

The
PALIMPSEST
FEBRUARY 1934
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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

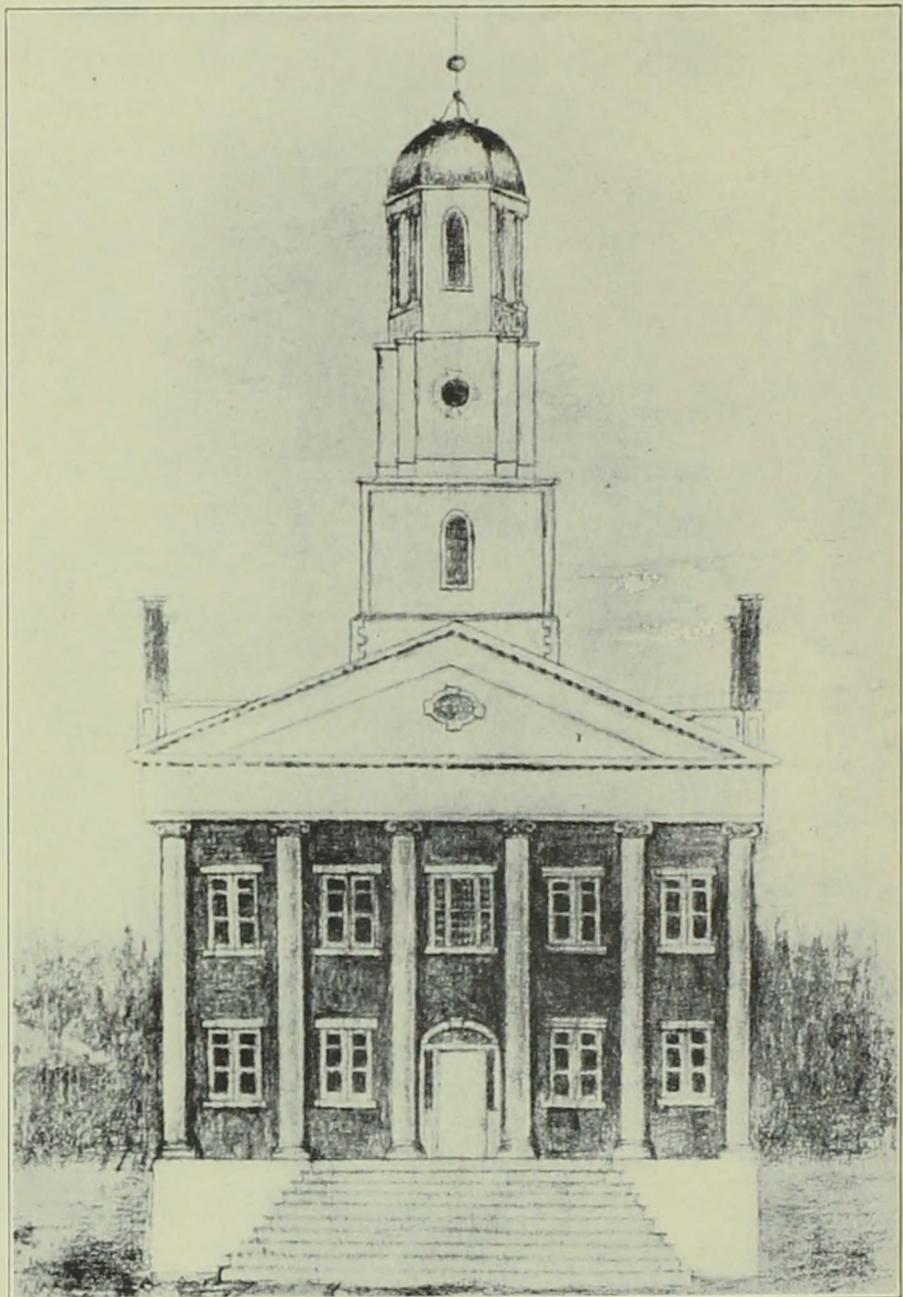
Superintendent

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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FROM THE MICHIGAN HISTORICAL PUBLICATIONS

THE CAPITOL OF MICHIGAN TERRITORY IN DETROIT
THE SEAT OF GOVERNMENT WHILE IOWALAND WAS A PART OF THE
TERRITORY OF MICHIGAN

THE PALIMPSEST

EDITED BY JOHN ELY BRIGGS

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Iowa in Louisiana

"We have lived long, but this is the noblest work of our whole lives", declared Robert Livingston, rising and shaking hands with James Monroe and Barbé-Marbois, Napoleon's minister of finance. The United States had just acquired an empire of nearly 828,000 square miles at a total cost of five cents an acre. Livingston believed the treaty of April 30, 1803, would "change vast solitudes into flourishing districts" which would cause the United States to take its place "among the powers of the first rank". In his opinion the Louisiana Purchase was destined to "prepare ages of happiness for innumerable" people who would multiply "in the bosom of equality, under just laws, freed from the errors of superstition and the scourges of bad government."

Since Iowa forms a part of the Louisiana Purchase we may well pause in respectful appreci-

ation of the manifold blessings accruing from the treaty of April 30, 1803. The amazing transformation of a wilderness into a garden is manifest on every hand. In 1930 a total of 2,470,939 people dwelt in Iowa, or nearly half the whole number inhabiting the United States in 1800. The population of Des Moines in 1930 was nearly equal to the combined population of New York, Philadelphia, Baltimore, and Boston — the four largest cities at the opening of the nineteenth century. Philadelphia in 1800, then the second largest city in the country with 41,220 inhabitants, is now surpassed by seven cities in Iowa.

But the negotiation of the treaty did not conclude the acquisition, for Spain had not yet surrendered Louisiana to France. It was not until November 30, 1803, that the French prefect, Pierre Clément de Laussat, received the province from Spain. Twenty days later, on December 20, 1803, Laussat formally handed over the province to W. C. C. Claiborne and James Wilkinson, the American agents, amidst a thunderous salute of cannon. As the French tri-color was presented to Laussat, he accepted with the simple benediction: "May the prosperity of Louisiana be eternal!"

Upper Louisiana still remained in Spanish hands and Laussat, in order to save Napoleon the expense, commissioned Captain Amos Stod-

dard, an American artillery officer, to receive the territory from Lieutenant Governor Dehault de Lassus in the name of France. Captain Stoddard was also empowered to take possession of the country for the United States and serve as civil and military commandant. On March 9, 1804, he crossed the Mississippi from Cahokia to Saint Louis, the capital of Upper Louisiana, with a small force of American troops. Colonel de Lassus received him cordially at the government house and promptly issued the following proclamation:

"Inhabitants of Upper Louisiana: By the King's command, I am about to deliver up his post and its dependencies. The flag under which you have been protected for a period of nearly thirty-six years is to be withdrawn. From this moment you are released from the oath of fidelity you took to support it. The fidelity and courage with which you have guarded and defended it will never be forgotten".

