



JUDGE BYRON RICE

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THOUGH not one of the earliest settlers here, Byron Rice, who came in September, 1849, may be recorded the father of Des Moines, as a civil compact; for, prior to 1849, the county and the town were comparatively unorganized. It was the formative period. Schools were supported by subscriptions, and in the country the teachers "boarded 'round." Schoolhouses were made of logs by the people of a neighborhood, who, upon a given day, would bring logs together and build the house. A fund would be raised by subscription, and a teacher employed, whose compensation was fixed by circumstances and conditions. If a married person, potatoes, corn, family supplies—even rails would be accepted; for, in 1846, a contract was made with a rural teacher wherein he was to teach Spelling, Reading, Writing, and Arithmetic three months for a dollar and a half per scholar, provided twenty scholars were signed, or a total of thirty dollars (whether for each month or the full term, the contract does not say). The citizens agreed to furnish a suitable house and board the teacher. The salary could be "paid in rails at the customary price."

Until 1849, all schools in Polk County were subscription schools and at The Fort were held in barrack log buildings left by the soldiers, under rude and uncomfortable conditions. Father Bird was the first to get under his own roof. Miss Davis, who occupied one of the larger buildings, had to move out whenever the Honorable, the District Court, came, or there was some important public meeting to be held.

In 1849, was organized the first Public School District of Fort Des Moines, and Byron Rice was elected teacher. He was a young man, about twenty-three years old, a newly fledged lawyer, of prepossessing appearance, and bearing an impress of sterling qualities. Moreover, he was out of a job. The school opened for the Fall and Winter term in the Methodist Church, a 24x30 foot frame

structure on Fifth Street, where the Iowa Loan and Trust Building now is.

After a few weeks, the school was removed to the partly finished Court House, standing on the site of the Union Depot. There were no outside doors; the inside doors, rough boards made by carpenters; walls unplastered. The room was heated with a box stove at one end, and an old cook stove, abandoned by the soldiers, at the other end. He always said he got along very well. He had the faculty to adapt himself to circumstances, as afterward was fully disclosed. He continued teaching during the following Summer, when he determined to practice law, that being his profession.

For the next term of school, in 1850, one Charles L. Anderson was an applicant to succeed him. November Twenty-fifth, the School Director, "Sammy" Gray, who plastered the first frame house in the town (Doctor Grimmel's), and William W. Jones, a farmer, on the north town limit (all the Jones hereabout had a "W" in their middle name—George W., John W., and William W., etc.), held a meeting to test his qualifications. Madison Young, a thoroughly educated man, somewhat unique, was secretary of the board. Jones declined to take part in the examination, and requested the appointment of Lewis Whitten, a former subscription school teacher, and Byron Rice to make the examination, Rice to quiz in Mathematics. Then they rested, and Anderson was put through his stunts. Whereupon the board, with all due appreciation of the dignity of their office, prepared the report of their doings, and directed Madison to place it on record, to-wit:

"The undersigned Board of Directors of the School District Number Five, Des Moines Township, in Polk County, State of Iowa, have this day examined Charles L. Anderson, a school teacher employed by them, and find him qualified in point of talent and learning to teach school in said district.

"SAMUEL GRAY,

"W. W. JONES,

"Directors.

"FORT DES MOINES, NOVEMBER TWENTY-FIFTH, 1850."

To the report Madison affixed the following addenda, for reasons known best to himself:

"The Secretary will further state that Lewis Whitten, acting as examiner in place of W. W. Jones, treasurer, came to the conclusion that Charles L. Anderson, teacher, as aforesaid, was incompetent to teach school in point of learning and ability, but made no written report upon the subject.

"Byron Rice, examiner in Arithmetic, asked Charles L. Anderson, teacher, as aforesaid, why he multiplied the numerators together in multiplication of Vulgar Fractions. Mr. Anderson was unable to tell. Mr. Rice further asked Mr. Anderson why he inverted the divisor in division of Vulgar Fractions. Mr. Anderson was unable to tell. Mr. Rice gave Mr. Anderson some sums to do in Complex Fractions. Mr. Anderson remarked that they were of no earthly use, or practical benefit, and if scholars should bring arithmetics to his school that had Complex Fractions in, he should order them to tear such Fractions out of their books.

"Byron Rice refused to make any report.

