

Legislating in Butler's Capitol

The arrival of the Fourth Legislative Assembly was eagerly awaited by Iowa Citizens. The session was to open on Monday, December 6, 1841, so most of the members had started from their homes on the previous Friday. Travel was difficult because sleet and snow, accompanied by high winds "sufficient almost to blow the hair off one's head," dogged their journey all the way. Notwithstanding the "extreme inclemency" of the weather Governor Chambers, Secretary Stull, and all but one Council and three House members were on hand for the opening day.

Members of the Legislative Assembly were agreeably surprised with Iowa City, the *Iowa Capitol Reporter* of December 11th declared:

Taught to suppose that they were coming to a place where no conveniences would attend them, and where they should have, perhaps, to spend the winter in a condition bordering upon savage life, a widely and totally different state of things presents itself. They find themselves in a most thriving town of some seven or eight hundred inhabitants, built upon a site unsurpassed for beauty by any that we have ever beheld anywhere in the interior. This we declare in all sincerity; and in this every individual whose mind is unprejudiced upon the subject must agree with us.

They find Halls prepared for their assemblage, with every convenience and comfort that they could reasonably desire, and fitted up in a style of neatness and taste highly creditable to those by whom they were arranged.

The hands of the ladies of this city, by the by, are plainly perceptible in this arrangement, and many thanks are due, too, to our public-spirited fellow citizen, Mr. Butler, for his exertions in getting the building in readiness for the reception of the Legislature; and he well deserves to be favorably remembered for it.

The Fourth Legislative Assembly convened in Butler's Capitol at noon on December 6, opening with prayer by Reverend Michael Hummer of the Presbyterian Church. The following officers were elected:

<i>COUNCIL</i>		<i>HOUSE</i>	
President	Jonathan Parker	Speaker	Warner Lewis
Secretary	James W. Woods	Chief Clerk	Jos. T. Fales
Sec., Asst.	Edward J. Darken	Asst. Clerk	Lemuel Parkhurst
Clerks		Clerks	
Transcribing	Geo. S. Hampton	Recording	S. B. Gardner
"	Geo. W. Harris	Engrossing	Wm. A. Thurston
		Enrolling	Benj. Tucker
Serg't-at-Arms	Samuel Parker	Serg't-at-Arms	Charles Price
Door Keeper	Orrin Dodd	Door Keeper	John R. William
		" " Asst.	H. L. Jeanin
Messenger	Miles Driscoll	Messenger	T. B. Browne
		" " Asst.	B. W. Gillock
Fireman	Daniel Chance	Fireman	Wm. Abbe

Who were these men who met in Butler's Capitol? What was their political affiliation, their place of birth, their age, and their occupation? Happily for posterity the editor of the *Iowa Capitol Reporter* on January 29, 1842, made the following

compilation of the twenty-six House members which should prove illuminating:

<i>Name</i>	<i>Birthplace</i>	<i>District</i>	<i>Age</i>	<i>Business</i>
Warner Lewis	Virginia	Dubuque	37	Farmer
Thomas Baker	Ohio	Washington	31	Farmer
Uriah Biggs	Virginia	Van Buren	40	" Surveyor
C. H. Booth	Pennsylvania	Dubuque	26	Lumber
<i>David E. Blair</i>	Kentucky	Des Moines	49	Farmer
Henry J. Campbell	New York	Lee	30	Farmer
Thomas Denson	N. Carolina	Jones	37	Farmer
Henry Felkner	Ohio	Johnson	31	Farmer
James Grant	N. Carolina	Scott-Clinton	29	" Lawyer
<i>Alfred Hebard</i>	Connecticut	Des Moines	30	Farmer
George Hepner	Kentucky	Des Moines	35	Farmer
<i>Sam P. Higginson</i>	England	Cedar-Jones	31	Farmer
Samuel Holliday	N. Carolina	Muscatine	56	Farmer
<i>Isaac Leffler</i>	Virginia	Des Moines	51	Farmer
E. S. McCulloch	Tennessee	Lee	30	Farmer
James M. Morgan	Ohio	Des Moines	28	Lawyer
<i>J. K. Moss</i>	Kentucky	Jackson	30	Lawyer
William Patterson	Virginia	Lee	39	Farmer
<i>Asbury B. Porter</i>	Kentucky	Henry	30	Farmer
Richard Quinton	Kentucky	Jefferson	36	Farmer
<i>Jos. M. Robertson</i>	Virginia	Scott-Clinton	36	Farmer
<i>Simeon Smead</i>	Vermont	Henry	45	Farmer
<i>William L. Toole</i>	Virginia	Louisa	39	Farmer
Oliver Weld	New Hampshire	Van Buren	29	Lawyer
John M. Whitaker	Ohio	Van Buren	40	Farmer
<i>Paton Wilson</i>	N. Carolina	Henry	47	Farmer

Note—Whigs in italics.

Then as now, the problem of roads and public transportation was one of the most difficult to solve. A total of thirty-three laws, or more than one-fourth of the total passed, dealt with Territorial roads. All but two of these laws were specific acts designating certain persons to "locate and establish," "relocate," or "review" a Territo-

rial road between specific points. Thus, Chapter 70 of the *Laws of the Territory of Iowa* reads:

Section 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa*, that Absalom Cornelias, Edmund Archibald, of Henry county, and Robert Neil, of Washington county, be and are hereby appointed commissioners to lay out and establish a territorial road from the town of Crawfordsville, in Washington county, to Smith's Mills, via New London, in Henry county.

Sec. 2. That said commissioners meet at Smith's Mills on such day as they may agree, (not exceeding twelve months from the passage of this act,) to discharge their duties.

Sec. 3. That said commissioners shall be allowed one dollar and fifty cents per day for their services, and shall employ one surveyor, and as many chain carriers and axemen as they shall think necessary; the surveyor shall receive no more than two dollars and fifty cents per day, and the chain carriers and axemen shall be allowed no more than one dollar per day, to be paid according to the provisions of an act to provide for the laying out and opening territorial roads, approved January the 25th, 1839.

Approved, February 16, 1842.

While many of the towns and geographical points are known today there are quite a number designated that have long since disappeared from maps, or from the memory of the oldest inhabitants. A few examples will suffice:

Chapter 3. Commencing at West Point, thence on the nearest and best route to Franklin, thence to the land-

ing on the Des Moines river, opposite Saint Francisville, Missouri.

Chapter 6. From Keokuck, on the nearest and best route to Ambrosia, in Lee County; thence to Winchester, in Van Buren county; thence to Fairfield in Jefferson county.

Chapter 7. From Deeds' mills on Skunk river, in Jefferson county, by the way of Brighton in Washington county, the house of Beriah Haworth in said county, Western City in said county, thence nearest and best way to the west boundary line of the Territory.

Chapter 11. From the county seat of Delaware, to Dillon's mill; thence cross the river and running the west side of the Makoqueta, to the falls on said river, at the town of West Cascade.

Chapter 36. Commencing at Denson's ferry on the Wabesipinica; thence to Milford, in Jackson county; thence the nearest and best route, so as to intersect the Military road in Dubuque county, some where in township eighty-seven, north range, one east.

