of claims, the construction of roads, the establishment of schools, the maintenance of health, and national politics concerned them tremendously. Long before August 15, 1838, when Governor Robert Lucas fixed the election districts and apportioned the seats in the legislature, a

large number of citizens had announced their candidacy for both local and Territorial offices.

The campaign was theoretically non-partisan. Wherever men contend for office and political power, however, differences of opinion develop, issues arise, and party phenomena occur. The first election in the Territory of Iowa was no exception. Though everybody professed to put community interests above personal advantage, candidates differed over objects and methods. National politics influenced local attitudes.

The simplest method of becoming a candidate is self-announcement. Office seekers in abundance followed this procedure. The list of announcements in the newspapers grew steadily all summer, some in response to promises of support from "Many Voters". Early in the year W. W. Chapman announced his candidacy for Delegate to Congress, and by the time the fall election was held there were five candidates for Congress, thirty-one seeking seats in the Territorial Council, and seventy-four political aspirants for the Territorial House of Representatives. The *Iowa News* on July 14, 1838, thought that the number of candidates gave "the appearance of great thirst for office". Politicians seemed to be most numerous in Des Moines County.

The campaign through the hot summer of 1838

revolved around several issues. Candidates for Congress debated provisions of the preëmption law, the Iowa-Missouri boundary question, and internal improvements. Local office seekers were interested in establishing county seats and county lines, the location of the Territorial capital, education, and formulating a code of laws.

Mass meetings endorsed some candidates and ignored others. Citizen gatherings in Dubuque and Jackson counties enthusiastically nominated Thomas S. Wilson for Congressional Delegate. Another Dubuque meeting "respectfully requested" Warner Lewis "to become a candidate for the next Legislative Council". Small meetings were sometimes held in the home of a neighbor. For example, a group of citizens of Clayton County met at Henry Holtzbecker's house to nominate candidates for the Delegation and for the Territorial House of Representatives. A committee of five drafted resolutions appropriate to the occasion. James W. Woods was thoroughly exasperated when, after he had announced his candidacy, a Burlington caucus nominated Robert Ralston for the legislature. Not partisan in the usual political sense, these early gatherings were nevertheless sensitive to local needs and aware of party rivalry.

Sectionalism was pronounced. In Lee County there were two factions. One group wanted the

county divided into two sections — the Half-breed Tract and the northern portion. Another faction wanted to move the county seat from Fort Madison to West Point. In general there was a feeling of enmity between town and country. Editor Clarke of the *Burlington Gazette* on July 21, 1838, deplored such sectionalism and reminded his readers that "every blow inflicted on the country is felt by the town" and that "every wound received by the town is also a wound to the country". Considerable hostility was generated between the northern and southern portions of the Territory regarding the election of a Congressional Delegate. "Des Moines" pointed out in the *Gazette* that to arouse sectional interests in the first election would be disastrous in the future. Chapman actually carried the southern half of the Territory in the election while Engle, his strongest opponent, polled a majority of votes in the northern counties.

The first campaign was conducted largely by the method of stump speaking throughout the Territory. Chapman once complained that the columns of the newspapers were closed against him and as a consequence "he had no means of communicating with the people, except seeing them face to face". Several of the candidates would visit a town at the same time and a holiday

was made of the event. Usually each office seeker addressed the crowd and explained his views. The *Gazette* reported that the candidates succeeded at one meeting in "keeping the voters up until 10 o'clock". Chapman, it was said, used only one speech in the entire campaign.

Because regulations had not yet been established by the Territory of Iowa, the first election was held in accordance with the law of the Territory of Wisconsin. Only free white male citizens who had reached the age of twenty-one and resided in Iowa six months were eligible to vote. Balloting was at places designated by the county sheriffs. Some of the polls, open from nine in the morning until six in the evening, were in private homes while others were in public places. Three judges, appointed by the county commissioners, were in charge of each voting place. There were no official ballots. Any candidate could have tickets printed, and apparently voters could write their choices for the different offices on a slip of paper. Voting was secret, however. Electors, "approaching the bar in the election room", presented their "ticket" folded in such a manner that no names were visible to the judges who deposited it immediately in a general ballot box, and the clerk recorded the names of all voters.

After the results were tabulated and the suc-

cessful candidates were certified, complaints came to the attention of the first legislature. One precinct kept the polls open longer than the legally prescribed hour; the judges allowed the ballot boxes to stand unlocked all night in a public place; and it was charged that a large number of people who cast ballots were not qualified electors. One candidate (J. A. Burchard) won a contested seat in the legislature because J. A. Burchard and J. A. Burchard, Jr. had been erroneously counted as two persons by the election judges.

On September 15, 1838, while the election returns were dribbling in, the *Iowa Territorial Gazette* reported that the "vote throughout the Territory has been much smaller than was anticipated. Probably not more than 4,500 have been cast, although there must be between six and seven thousand votes in the Territory". Farmers were busy in their fields, and many aliens who were old settlers and had voted in previous elections, especially in Dubuque County, were excluded because they had not been naturalized.

Frontier democracy was, perhaps, best expressed in the composition of the legislature. A contemporary statistician, Allen M. Scott, compiled most of the following information, except party affiliation.

COUNCIL

MEMBERS AND DISTRICTS	POLITICAL PARTY	NATIVITY	OCCUPATION	AGE	WEIGHT	HEIGHT
<i>Lee County</i>						
Jesse B. Browne	Whig	Ky.	Merchant	40	190	6'7"
<i>Van Buren County</i>						
E. A. M. Swazy	Whig	Vt.	Farmer	28	167	5'11½"
J. Keith	Whig	Va.	Gunsmith	52	145	5'10½"
<i>Henry County</i>						
Lawson B. Hughes	Demo	Va.	Merchant	34	160	5'7"
Jesse D. Payne	Demo	Tenn.	Physician	35	149	6'2¼"
<i>Des Moines County</i>						
Arthur Inghram		Pa.	Farmer	60	224	5'10"
Robert Ralston	Whig	Ohio	Merchant	31	137	5'7"
George Hepner	Demo	Ky.	Farmer	33	170	5'11½"
<i>Muscatine, Louisa, Slaughter Counties</i>						
James M. Clarke	Whig	N. Y.	Farmer	25	150	5'8"
<i>Scott, Clinton Counties</i>						
Jonathan W. Parker	Demo	Vt.	Lawyer	28	160	5'10½"
<i>Cedar, Jones, Linn, Johnson Counties</i>						
Charles Whittlesey	Whig	N. Y.	Merchant	31	156	5'9"
<i>Dubuque, Jackson, Clayton Counties</i>						
Warner Lewis	Demo	Va.	Surveyor	32	140	5'10"
Stephen Hempstead	Demo	Conn.	Lawyer	26	140	6'

HOUSE OF REPRESENTATIVES

<i>Lee County</i>						
William Patterson	Demo	Va.	Farmer	37	170	6'
Hawkins Taylor	Whig	Ky.	Farmer	27	160	5'10"
Calvin J. Price	Demo	N. C.	Farmer	37	160	5'11"
James Brierly	Demo	Ohio	Farmer	29	136	5'7"

MEMBERS AND DISTRICTS	POLITICAL PARTY	NATIVITY	OCCUPATION	AGE	WEIGHT	HEIGHT
<i>Van Buren County</i>						
James Hall	Whig	Md.	Merchant	27	150	6'1"
Gideon S. Bailey	Demo	Ky.	Physician	27	150	6'
Samuel Parker	Demo	Va.	Farmer	34	152	5'8"
<i>Henry County</i>						
William G. Coop	Demo	Va.	Farmer	33	170	5'10"
William H. Wallace	Whig	Ohio	Farmer	27	130	5'8"
A. B. Porter	Whig	Ky.	Farmer	30	155	5'8"
<i>Des Moines County</i>						
George Temple	Demo	N. H.	Tailor	34	170	5'9½"
Van B. Delashmutt	Demo	Va.	Farmer	37	188	6'1"
James W. Grimes	Whig	N. H.	Lawyer	22	170	6'
Thomas Blair		Ky.	Farmer	49	175	5'8"
Cyrus Jacobs*	Demo		Lawyer			
George H. Beeler	Whig	Va.	Merchant	39	160	5'10"
<i>Muscatine, Louisa, Slaughter Counties</i>						
John Frierson		Ohio	Surveyor	34	175	5'10"
W. L. Toole	Whig	Va.	Farmer	35	145	5'8"
Levi Thornton	Whig	Penn.	Farmer	42	196	6'
S. C. Hastings	Demo	N. Y.	Lawyer	24	175	6'1"
<i>Johnson, Cedar, Jones, Linn Counties</i>						
Robert G. Roberts	Whig	Penn.	Farmer	42	150	5'8"
<i>Scott, Clinton Counties</i>						
Laurel Summers	Demo.	Ky.	Farmer	24	145	5'10"
Samuel R. Murry**						
Jabez A. Burchard	Demo	Pa.	Farmer	34	165	5'11"
<i>Jackson, DuBuque, Clayton Counties</i>						
Chauncey Swan	Demo	N. Y.	Miner	39	140	5'8"
Andrew Bankson		N. C.	Farmer	51	160	5'9"
Thomas Cox	Demo	Ky.	Farmer	51	250	6'1"
Hardin Nowlin	Demo	Ill.	Farmer	34	175	5'10"

* Killed in duel. Place taken by George H. Beeler.