He then delivered to Captain Stoddard "the full possession, sovereignty, and government of Upper Louisiana" with all its "military posts, quarters and fortifications". The official record of the transfer was signed by De Lassus and Stoddard, with Meriwether Lewis, Antoine Soulard, and Charles Gratiot acting as witnesses. On the following day, March 10, 1804, acting

as commissioner for France, Captain Stoddard transferred Upper Louisiana to himself as representative of the United States.

Some of the inhabitants of Upper Louisiana regretted the change of government. Daniel Boone did not enjoy the prospects, for he and other pioneers of his type had become Spanish subjects "to avoid crowds, to get and keep cheap land, to avoid taxes, to hunt big game and to live a simple Arcadian life." Others welcomed the transfer, and Auguste Chouteau called for cheers when the Stars and Stripes were unfurled. Captain Stoddard assured the inhabitants that they would have "popular suffrage, trial by jury, a confirmation of their land titles, a territorial government, to be succeeded by their admission as a State into the Federal Union; and he indulged the hope that Upper Louisiana would become a star of no inconsiderable magnitude in the American constellation." The lustrous star of Iowa, shining in the galaxy of commonwealths evolved from the Louisiana Purchase, must eclipse the wildest imagination of this first American "civil Commandant" of Upper Louisiana and of Iowa.

The principal event during the brief administration of Captain Stoddard was the departure of Lewis and Clark on May 14, 1804, upon their epoch-making journey to the Pacific Coast. The

expedition passed along the western border of Iowa to the mouth of the Big Sioux between July 18th and August 21st. The only tragedy on the entire trip—the death of Sergeant Charles Floyd—occurred just below the present site of Sioux City. The gallant soldier was buried on the top of a bluff which they named in his honor. A lofty obelisk now stands there as a fitting memorial to Charles Floyd and to the Lewis and Clark expedition, which gave to posterity the first detailed and scientific information of the soil, Indians, and plant and animal life of Iowa.

A fortnight after Captain Stoddard took possession of Upper Louisiana, on March 26, 1804, President Jefferson approved an act providing for the government of the Territory of Orleans and the District of Louisiana. The Territory of Orleans, embracing approximately the area now included in the State of Louisiana, was given a special and almost despotic government over which William C. C. Claiborne was to preside as Governor. The District of Louisiana was placed under the jurisdiction of William Henry Harrison, Governor of Indiana Territory, because the western boundary of Indiana Territory was contiguous with the eastern boundary of the District of Louisiana. It was given scarcely a "vestige of self-government." Harrison wielded all the

powers of the executive. In addition he and the judges had authority to make all laws which they deemed conducive to the good government of the inhabitants, and not inconsistent with the constitution and laws of the United States. The civil government of Upper Louisiana was thus founded upon the Ordinance of 1787.

Governor Harrison arrived at Saint Louis on October 1, 1804. Upper Louisiana had been divided into five districts—New Madrid, Ste. Genevieve, Cape Girardeau, St. Louis, and St. Charles—and Harrison appointed administrators over each. The District of St. Charles embraced all the country north of the Missouri River including what is now Iowa. This vast hinterland, stretching northward to the British possessions and westward to the Rocky Mountains, contained 765 inhabitants, including 55 slaves. For the administration of this empire Governor Harrison appointed Colonel Return J. Meigs as Lieutenant Governor or Commandant of the District of St. Charles. Francois Saucier was named Presiding Justice of the Court of Common Pleas and Quarter Sessions, and Daniel Morgan Boone, Francois Duquette, and Robert Spencer were appointed associate justices. Rufus Easton was designated Attorney General and Edward Hempstead, Clerk.

The most remote settlers in the District of St. Charles might be denominated Iowans, for they lived north of the mouth of the Des Moines River. Louis Honoré Tesson was situated two hundred miles from St. Charles, a tedious journey for Sheriff Mackey Wherry if he had been ordered to evict the father of Iowa horticulture. When Julien Dubuque sold 72,324 arpents of his land to Auguste Chouteau of the District of St. Louis on October 20, 1804, he found it necessary to journey over four hundred miles down the Mississippi in order to transact his business. Basil Giard held a Spanish land grant opposite the village of Prairie du Chien, five hundred miles from Saint Louis. Giard had received his grant on November 20, 1800, almost two months after the signing of the treaty whereby Spain retroceded Louisiana to France.

On November 3, 1804, Governor Harrison made a treaty with five drunken, irresponsible representatives of the Sauk and Fox Indians whereby all the land between the Mississippi and the Illinois and Fox rivers as far north as the Wisconsin was ceded to the United States. It was Jefferson's plan to extinguish Indian titles to land east of the Mississippi and to remove the red men westward across the Father of Waters. Millions of acres of land were thus relinquished

by a few Indians, with no instructions to negotiate a treaty, for \$2234 in presents and an annuity of \$1000. This incident provoked the enmity of Black Hawk and his Sauk Indians toward the United States during the War of 1812, and was a remote cause of the Black Hawk War.

Although Harrison was a popular man, the people of the District of Louisiana thought the capital at Vincennes was too far away. Accordingly, on March 3, 1805, President Jefferson approved a bill whereby the District of Louisiana was to be "known and designated" after July 4th as the "Territory of Louisiana" with officers residing in the Territory.

It was Governor Wilkinson who dispatched Lieutenant Zebulon M. Pike to the headwaters of the Mississippi with instructions to explore the Mississippi River from Saint Louis to its source, select sites for military posts, treat with the Indians, and find out what he could about the British traders in the Iowa country. Pike recommended the hilly country about Burlington and McGregor as suitable for the erection of forts. Tesson's apple orchard, Dubuque's lead mines, and Giard's farm were the only evidences of white settlers in Iowa. Pike estimated the Sauk and Fox Indians at 4600 souls and the Iowas at 1400. He considered the prairies incapable of being cul-

tivated and suggested that they be left to the wandering savages who then occupied them.

Governor Wilkinson aroused such bitter antagonism in the Territory that Jefferson finally removed him from office on March 3, 1807. Meriwether Lewis succeeded to the governorship, but his untimely death on October 11, 1809, was followed by the appointment of Benjamin Howard as Governor in April, 1810. When the Territory of Orleans was admitted as the State of Louisiana in 1812, Congress changed the name of the Territory of Louisiana to the Territory of Missouri. At that time the population of the whole enormous region numbered about 22,000. Howard continued as chief executive. On March 12, 1813, however, Governor Howard resigned his post and William Clark was appointed Governor. Clark had served as brigadier-general of the Missouri militia and Indian Agent for the entire Territory following his return with Lewis from the Far West. During the War of 1812 he established Fort Shelby at Prairie du Chien. It was Clark also who dispatched two expeditions up the Mississippi which were repulsed at Rock Island. At the conclusion of the war he conducted a series of councils with the various Indian tribes, among others, the Sauk and Fox, who signed important treaties in 1815 and in 1816. It was during 1816

that John C. Sullivan surveyed the northern boundary of Missouri, a line which ultimately became the southern boundary of Iowa.