Chapter 88. To review the road from Moscow via Rochester, to Marion in Linn county.

Chapter 117. To commence in the county of Muscatine, at or near the dwelling house of Charles Nealy; thence on the nearest and best route to Iowa City.

Next to roads, the subject of ferries occupied much of the attention of the men who convened in Butler's Capitol. One measure, Chapter 80, amended the act of December 20, 1838, regulating ferries. The first section of this amendment provided that County Commissioners in the Territory of Iowa were "empowered and required to regulate and established the rates of ferriage, on every

ferry in their respective counties, kept by authority of a charter from a Legislative Assembly."

The second section stated that the duty of the clerk of the County Commissioners, as well as the "duty and liability" of ferry keepers, should be the same as provided in the Act of 1838 "so far as the same may not be contradictory to those in the charter granted them."

Ten acts were passed granting certain men the right to operate ferries at specific points. Nine were located on the Mississippi while one was granted to Jesse Wright and Henry Bateman at Watertown in Van Buren County on the Des Moines River. Southernmost of those on the Mississippi was the one authorizing Robert M. G. Patterson to "establish and keep a ferry across the Mississippi River at or near the mouth of Nassau slough, in the county of Lee, for the term of ten years," subject to the laws licensing and regulating ferries. Section two of this act provided:

That no court or board of county commissioners shall authorize any person or persons to keep a ferry within the limits of one mile above the mouth of said Nassau slough: Provided, That the said Robert M. G. Patterson shall keep at said ferry a good and sufficient flat-boat, with a sufficient number of hands to work the same, for the transportation of all persons and their property across said river, when passable, without delay, within five months from the passage of this act; and the said Robert M. G. Patterson shall, within five years, procure a good and sufficient horse or steam ferry boat.

All other specific ferry grants made by the Fourth Legislative Assembly were located between Muscatine and Jackson counties. Ransom Long was authorized to operate a ferry at Salem in Muscatine County, Martin W. Smith at Le-Claire in Scott County, and John R. Sloan at Camanche in Clinton County. Four of the ten grants to operate ferries were in Jackson County. The one to James Leonard was located at Charleston on the Mississippi while those to Thomas S. Parks, to William and Vincent G. Smith, and to David G. Bates and John Forbes, designated a specific section in a certain township — Parks in Township 85 and the other four men in Township 87 on the Mississippi.

There were slight variations in the provisions of these grants. Bates and Forbes were to "procure and ever after keep a good and sufficient number of flat-boats and other water-crafts, for the use of said ferry, with a sufficient number of hands to work the same." The Smiths, within three years from the passage of their act, were to

procure a good and sufficient horse or steam ferry boat for said ferry; which shall be kept at said ferry for the transportation of all persons and their property across said river without delay; and until said ferry boat shall be provided as aforesaid, the said Smith's, their heirs or assigns, shall keep at said ferry a good and sufficient flat-boat, and a sufficient number of hands to work the same, for the transportation of all persons and their property across said river when passable, without delay.

The growth of Iowa is attested by the need for dams to develop power for the operation of mills. The Fourth Legislative Assembly authorized the erection of six dams — four on the Skunk River, one on the Wabesipinicon (Wapsipinicon), and one on the Des Moines River. On January 12, 1842, Governor Chambers approved an act authorizing Perriander Pollock and his associates to erect a dam on the Wapsipinicon in Township 80 in Clinton County, "which said dam, shall not exceed two and a half feet in height, above common low water mark; and in said dam, shall be constructed a lock or apron, at least thirty feet wide, and eighty feet long, so as to admit of boats to descend, and ascend, with safety."

Section 2 provided that any person guilty of injuring the dam "shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined treble the amount of damages the owners may have sustained, or be imprisoned at the discretion of the court." Section 3 forbade dam builders "to enter upon and flow the lands of any person, without the consent of such person; and they shall remove all such nuisances as may be occasioned by the erection of said dam, which may endanger the health of the vicinity." Section 4 allowed any future territorial or state legislature to repeal any or all of the provisions if deemed expedient.

The above provisions were generally followed

by other specific acts authorizing dams. It should be pointed out, however, that the territorial legislature carefully insured the navigability of streams. Their solicitude no doubt was influenced by increased navigation on the lower Des Moines and the arrival of the steamboat *Ripple* at Iowa City in June, 1841. At any rate an amendatory act authorizing John R. Sparks and his associates to build a dam across the Des Moines River in Township 69 in Van Buren County provided that the dam "shall not exceed three feet in height above common low water mark, and shall contain a convenient lock, not less than one hundred and thirty feet in length and thirty-five feet in width, for the passage of steam, keel, and flat-boats, rafts, and other water crafts; provided said water crafts will bear two tons burden."

The Act authorizing Jason Wilson to erect a dam across the Skunk River in Township 69 of Lee County provided for an equally large lock for the passage of steamboats and other craft.

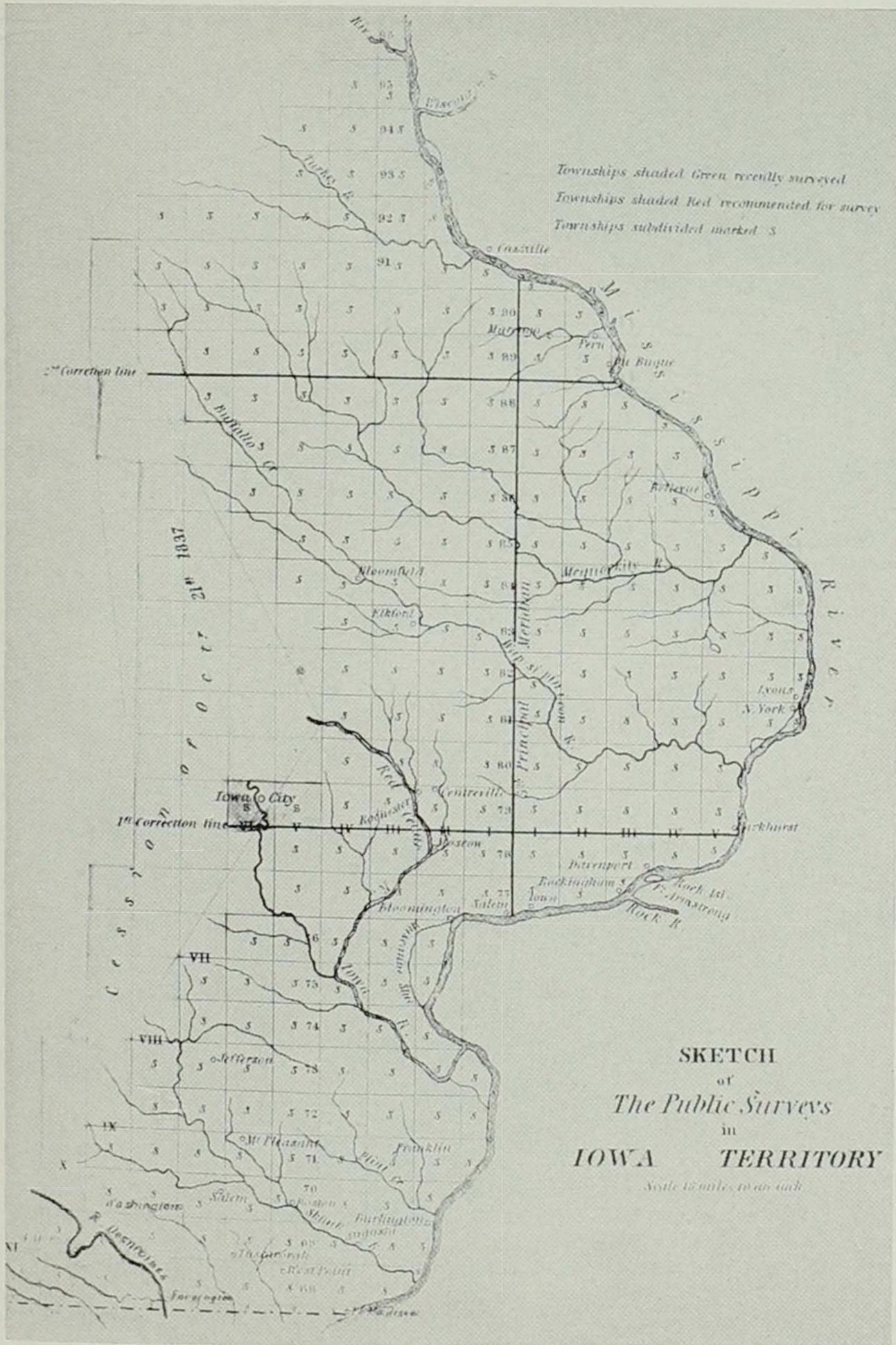
Most of the 127 laws passed were short, whereas those incorporating cities and towns, or private corporations, were detailed and ran from two to six pages in length. The Fourth General Assembly passed six measures incorporating cities and towns by special charters. One of these revived a law which had not been acted upon for the incorporation of Iowa City; another amended the law for the incorporation of the town of Bloomington.