** Seat successfully contested by Jabez A. Burchard.

The First Legislative Assembly of Iowa was composed of young men who were predominantly farmers. Among these pioneer law makers, some were destined to write their names again and again in the book of Iowa history. Several had seen service in the legislature of the Territory of Wisconsin. Others were young men just beginning their careers. James W. Grimes, fresh from Dartmouth College, was the youngest of them all, and Arthur Inghram was the oldest. Twenty came from the South and nineteen from northern States. For some, it was their first venture into politics; for others, it was a continuation of public service commenced elsewhere. Though political parties were not well organized locally, and the campaign was largely personal, most of the legislators eventually revealed their partisan identity.

JACK T. JOHNSON

Pioneer and Politician

"The aspect of affairs has been materially changed since our last", reported the *Iowa Territorial Gazette* on October 6, 1838. "At that time, the election of Col. Engle was looked upon as certain; but the very heavy majority against him in Van Buren, and his diminished vote in Cedar, have in all probability, thrown him behind Chapman from forty to fifty votes. There now seems to be but little doubt of the election of the latter." Twelve days later, on October 18th, Governor Robert Lucas proclaimed William W. Chapman, first Delegate to Congress from the Territory of Iowa.

The importance of the Delegacy was overshadowed only by the election of the Territorial legislature. "The delegate to Congress", the *Iowa Territorial Gazette* informed its readers on August 25, 1838, "will have much influence to exert, and as he may exert it so will it have its weight upon our destiny. But the works of our first legislature are far more important to us. With them lies the duty of laying the foundation stone of our laws and prosperity."

The election of a Delegate, nevertheless, at-

tracted general attention. Candidates were numerous and energetic. Their rivalry was keen and the decision of the voters was close. Sectional interests were pronounced. Chapman who was "a professed Democrat" carried the southern half of the Territory with the exception of Lee and Henry counties, which were won by Benjamin F. Wallace, a Whig. The northern portion went to Peter Hill Engle, who was a Democrat, a friend of George W. Jones, and a former member of the Wisconsin Territorial legislature.

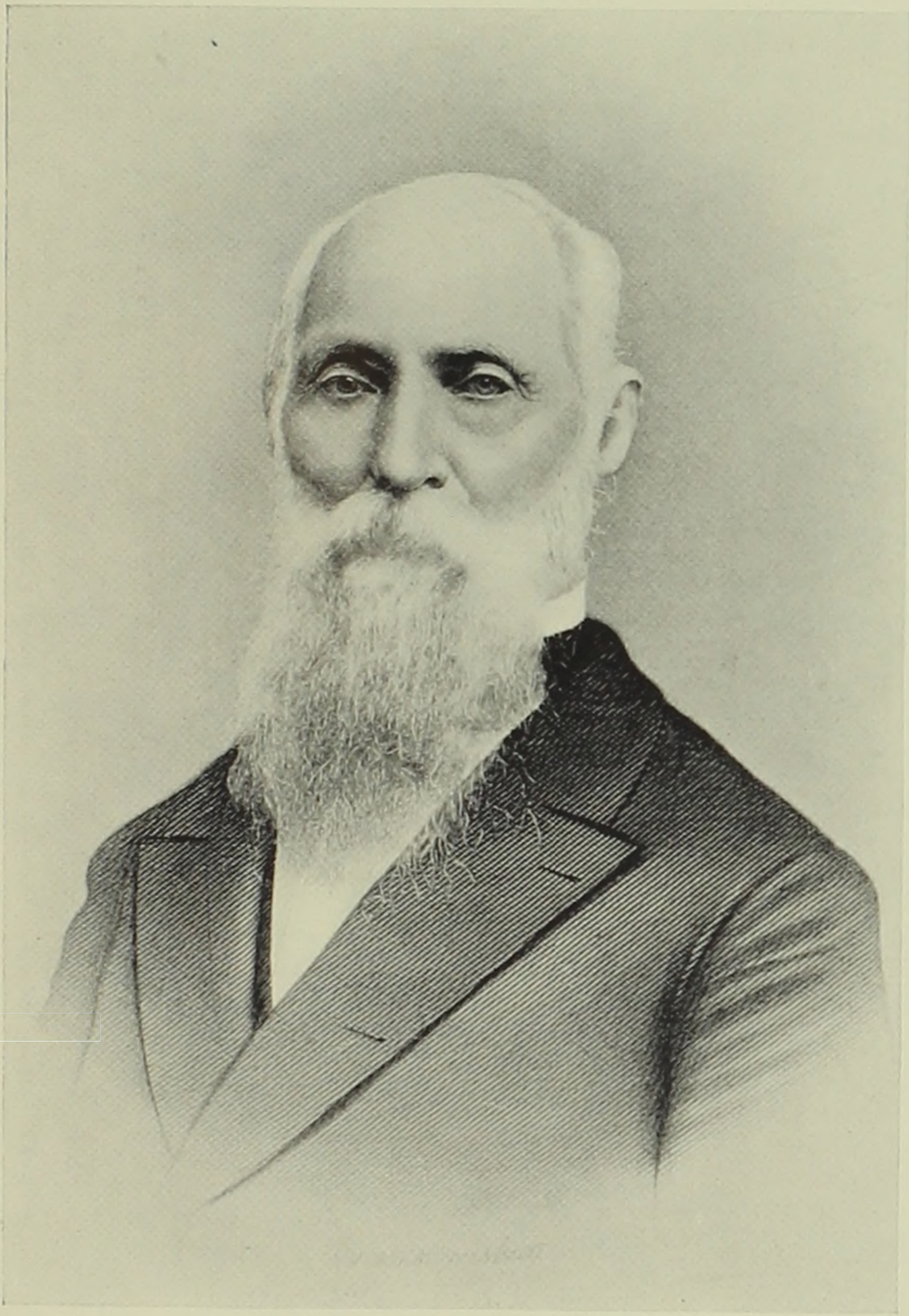
The campaign for Congress in Iowa Territory in 1838 was long and marked with significant political phenomena. Early in the year (February 24, 1838) the Burlington *Territorial Gazette* announced the candidacy of Chapman for Delegate to Congress from Wisconsin Territory. When the Territory was divided, Chapman simply continued to run for Congress, with the object of representing Iowa where he lived instead of the remnant of Wisconsin east of the river. By July mass meetings and self-announcements had named Chapman's competitors — Lawrence Taliaferro of St. Peters, Peter H. Engle and M. H. Prentice of Dubuque, Benjamin F. Wallace of Mount Pleasant, and James Davis and David Rorer of Des Moines County. Thomas S. Wilson of Dubuque had withdrawn his candidacy upon being named

Associate Justice of the Supreme Court. And by election time Davis and Prentice had also withdrawn. The final returns gave the following results:

Chapman	1490
Engle	1454
Wallace	913
Rorer	605
Taliaferro	30 ?

Chapman and Engle undertook the most systematic campaign of the Territory, though Wallace, Rorer, and Davis made many speeches. Taliaferro and Prentice were not very active. On September 1st the editor of the *Fort Madison Patriot* thought that the aspirants "all seemed jaded down with hard riding and much speaking". The *Iowa News*, speaking for the northern half of the Territory, said on July 28th: "In the Southern part of the Territory, the Candidates for Delegate to Congress and for both Houses of the Legislative Assembly are stump-speeching, and have so stirred the people that the discussion of their merits already seems to form the leading topic. We are not quite so rapid in preparing for the contest, but as soon as dog days have passed, it is expected to commence."

Besides being politically astute and an active campaigner, Chapman profited by an accident to



WILLIAM W. CHAPMAN

his chief opponent. While Engle was on a speaking tour about the middle of August, he fell into the Wapsipinicon River and nearly drowned. Saved by a passing Indian, the candidate was ill for a fortnight and unable to fulfill his engagements. A rumor of his death spread through the Territory. Possibly this accident cost Engle the seat in Congress.

On November 6th Chapman left his farm near Burlington for Washington. The third session of the Twenty-fifth Congress was meeting and Chapman took his place among the Representatives. During the months that followed Iowa's Delegate presented numerous petitions and offered many resolutions. Proposals for the building of canals and the improvement of roads, requests for grants of land for a seat of government and for the benefit of education, resolutions relative to the preëmption law, boundaries, and the improvement of the rapids in the Mississippi River were the major work of Chapman in his first session in Congress.

The Iowa Delegate took his seat amidst the debate over the tenure of Delegate George W. Jones. The question also concerned Chapman. Was he elected for the term of a particular Congress or was he elected for two years? Within the Territory the assumption was that the term of

Chapman was concomitant with that of Representatives and a new election was to be held in the fall of 1839. Congress, however, specifically provided that the term of "the present Delegate for said Territory of Iowa shall expire on the twenty-seventh day of October, eighteen hundred and forty".