When Missouri was admitted as a State in 1821, all the land to the north and west was left as unorganized territory without a government of any kind. During the next thirteen years, Indian treaties were made, troops were transported from post to post on the upper Mississippi, travelers passed up and down the Mississippi and Missouri rivers, leaving graphic though fragmentary sketches of the pristine loveliness of our eastern and western borders. A few settlers actually made their way into the Half-breed Tract, but the Fox Indians kept fortune seekers away from the rich lead mines of Julien Dubuque. The Black Hawk War and the Treaty of 1832 were followed by the first influx of settlers into the Black Hawk Purchase on June 1, 1833. During the months that followed, squatters slowly filtered across the Mississippi. By the summer of 1834 probably three thousand settlers had moved into the Black Hawk Purchase, but no civil government was in force to guide or restrain them.

WILLIAM J. PETERSEN

Iowa in Michigan

On May 19, 1834, Patrick O'Connor, a crippled Dubuque lead miner, shot and killed his partner, a young Irishman named George O'Keaf. When questioned as to the reason for his act, O'Connor declared that it was his own business and added, "Ye have no laws in the country, and cannot try me." The lead miners, however, decided otherwise, and since there was, at the time, no provision for courts in the territory west of the Mississippi and north of Missouri, they decided to improvise a tribunal.

The trial was conducted in an orderly fashion. The miners selected a prosecuting attorney by popular agreement and notified O'Connor to choose his counsel. The accused was also allowed to name a jury of twelve men from a panel of twenty-four selected by the assembled miners. The counsel for the defendant urged that O'Connor should be sent across the river to Illinois and there be tried before a legally constituted court, but the prosecution answered that offenders had been sent to Illinois for trial, only to be released because the Illinois courts had no jurisdiction over crimes committed in the Black Hawk Purchase.

The jury deliberated for an hour and then returned with a verdict of guilty of murder in the first degree. The penalty pronounced was death by hanging on June 20, 1834.

On the day set for the hanging, the miners formed a procession and marched to the place of execution. O'Connor was placed in a cart and seated on his coffin. At the foot of the gallows an executioner, who had been appointed by the community, drew a cap over the face of the prisoner and fixed the noose. The cart was then driven from under the gallows and the first execution in Iowa was accomplished.

Ever since June 1, 1833, when the first spray of settlers fell into the Black Hawk Purchase the need for a government of some kind had been recognized. But Congress acted slowly. The people in what is now Wisconsin had been seeking a Territorial government of their own since 1824 when Judge James Duane Doty interested Senator Thomas H. Benton in a scheme to erect the "Territory of Chippewau" which was to be bounded on the east by Lake Michigan, on the south by the States of Illinois and Missouri, on the west by the Missouri River, and on the north by Canada. This plan would have given the unorganized Iowa country a government long before it was opened for settlement.

By 1827 Doty proposed to name the Territory "Wiskonsin", but that change was not sufficient to overcome Michigan's desire for a portion of the upper peninsula. Three years later Doty suggested the establishment of the "Territory of Huron" with the same boundaries he had originally designated. The Huron bill was before Congress as late as April 12, 1834, when its proponents, after several sessions of unsuccessful lobbying, introduced a bill to establish the Territory of Wisconsin. The political fortunes of the squatters in the Black Hawk Purchase were thus inextricably associated with the struggle for control east of the Mississippi.

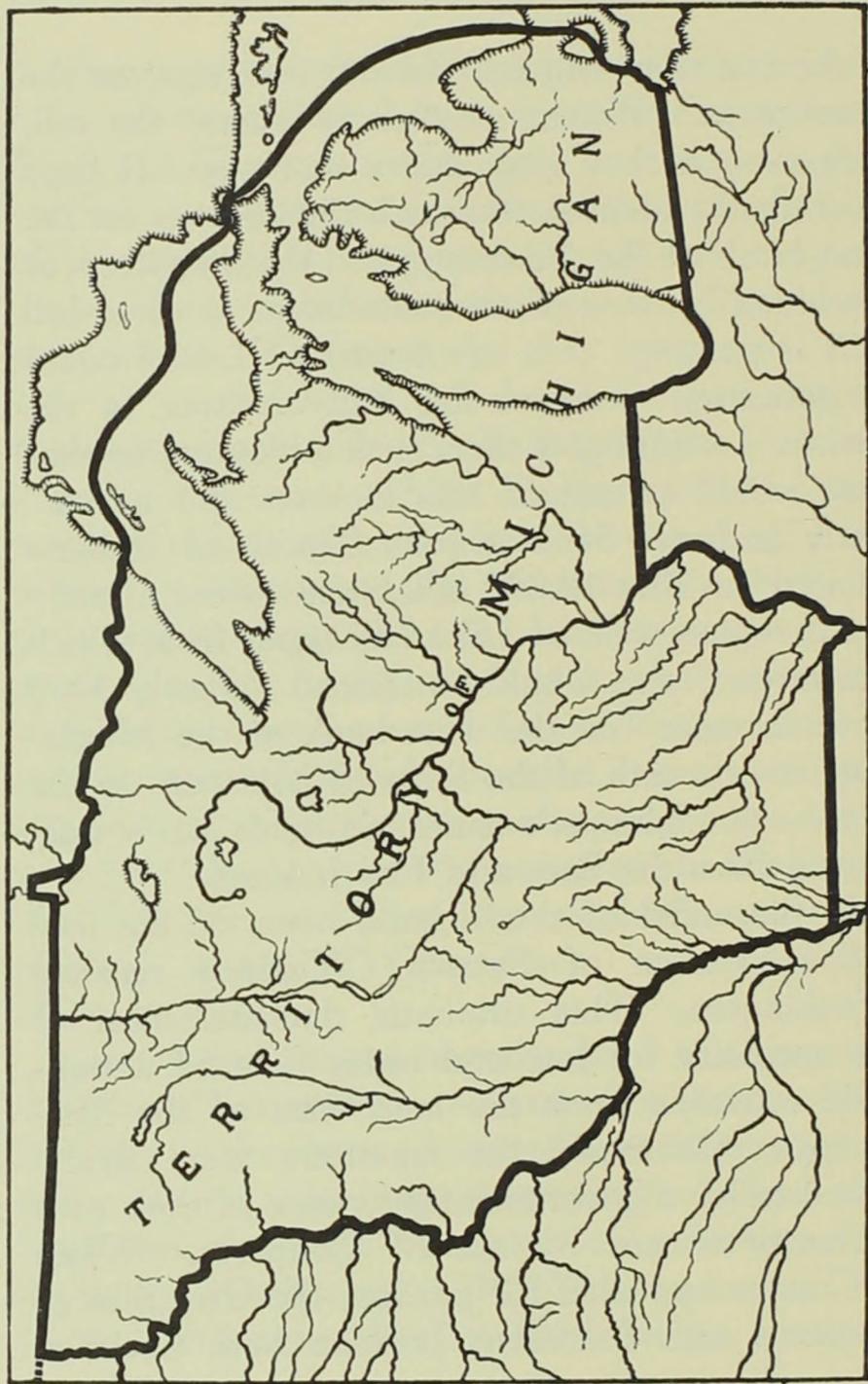
A fresh impetus was given to the efforts to provide adequate government for the western country by the entrance of John P. Sheldon into the fight. Writing to Secretary of War, Lewis Cass, from Peru (Iowa) on December 2, 1833, he alluded to the "necessity of annexing the Sac & Fox cession" to the Territory of Michigan in order that the "upwards of 1200" settlers might receive the "benefits of civil government." He believed no one had yet represented this necessity in terms "sufficiently strong" to insure speedy action. Cass, he thought, could do "more than any other man" to effect the proposed annexation.

