

Legislation in 1842

One hundred years ago, when the Fourth Legislative Assembly was in session, John Tyler was President of the United States, John Chambers was Governor of the Territory of Iowa, the seat of the Territorial government was Iowa City, and the Assembly met in Butler's Capitol. At that time the Indians still occupied large areas in Iowa. But the Black Hawk Purchase and the Purchase of 1837 were being rapidly settled and surveyed. Local government kept pace with the westward advance of population. Eighteen counties were represented in the Legislative Assembly.

In the House of Representatives Lee County, which constituted the first district, was represented by William Patterson, E. S. McCulloch, and Henry J. Campbell. Van Buren County was represented by John M. Whitaker, Oliver Weld, and Uriah Biggs. Des Moines County had five Representatives — Isaac Leffler, David E. Blair, George Hepner, Alfred Hebard, and James M. Morgan. Henry County was represented by Paton Wilson, Simeon Smead, and Asbury B. Porter. Richard Quinton, William L. Toole, Thomas Baker, Samuel Holliday, James K. Moss,

and Henry Felkner represented Jefferson, Louisa, Washington, Muscatine, Jackson, and Johnson counties respectively. A district consisting of Cedar, Jones, and Linn counties was represented by Samuel P. Higginson and Thomas Denson. Scott and Clinton counties also formed a single district with two Representatives — Joseph M. Robertson and James Grant. Warner Lewis and C. H. Booth represented Dubuque, Clayton, and Delaware counties.

In the Council the counties of Dubuque, Jackson, Clayton, and Delaware were represented by Mortimer Bainbridge and J. S. Kirkpatrick. Scott and Clinton counties were represented by J. W. Parker. Cedar, Linn, and Jones counties sent George Greene to the Assembly. S. C. Hastings spoke for Muscatine and Johnson counties. Francis Springer represented Louisa and Washington counties. J. B. Browne and Ed. Johnston represented Lee County. Henry County was represented by W. H. Wallace, Jefferson County by W. G. Cook, Van Buren County by G. S. Bailey and James Hall, and Des Moines County by Shepherd Leffler.

“Notwithstanding the extreme inclemency of the weather” immediately preceding the beginning of the session, every member of the Council except Mr. Hall of Van Buren County, and all members

of the House except Messrs. Hebard, Weld, Quinton, and Denson were in Iowa City ready to take their seats on the first day of the session. The day on which most of the members left their homes was "excessively disagreeable," a cold sleet having fallen during the whole day, accompanied by high winds. During the night the rain ceased, "but the cold increased, and with it the wind, to a degree of fierceness sufficient almost to blow the hair off one's head." It did "make sad havoc with the hats and cloaks" of those who breasted "the pitiless peltings of the storm".

Mr. Quinton was present when the House was called to order on the second day. Mr. Denson and Mr. Hebard arrived at the capital two days late, and Mr. Hall and Mr. Weld, both of Van Buren County, were eight days on the road to Iowa City, being detained by high water at both Cedar Creek and the Skunk River. "They crossed those streams through running ice with a good deal of difficulty and risk, and found it necessary to go round by way of Burlington" in order to reach Iowa City.

At the capital the legislators discovered that "they were in a haven of safety and comfort". Some of them found conditions quite different from what they had anticipated. They had supposed 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." But in reality "a widely and totally different state of things presented itself." They found themselves in a most thriving town of some seven or eight hundred inhabitants, "built upon a site unsurpassed for beauty". They found 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 the city, by the by, were plainly perceptible in this arrangement" and many thanks were due them. Much credit was also due to "our public-spirited fellow citizen, Mr. Butler", for his exertions in getting the building in readiness for the legislators.

During the Territorial period members of the Legislative Assembly were paid three dollars per day during their attendance at the session, and "three dollars each for every twenty miles travel in going to and returning from the said sessions, estimated according to the nearest usually travelled route." The presiding officers were paid at the rate of six dollars per day.