The issue caused a political flurry in the Territory. Francis Gehon in the summer of 1839 gave notice in the *Dubuque News* that if he should be "voted for generally throughout the Territory, as a Delegate to Congress, and should receive the highest vote, he will conceive it his duty to go to Washington and ask his seat". The *Patriot* on July 4, 1839, stated that "the Hon. T. S. Wilson has declined being a candidate for Delegate to Congress, on the ground of a pressure of public duties which renders it inconsistent for him to make an electioneering tour through the Territory, and the probable illegality of an election at the present time." Nevertheless, many ballots were cast for the office of Delegate. Gehon received 843 votes, Chapman 24, and Joseph M. Robinson 13. Governor Lucas proclaimed that Gehon had been elected Delegate to Congress from Iowa Territory. The election was illegal. On October 24th the *Burlington Hawk-Eye* reported that "Mr. Chapman, we think, stands on solid ground

according to the law, and he knows it. He seems as 'calm as a summer's morning'."

Chapman's second session in Congress was spent in drafting resolutions governing land sales and in protecting the interests of his Territory in the Iowa-Missouri dispute. He also urged action on the Des Moines River improvement project. On February 6, 1840, the *Hawk-Eye* felt that "delegate, Col. Chapman, is wide awake to the interests of Iowa".

As the time for reëlection drew near, political parties in Iowa were taking shape. Suspicions were spread that Chapman was not a good Democrat. On June 13, 1838, Henry Dodge had written to George W. Jones that "it would be a great misfortune if Chapman should succeed in being elected to Congress from Iowa." And Dodge wrote to Jones again on March 3, 1840, that James Doty had been elected from Wisconsin and William Chapman from Iowa "because the people of the Territories they represent were not acquainted with their true character, for at heart they were Whigs and opposed to the measures of the present administration."

Aware of this partisan opposition, Chapman addressed an open letter to his constituents on March 27, 1840. From Washington, he wrote: "If nothing but a convention in May will satisfy

the craving appetite of party spirit, it becomes my duty as your representative here to say, that I cannot permit my name to be submitted to any Convention of a partizan character . . . I would prefer success in our present measures coupled with retirement from office under a conscientious belief of having rendered service to my constituents, and done some good for my country to a nomination by a partizan convention, with defeat of measures important to the prosperity of the Territory staring me in the face."

If any doubt of Chapman's lack of party fealty had lingered in the minds of his constituents, this letter dispelled it. On April 11, 1840, the *Burlington Gazette* issued a call for a Democratic Territorial Convention to unite the party on one candidate to insure the election of "*A Democratic Delegate*". As a result, Augustus C. Dodge was nominated, and on October 5, 1840, he was elected the second Delegate to Congress from Iowa Territory. Chapman was not a candidate. He temporarily retired from politics.

Born at Clarksburg, Virginia, now West Virginia, on August 11, 1808, William Williams Chapman at an early age caught the spirit of the pioneer and of the politician. Under the influence of his mother (his father died when he was fourteen), he received a common school education

and showed an interest in the profession of law. While serving as clerk of the district court and studying in the office of the well-known Virginia lawyer, Henry St. George Tucker, Chapman gained the training which secured for him an admission to the bar in 1831.

Marrying Margaret F. Inghram a year later, he migrated with his wife and father-in-law to Monmouth, Illinois, in the fall of 1834. Sometime in the following March, the family crossed the Mississippi into Iowa at Burlington.

Chapman was soon attracted to politics. On April 13, 1835, William Morgan and Young L. Hughes, judges of the first court in Des Moines County, "for reasons appearing to the satisfaction of the Court" ordered that William W. Chapman "be and he is hereby appointed to prosecute on the part of the United States". Chapman appeared and took the oath of office.

A year later, on April 1, 1836, the Governor of Michigan Territory appointed Chapman district attorney. In June of that year he moved to Dubuque, anticipating that this town would become the seat of government for the newly created Wisconsin Territory. There, Chapman established himself as one of the town's leading citizens. Before leaving Burlington, he had been appointed United States Attorney on May 6, 1836.

Undoubtedly his position added much to the prestige he acquired in Dubuque. Recommended for a place on the Territorial Supreme Court, elected colonel of the fourth regiment of the Wisconsin militia, and recognized as a capable attorney, Chapman gained a wide acquaintance with prominent men of the Territory.

Late in 1836, Chapman took a flyer into journalism. From December 28, 1836, until February 9, 1837, he was one of the publishers of the *Du Buque Visitor*. The paper during his ownership seems to have continued to be ardently in favor of Jackson and the Democratic party.

When Chapman sold his interest in the *Visitor*, he formed a law partnership with Stephen Hempstead. This association continued more than a year. But when the capital was changed from Belmont to Burlington, Chapman followed the seat of government to his former home. Sometime in the winter of 1837-1838 he joined the brilliant young James W. Grimes in a new law firm.

When Chapman was not a candidate for a second term as Congressional Delegate because of his Whig inclinations, he did not abandon his pioneering habits or lose his instinct for politics. Having moved to Agency City, an Indian village in Wapello County, Chapman was chosen dele-

gate to the Iowa Constitutional Convention of 1844. In 1847 he crossed the plains to Oregon: in 1848 he went to California. Returning to Oregon, he was chosen a member of the House of Representatives. He helped found the *Oregonian*, the first newspaper established in the Territory. And in 1858 he was named Surveyor General.

During the years of the agitation for a Pacific railroad, Chapman was an active advocate of the interests of Oregon. In December, 1867, he suggested a meeting in Portland to promote a Northern Pacific railroad from Lake Superior to Puget Sound; and an Oregon connection with the advancing Union Pacific. Chapman's proposal may have had some effect because the Northern Pacific and the Oregon Short line were later constructed.

Motivated by the adventurous spirit of the pioneer and the public service idea of the politician, Chapman moved west with the covered wagon and served as a law maker when the country was young. Suffering from a paralytic stroke in his last years, William W. Chapman, pioneer and politician, and first Delegate to Congress from Iowa Territory, died in Portland, Oregon, on October 18, 1892.

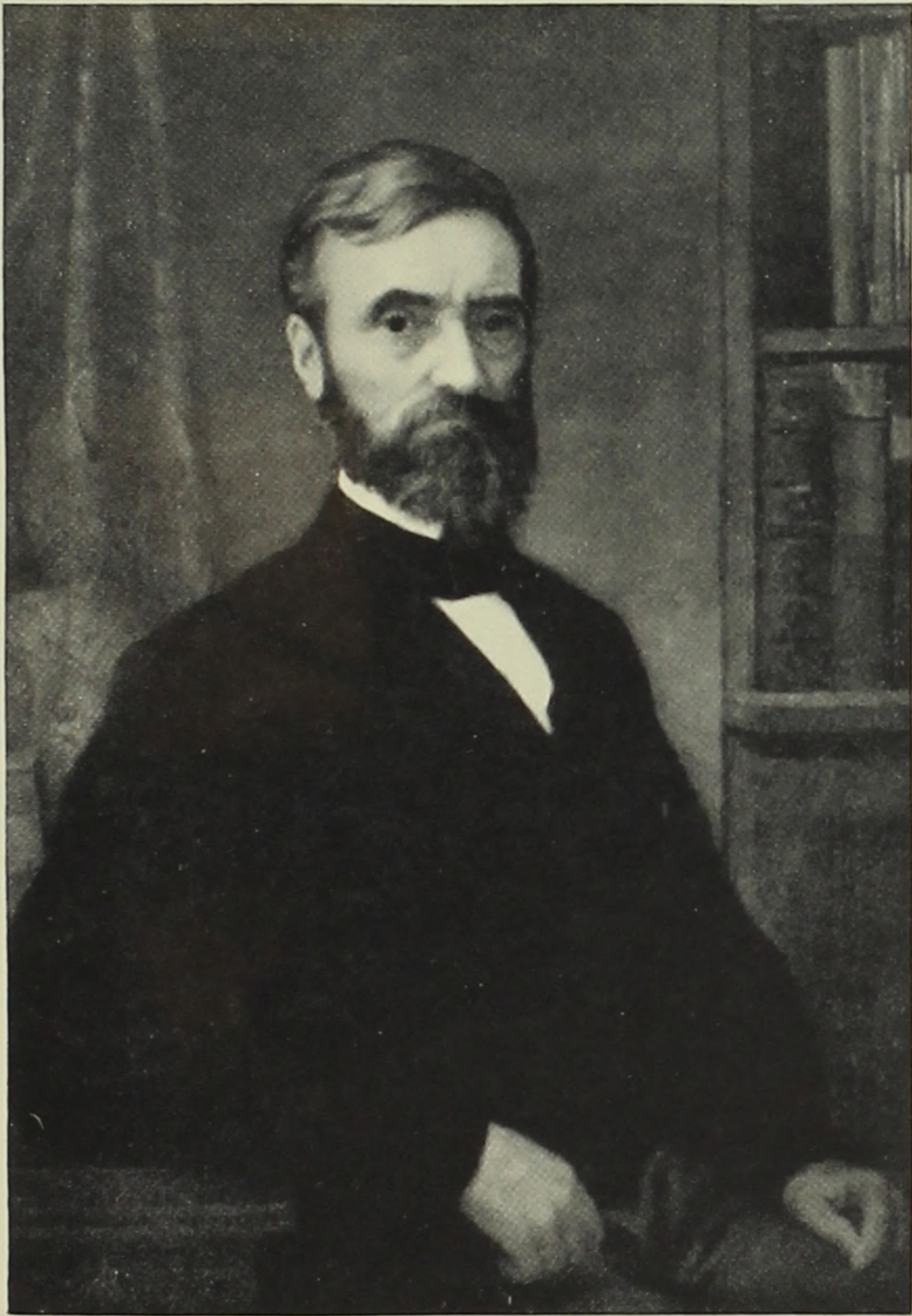
JACK T. JOHNSON

A Just Man

Judge Charles Mason, it was said, had the characteristics of "a noble Roman". Stalwart and erect, he was, "single minded, simple hearted, just, honest, temperate and patriotic; doing with an inflexible will what he thought was right, and careful of the rights of others". He was a soldier, author, lawyer, pioneer, and jurist, and, if the appraisal of his associates may be accepted, he was withal "eminently a *just man*".