The cause of the Dubuque lead miners was also championed by Lucius Lyon, Delegate from Michigan Territory. As early as December 11, 1833, Lyon presented a "memorial of inhabitants of the mining country west of Lake Michigan" urging the establishment of a separate Territorial government. The memorial also advocated "the sale of mineral lands, pre-emption rights, establishment of land offices". In the months that followed, Lyon continued his efforts in behalf of his western constituents to whom he was deeply indebted for his post. On January 27, 1834, he presented a memorial of the inhabitants of Chippewa "praying to be attached to the new territorial government west of Lake Michigan whenever the territory may be devided." In the following March he produced another resolution, this time from the Legislative Council of the Territory of Michigan "soliciting the establishment of a separate territorial Government west of Lake Michigan".

Lyon found "many impediments" in Congress for his bill creating a separate Territory. The majority in the Senate branded it as unnecessary, and opposed anything that would "allow the President the least extension of patronage, in making appointments". "I believe, however," he wrote Sheldon on May 19, 1834, "when it comes

to the test they will not dare to vote against the measure in sufficient number to defeat the bill, even though they may desire to do so. If they do, I shall endeavor to attach the country on the west bank of the Mississippi to the Territory of Michigan by way of an amendment to some bill as it is passing . . . I wish to God I could be permitted to speak for half an hour in the Senate. I would give them such a blowing up that they would repent of this in dust and ashes." Early in June, Senator John Tipton of Indiana pointed out that 10,000 inhabitants were already in the region west of Lake Michigan from which two large States would be formed. Nearly 3000 of these were "on the west bank of the Mississippi river, north of the State of Missouri, in the vicinity of Dubuque's mines, on lands lately purchased from the Sacs and Fox Indians."

In the midst of this debate, news of the trial and conviction of Patrick O'Connor reached Washington. This dramatic demonstration of the necessity for law and order focused nationwide attention upon the land west of the Mississippi. Obviously the squatters were determined to have government by virtue of their own authority if not by act of Congress. When O'Connor appealed for pardon, the Governor of Missouri and President Jackson both declared



WHEN IOWA WAS A PART OF MICHIGAN FROM 1834 TO 1836

they had no jurisdiction in the matter. This view was in harmony with the opinion of Galena attorneys that the general laws of the country for the punishment of crime did not extend over the Black Hawk Purchase "because it had ceased to be an 'Indian Country'!" Such a doctrine encouraged lawlessness. Two men had been killed in drunken brawls during the previous winter at the lead mines, and the perpetrators of those bloody deeds had escaped trial. The murder of O'Keaf brought the whole situation to a crisis.

Three days after the execution of O'Connor, on June 23, 1834, Representative Roger L. Gamble of Georgia reported a bill providing that all the territory of the United States bounded on the east by the Mississippi River, on the south by the State of Missouri, on the west by the Missouri and the White Earth rivers, and on the north by Canada was, "for the purpose of temporary government, attached to, and made a part of, the territory of Michigan". The inhabitants of this vast wilderness expanse were to be "entitled to the same privileges and immunities, and be subject to the same laws, rules, and regulations, in all respects, as the other citizens of Michigan territory." This bill was read twice in the House, ordered engrossed, and on the following day was read a third time and passed. The Sen-

ate was even more expeditious. When Senator John M. Clayton of Delaware presented the bill on June 27th, it was read twice, ordered engrossed, and then read a third time and passed, all on the same day! Andrew Jackson signed the bill on June 28, 1834.

When Iowaland was attached to the Territory of Michigan it came once more under the system of government provided in the Ordinance of 1787. But a distinct change had occurred since 1821 when the land had been left a political waif by the admission of Missouri into the Union. Immediately following the Louisiana Purchase the only inhabitants of Iowaland were those located on the Spanish land grants. In 1834 there were several thousand bona fide settlers in the Black Hawk Purchase.

The Northwest Ordinance was a simple document originating from the necessity for some sort of government for the unorganized country between the Appalachians and the Mississippi. By 1787 a number of States had ceded their western lands to the United States and the others were on the verge of doing so. The pleas of the distracted westerners for "relief and assistance" were echoed by the Ohio Company which petitioned Congress for the right to settle on lands west of the Alleghanies. The first settlement in

Ohio was at Marietta in 1788, contemporaneous with the advent of Julien Dubuque at the lead mines. Farther west, a few straggling Frenchmen in such villages as Vincennes in Indiana and Cahokia and Kaskaskia in Illinois eked out a simple, albeit sometimes a precarious existence. Adopted on July 13, 1787, while the Constitutional Convention was in session at Philadelphia, the Ordinance established a government over the region from which Ohio, Indiana, Illinois, Michigan, Wisconsin, and a part of Minnesota were ultimately formed.

The system of government has served as a model for all subsequent Territorial governments in the United States. Civil and religious liberty was guaranteed, education encouraged, and slavery prohibited. The region north of the Ohio River was to be divided ultimately into not less than three or more than five States. Two types of political structure were provided. The initial stage of government was simple, all the legislative, executive, and judicial powers being vested in five men. A Governor was to be appointed by Congress for a term of three years and a Secretary for four years. Three Judges, likewise appointed by Congress, were to hold office during good behavior. All were required to reside in the district and possess a freehold estate — the

Governor one thousand acres of land, the Secretary and Judges each five hundred acres. Subsequently the appointive power was vested in the President of the United States.

The second stage was more democratic in character. When the population of any district amounted to five thousand free male inhabitants of full age, the Governor was empowered to call an election for Representatives in a General Assembly in the proportion of one representative for every five hundred free male inhabitants. The Representatives so elected were to nominate ten persons, all residents of the district, five of whom were to be appointed as members of a Legislative Council to hold office for five years. The Governor, Secretary, and Judges were still appointive, and the chief executive had the absolute power to veto any act of the legislature. Finally, the Ordinance provided that when a Territory contained sixty thousand inhabitants it might petition for admission into the Union on an equality with the original States. Viewed broadly from the standpoint of its influence on the future, the Ordinance of 1787 has been ranked next to the Constitution as the most important organic act in the history of the United States.