Davenport and Fort Madison, both of which had been previously incorporated, required almost six pages each to contain their 21 and 19 sections respectively. Laws also were passed incorporating Mount Pleasant and Keosauqua.

Illustrative of these acts is Section 8 of Chapter 57 incorporating Davenport, which enumerated the powers of the mayor and aldermen.

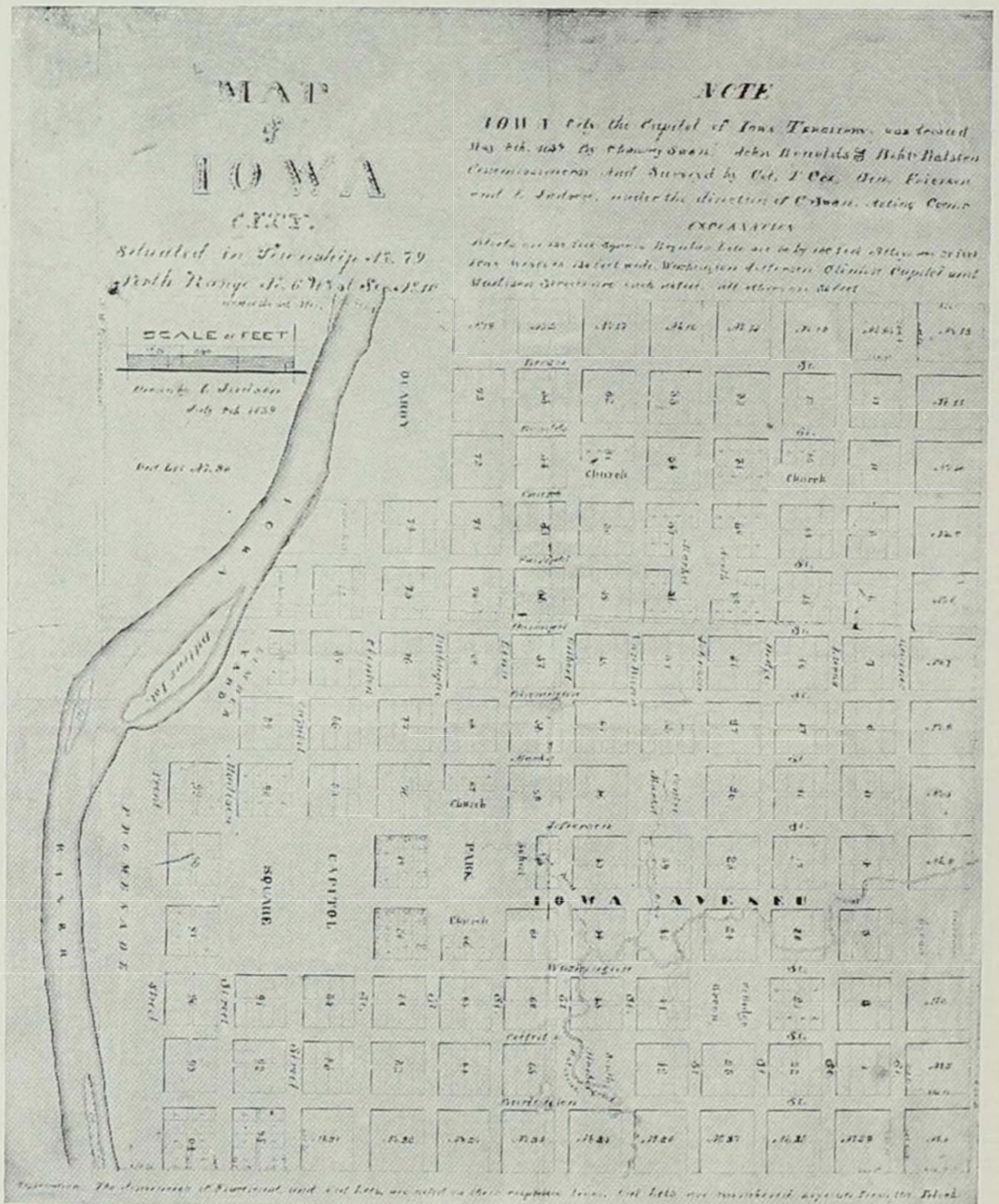
The mayor and aldermen shall have full power and authority, to pass all by-laws and ordinances to regulate the stationing, anchorage, landing, mooring, or unlading of boats, vessels, rafts, and all other water-crafts, within the limits of said town; to prevent and remove nuisances, to establish night-watches, erect lamps; to provide for licensing and regulating retailers of spirituous liquors within said town; and for annulling the same on good and sufficient complaint made against any person holding such license; to license and regulate drays, carts, and other vehicles, kept for public hire; to prohibit the discharging of fire-arms, and the racing or immoderate running or driving of horses, drays, carts, carriages, waggons, or other vehicles in said town; to provide for licensing and regulating shows, theatricals, and other amusements in said town; to regulate and establish markets, and to rent the stalls in the same; and to prohibit the selling of meats, poultry, fish, or game, except at the public market; to erect and repair bridges, to regulate and improve all streets, avenues, alleys, sidewalks, landings, wharves, public grounds and squares, drains and sewers; to sink and keep in repair public wells; to establish and regulate fire wards and fire companies; to provide for the prevention and extinguishment of fires, and if necessary, to remove or pull down buildings or fences, for the prevention of the spreading of the same; to