Charles Mason was born on October 24, 1804, in the town of Pompey, Onondaga County, New York. After receiving such education as the schools of the community could afford, he entered the Military Academy at West Point, where he finished in 1829, with the honor of the first rank in his class. Robert E. Lee graduated with second honors in the same class. Upon receiving his commission in the army, Mason's first assignment to duty was as instructor at West Point. After two years spent there he resigned from the army, and began the study of law in New York City, where he was admitted to the bar and began the practice of his profession.

In 1832, soon after his admission to the bar, he



FROM A PORTRAIT IN THE HISTORICAL, MEMORIAL AND ART DEPARTMENT OF IOWA

CHARLES MASON

moved to Newburg, New York, where he formed a partnership with Judge Hasbruck. After remaining there for two years he returned to New York City, where he became a frequent contributor to the *New York Post*, then edited by William Cullen Bryant. During the editor's absence on a tour of Europe, Mason was for a time editor of the *Post*. Thus as student, lawyer, and editor he was employed until 1836.

In the summer of that year he made his first visit to the West and decided to cast his lot with the empire builders on the frontier. He spent the winter of 1836-1837 at Belmont, the temporary capital of the Territory of Wisconsin. In the spring of 1837 he rode down to Burlington, following political opportunity which had shifted with the seat of government. Apparently he liked the prospects of the new capital and determined to make his home there.

During the summer of 1837 he went back East on an important mission. At Berkshire, Massachusetts, he married Miss Angeline Gear. Mason returned to Burlington in November with his wife and a commission to the office of United States Attorney for the Territory of Wisconsin. His term was very brief, however, for in June, 1838, the Territory of Iowa was created, and he was immediately appointed Chief Justice of the Su-

preme Court. He was then only thirty-three years old.

As a young man Charles Mason was unusually capable, possessing a keen mind, an alert attitude, and a dignity of bearing that eminently fitted him for the work which lay ahead. The *Iowa Territorial Gazette* said of him: "in learning, wisdom, and experience, he is, if we may so express it, old. To a mind acknowledged to be of the first order — clear in its conception, and logical in its deductions — he adds untiring industry, and manner which will become the judge as well as the gentleman."

Nor was it long before Mr. Mason had an opportunity to justify the faith and confidence which had been placed in him. The first and perhaps the most important case to come before the Supreme Court of the Territory of Iowa dealt with the troublesome question of slavery. A slave named Ralph, living in Missouri, was permitted by his master to come to Iowa to earn money with which to purchase his freedom. Ralph being unable to earn sufficient money for payment of the purchase price, was seized and attempts were made to take him back to Missouri. A writ of habeas corpus was issued in Ralph's behalf, and his rights were tested in the courts.

Judge Mason, in delivering the opinion of the

court, held that when a slave with his master's consent became a resident of a free State or Territory he could not be regarded thereafter as a fugitive slave, nor could the master under such circumstances exercise any right of ownership over him. Moreover, when the master tried to control as property that which the laws declared should not be property, it was incumbent upon the courts to prevent it. This decision was contrary to the judgment of the Supreme Court of the United States a few years later in the Dred Scott case, but in accord with the spirit of the fourteenth amendment to the United States Constitution. It is, indeed, significant that Judge Mason had the vision to perceive and enunciate the true principle of human justice long before it was established as the law of the land.

The first district court in the Territory of Iowa convened in Clayton County, at the town of Prairie La Porte — now Guttenberg — on September 11, 1838. Dubuque, Jackson, and Cedar counties were also in the district assigned to Judge Wilson, but for some reason, probably because cases were pending in which Judge Wilson had been retained as counsel, the first courts held in Dubuque and Jackson counties were presided over by Chief Justice Mason. In Cedar County neither Wilson nor Mason appeared at the appointed

time, and so no court was held there in the fall of 1838.

Judge Mason opened the first district court in Dubuque County on September 13th, when a prisoner named Kelly alias Anderson, who was held on a charge of horse stealing was found guilty. The *Iowa News* in commenting upon this case urged the need of a penitentiary, "that convicts, instead of being an expense, may be the means of an income to the Territory".

Throughout the years of Territorial history Mason continued to serve as Chief Justice. His opinions were written into the law of Iowa during the crucial formative years. These early decisions "show that he wielded a trenchant pen and was capable of stating his views with such terseness and clearness as to leave no doubt as to his conclusions or the soundness of the reasoning on which they were based." In ability and leadership he has been likened to Chief Justice Marshall. "Each came to his position without great reputation as a jurist; each had successors who surpassed him in technical knowledge; but neither was ever surpassed on the bench which he graced, as a great expounder of the law in its formative condition when reason rather than authority must furnish the best guide to wise conclusions."

Mason's service to Iowa did not cease with

Territorial days. Under the State Constitution of 1846 he continued to serve as Chief Justice until June, 1847, and his name figured prominently in State affairs for many years. In April, 1847, he was the Democratic candidate for the office of Superintendent of Public Instruction, but was defeated by James Harlan. When the Iowa and Missouri boundary controversy finally came before the United States Supreme Court, Governor Stephen Hempstead appointed him to represent Iowa and he succeeded in obtaining a favorable decree. He was one of the commissioners who revised and codified the laws of Iowa in the *Code of 1851*. In 1853 he was appointed Commissioner of Patents, but four years later he resigned and returned to Iowa. In 1858 he was elected a member of the first State Board of Education. In 1861 he was nominated for Governor by the Democrats but declined the honor. He was again nominated for Governor in 1867 but was defeated by Samuel Merrill. In 1868 and again in 1872 he was a delegate to the Democratic National Conventions.

It is to be noted, however, that Mason was pre-eminently a jurist and not a politician. He was not vitally concerned with party politics as such. His appointment to the Territorial Supreme Court had been made without solicitation and came as

a surprise. His candidacy for the office of Superintendent of Public Instruction was instigated through "the partiality of friends highly respectable both in number and character." He was not disposed to campaign even in his own interest. He did not know "of any antagonism of opinion" relative to the offices which he sought, that "would justify an attempt to call the people from their ordinary vocations to listen to public discussions on electioneering topics." I have "no particular schemes to propose," he said, "no objects, either personal, professional, political or sectarian, to accomplish." In a characteristic manner he added: "I have neither time, taste, nor capacity, for mere oratorical display; and to perambulate the state for the purpose of soliciting suffrages I shall never do while I can find any more creditable employment." This attitude may have been noble, but it was not conducive to vote getting.

Mason was always a sympathetic friend of youth. On one occasion in Iowa City his attention was called to a political cartoon drawn by a local boy. He asked to see other pencil drawings and water-colors and encouraged the lad to become a painter. Later he exhibited some of his protege's drawings in Washington, and assisted him in his studies abroad. Thus encouraged, George H. Yewell became a renowned artist. In

later years Mr. Yewell reciprocated by painting for the Mason family and for the State of Iowa a handsome portrait of Judge Mason.

Twice during his public career the character of Judge Mason was attacked. In the election of 1848 a question arose as to whether votes cast in the precinct of Kaneshville should be counted with the Monroe County votes — Kaneshville being outside of Monroe County, but within an area organized for election purposes under the jurisdiction of Monroe County. In the controversy which followed, the original poll book of the Kaneshville precinct disappeared. Later it was found in the possession of Judge Mason. He was at the time an attorney for a candidate in a contest growing out of that election and was accused of having obtained the poll book through unfair means, although the book could have been of no value to him or his opponent since a duplicate copy had been obtained and was used without opposition.

Nevertheless, Mason's political opponents attacked him severely, and accused him of secreting "stolen goods". By way of analogy one of them said an attorney "may defend the horse thief when indicted, without censure, but it is no part of his duties to secrete the stolen horse in his stable." Mason was not, however, vitally af-

fectured or embarrassed by the attack. He replied that it must be a "diseased imagination" that could "perceive anything improper" in his conduct. He said he had endeavored to represent his client in "a perfectly fair, courteous, and gentlemanly manner", and suggested that it would be "far more pleasant if this endeavor could be reciprocated." He added, however, that "if, from taste, habit, constitutional peculiarity, or any other cause, others choose to pursue a different course", he would not quarrel with them on that account.

Again, during Civil War days, Mason was accused of being disloyal to the Union cause. In reality, however, he had opposed the war at the outset because he feared that it would mean the destruction of democracy in America. He advocated, rather, a peaceful settlement. "When our people refused to settle their differences of opinion", he wrote, "by the exercise of those moral and intellectual faculties which had created our noble system of government, and substituted the exercise of their brutal propensities therefor, I had little hope for the future except through those long and bloody struggles by which law and liberty regain the ascendancy which military violence always tramples underfoot. I scarcely expect to see a constitutional government restored in this country."