When Ohio became a State in 1802, all the rest of the Old Northwest was included in the

Territory of Indiana. Two years later the attachment of Upper Louisiana to Indiana gave Governor William H. Harrison jurisdiction over the entire upper Mississippi basin. No other Governor under the Northwest Ordinance ever held sway over such an enormous area.

But the people around Detroit, like those at Saint Louis, felt that Vincennes was too far away. Their petitions were heard. Congress passed an act declaring that after June 30, 1805, all of Indiana Territory lying "north of a line drawn east from the southerly bend or extreme of Lake Michigan, until it shall intersect Lake Erie, and east of a line drawn from the said southerly bend through the middle of said lake to its northern extremity, and thence due north to the northern boundary of the United States, shall for the purpose of temporary government, constitute a separate territory, and be called Michigan." Detroit, founded by Cadillac in 1701 and incorporated as a town in 1802, was designated as the capital.

The administration of William Hull, the first Governor, was a travesty which culminated in 1813 with his ignominious surrender of Detroit to the British. The need of a vigorous executive led Madison to appoint the able and trustworthy Lewis Cass to that post. He formed a volunteer company and led it boldly against the Indians.

His dashing bravery so inspired his men that they completely routed the enemy. Local government was restored, courts established, and the people gradually assumed greater responsibilities of self-government.

In 1816 a surveyor reported there was not one acre in a hundred "fit for cultivation" in the whole Territory of Michigan, and this, combined with ignorance of the country, hostile Indians, and a surplus of cheap lands farther south, retarded the Territory's growth. Governor Cass spent much of his time encouraging settlement. His persistent efforts, coupled with the arrival of the steamer *Walk-in-the-Water* at Detroit in 1818 and the opening of the Erie Canal in 1825 were largely responsible for the population of Michigan increasing from 8591 in 1820 to 31,639 ten years later. Meanwhile, the second stage of government was put into effect and in 1823 the people elected their own legislature. By 1834 steamers often landed a thousand passengers in a day at Detroit. The census that year revealed 87,278 inhabitants in the land destined to be the State of Michigan.

Explorations and Indian affairs, many of which related to the land west of the Mississippi, occupied the attention of Governor Cass, particularly after 1820 when he went with Henry Schoolcraft

to investigate the Indian tribes, to induce them to cease going to Canada for presents, and to obtain strategic sites for trading posts. He visited Mackinac, Sault Ste. Marie, Cass Lake, Prairie du Chien, Green Bay, and Chicago before returning to Detroit. Five years later, in 1825, Cass served with William Clark in drawing up the treaty whereby the Neutral Line was established in Iowa between the Sauk and Fox on the south and the Sioux to the north. In 1827 his decisive action quelled the Winnebago scare. During his administration of nearly two decades, Governor Cass commanded the respect of the Indians by his courage and won the esteem of his fellow citizens by his energy and integrity.

When Lewis Cass became Secretary of War in the Cabinet of President Jackson, Michigan lost one of its greatest Governors. George B. Porter of Pennsylvania was appointed Governor in 1832 but Stevens T. Mason, a lad of nineteen, ruled over the destinies of the Territory during the frequent and protracted absences of Governor Porter. It was while the "Boy Governor" held sway over what is now Michigan and Wisconsin that the land west of the Mississippi was attached to his already stormy empire.

WILLIAM J. PETERSEN

Michigan Personalities

In the course of history there are apparent incongruities. The capital of the Iowa country in 1836 was east of the Mississippi River, at the town of Belmont in Wisconsin. In the following year the capital of Wisconsin Territory was west of the river, at Burlington in what is now Iowa. By a similar paradox the beginnings of Iowa government are to be found not in Iowa, but in the territories to which it had been attached before 1838.

In 1834 Iowa as a part of Michigan Territory was under the political control of men far removed from the country beyond the Mississippi. The capital was at the town of Detroit, more than a thousand miles from the extreme western boundary of the Territory. It was there that the laws governing the Iowa country were enacted, there the policies of administration were determined, and there were to be found the officials who played leading rôles in shaping the destiny of their western domain.

When Lewis Cass resigned as Governor of Michigan Territory in 1831 to become Secretary of War in the Cabinet of President Jackson, he

was succeeded by George B. Porter as Governor. At almost the same time, Stevens T. Mason had been made Secretary of the Territory. This latter appointment had created political furor, for there was a provision in the law that in case of the absence or illness of the Governor, the Secretary should become Acting Governor, and young Mason was not yet of legal age.

President Jackson, however, paid no attention to protests, and Governor Cass before leaving for Washington gave a reception to which the political leaders of the Territory were invited and at which young Mason was toasted in a gladsome manner. From that time forth, political opposition subsided, although newspaper editors continued to vie with each other in commenting upon the anomalous situation of having a "mere stripling" in a place of such high responsibility and power. When Governor Porter became ill and Mason succeeded him as Acting Governor, the *Detroit Journal* wittily remarked: "Our territory is left in rather a novel predicament just now. We have one Judge and one 'Acting Governor' who if he lives until next October and no accidents befall him will be twenty-one years of age." Young Mason acquitted himself well, however, and rode the political storm to become popularly known in later years as the "Boy Governor" of Michigan.

During the administration of Governor Porter, Mason was frequently called upon to serve as Acting Governor. In the face of constant fear of Indian warfare; during the cholera epidemics of 1832 and 1834, when a large percentage of the urban population was swept away; and when the activity of Detroit citizens in the underground railroad caused a race riot, Mason conducted administrative affairs creditably. In the long-continued Michigan-Ohio boundary dispute and in the so-called "Toledo War", he played a significant, almost spectacular, part.

Among the young people of the Territory, Mason was a popular leader. Although it was clearly apparent that in those early days he was much more concerned with political interests than he was with purely social engagements. To his attractive and popular sisters, sojourning in the East, he wrote protesting against the fashions of the day. In a half serious and half humorous vein, he declared that if he had an empire of his own he would as strictly quarantine the approach of fashion as he would the approach of a contagious fever, and he warned them not to bring home any exquisites of fashion concealed in their frock sleeves. If you do, he continued, "I shall follow the recent example of Governor Hayne of South Carolina and consider it my duty as Chief Magis-

trate of Michigan to issue a proclamation against your landing in the Territory."

When the sisters disregarded his entreaty and wrote him that they had invited the distinguished English authoress Harriet Martineau to visit them in their Detroit home, Mason replied: "I have been standing daily in dread of the arrival of Miss Martineau . . . I wish her no harm, but pray heaven she may never arrive . . . An earthquake would not produce more terror amongst us than her presence. Everybody about the house trembles at the noise of a steamboat. Even the old gobbler in the yard seems frightened, for the knock of Miss Martineau at the door of our mansion is the knell of his departure 'to the place from which turkeys never return'. If a master's hopes, his servant's petitions, and a gobbler's prayer will avail anything, heaven will send adverse winds to the vessel that bears Miss Martineau to our port."