SURVEYING EASTERN IOWA



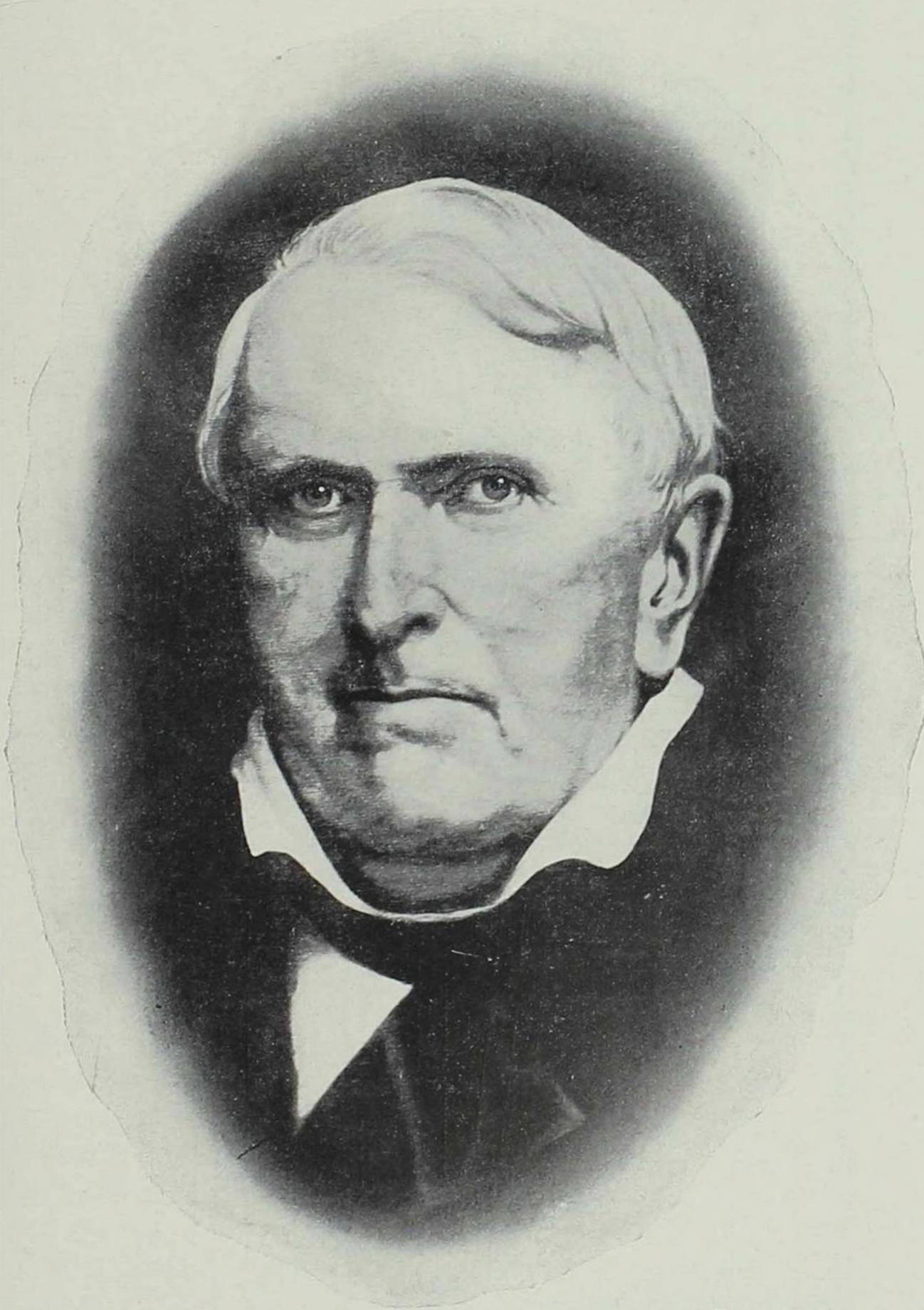
An early map of eastern Iowa showing how the townships were laid out by government surveyors.

THE ORIGINAL MAP OF IOWA CITY

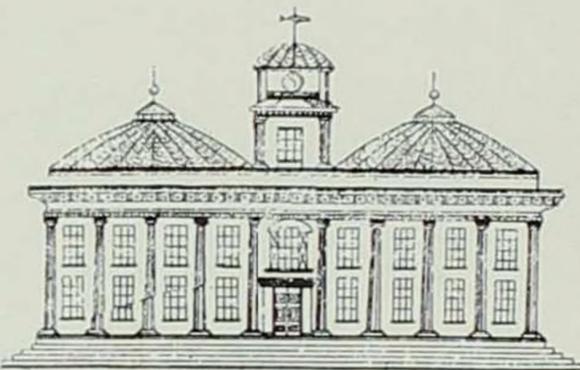


The original map of Iowa City, drawn by L. Judson, and dated July 4, 1839. The more familiar version of this map (which appears as the center spread in this issue) was prepared in St. Louis by E. Dupré, lithographer, who added a number of embellishments to Judson's original drawing.

IOWA'S SECOND GOVERNOR



From an oil portrait
John Chambers, Governor of the Territory of Iowa, 1841-1845.



CAPITOL OF IOWA TERR.

MAP OF IOWA CITY

SITUATED IN TOWNSHIP 19. N. R. 6 W. of the 5. P. M.

Drawn by L. Judson

NOTE

IOWA CITY the CAPITOL of IOWA TERRITORY
 located May 4th 1839 by
 M^r CHAS. SWAN } Comm^{rs}
 JOHN RONALDS }
 ROBERT PALSTON }
 and Surveyed by Mess^{rs} Cox, Frierson & Judson
 under the direction of C. Swan Act^d Com^r

EXPLANATION

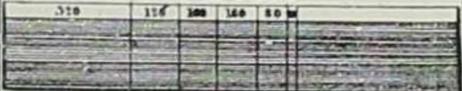
BLOCKS are 320 feet square regular lots
 are 80, by 150.

The dimensions of fractions and out lots
 are noted in their respective lines.