Despite his misgiving, however, when the time came for action, Mason tendered his services to the Secretary of War, in any position in which it was thought he could be useful. While he was not called upon to fight at the front, he is not to be charged with disloyalty. Rather he is to be commended for his courage in expressing his convictions, and for his willingness to serve, despite his personal opinions.

During the closing years of his life, Charles Mason lived in retirement on his farm near Burlington, where he died on February 25, 1882, at the age of seventy-seven years. Stalwart, courageous, patriotic, honest, sympathetic, and just, he had lived a long and useful life. Few men in Iowa have made a more lasting impression upon the history of the Territory and the State. Few have been more faithful to public trust. When Iowa shall have erected appropriate monuments to perpetuate the memory of its founders and benefactors, "surely that of Charles Mason will be no inferior one".

J. A. SWISHER

A Judge Well Met

A man of wit and a musician of talent; a story teller of versatility and a poet of feeling — Judge Joseph Williams was one of the most humane officials of early Iowa. On the bench, he was a man of dignity and self-composure who commanded the respect of the bar and the public; off the bench, he was "Joe" Williams, a man of geniality and humor, who entered into the amusement of the hour. In the finest sense, he was a judge well met.

Influenced by a father distinguished for his kindness and affection, Joseph Williams, born in 1801, lived his early years in Huntington, Westmoreland County, Pennsylvania. He had two brothers, Robert and William. William Williams later played a prominent part in the history of Iowa. Pioneering at Fort Dodge, he labored a quarter of a century for the development of that city. It was he who led the relief expedition after the Spirit Lake Massacre.

Having decided to be a lawyer, Joseph Williams entered the law office of Chauncy Forward, one of the most celebrated attorneys in Pennsylvania. He was an apt pupil. While studying

with Forward, Williams became associated with Jeremiah S. Black, who later was Chief Justice of the Pennsylvania Supreme Court, and still later Attorney General of the United States. For several years Black and Williams were competitors in the legal profession. In his reminiscences Black said that Williams's "ready tact was very dangerous to an opponent".

While practicing before the Somerset bar, Williams once defended a client against the claims of a quack physician. In the cross-examination Williams led the ignorant practitioner to declare that he had cured the patient by decapitating him, performing the Caesarian operation upon him, and finally subjecting the body to an autopsy.

"Well, then, Doctor," concluded Williams, "as you performed a post-mortem operation upon the defendant, and he survived it, I have no more to ask, and if your claim will survive it, quackery deserves to be immortal."

This type of wit and his many other accomplishments made warm friends. He was widely known and universally liked for his musical ability, his charming manners, his gift for conversation, and his generous nature. His reputation as a lawyer and a Democrat led to his appointment by President Van Buren to one of the principal offices in the new Territory of Iowa. With Thomas S. Wil-

son and Charles Mason, Joseph Williams became Associate Justice of the Supreme Court.

Speaking of the appointment of Justice Williams, the editor of the *Iowa Territorial Gazette* on July 21, 1838, stated: "Our acquaintance with Mr. Williams runs back to a very early date — even to that time whereof 'memory runneth not to the contrary.' We have known him all our lives, and could, were we not afraid of subjecting ourselves to the charge of praising from unworthy motives, say much in his favor. He has the reputation of being a sound lawyer — is of regular habits — and has a moral character which has never been impeached. His social qualities, his wit, and his inimitable drollery, have made him an universal favorite wherever he is known. We bespeak for him a kind reception, and can promise that the judicial ermine will never be soiled while worn by him."

On August 4, 1838, the *Gazette* complained that Judge Williams had not arrived in the Territory. Secretary Conway, in dividing the Territory into judicial districts, had assigned Williams to the second district comprising "Scott, Musquitine, Louisa, Slaughter & Johnson" counties. The date set for convening the first court in his district was the "1st Thursday after the 1st Monday in October". Williams arrived at Burlington

on September 21st, selected Bloomington for his home, being most conveniently located in his district, and was ready to hold court at Davenport on the appointed day, October 4th.

Williams was peculiarly fitted for the bench. Unlike Mason who was known for his scholarship, Williams had an uncanny memory and a great faculty for analysis. "He would sit", said T. S. Parvin, "for hours in the court room listening to the arguments of counsel and to the opinions of the learned judge, carefully noting what he heard and saw, and at the close of the day's labors he had mastered more of the mysteries of the law than any student could have done from a week or month's study in a law office."

Judge Williams began his judicial service in Iowa by convening the Territorial district court in St. Anthony's Church in Davenport on the first Thursday in October, 1838. A grand jury was selected but dismissed because on the first day it had "no business before it". The petit jury soon heard upon the proper indictments the bribery case of Alexander W. McGregor *v.* John Wilson, and certain disputes of claim jumping.

From Scott County the court moved down the river to Bloomington. On October 8, 1838, Judge Williams held the first district court in Muscatine County under the jurisdiction of Iowa Territory.

With M. D. Browning as the district attorney, a grand jury was immediately empanelled. Business was so casual, however, that the jurors were told they "might play cards, or drink whiskey; but to go a-fishing would never do for a 'grand jury' — that privilege was specially reserved for the *petit* jury."

The Louisa County court met on the third Monday in October, 1838, and Judge Williams presided "with his usual dignity". T. S. Parvin said that the usual criminal cases in the second district were counterfeiting and horse stealing.

Besides Scott, Muscatine, and Louisa counties, Williams presided over the first district courts in Slaughter (Washington) and Johnson counties. At Astoria, on David Gable's farm, in Slaughter County, the district court convened on October 22, 1838, and records relate that the court adjourned — "no person appearing, either parties, attorneys or jurors".

It was not until May 13, 1839, that Judge Williams with T. S. Parvin as district attorney held the first Territorial district court in Johnson County. Luke Douglas was named clerk and S. C. Trowbridge acted as sheriff. The courthouse was the Indian trading post near the site of Napoleon. Parvin addressed the grand jury in an open field and a true bill was found against An-

drew J. Gregg, a horse thief, for "passing counterfeit money". S. C. Hastings, afterwards Chief Justice of the State of Iowa, was the attorney for Gregg.

There being no jail in the county, the prisoner was held in custody by various settlers in their turn. Before Gregg escaped, an amusing incident occurred. A dance was held one evening at a cabin where the counterfeiter was in custody. Judge Williams "fiddled" for the party, though he avoided being a willing witness to the sin of dancing by sitting with his back to the dancers. When Gregg joined the merrymakers, the Judge quit playing, but not soon enough to prevent the rumor being spread that "Judge Williams 'fiddled' for a prisoner". William Austin, a young attorney, wrote some verses about the episode and the Judge was much annoyed.

Court in a Catholic Church, a farmer's house, an Indian trading post, and an open field — that was the itinerary of Judge Williams in holding the first Territorial district courts. He had the temperament of an ideal frontier jurist. On the Territorial Supreme Court relatively few opinions seem to have been written by Williams, but those he did render were concise and clear.

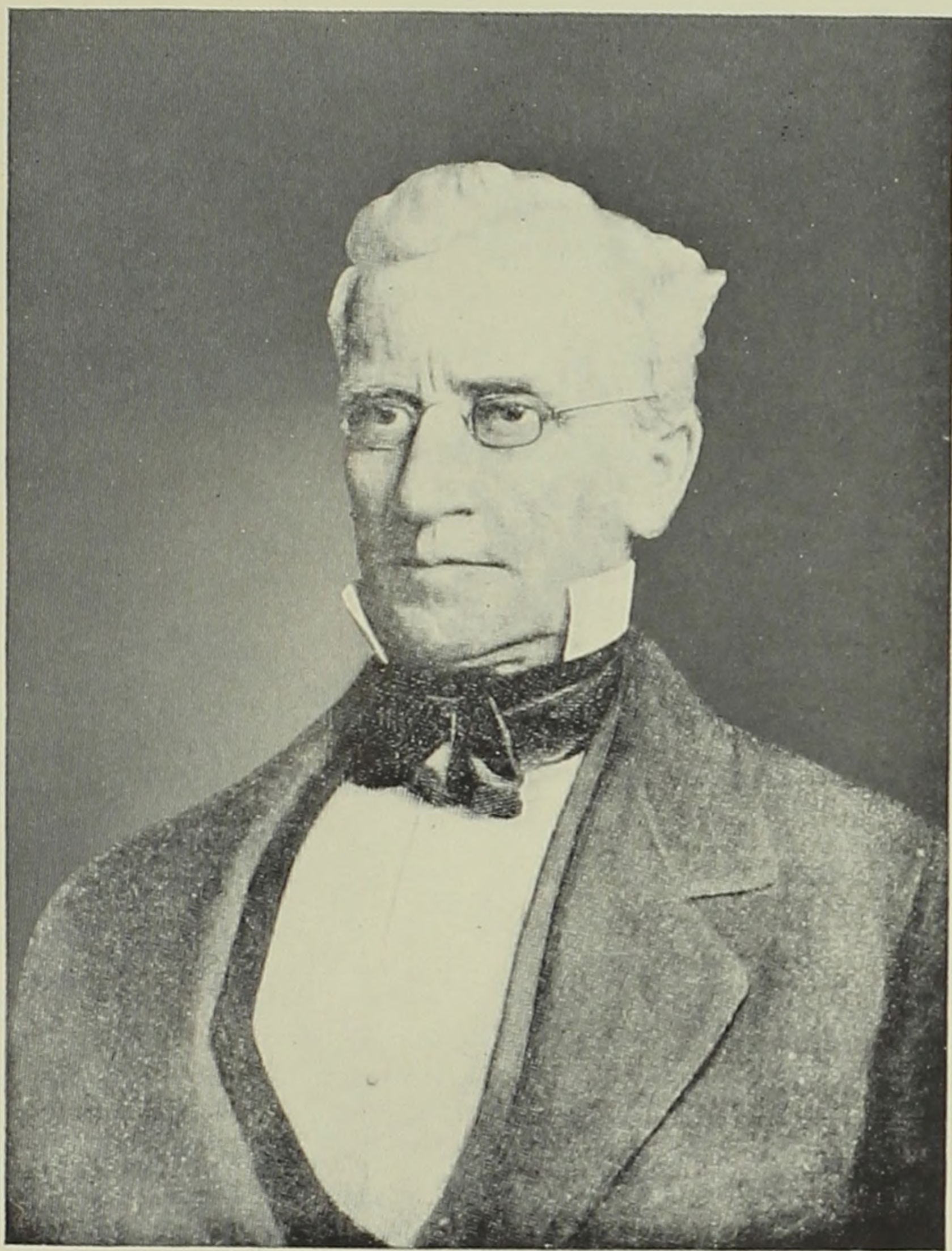
But Williams was not only a judge, he was one of Bloomington's leading citizens. In December,