Such were the characteristics and idiosyncracies of the man who was at the head of Territorial affairs when on June 28, 1834, Iowa became a part of Michigan Territory. Indeed, on July 6, within eight days after the date of the annexation, Governor Porter died and Mason, then only twenty-two years of age, became Acting Governor in full control. Four months later, President

Jackson named Henry D. Gilpin as Governor of the Territory. The appointment was not confirmed by the Senate, however, and young Mason continued to serve as Acting Governor. Thus during the first six months that Iowa was attached to Michigan Territory three different men were associated with the rôle of Governor. Mason alone, however, was the Chief Executive in fact.

The Michigan Territorial Delegate in Congress in 1834 was the versatile and distinguished Lucius Lyon, later widely known as United States Senator from Michigan, and ultimately rewarded with the office of Surveyor General of the United States. Lyon was a native of Vermont who had come to Michigan in 1821. As a surveyor he gained a wide and intimate knowledge of the topography, geology, and natural resources of the Territory. Through the acquisition of favorable locations for the establishment of towns, he became one of the most wealthy and influential men in Michigan. Nominated as a Delegate to Congress in 1833 while surveying in the vicinity of Galena, he continued for some time with his work, making politics a matter of secondary concern. Before the date of the election, however, he gave a "great feast" to the miners who in turn, it is said, "gave the whole six hundred votes of that sparsely settled region to him". As a result

he was elected to Congress by a substantial plurality.

In debating the pre-emption law which would be applicable to the Iowa country Lucius Lyon, as Senator from Michigan in 1838, met both John C. Calhoun and Henry Clay in open debate and won the laurels. Calhoun declared that if he was correctly informed the Iowa country had been seized "by a lawless body of armed men, who had parcelled out the whole region, and had entered into written stipulations to stand by and protect each other." Senator Lyon with an array of facts gained from long experience on the western frontier, contended with skill and effectiveness that the distinguished Senator from South Carolina was not informed through personal contact with the settlers and that he was ill advised. Lyon had traveled forty or fifty thousand miles at different times and in different directions, through the woods and over the prairies. Settlement, he agreed, had been rapid, and squatters in the Iowa country had protected themselves by claim associations which were indeed extralegal, but by the very act of settlement and the advance of civilization lands had become more valuable and a more stable government was thereby assured. What is it that makes land valuable, he asked, "What but settlement, civilization and improvement?"

A question of political interest throughout the Northwest in the thirties centered in the Michigan-Ohio boundary dispute. For many years a strip of land from five to eight miles wide along the northern boundary of Ohio had been claimed by both Michigan and Ohio. Michigan had the better claim, but Ohio had the greater political power. When the controversy was at white heat, Robert Lucas, then Governor of Ohio, went with commissioners into the disputed area to make surveys. He was met at Toledo by the spirited young Governor of Michigan supported by a thousand troops. War seemed almost inevitable. To prevent hostilities, President Jackson removed Governor Mason from office and appointed John S. Horner to that position.

Meanwhile, interest in State government had developed in Michigan Territory. An election was held and officers selected — Stevens T. Mason being chosen Governor. This placed Michigan in the anomalous situation of having both Territorial and State officers. Legally the Territorial officers were in control but the popular demand was for Mason and statehood. Congress, however, would not grant statehood until the boundary dispute was settled. Finally, it was agreed that Michigan should relinquish its claim to the disputed area and extend its border to in-

clude the northern peninsula. Thus the boundary dispute was settled, Michigan became a State with enlarged boundaries, and the "Toledo War" ended without bloodshed.

In the Territorial judiciary, when Iowa became a part of the Michigan Territory, there were four judges — Solomon Sibley, a Whig, and George Morell, Ross Wilkins, and David Irvin, Democratic appointees of President Jackson. Of these men, the versatile and eccentric Judge Irvin, who was assigned to the Northern District, later came to be widely known in Wisconsin and Iowa history.

Judge Irvin's whims and peculiarities were exceeded only by his legal abilities and his insistence upon absolutely fair play. A genuine "high-toned" gentleman, a bachelor, well informed upon all current events, even to horses, dogs, and guns, he was "full of whims and oddities", and at all times ready to attend to any fun. In matters of personal concern he practiced the strictest economy. When well advanced in years, it is said that he fell in love with a rich lady at Saint Louis, but when she learned of his parsimonious habits "the match was broken off".

On the bench he was a fair and able jurist, familiar with all the technicalities of the law. Indeed, he was so insistent upon technicalities

that once when a county seat was located at a site where buildings had not yet been erected, he insisted upon holding court there in a buggy improvised as a courtroom — the nearest house being a half mile away. In 1836, Judge Irvin was appointed Associate Justice of the Wisconsin Territorial Supreme Court, and was assigned to the judicial district on the west side of the Mississippi River. In this position he resided for a time at Burlington.

Another man directly connected with public affairs and the establishment of local government in the Iowa district of Michigan Territory was John P. Sheldon — for many years editor of the *Detroit Gazette*. A gentleman of the old school, "courtly in appearance and manner", Sheldon had come to Detroit shortly after the War of 1812, and was the vigorous advocate of many progressive movements. Soon after the opening of the Black Hawk Purchase he was commissioned by the United States government as deputy lead-mine agent stationed at Peru (Iowa). It was his duty in this office to issue permits to the miners, to authorize the marking of mining claims, to require that the ore be delivered to a licensed smelter, and to see that the smelter in turn retained a percentage of the lead to be paid to the government. While Sheldon re-

sided at Peru he was a champion of the miners' interests, a dynamic influence for the betterment of the community, and a powerful force in urging the attachment of the Black Hawk Purchase to the Territory of Michigan.

Local legislation in 1834 was provided for the Iowa country through the Legislative Council of Michigan. The rapid influx of population into the region west of the river, and the occasional appearance of vice and crime — as in the case of the murder of George O'Keaf — made it imperative that regulatory laws be enacted. On the first of September the Council met in extra session at the Territorial capital in Detroit, where it had been convened by proclamation of Governor Mason. On the second day of the session the Governor in his message to the legislative body called the attention of the Council to the needs of the people in the Iowa country. "The inhabitants on the western side of the Mississippi", he said, "are an intelligent, industrious and enterprising people, and their interests are entitled to our special attention. At this time they are peculiarly situated. Without the limits of any regularly organized local government, they depend alone upon their own virtue, intelligence and good sense as a guaranty of their mutual and individual rights and interests." To remedy this situation he

recommended the establishment of counties, townships, and courts.

Two days later James Duane Doty, a member of the Territorial Council, presented a petition "from sundry inhabitants" asking for an organization of the country west of the river, "and for the seat of justice at the Village of Du-Buque." The two counties and two townships which were established in response to this request constituted the first organized local government in the Iowa country west of the Mississippi River.