Aleys are 20 feet Iowa Avenue is 120
 feet wide Washington Jefferson Clin
 ton Capitol and Madison Streets
 are each 100 feet all others are 80 Feet

NATIONAL ROAD

SCALE OF FEET



OUT LOT N^o 20

JEFFERSON

CLINTON

CAPITOL

FRONT

MADISON

PROBANDIE

CAPITOL SQUARE

STREET

STREET

STREET

STREET

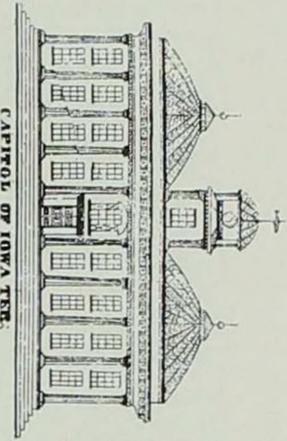
JEFFERSON

PARK

WASHINGTON

COLLEGE

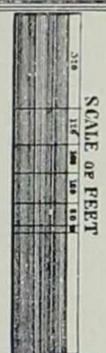
BURLINGTON



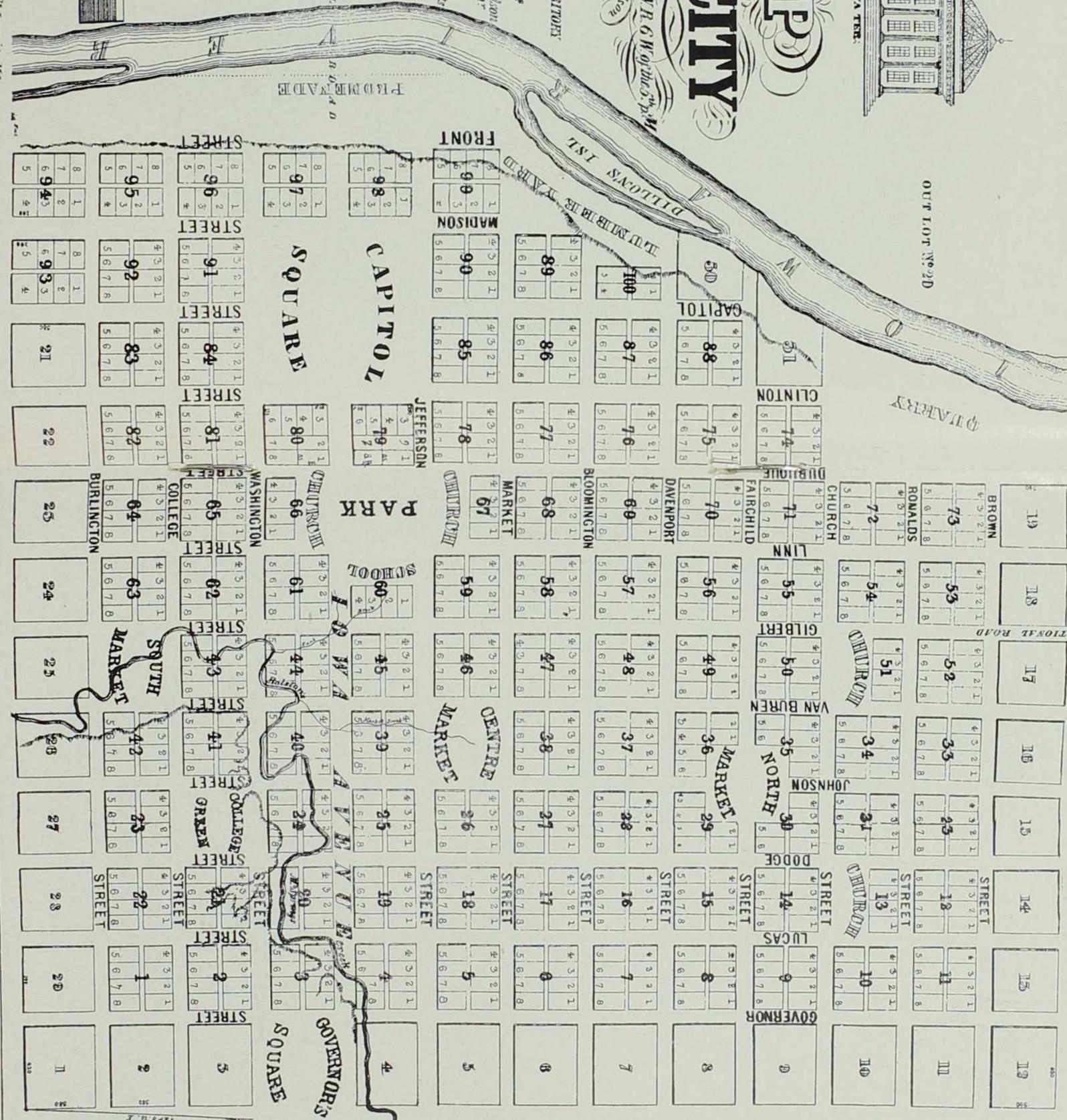
IOWA CITY

ESTATED IN 1838
 BROWN & LINDSAY

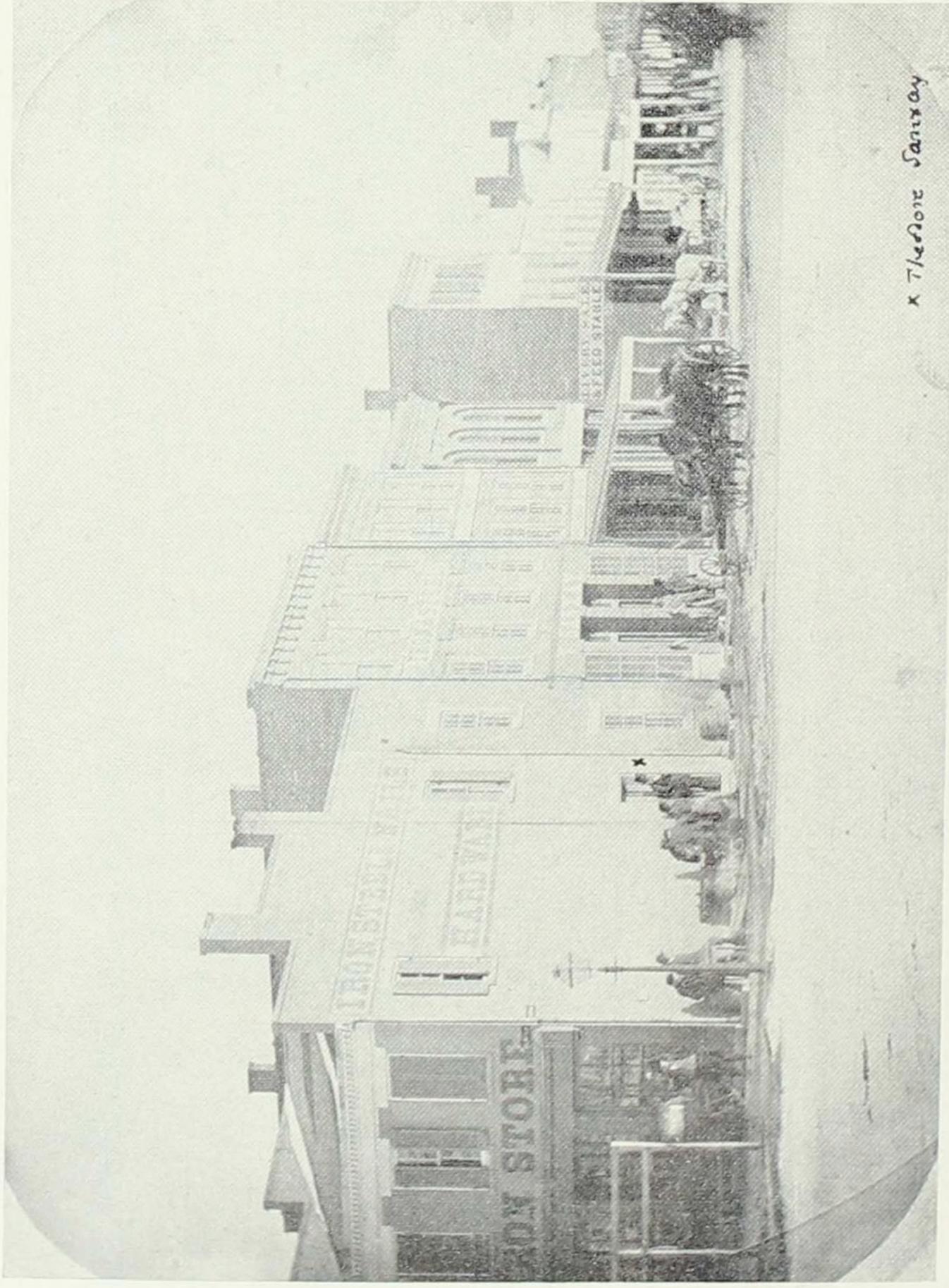
THE CITY OF IOWA TERRITORY
 LOCALITY MAP
 JOHN H. HARRIS, Commissioner
 and Surveyor by Miss. C. A. ...
 under the direction of ...
 EXPLANATION
 BLOCKS are 330 feet square regular lots are 80 by 150
 the dimensions of ...
 are noted in their respective ...
 feet are 90 feet Iowa Avenue is 120 feet wide Washington Jefferson Ohio Ave. Capitol and Madison Streets are each 100 feet wide and others are 80 feet