1838, he and Charles Warfield were granted the right of operating a ferry across the Mississippi at Bloomington. Their enthusiasm in petitioning the first Territorial legislature must have outrun their abilities, however, because the ferry was not established. In 1840, Williams's name appeared as steward on the roster of the Methodist Church and in 1846 he was one of the board of trustees. He was an enthusiastic incorporator of the Bloomington and Cedar River Canal Company and he was a member of the town's temperance society.

Married to Mary Rogers Meason at Hollidaysburg, Pennsylvania, in 1827, Williams brought his family, consisting of his wife, four sons, and a daughter, to Iowa in 1839. They all lived on a farm a few miles west of Bloomington where the Judge had established a horse-power mill. Because of his mill and his jollity, Williams's farm became the focal point of the neighborhood.

In the first municipal election of Bloomington in 1839, Williams received thirty-eight out of a total of forty votes for president of the town. During the campaign of 1840, however, when he urged Democratic unity, the Whigs indignantly protested against his undermining the bench by political partisanship. A petition was circulated to prevent his reappointment.

As might be expected, Williams's name was



W. Williams

associated with the agitation for statehood. With Robert Lucas, he drafted a bill proposing the early admission of Iowa into the Union. This provoked an attack by the opponents to such a plan. On February 19, 1842, the Iowa City *Standard* said: "Judge Williams, however, desiring to have two strings to *hang himself upon*; not knowing whether the Legislative Assembly would *throw* the Territory into the Union, as soon as would suit his convenience, had a recommendation gotten up and signed by the Loco-Federal portion of the Legislative Assembly, for his re-appointment by President Tyler." And, concluded the *Standard*, "we are inclined to think, that no man can 'turn about and wheel about, and jump Jim Crow,' with as much grace and facility as Judge Williams."

By means of a personal application and the solicitation of Mrs. Tyler whom Judge Williams befriended on a long stage journey, Mason, Wilson, and Williams were all reappointed to the Supreme Court and served through the Territorial years. When Iowa was admitted into the Union, the Territorial judges continued to hold office until a new court was chosen. The General Assembly, however, could not agree on members of the Supreme Court. In June, 1847, Mason and Williams resigned, whereupon Governor Ansel Briggs appointed Joseph Williams to the position

of Chief Justice for the remainder of the year. He was elected Chief Justice by the second General Assembly for a term of six years and served from 1849 to 1855.

Williams accepted an appointment in 1857 as Associate Justice of the Supreme Court of the Territory of Kansas. Fortunate in land investments around Fort Scott, he became wealthy. President Lincoln in 1863 appointed him judge of a military court. With his usual humane justice he won the respect of both Union and Confederate advocates.

After the Civil War he returned to his home near Muscatine. Finally, while visiting friends at Fort Scott, he contracted pneumonia which led to his death on March 31, 1870. His body was brought back to Muscatine for burial.

Through Iowa history, Joseph Williams, slight in stature but well-proportioned, pleasing in countenance and vigorous in action, has been a character of anecdote. Making friends everywhere, he illustrated the saying that "justice is man-made and not gotten out of books". And on his death the Attorney General of Iowa told the Supreme Court that the "simple story of his life is his highest eulogy".

JACK T. JOHNSON

Thomas S. Wilson

A lone horseman was riding slowly from Mineral Point to Prairie du Chien in the fall of 1836. The rider was slight of stature and form, not over twenty-three years old, but with a strong, resolute expression in his otherwise boyish face. As he slouched in his saddle, Thomas Wilson appeared unusually serious. His brother, George Wilson, a lieutenant under Zachary Taylor at Fort Crawford, had advised him to settle at either Mineral Point or Dubuque. He had just visited Mineral Point and was disappointed with its prospects. Could Dubuque, a three-year-old mining town in the Black Hawk Purchase, offer him more? He knew his young wife at Prairie du Chien would be eagerly awaiting his decision.

Suddenly Wilson hit upon a happy solution and reigned in his steed. "I alighted from my horse at one of the Platt mounds and tossed up a dollar, saying to myself, if heads turn up I will go to Dubuque, if tails, to Mineral Point. It turned up heads and I started on a canter for Prairie du Chien." The last steamboat had departed downstream, so Thomas Wilson and his wife were obliged to put their baggage into a canoe

and paddle down the Mississippi to their future home.

Thomas Stokeley Wilson was born at Steubenville, Ohio, on October 13, 1813. He was one of five sons and three daughters born to the union of Peter Miller and Frances Stokeley Pope Wilson. As a lad he played with Edwin M. Stanton, who became Secretary of War under Lincoln. Years later Thomas recalled how he and Edwin "slept with our heads resting together on the lap of the schoolmistress". A dual-tragedy entered the lives of the two boys in 1827 when their fathers died. Stanton went to Kenyon College in Ohio, while Wilson graduated from Jefferson College in Pennsylvania in 1832. Two years later Thomas Wilson began the practice of law at Steubenville, at the same time marrying his home-town sweetheart — Miss Anna Hoge. Believing that the West offered ambitious lawyers a greater future, Thomas set out with his young wife for Prairie du Chien to consult his soldier-brother. The flip of a silver dollar brought to Iowa one of her most distinguished citizens.

Thomas Wilson opened an office immediately following his arrival at Dubuque. His innate ability and honesty quickly won for him a large practice. In 1837 Governor Henry Dodge appointed him prosecuting attorney of Dubuque

County. Not long afterward he became prosecuting attorney for Grant County. But he "disliked the business of prosecuting" and soon resigned.

When news of the creation of the Territory of Iowa reached Dubuque in 1838 the Democrats in the northern counties held mass meetings and nominated Thomas S. Wilson as Delegate to Congress. His constituents urged him to canvass the lower counties against W. W. Chapman of Burlington, and the youthful politician finally agreed to go. "When I arrived at the steamer to take my passage to Burlington," Wilson related, "I was informed by the clerk that I had been appointed one of the Judges of the Supreme Court of Iowa. When I expressed my doubts about it, he took me into the office and showed me a copy of the *Missouri Republican*". To his utter amazement the young frontier lawyer read that the President had named him an Associate Justice of the Supreme Court of the Territory of Iowa.

It did not take the young barrister long to decline the congressional nomination. His decision to serve on the Supreme Court opened a brilliant career on the bench and before the bar. Reappointed by Presidents Tyler and Polk, he served the Territory of Iowa eight years and the State one year. In October, 1847, he resigned to enter private practice. Five years later, in 1852, he was

elected judge of the second judicial district, which comprised Dubuque and seventeen other counties, holding this office until January 1, 1863. He continued his legal practice during the next thirty-one years of his life. Thomas S. Wilson served Iowa for a score of years as a judge, while his total years as a member of the bar numbered fifty-eight.

The honor of conducting the first district court in the Territory of Iowa goes to Judge Thomas S. Wilson. On July 25, 1838, Secretary William B. Conway issued a proclamation dividing the Territory into three judicial districts and assigning Wilson to the first district, comprising Clayton, Dubuque, Jackson, and Cedar counties. The proclamation also fixed the time for holding court in each district. According to the schedule the first court was to be held at Prairie La Porte [Guttenberg] on the second Monday in September.

Since there was no wagon road to Prairie La Porte the judge had to go on horseback. At that early date there were no resident lawyers in Clayton County and so attorneys usually traveled along with the judge. On September 10, 1838, there were not enough jurors present. Judge Wilson accordingly postponed court until the following morning at nine o'clock.

On Tuesday, September 11, 1838, the first district court in the Territory of Iowa was opened by proclamation in the usual manner. John W. Griffith was appointed "Crier" for the United States. Only four cases appeared on the docket: James Henderson, James Brown, Robert Campbell, and Nahum Dudley, were each cited for contempt, having failed to appear as jurors at the April term of court under Judge Charles Dunn of the Territory of Wisconsin. The four men failing to put in appearance, Judge Wilson fined each man ten dollars and costs. When the defendants appeared on the following day they "purged" themselves of the contempt charges. Probably they were not aware of their misdemeanor.