The organization of the Fourth Legislative Assembly was attended with much interest. Since

the Democratic party had a majority of members in each house, it accordingly claimed the spoils of office. Warner Lewis, of Dubuque County, was elected Speaker of the House without special incident. But when Jonathan W. Parker was declared elected President of the Council he was at once accused of having voted for himself in order to obtain the office. This was a very odious offense in the opinion of the Whigs.

The *Iowa City Standard*, a Whig paper, in commenting upon this incident said: "Mrs. Parker received 7 votes, Mr. Bainbridge 4 votes, Mr. Greene 1 vote, Mrs. Parker *voting for herself!* What will Mrs. Parker's constituents think of this? Will they not feel dishonored by this act of hers? — time will determine."

The *Iowa Capitol Reporter*, a Democratic paper, replied by saying it was not certain that "General Parker" had voted for himself. But if he did it was a commendable thing to do. Of the thirteen members of the Council, seven were Democrats, and the affirmative vote of seven members was required to elect a President. Hence if Mr. Parker voted for himself, he did it "IN CONFORMITY WITH A SOLEMN DUTY WHICH HE OWED THE DEMOCRATIC PARTY". He was commended for doing his duty, "regardless of the murmurings of his political enemies."

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, nine other holidays at Christmas time, 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.

One of the chief problems which confronted the legislators was a consideration of the pioneer means and methods of transportation. Of the 127 bills that became laws, thirty-one were measures dealing with the improvement of roads, and ten were measures granting permission to operate ferries.

One of the statutes dealing with roads was a general law which provided that "all applications for laying out or re-locating any county road, shall be by petition to the commissioners of the county, signed by at least twenty legal voters, residing within three miles of where the said road is to be laid out or relocated". Provision was also made for the building of bridges at the expense of the county.

Another measure authorized the board of commissioners of the several counties, through which the military road "from Dubuque via Iowa City, to the Missouri line" extended, to open and improve this road as other Territorial roads were opened and improved. A law was passed which provided for the relocation of the road "running from West Liberty to intersect the military road, in direction to Dubuque, laying between Red Oak Grove, in Cedar county, and Edinburgh, in Jones county." The construction of another Territorial road from Fairfield, in Jefferson County, to Portland, in Van Buren County, and thence to the Missouri border was authorized.

Three statutes stipulated that roads should be built to mills. One of these laws provided for a Territorial road "from Deed's mills on Skunk river, in Jefferson county, by way of Brighton in Washington county, the house of Beriah Harworth in said county, Western City in said county, thence [by the] nearest and best way to the west boundary line of the Territory". A similar measure described a road from Thomas Lingle's mill in Johnson County, by way of Westport to Marion, in Linn County, "on the most practicable route". The third enactment proposed a road from the town of Crawfordsville, in Washington County, by way of New London "to

Smith's Mills" at the present site of Lowell in Henry County.

Portions of the Territorial road from Iowa City to Prairie du Chien were relocated. The construction of certain roads in the vicinity of Burlington was authorized. Four laws provided for Territorial roads in Lee County. Changes were made in the roads of Linn, Jefferson, Clayton, Delaware, Louisa, and Muscatine counties. Other legislation pertained to roads in the counties of Dubuque, Washington, and Van Buren.

To further facilitate transportation a law was passed which required county boards of commissioners to establish the rates of ferriage on every ferry within the several counties. Eight statutes authorized the operation of ferries on the Mississippi River — four in Jackson County, one in Clinton County, one in Lee County, one in Muscatine County, and one in Scott County. Another measure authorized the operation of "a ferry across the Des Moines river opposite Watertown."

Divorce was a subject of frequent debate in the Fourth Legislative Assembly, for in Territorial days divorces were often granted by legislative action. The Assembly which deliberated in Butler's temporary capitol at Iowa City in the winter of 1841-42 passed ten laws dealing with this sub-

ject. One of these was a general measure which provided that when a husband was about to abandon, or had abandoned, his wife, with the intention of leaving the Territory, he might be restrained by the issuance of "a *capias*" by the clerk of the district court and be required to give bail to appear at the next term of court, at which time the case would be adjudicated.