E. Dupré's Lith. St. Louis, Mo.



LOT 6, BLOCK 80 IN IOWA CITY IN THE 1860'S

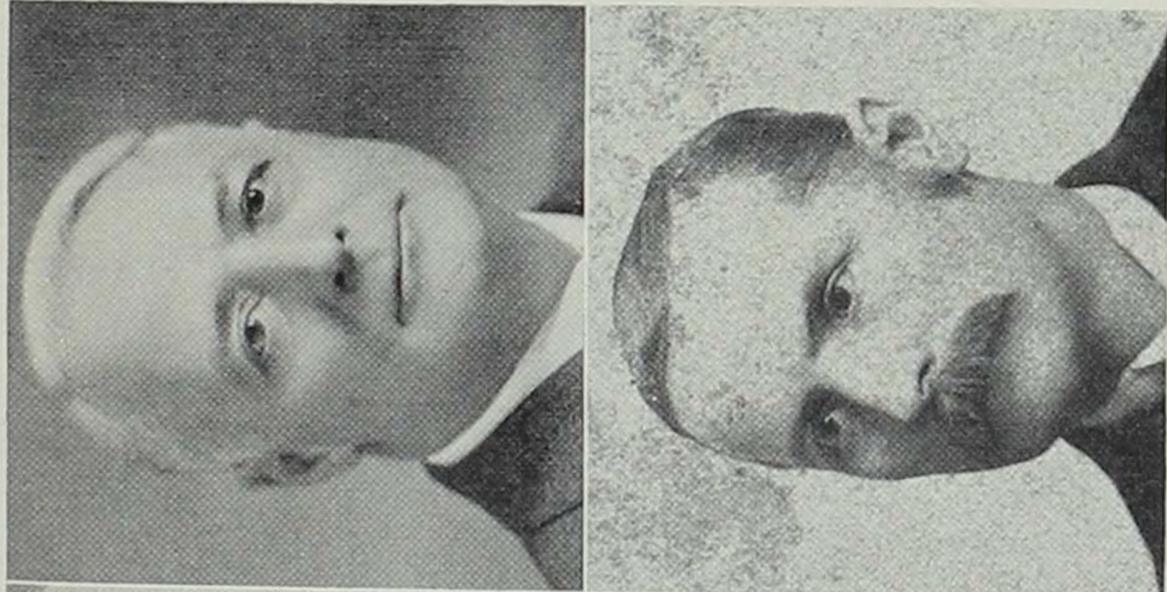
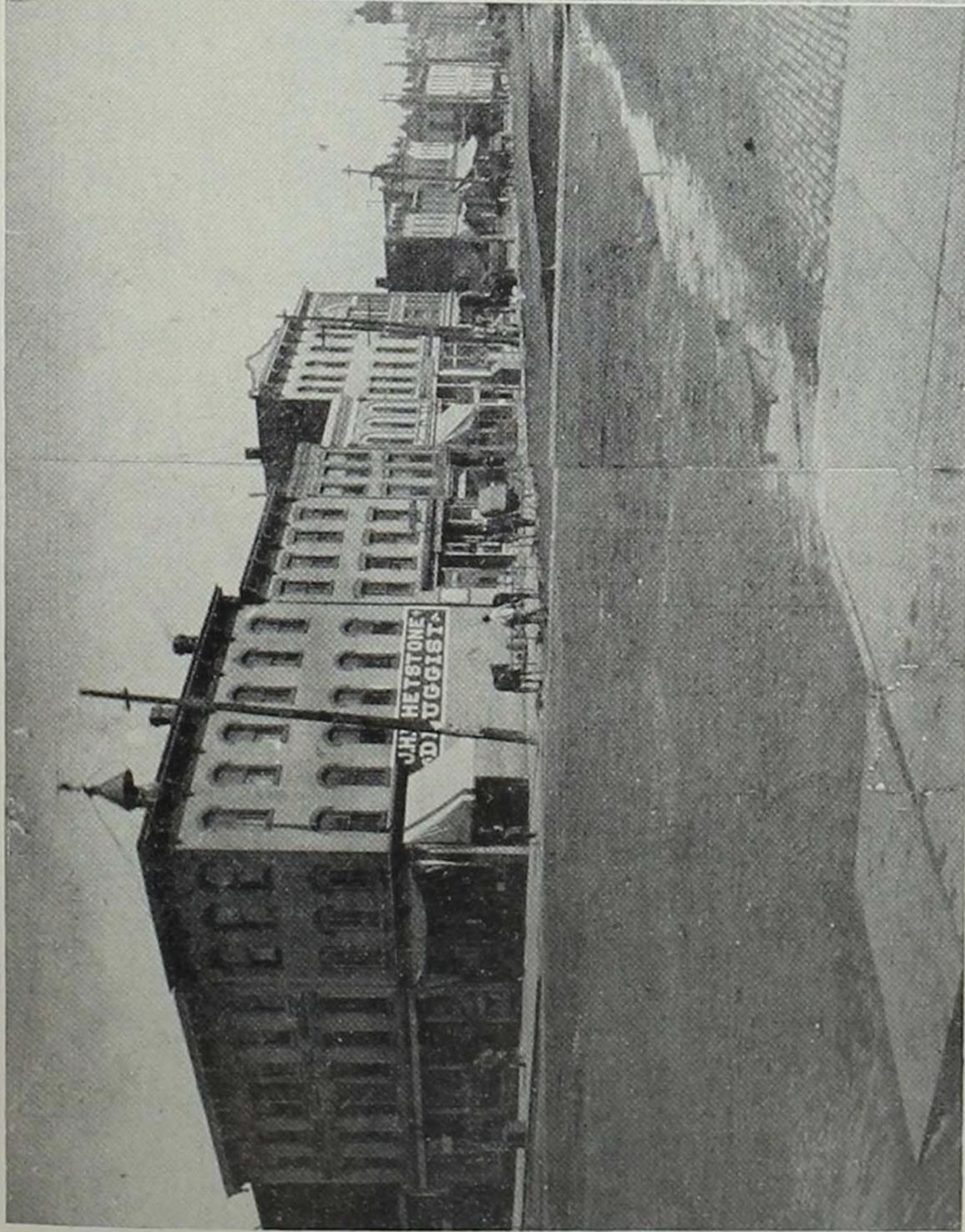


