

Comment by the Editor

THE FIRST LEGISLATIVE ASSEMBLY

The fall plowing was done, houses were banked, and the corn was nearly all husked when the newly elected members of the First Legislative Assembly of the Territory of Iowa gathered at the Methodist Church in Burlington on November 12, 1838. A few, delayed perhaps by muddy roads, did not arrive on time. Cyrus S. Jacobs never came. A short time before the meeting of the legislature he had been shot and killed in the streets of Burlington by David Rorer, a prominent lawyer of that city.

The plaster was scarcely dry in Old Zion Church when the heavy-booted and ruddy-faced Representatives of the people of Iowa first met in the auditorium of that sacred edifice. At the same time, with entire disregard of superstition and the fitness of things, the thirteen members of the upper house of the legislature assembled below in the basement. Amid such pious surroundings the spirit of harmony and good will might have been expected to prevail, yet seldom if ever in the history of this Commonwealth has a session of the legislature been marked by so much bitter quarrelling and vindictive strife.

They were able-bodied men who composed that first Territorial Assembly. Not one among them was less than five feet seven inches in height, while eleven of the thirty-nine measured six feet or over.

As Saul, the son of Kish, who stood "higher than any of the people, from his shoulders and upward", was anointed the first king of Israel, so it may be that Jesse B. Browne, of powerful frame and military bearing, was selected first President of the Council partly because he towered above his fellows to the height of six feet and seven inches.

The First Legislative Assembly was characterized by just such anomalies. While the members of the smaller branch of the legislature were, on the whole, taller than those of the House and chose for their presiding officer the tallest man in the Assembly, the larger branch, as if in contemplated contrast to the Council, selected for its Speaker the lightest member of the Assembly (William H. Wallace, who weighed only a hundred and thirty pounds), although the House outweighed the Council man for man. Thomas Cox of Jackson County was the heavyweight of the Assembly. He tipped the beam at two hundred and fifty pounds.

Most of the members claimed to be farmers — dirt farmers they were, though that designation was unnecessary then. In a frontier country where the chief concern was the acquisition of land, it might be expected that the law-making body would be closely allied to the soil. It is more surprising that only four lawyers found seats in the first Territorial Assembly. Four others dubbed themselves merchants.

The frontier is the special province of a rising generation. To men and women with their lives be-

fore them belongs the opportunity of developing a new country. And so it was altogether proper that the pioneer lawmakers should reflect the character of the newest Territory. They were young, vigorous, self-reliant, thoroughly convinced of their own importance, and certain of their prerogatives. Several were New England Yankees, some were born north of the Ohio, while nearly half were the sons of Virginia or Kentucky.

Above all, the members of the First Legislative Assembly took themselves seriously. There was scarcely a trace of humor in their proceedings from the beginning to the end of their deliberations. Perhaps the nearest approach was the motion in the Council to table one of Secretary Conway's communications until the Fourth of July; yet even that may have been an accepted method of indefinite postponement, for the same action was taken on other occasions in both houses. Some of the resolutions that were passed, like the request of the Representatives for "pen-knives, paper-knives, letter stamps, wafers, sealing wax, tape, twine and ink; together with everything which shall contribute to the convenience, comfort and gentility of the House", cause a smile, but the House was intensely in earnest about it.

It was the solemn nature of the Assembly — combined with an exaggerated sense of importance and the attitude that the national government which paid their bills was, according to the current expression,

a cow to be freely milked — that caused so much dissension among the first Territorial officers. The Council began by quarrelling with the Secretary over tin cups and pen knives; and that unseemly squabble had scarcely been settled when both houses joined in a bitter dispute with Governor Lucas because he refused to approve of spending six thousand dollars to hire over twenty clerks, sergeants-at-arms, and other assistants for the Legislative Assembly of thirty-nine members. Distrustful of the inexperienced Assembly, the Governor also interposed a frequent veto on their measures, and the Assembly in turn addressed a memorial to President Van Buren asking that he remove Governor Lucas from office.

Inexperienced and wilful though the first Territorial lawmakers may have been, the quality of their legislation was admirable. For clearness of statement and freedom from verbiage the acts of the First Legislative Assembly have seldom been surpassed. Early in the session the judges of the Supreme Court were requested to draft a "proper code of jurisprudence" and such other bills as they should deem necessary for the Territory. With rare judgment the measures recommended by the judges were adopted; and they have remained the basis of legal procedure in Iowa to this day. Fully conscious that they were laying the legislative foundation of a future Commonwealth those youthful, untrained men of the frontier performed that task with their customary common sense.

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