The activities of persons engaged in maintaining order and administering justice on the frontier constitute another chapter in the history of the beginning of civil government in Iowa. The pioneers were not for the most part "renegades and vagabonds forming a 'lawless rabble' on the outskirts of civilization". Rather they were a people endowed with the spirit of progress who found something in the freedom and opportunity of the West that expands the soul of man. Leading personalities in Michigan Territory, being aware of this, were anxious to extend local government to those on the western frontier.

J. A. SWISHER

Government Comes to Iowa

William Penn once declared that "Governments, like clocks, go from the motion men give them; and as governments are made and moved by men, so by them they are ruined too." There were Congressmen in the decade of the thirties who believed that the region west of the Mississippi River was being overrun with "land pirates", and, applying the philosophy of Penn, assumed that government in the Iowa country must be bad. But the political gloom which these men saw was the darkness that precedes the dawn. Occasional land pirates and ruffians there may have been, but the vast majority of settlers were sturdy, energetic, and honorable pioneers. In their hands political advancement on the frontier was assured.

When, in June, 1834, the Iowaland was attached to Michigan Territory, it was occupied by approximately three thousand squatters at little settlements along the Mississippi. Most of them were in the vicinity of the lead mines. If these people were to receive any specific benefits of the new political affiliation, it would be in the form of local government. Upon the recommendation of Governor Mason, the legislature of Michigan

established two counties west of the Mississippi River.

The area north of a line drawn due west from the lower end of Rock Island constituted Dubuque County, and the same area was also declared to be a township with the name of Julien. The region south of this line to the northern boundary of Missouri was organized as "Demoine" County and that area was also designated as Flint Hills Township. The frontier mining town of Dubuque constituted the principal settlement in Dubuque County, while in Demoine County were much smaller settlements at Keokuk, Gal-land, Montrose, and a little place commonly called Flint Hills and later known as Burlington.

The law which established the first counties in the Iowa country provided that local officers should be appointed by the Governor of the Territory, by and with the advice and consent of the Legislative Council. On the same day that the law was passed — September 6, 1834 — Governor Mason appointed Thomas McKnight as chief justice of Dubuque County — his name having been suggested by the residents of Dubuque. As associate justices he named Milo H. Prentice and Hosea T. Camp. As county clerk he designated Warner Lewis, and for the office of sheriff he selected Lucius Langworthy. Justices of the

peace, a notary public, and probate officers were also named.

McKnight, the appointee to the office of chief justice, was a prominent resident of Dubuque. In later years he was register at the Dubuque land office, and in 1846 he was a candidate for the office of Governor of the State. At the time of his appointment to the office of chief justice, however, he did not choose to become a public officer, and so declined the proffered distinction. In order to avoid delay in the administration of affairs, Governor Mason named Lorin Wheeler as chief justice. In this the Governor acted with dispatch, but he failed to consider the voice and will of the people at a time when popular government was a dominating power. Wheeler was a Whig and his appointment to office was the signal for popular protest. Learning of the local dissatisfaction, the indignant Wheeler tendered his resignation and expressed the hope that the Governor would "be pleased to accept it", and thus "quiet the minds of a few who think that the Executive has not power to make appointments" without their approbation.

Meanwhile a meeting of the citizens of Dubuque County was held "for the purpose of nominating a suitable person" for the office of chief justice. Woodbury Massey was named as

chairman of the meeting and William Myers was chosen as secretary. After some deliberation, John King was selected as the choice of the people. In order that there should be as little delay as possible in the organization of local government, "the proceedings of the meeting were sent by express, in advance of the mail, to Galena to be mailed there, as in so doing 2 or 3 days would be gained" in the time of their reaching the Governor's office at Detroit.

Milo H. Prentice and Hosea T. Camp, the two associate justices, also wrote to Governor Mason relative to the appointment. They declared that they had "no personal enmity" toward Mr. Wheeler, but they deemed it a duty to themselves and to their fellow citizens "to make a few plain statements of facts in the case" and to cordially and earnestly unite with their fellow citizens in the nomination of Mr. King for this office. It "does not become us", they said, "to say any thing in relation to the politics or private character of Mr. Wheeler", but they declared with emphasis that he was "*not* the choice of the people".

King, who was soon appointed in accordance with the will of the people, was a native of Virginia, an early resident of Ohio, and one of the first settlers to arrive in the Iowa country. Exploring "with varied success" at the Dubuque

mines in the early thirties, he had become one of the substantial citizens of that frontier region. Regularly constituted courts were not actually organized in Dubuque County until 1835. Prior to their establishment, however, Judge King played a conspicuous part in the maintenance of peace and order. At a public meeting, he took a prominent part in driving evil-doers across the river, where courts and laws were operative. King was always an advocate of honesty and integrity. To the rich he was just; to the poor he was generous to a fault. It was frequently said that he might have left a larger estate if he had not "always leaned to the side of kindness and charity".

In the fall of 1835, Judge King, having determined to make Dubuque his permanent home, returned to Ohio and purchased a printing press, which in the spring of 1836 he shipped to Dubuque. On May 11th of that year he published the first issue of the *Dubuque Visitor* — the only newspaper then published north of Missouri and west of the Mississippi River. The motto which this paper displayed — "Truth our guide, the public good our aim" — was indicative of the character of the editor.

Into the office of clerk of Dubuque County, in 1834, came the able and aggressive Warner

Lewis, who was destined in later years to become prominent in State and Federal affairs. Lewis had served in the Black Hawk War as an aid to Colonel Henry Dodge, and in the spring of 1833 he had come to Dubuque. His duties in the office of county clerk were not burdensome, but they were exacting and served as a stepping stone to further advancement. Later as Speaker of the House of Representatives in the Territorial Assembly and as a member of the State legislature he acquitted himself well. Appointed as Register of the United States Land Office by President James K. Polk, he was advanced to the office of Surveyor General by Franklin Pierce and retained in that office by James Buchanan. Judge George G. Wright declared that Lewis was "as chivalrous as a prince of royal blood", and that after many years he passed from the scene of public service "without a stain upon his record".

Lucius Langworthy, who received the appointment to the office of sheriff, was one of four brothers who were among the early settlers in the lead-mine region. Indeed, two of the brothers, Lucius and James crossed the Mississippi and commenced mining upon forbidden soil in 1830. They were at the mines on June 17th of that year when the Miners' Compact — the first semblance

of law — was signed by the miners. Twice they were driven out of the region by United States troops, but as soon as the lands were opened for settlement they again entered. In the advancement of government and business the Langworthy brothers were conspicuous. Not only was Lucius the first peace officer in Iowa, but he and his brothers were the first in many local enterprises. A history of Dubuque which did not mention the Langworthys and their interests would be like a history of America in 1934 without reference to Roosevelt and the "New Deal".