x Whetstone Sanxay

This was the corner of Clinton and Washington streets in Iowa City in the 1860's, with Sanxay's hardware store occupying the building where Whetstone's Drugstore is now located.

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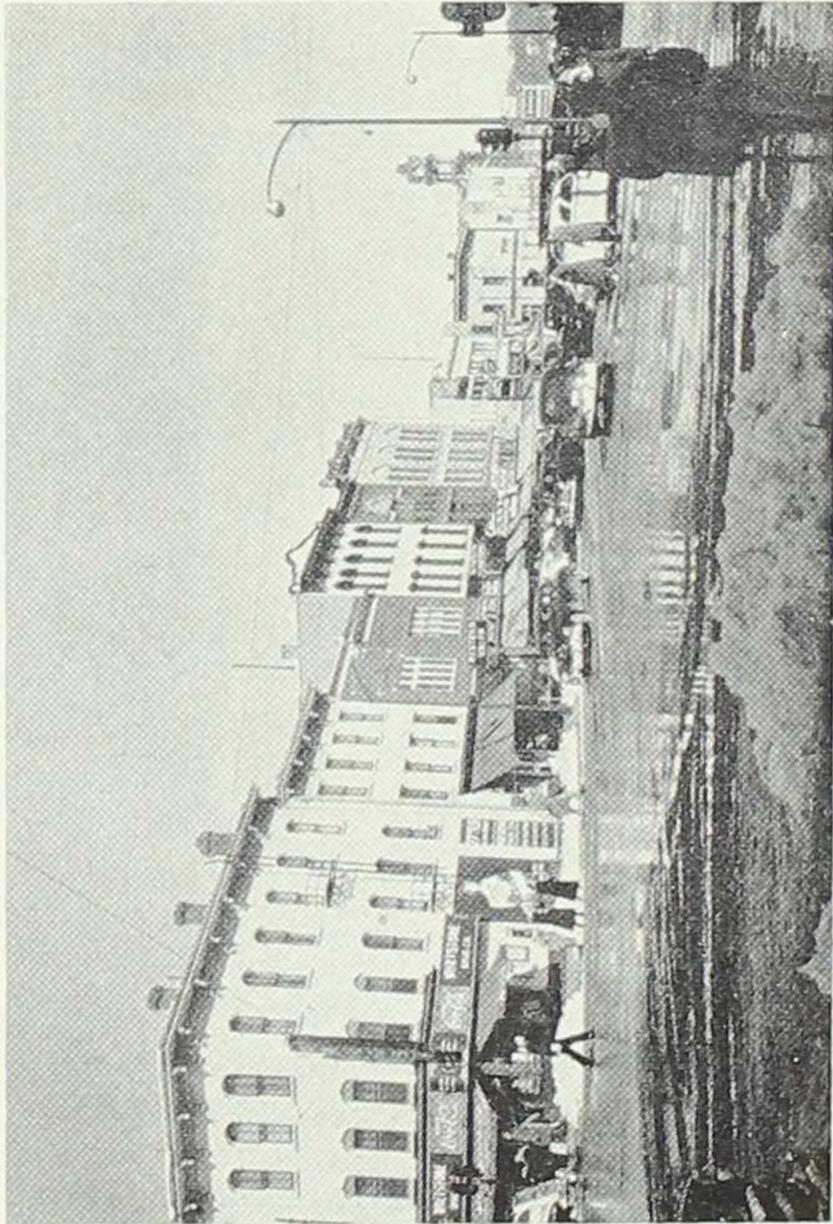
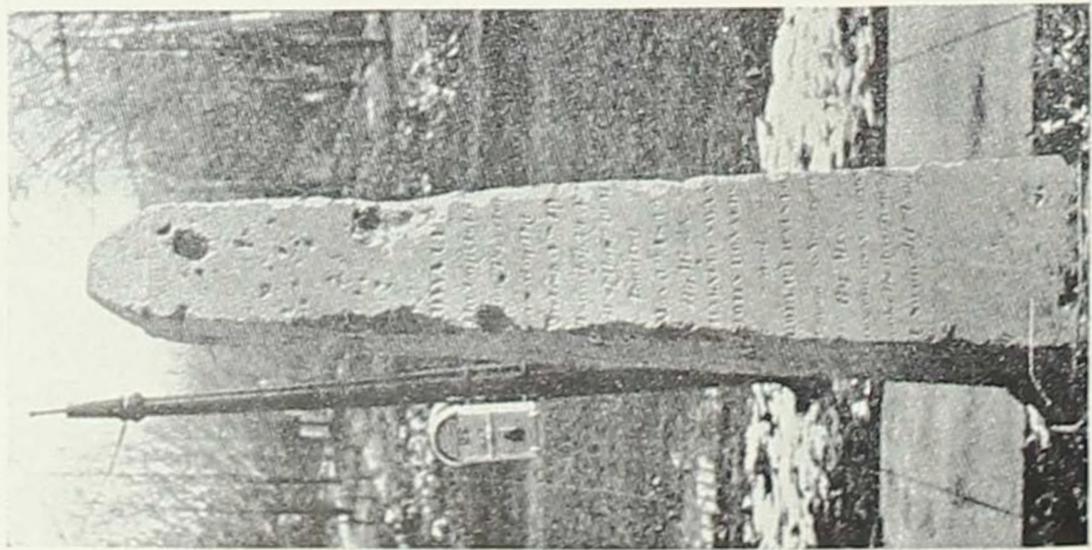
THE SAME CORNER FORTY YEARS LATER



Courtesy Robert R. Whetstone

On the left is the corner of Clinton and Washington streets about 1900, revealing the changes in buildings and businesses since the 1860's. On the upper right is Robert R. Whetstone, who for many years ran Iowa City's famous Whetstone's Drugstore, moved here in 1876 by his father, John H. Whetstone (lower right).

IOWA CITY LANDMARKS: OLD AND NEW



Courtesy Kent Photography

On the left is the historic, weatherbeaten monument located on the west side of South Summit Street, Iowa City. It was erected by the town's early surveyors in 1839 to indicate the southeast corner of the original plat of Iowa City. Above is a modern Iowa City landmark, the Whetstone corner at Clinton and Washington streets.

license bakers and regulate the price and weight of bread, and to prohibit the baking of the same for sale, except by those licensed; and also to pass all such by-laws and ordinances not inconsistent with the constitution and laws of the United States, or of Iowa, as they shall deem necessary and proper, for the health, safety, cleanliness, and convenience of said town.