The other nine divorce acts were in the nature of special legislation dissolving the marriage contracts of the persons named in the laws. These enactments were brief and very similar in character. One, for example, provided that "the bonds of matrimony now existing between John E. Ely and Minerva Ely, be and the same are hereby dissolved from and after the passage of this act."

In considering a bill for the divorce of Nicey Hull from C. C. Hull there was some parliamentary sparring in the Council, and Francis Springer was evidently much perturbed. He moved, in a somewhat facetious manner, to amend the bill to provide that "from and after the passage of this act, parties may become divorced from the bonds of matrimony by filing, in the office of the Clerk of the District Court, in any county in the Territory, a paper signed by themselves declaratory of their mutual consent to the dissolution of the marriage contract subsisting between them, without the

intervention of a court of Chancery or an application to the Legislative Assembly. And when either party to a marriage contract may be desirous of becoming divorced, the marriage contract shall be rescinded by filing, as aforesaid, a statement expressive of his or her desire to become divorced, with their seals thereunto affixed and attested by two justices of the peace."

That Mr. Springer was not serious in this matter is shown by the fact that he called for the yeas and nays on the amendment, and then voted against it. The amendment was lost by a vote of 12 to 1 — the President of the Council alone having voted for it.

Ten private corporations were established by the Fourth Legislative Assembly. Four of these were designed 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. One measure amended the law "relative to the incorporation of Religious Societies". Two manufacturing companies were incorporated: the Washington Manufacturing Company and the Cedar Rapids Manufacturing Company. And three measures provided for the organization of insurance companies: the Bloomington Insur-

ance Company, the Dubuque Insurance Company, and the Farmington Insurance Company.

One hundred years ago cities and towns were incorporated by special charters. The Fourth Legislative Assembly passed six measures of this type. 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 previously been incorporated, were granted new charters, and laws were passed to incorporate the towns of Mount Pleasant and Keosauqua.

In 1842 Iowa was utilizing natural resources in the development of industry. Accordingly, six measures were passed by the Fourth Legislative Assembly granting permission to construct dams for the development of water power. Four of these were to be located on the Skunk River, one on the Wapsipinicon River, and one on the Des Moines.

Two measures changed the names of towns. Vandenburg in Clinton County became De Witt. The other act changed the name of Rising Sun in Van Buren County to Pittsburgh. Later the name Rising Sun was adopted by a town in Polk County.

Members of the Legislative Assembly one hun-

dred years ago were anxious to serve the best interests of their local communities and the Territory at large. Yet there is evidence that political party lines were closely drawn, and political bickering was not entirely unknown. The adherence to political lines is reflected in the letting of the contracts for printing. Throughout the legislative session the Democratic party had the greater voting strength. Accordingly, the printing contracts were given to the Democratic press, the *Iowa Capitol Reporter*. This caused bitter attacks by the Whig papers. But the editor of the *Reporter* calmly replied that in matters of legislation every one should "lay aside any feelings of animosity, or jealousy" and each should work for the best interests of all.

Another incident of interest in the proceedings of the Fourth Legislative Assembly was the report of a committee of the Council refuting charges against Chauncey Swan who was at that time Superintendent of Public Buildings at Iowa City, and was charged with having "exercised an undue influence over the freedom of elections" while discharging his duties. The committee found no evidence of such guilt and presented affidavits to refute the charges.

S. C. Hastings speaking for the committee said: "How great a crime it may be for Mr. Swan

to have possessed the confidence of his fellow citizens so far as to have had the influence that pertains to an honest and upright citizen, your committee are not prepared to say; but so far as Mr. Swan is charged with having brought the influence of the office which he holds to interfere with the freedom of elections, or the right of expression of opinion, this charge is proven to be untrue by the affidavits of Dr. Henry Murray, Stephen B. Gardner, John Homer and others".

The record of the Fourth Legislative Assembly was worthy of the able and loyal men who composed the legislature. At the close of an evening session on Thursday, February 17, 1842, the Assembly adjourned to meet again at "7 o'clock tomorrow morning". In the morning after a very brief session the Assembly adjourned *sine die*. The work of the Fourth Legislative Assembly had become a matter of history.

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