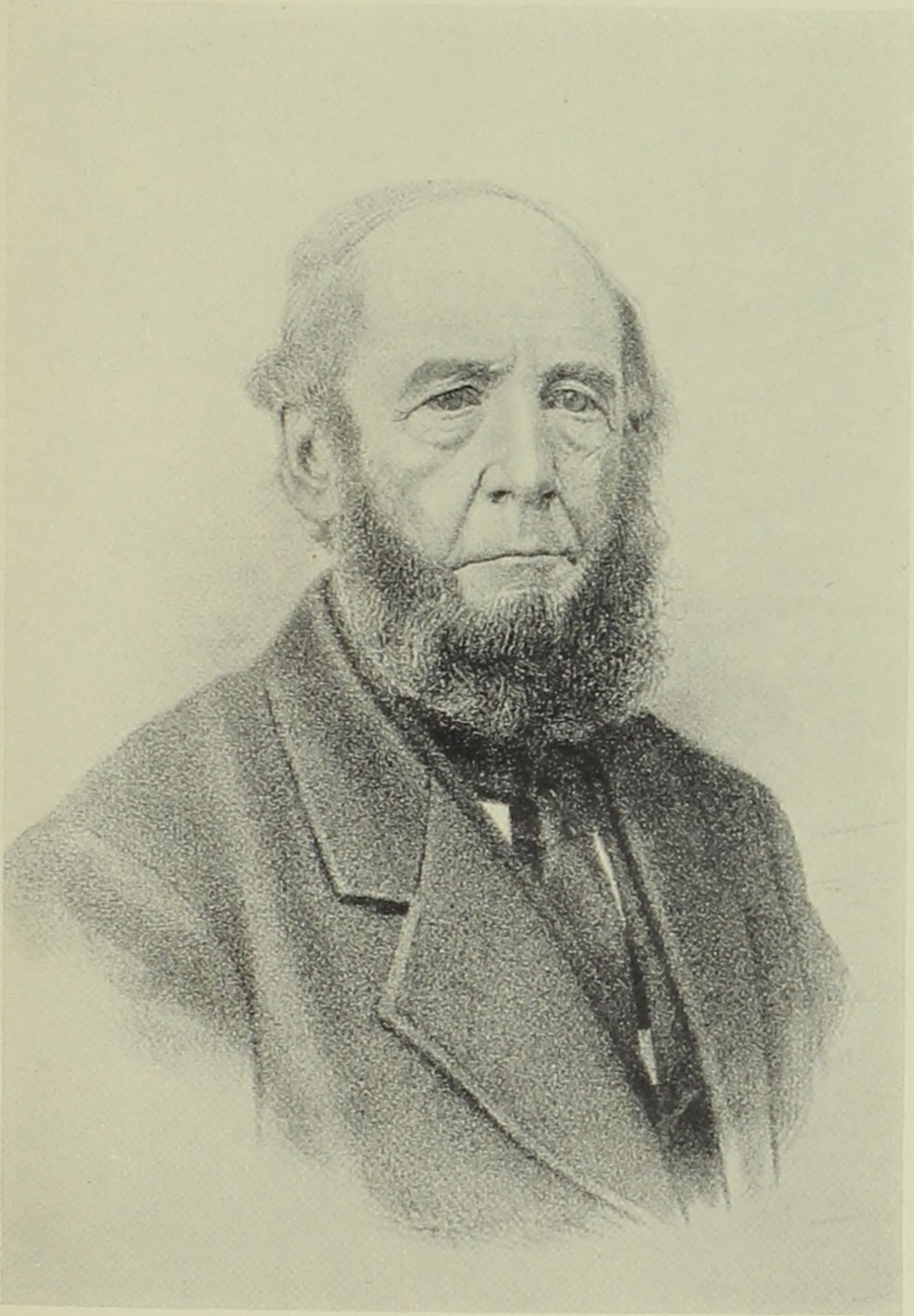
While Judge Wilson was holding court at Prairie La Porte, Chief Justice Charles Mason arrived in Dubuque, having agreed to exchange districts with Wilson. Mason found the Dubuque docket very heavy: no small amount of his time was engaged in admitting Irishmen to citizenship. Wilson, in turn, found his labors arduous in November when he convened court in Lee, Van Buren, Henry, and Des Moines counties.

On November 19th Judge Wilson opened a three-day session of the district court of Henry County at Mount Pleasant. In addition to the regular cases of attachment, assumpsit, debt, larceny,

and trespass, the young judge was confronted with cases of assault and battery, assault with intent to kill, breaking down doors, and burning dwellings. Ten men were hailed before him charged with selling liquor without a license.

At Burlington Wilson convened court on November 26th, in two days hearing three cases of replevin, nine cases of debt, thirty-one cases of assumpsit, and four cases involving trespass, covenant, and appeal. He was also kept busy excusing jurors and admitting new lawyers to the bar. In addition there were cases of assault and battery, gambling, selling liquor without a license, and murder. Amos Nixon was indicted for Sabbath breaking, William M. Blankenship for cutting down apple trees, "Gen'l Atkinson" for keeping a faro bank, and Jeremiah Smith and several companions for inciting a riot. Joseph Williams sat on the bench between November 28th and December 8th, while Charles Mason presided until adjournment on December 24th.

His work in the third district completed, Judge Wilson tarried at Burlington during December while the three justices served as a committee "to report to the legislature such bills as they might deem proper to be adopted as laws." Navigation had closed when Wilson at last started for Dubuque and he was compelled to purchase a horse



THOMAS S. WILSON

and ride for five days along the frozen Mississippi before he reached home.

A distinguishing characteristic of Thomas S. Wilson was his youthful appearance. When Theodore S. Parvin visited Dubuque on the Governor's tour in August, 1838, he sought Judge Wilson to obtain admission to the bar. Arriving at the Judge's residence, Parvin was met by a "pleasing and youthful looking gentleman" whom he promptly took for a son of Judge Wilson. Upon asking for the old judge, the young man smiled and informed him that he was Judge Wilson. Deeply embarrassed, Parvin revealed the purpose of his mission, whereupon Wilson administered the oath and authorized him to practice his profession.

A zealous student of the law, Wilson possessed a driving energy. In a single term of court at Dubuque in April, 1839, he presided over fully two hundred cases. The rough mining town furnished a half dozen indictments for keeping a gambling house, an indictment for assault and false imprisonment, and three indictments for assault with intent to kill. Two men were hailed before Judge Wilson for selling liquor to the Indians, two men were charged with murder, and three accused of rape. There were cases involving abduction and adultery, larceny, slander, horse stealing, forgery,

debt, default, operating a lottery, and admission to citizenship. In addition to these there were two score cases of assumpsit and almost as many involving trespass. This, it must be remembered, was the work in a single county, though much the largest, and did not include his duties as a member of the Supreme Court which met in July.

The labors of Judge Wilson did not go unappreciated. On December 21, 1855, the *Dubuque Express and Herald* expressed the "thanks of the legal fraternity and the public" for the Judge's "straightforward, energetic discharge of his duties in the late protracted session of the district court of this county. The cases on the docket embraced 64 chancery cases, 206 civil cases and 28 state cases, all of which were disposed of owing in a great measure to the business tact and address of the judge." In the following February there were 242 cases on the docket, 25 of which were criminal and 55 chancery.

Such industry refutes the charge of "indolence" once flung at Wilson by a political opponent, because of the small number of published opinions credited to him in the Territorial Supreme Court Reports. When E. H. Stiles questioned Wilson regarding this matter, the Judge claimed the authorship of "at least one-third" of them. When he wrote out his opinions Wilson employed a Du-

buque attorney to copy them and forward them to the Supreme Court Reporter. The attorney neglected to indicate the authorship of these opinions, and the printer, Wilson explained, "where no Judge was named as the author, credited them to the Chief Justice". After "close examination" of the facts, Stiles came to the conclusion that the explanation was "perfectly correct".

Although Judge Wilson presided over thousands of law suits and argued many more for his clients, there are at least four with which his name ought to be forever associated. Three of these occurred before Iowa achieved statehood. In January, 1838, he was appointed one of the three commissioners to hear the varied claims in the Half-breed Tract. As a result of their labors the commission rendered a judgment and an execution sale of the entire tract to H. T. Reid for the sum of \$2885.60. The work of this commission was quashed in 1850 by the United States Supreme Court in favor of a decree drawn up by Francis Scott Key, author of the Star Spangled Banner.

While Chief Justice Mason handed down the decision in the case of Ralph, it should be pointed out that it was Thomas S. Wilson who issued the writ of habeas corpus which released Ralph, and, recognizing the importance of the case, ordered that it be tried by the Territorial Supreme Court.

Another important case which Wilson tried was that of the Miners' Bank of Dubuque. The best lawyers were engaged for the trial and at its close in 1845 Wilson decided that the act repealing the charter of the bank was constitutional. His decision was later affirmed by the Iowa Supreme Court.