Divorce was the subject of frequent legislation in Butler's Capitol. The Fourth Legislative Assembly passed eleven laws granting divorces. Two acts were passed before the Christmas holidays — both on December 21, 1841. Chapter 2 provided that the "marriage contract heretofore existing between John Haynes and Celia Haynes, late Mrs. Celia Farley, be and the same is hereby dissolved." The act dissolving the bond of matrimony existing between Nicey Hull and Charles Cornelius Hull, provided that Nicey Hull "be henceforth known by the name of Nicey Livingston." Three divorces were approved on the closing days of the session: James V. Hill, of Linn County, from his wife Eliza Hill; Clarissa Welch, from her husband Samuel C. Welch; and Rebecca Fisher, from her husband John Fisher.

Ten private corporations were established by the Fourth Legislative Assembly. Four of these were designated to promote literary and educational interests: the Iowa City Mechanic's Mutual Aid Association, the Mechanic's Institute of Dubuque, Washington College at Washington,

and Mount Pleasant Literary Institute at Mount Pleasant. Two manufacturing companies were incorporated: the Washington Manufacturing Company and the Cedar Rapids Manufacturing Company. Three measures provided for the organization of insurance companies: the Bloomington Insurance Company, the Dubuque Insurance Company, and the Farmington Insurance Company. One measure amended the law relative to the incorporation of "Religious Societies."

Two measures changed the names of towns. Vandenburg in Clinton County became DeWitt, and Rising Sun in Van Buren County became Pittsburg. The next to the last measure (Chapter 126) appropriated \$1,200 "for the promotion of agriculture, and household manufactures in this Territory" and was to be distributed among the various counties. Chapter 84 provided for a vote by the people on the "subject of the formation of a Constitution and State Government."

During the Territorial period members of the Legislative Assembly were paid three dollars per day during their attendance at the session, and "three dollars for every twenty miles travel in going to and returning from the said session, estimated according to the nearest usually traveled route." The presiding officers were paid at the rate of six dollars per day. Chapter 125 provided "for the compensation of Members, Officers, and Printers of the Legislative Assembly, and for oth-

er purposes." The total appropriations was \$24,-413.80, and the following were the major costs:

Pay and Mileage of House Members.....	\$6,434.80
Pay of House Officers.....	2,700.00
Pay and Mileage of Council Members.....	3,214.50
Pay of Council Officers.....	2,025.00
W. Lewis—extra pay as Speaker of House.....	225.00
J. W. Parker—extra pay as President of Council	225.00
Stationary, candles, &c. paid by Secretary.....	1,651.41
Van Antwerp & Hughes—papers furnished House	491.00
Van Antwerp & Hughes—papers furnished Council	259.00
Van Antwerp & Hughes—printing House & Council bills, reports, &c.	2,674.44
Wm. W. Coriell, Printing 1841 House Journal..	900.00
Russell & Hughes, Printing 1841 Council Journal	750.00
James M. Hawkins (postmaster) for postage of letters, papers, documents, &c. House Members	309.21
Council Members	219.38
J. W. Woods, transcribing, indexing, and prepar- ing Council Journals for publication, &c.....	350.00
J. T. Fales, transcribing, indexing, and preparing House Journals for publication, &c.....	350.00
John B. Newhall, 38 copies of Sketches of Iowa..	57.00
Walter Butler, for 75 cords of wood.....	150.00
Walter Butler, for receiving furniture of the Ter- ritory, cutting wood, putting up stoves &c...	18.50

Most of the twenty-four other bills were negligible, one of the smallest being to Justice of the Peace John Hawkins — \$3.00 for swearing in twenty-two members. S. Parker was paid 75¢ for

ink stands and Miles Driskell \$2.00 for furnishing paste for "enveloping" the Journals.

The Legislative Assembly refused to pay Walter Butler any rent for the use of Butler's Capitol on the grounds that it had been offered free rent if it would meet in Iowa City while the new stone capitol was under construction. At the same time it did allow James W. Grimes \$100 for the rent of a room to Governor John Chambers as his Executive Office in Burlington, and Father Samuel Mazzuchelli received \$60 "for rent of room to store the furniture of the Legislature and Council, 12 months, as per contract with former Secretary."

The Legislative Assembly convened on Monday, December 6, 1841, and remained in session until Friday, February 18, 1842 — a period of seventy-five days. During that time there were ten Sundays, a nine-day Christmas recess, and two Saturdays when the Assembly did not convene. Accordingly, the Assembly was actually in session fifty-four days. During the session 152 bills and joint resolutions were introduced in the Council and 149 in the House — a total of 301 measures. Of this number 127 bills and nine joint resolutions were enacted into laws. The legislative grist ground out by the Third, Fourth, and Fifth Legislative Assemblies reveals that the Fourth Legislative Assembly, which toiled in the Butler Capitol, did well compared with the Third which met in Old Zion Church at Burlington, or

the Fifth, which was the first to convene in the new territorial Capitol at Iowa City in December, 1842.

<i>Legislative Assembly</i>	<i>Capitol City</i>	<i>Building</i>	<i>Acts</i>	<i>Reso- lutions</i>
Third	Burlington	Old Zion Church	101	4
Fourth	Iowa City	Butler's Capitol	127	9
Fifth	Iowa City	Stone Capitol	84	10

The work of the Fourth Legislative Assembly in Butler's Capitol compares favorably with that of any other legislative body during the Territorial period. Despite bitter partisan politics over patronage and appointments, much constructive legislation was passed and the way was prepared for still more fruitful sessions in the Stone Capitol rising on the banks of the placid Iowa.

The following winter the *Iowa Capitol Reporter* found the Stone Capitol ready to receive members of the Fifth Legislative Assembly. According to the editor:

The Legislature of the Territory commences its session in this city on Monday next. The members "*fresh from the people*" are flocking in thick and fast, from the North, the South, the East, and we had like to have said from the West. The sleighing is fine, the sleigh-bells are jingling, the stages are staving around, and in short our little city, usually quiet and unostentatious, presents quite a bustling, business appearance. Our City Hotels are all remodeled, renovated, and fitted up, snug and comfortable, and, we might even say, tidy, for so far West, for the accomoda-

tion of the dignitaries of the Territory, office-seekers, visitors, genteel loafers, (if there should be any such,) and all others. The new Capitol is so far completed as to afford comfortable accommodations for the people's servants to do the people's business; — and to all appearances we shall have one of the most orderly, industrious, temperate and useful Legislatures, this winter, that has ever convened in the Territory.

Iowa City had undergone a truly amazing growth during the summer of 1842. Although still four years away from statehood, when the Fifth Legislative Assembly convened the future "Athens of Iowa" was already manifesting the spirit and enterprise that has marked its progress over a century of time.

WILLIAM J. PETERSEN