The advance of local government into the area designated as Des Moines County in 1834 was most welcome. In the spring of that year Lieutenant George H. Crosman with a small attachment of soldiers was engaged in building the first Fort Des Moines at the present site of Montrose. A short time after the attachment of the Iowa country to Michigan Territory word was received that the men should assemble to hear the reading of a message from Governor Stevens T. Mason. The proclamation was read by Morton M. McCarver of Flint Hills, and conveyed the significant information that the laws of the United States and of Michigan Territory in particular had been extended over the Black Hawk Purchase. At the conclusion of the reading, Lieuten-

ant Crosman drew his gleaming sword and, as a soldier of the Republic, in appropriate words acknowledged the supremacy of the civil law. He declared that with his small force he should be found ever ready to aid the authorities in the maintenance of law and order.

As at Montrose so also at the frontier village of Flint Hills there were those who had a high regard for law. Perhaps some looked upon it merely as a necessary protection against the evildoer. But wholly aside from the maintenance of order, William R. Ross and William Morgan and his family had come to value government for the opportunities and advantages which it afforded. Ross, youthful and full of adventure, had brought a shipment of goods to Flint Hills in 1833 and established a store on the frontier. Morgan was a man of mature years whose daughter, Matilda, was known in the village for her grace and beauty. Ross, who became a frequent visitor at the Morgan home, proposed a union with Matilda. But in a country without government and law, how could a wedding ceremony be performed? In this plight the young couple procured a flatboat and crossed the river. Illinois furnished the license, the officiating officer, and a sycamore tree as a bridal arch. The Iowa country furnished only the personnel.

It is not strange then that William R. Ross stood ready to aid in the advancement of law and government when opportunity was afforded. In the spring of 1834 he had been "commissioned Postmaster, and Carrier for Flint Hills to the nearest Post Office in Illinois" — trips being made once a week at his own expense until a regular route was established by the government. In this position he received a copy of the laws and instructions from Governor Mason notifying the people to select suitable persons for appointment by the Governor to the various county officers. Nominations having been made, Governor Mason on December 26, 1834, named William Morgan as chief justice; Ezekiel Smith and Young L. Hughes, associate justices; William R. Ross, county clerk; and Solomon Perkins, sheriff. To perfect an organization in due form Ross, the clerk, administered the oath of office to Chief Justice Morgan, who in turn administered the oath to Ross and the other appointees.

Morgan served as judge for only a brief period, and during a time when courts as such had not yet fully developed in the Iowa country. His duty was that of maintaining peace and order as best he could with the facilities at hand. On one occasion it is said that he ordered the sheriff to take into custody an offender, to place him in a cabin

improvised as a jail, "to barricade the door" securely with rails, and to retain the prisoner "until the further order of this court".

The first court actually held in Demoine County was in April, 1835. It was convened in a log cabin on the banks of the river north and east of what later came to be the Burlington public square. At about that time Judge Morgan resigned and was succeeded by Young L. Hughes, one of the associate justices.

In the office of county clerk was the active William R. Ross. In coming to this office he had added more laurels to his already extensive list of positions of "first" rank. He was the first merchant at Flint Hills, the first surveyor, the first postmaster, and the first benedict, as well as the first clerk. History records, however, that Ross not only was first to serve as clerk but also that he "discharged faithfully and impartially the duties of the office and that he was a man of good character & upright deportment". Few settlers of that early day were more widely known than Mr. Ross and few lived longer to tell of his exploits.

Solomon Perkins, the first sheriff appointed in Demoine County, was a pioneer among the pioneers. In November, 1832, he had crossed the Mississippi River at Oquawka and wandered in his travels down to Flint Hills where he remained

for three days. Then he located, "stepped off", and "staked" a claim of 320 acres some five miles from the present site of Burlington, and erected a small cabin. Meanwhile, Simpson S. White, Amasa Doolittle, and Morton M. McCarver, three fellow adventurers at Flint Hills, had built a ferry boat. Perkins helped them launch it and returned to Illinois. In the months that followed, soldiers destroyed some of the cabins west of the river — the land not yet being officially opened to settlement — but no damage was done to the Perkins homestead. On June 1, 1833, when this area was opened for settlement, Perkins returned to occupy his cabin unmolested.

The first two arrests which he made were upon charges of murder. He served as sheriff for six years and continued to reside in the county for almost a decade. Then for a period of forty years he passed from the scene of local affairs. Again in 1883 he reappeared at Burlington — a veritable Rip Van Winkle. Returning "to my old tramping ground", he pondered, "what do I see? All is changed. I go down to the old ferry I used to run, and find in its stead a wonderful structure of iron, a bridge instead of a ferry. I view the surrounding country near by, and it is built up solid with stone and brick blocks. I can hardly realize that forty years can make such miracles.

I inquire for my old friends and comrades, and I find that nearly all are gone; those I do find are changed; in place of the dark locks, they are gray." Courts, and laws, and governments, too, had advanced. Yet Perkins remembered well the days when there were none of these.

Such were the men and events in the Iowa country a century ago. Stevens T. Mason was the bold leader. His commands, "Attention", "Forward March", were clearly heard on the western front, and the voices of those who cried "land pirates" and "ruffians" were lost in the sound of advancing footsteps. The Mississippi was no longer an impassible barrier. Rather, it was as if the waters of the great river were divided to encourage the march of civilization to the western shore. Two counties appeared west of the river, each with its stalwart men. Courts and representation in legislative halls came a little later. But in 1834 — the year of the establishment of civil government in the land that is now Iowa — there were great strides forward. "Governments, like clocks, go from the motion men give them . . . Let men be good, and the government cannot be bad", and if men be bold and vigorous and alert, governments can not fail to advance.

J. A. SWISHER

Comment by the Editor

THE ORIGIN OF IOWA GOVERNMENT

Iowa was born in anarchy. For a whole year after the Black Hawk Purchase was opened for settlement, no civil government was provided for the Iowa country. During the summer of 1833 several hundred people had established little communities on the west side of the Mississippi. Though the Indian title to the land had been extinguished and settlement was no longer prohibited, the settlers were without the protection of law. Neither person nor property was safe against miscreants. Individual morality was the sole standard of public conduct.

The highest tribute to the character of the first pioneers in Iowa is the condition of peace and order that prevailed. By June, 1834, there must have been nearly two thousand people in the vicinity of the Dubuque lead mines. Most of them were reckless frontiersmen unrestrained by the responsibilities of family life. Yet it was reported that theft was extremely rare and violence almost entirely confined to the influence of liquor. A government agent supervised mining activities, but he had no police power. Disputes had to be

settled by mutual agreement of the parties involved, for the courts across the river refused to accept jurisdiction. In that plight the settlers in some communities organized clubs to administer law directly without benefit of attorneys. The squatters had an instinct for self-government.

The fact that the pioneers were law-abiding made the establishment of civil government all the more imperative. They found anarchy intolerable. Voluntary associations might be able to preserve a semblance of order temporarily, but they had neither the purpose nor authority to perform the general functions of government. When a murderer claimed immunity from punishment, the people demanded a government of laws in place of personal volition and optional control. And so, at the end of the first year, on June 28, 1834, the application of political authority transformed anarchistic freedom into civil liberty.

J. E. B.

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