Undoubtedly the outstanding case in Dubuque history was that of *Chouteau v. Molony* whereby Dubuque land titles were defended by Wilson against the claims of the descendants of one of Julien Dubuque's creditors before the United States Supreme Court in 1853. Wilson himself considered it "the most important law suit with which I ever had any connection either as judge or lawyer". The wealthy Chouteau family employed the distinguished Reverdy Johnson, who "surprised and alarmed" Wilson by his "powerful speech" for "so weak a case". Nevertheless, the Supreme Court decided in favor of Wilson's client. For his two years of labor on the case, Wilson received the "enormous fee" of \$800 in city warrants which he managed to cash for \$700.

Not all his clients were as parsimonious. Once Wilson saved a Chippewa Indian from a murder sentence. The grateful warrior later sent word by a trader that he had "two handsome Indian girls as presents for wives". The Judge said afterward,

"My wife very unreasonably objected and the presents were not sent."

During his long career Thomas S. Wilson won many honors. In 1837 he was president of the first board of trustees of Dubuque. He lacked only two votes of being elected to the office of United States Senator in 1846. During the early fifties he conducted a law school at Dubuque with Judge J. J. Dyer. Wilson was elected to the State legislature in 1866 and again in 1868. He was tendered, but declined, the nomination for United States Senator by Iowa Democrats in 1866.

Thomas S. Wilson had neither the dominant character of Charles Mason nor the vivacious temperament of Joseph Williams. Sober in judgment, he was a close legal student who formed his opinions only after serious thought and reflection. He possessed unusual ability in "plainly, fully, and clearly" putting a case before a jury. It is said that during his long career he never had ten decisions reversed. A contemporary attorney paid him a splendid professional tribute, declaring, "He laid aside his judicial robes as unsullied as when he put them on." When he died at Dubuque on May 16, 1894, his eulogist declared: "No kinder-hearted man ever lived, and no truer friend."

WILLIAM J. PETERSEN

A Commonplace Calendar

The daily lives of Iowa pioneers a hundred years ago in September were filled with worry about pre-emption rights, results of the election, malaria, lawsuits, drought, and the resumption of school.

Saturday, September 1. Alonzo P. Phelps lectured at the Methodist Church in Dubuque on "Popular Education". § John S. Abbott, aged twenty-seven, died in Bloomington. § The last issue of the Fort Madison *Patriot* was published. § Governor Lucas informed the Secretary of the Treasury that he had ordered \$5000 worth of books for the Territorial library from Edward Lucas and Company in Cincinnati. § James Davis of Burlington was appointed commissioner for Iowa to locate the Missouri boundary.

Sunday, September 2. Citizens of Dubuque noticed the stench from bones thrown into the street near the post office by butchers. § It seemed likely that the Methodist Church in Burlington would be finished in time to accommodate the legislature.

Monday, September 3. Settlers in township 69 in Lee County met at the home of Thomas Clarke and organized a club to protect their claims at the

land sale. § Alonzo P. Phelps opened his "permanent school" at the Methodist Church for "scholars of all classes", and promised strict attention to "morals as well as manners of pupils".

§ The Temperance Society of Dubuque met at the Methodist Church to discuss whether its object could be best attained by adhering to the pledge of total abstinence or by prohibiting the use of spirituous liquors.

Tuesday, September 4. Political fervor ran high at the sumptuous banquet at the Burlington House in honor of Governor Lucas. § Citizens of Bellevue were entertained by the Arena circus.

Wednesday, September 5. Governor Lucas advised Secretary Conway to locate his office at Burlington so that the business of the Territory could be conducted more conveniently. § The circus arrived at Dubuque.

Thursday, September 6. Bayless & Cooper began their Thursday evening auctions of new dry goods and clothing.

Friday, September 7. With no news in the mail, no editorial written, the "devil" sick, and many election tickets to print, the editor of the *Iowa News* found the music from the circus distracting and the "bills of the mosquitoes" more annoying than the landlord's. § J. Lamson's steam ferry at Burlington was "in complete order".

Saturday, September 8. The Mississippi was falling rapidly. § A meeting of settlers was called at Augusta to agree upon "rules to be observed at the approaching land sales". § The Dubuque commissioners threw out enough illegal votes for Rockingham so that Davenport won the county-seat election by a narrow margin. § John H. McKenny joined James Clarke in the publication of the *Burlington Gazette* and the shop was moved to Ralston's new building opposite Funk's bakery. § A. W. Carpenter opened a new jewelry store in Burlington. § A house with two front rooms and a hall between could be rented for \$350 a year. § The "choicest Liquors" were available at the bar of S. Barkley's hotel in Burlington and his table was spread with "the best the country affords. His stabling is spacious, and well supplied with oats and hay."

Sunday, September 9. Settlers were busy studying the regulations for proving their land claims and adjusting boundaries to the survey.

Monday, September 10. Township plats were received at the Burlington land office. § Voting was light at the first Territorial election. § Van Buren won the county-seat contest in Van Buren County.

Tuesday, September 11. James T. Campbell, on his way home to get a press to start a news-

paper at Bloomington, died at Covington, Kentucky. § At Mrs. Parrott's hotel William M. Poyntz died of bilious fever. § District court opened at Prairie La Porte, T. S. Wilson presiding.

Wednesday, September 12. The Dubuque fish market was well supplied with large pike.

Thursday, September 13. Justice Mason opened district court at Dubuque, but procedure was delayed by the "glorious confusion" of legal papers.

Friday, September 14. The trustees of Dubuque Seminary, well impressed with Phelps's school, resolved to hire him as principal. § Joseph M. Street at the new agency on the Des Moines River wrote to Governor Lucas that he could not keep liquor and unscrupulous traders away from the Sauk and Fox Indians without force.

Saturday, September 15. William Jaynes, "generally considered a *good man*", died of apoplexy. His daughter and son-in-law had died in August. § Sappington's anti-bilious pills were recommended as a cure for "ague, typhus fever, etc." § Settlers near Round Prairie organized a club to protect their claims at the land sale. § Richard F. Barrett planned to attend the land sales with plenty of money to buy claims and "sell them to the settlers, at a reasonable advance on a credit of from one to five years." § The *Iowa*

News looked "monkish" because the year-old rollers were worn out.

Sunday, September 16. No steamboat had reached Burlington from below for a week due to low water. Two or three were stranded on the Des Moines Rapids. § Oscar Mattox, infant son of E. Mattox, died at Dubuque.

Monday, September 17. The rates at Richard Plumbe's Washington Hotel in Dubuque were \$1.75 a day for board and lodging.

Tuesday, September 18. Brick buildings were going up in Burlington — stores by Rorer, Lamson, and Ladd, the Methodist Church, and the market house. But the square where the capitol had burned was still unimproved.

Wednesday, September 19. The editor of the *Gazette* thought the trustees of Burlington would buy a fire engine, hose, hooks, and ladders if the citizens would contribute the money.

Thursday, September 20. "Rockingham" addressed a long argument to the Dubuque commissioners proving they were wrong in making Davenport the county seat.

Friday, September 21. Justice Joseph Williams arrived at Burlington.

Saturday, September 22. Election results were still unknown, but Engle seemed to have defeated Chapman. § Captain Asa Whitney died at Ca-

manche. § James Clarke proposed forming a "Historical Society of Iowa" to preserve the knowledge of the pioneers.

Sunday, September 23. Jack Frost whitened the fences and house tops as far south as Davenport, but too lightly to injure tomatoes and beans.

Monday, September 24. The Dubuque land office opened. § Justice Mason convened the Jackson County district court at Bellevue. § United States Commissioner J. Fleming began adjudicating claims against the Sauk and Fox Indians at Rock Island.

Tuesday, September 25. After a perilous trip of fourteen weeks "across an uninhabited country, without roads, and in small carts drawn by oxen", several "hardy and industrious" Scotch families from Selkirk's colony on the Red River settled on the Big Maquoketa in Jones County.

Wednesday, September 26. Daniel Kelly, infant son of James and Mary Kelly, died at Davenport. § Consumption killed Abigail Smith, aged seventeen, near Dubuque.

Thursday, September 27. Two brothers named Comstock drowned in a pond near Shook's Ferry on the Wapsipinicon River while duck hunting. § William Remey, baby son of W. B. Remey, and William Hendershott, aged ten, son of David Hendershott, died in Burlington.

Friday, September 28. Silas Lamson, an exemplary Christian, died in Burlington "of a distressing illness" and left a wife and two small children. § A light shower at Dubuque ended the long dry hot season and promised relief from bilious fever and malaria. § The river started to rise, but the *Palmyra* continued to ply between the head of the rapids and Galena. § The hotel at Davenport was "filled with strangers, who have come to select a future home in this delightful region."

Saturday, September 29. Editor Clarke defended patronage, for "how else can an administration sustain itself"; Editor Logan warned his readers that the "people have much more to fear from the encroachments of congressional acts than they have from any other source" and might "shortly expect to see our state rights sink before the powerful arm of a central or consolidated government"; and Editor Russell favored temperance but was opposed to invading the right of men to sell and drink liquor. When temperance societies engage in political campaigns, he thought "the lovers of liberty should discountenance them." § Engle's election seemed certain.

Sunday, September 30. Corn was ripe and buckwheat ready for cutting.

JOHN ELY BRIGGS

THE STATE HISTORICAL SOCIETY OF IOWA

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