"Madison Young, Secretary, examined Charles L. Anderson in Reading, Writing, Spelling, Arithmetic and English Grammar, and came to the conclusion that Charles L. Anderson did not possess sufficient knowledge in Reading, Arithmetic and English Grammar to teach the same, and was incompetent to teach a public school.

"MADISON YOUNG,
"Secretary.

"NOVEMBER TWENTY-FIFTH, 1850."

Whether or not Anderson taught the school, the record does not show, but, as on the Twenty-fifth of March, the treasurer, Jones, paid him twenty-five dollars, the presumption is he did. What became of the Fractions, I have been unable to learn from the records or any of the scholars.

It was quite common in those early days for a man to get places he was not entitled to. Hoyt Sherman learned that when he got the majority vote for Sheriff, and D. B. Spaulding got the office. So, also, W. W. Williamson, who was elected Judge of the District Court, and even received his commission, but the noted, if not notorious, McFarland got the place.

It was the accepted unwritten law, up to 1856, that only Democrats could hold public office in Polk County, and Barlow Granger, "Dan" Finch, "Ben" Bryant *et al* saw that the law was enforced.

In 1850, Rice formed a law partnership with J. E. Jewett. His first case in court was to defend a man charged with a misdemeanor, which, in law, covers a multitude of offenses—in fact, anything not specifically named in the statute. His opposing lawyer was John M. Perry, the Prosecuting Attorney, who blew into the town in the Spring of 1848—a very good lawyer, but egotistical, pompous and overbearing. Rice was tall, slender, dressed in good taste, and pleasing in manners. Perry had sized him up, and said to bystanders one day that he would have some fun with "that young man from New York when the case came on there was nothing of him a young upstart." Soon after the trial began, Perry commenced having his "fun" by insolence and bulldozing, which he carried so far as to call Rice a liar. No sooner was the word spoken than he lay sprawling on the floor. The act so pleased several people that they presented Rice with substantial tokens of their approval, and declared he should have Perry's place as Prosecuting Attorney, and at the next August election they made good. He was elected. Perry steered clear of Rice afterward. A year later he went to California, became a drunken sot, died in an alley, and was buried a pauper.

In November, following the election, S. R. Burbridge, who was County Judge, died, and, in accordance with the statutes, the Prosecuting Attorney became the County Judge until the next election.

The County Judge was the ruling power of the county his judgment, whether wise or otherwise, was final there was no appeal from it. He was an autocrat with unlimited possibilities and great responsibility. He issued and refused marriage licenses, levied taxes, ordered bridges and roads built, organized counties and towns, built court houses and jails. It was inevitable that he must be one having the most implicit trust and confidence of the people, and such was the fact, for from the first to last of them, in 1861, when the system was abolished, they were men of good judgment, strict integrity, and some of them had knotty problems to solve.

The Judge brought to his office a well-trained mind, a system of order and exactness in business transactions, and was at once a busy man, straightening out the tangled affairs consequent upon the incapacity or carelessness of others, and also to devise measures to meet the progress of events and rapid changing of conditions. The records of the county for the first two or three years were utterly unintelligible—often contradictory. With the aid of Hoyt Sherman, then County Clerk, order was brought out of chaos.

In 1851, the people concluded The Fort had become big enough to go alone, and they asked the Judge for the privileges of a corporation. He thereupon, on the Twenty-second of September, ordered a special election "For" or "Against" incorporation.

"For" received every vote but one. Who the negative alien was never transpired. On the Twenty-seventh, he ordered another election for the selection of three persons to prepare a Town Charter. Judge Casady, Lamp. Sherman and Father Bird were chosen. October Eleventh, they reported to the Judge a charter and boundaries of the town. Another election was immediately ordered on the adoption of the charter. It received every vote, and continued in force until 1862, when the Legislature, by special Act, incorporated the town. It can therefore fairly be said that the Judge was the father of the town. What would the people to-day think of four city elections in one month?

While the Judge was in the corporating business, he laid out and organized the counties of Hardin and Story, as his jurisdiction extended over all territory north and west, except Boone and Dallas counties.

In 1853, the people were clamorous for railroads. Despairing of getting any relief through the River Navigation Company, they turned to railroads. The air was full of projects the state was gridironed with roads—on paper—some of them so tortuous as to be dubbed the "Ram's Horn," the "Sheep's Leg," etc. The Chicago and Galena Road had reached Galena. Of the several projects, the Lyons and Iowa Central Air Line, to be connected with the Galena, thence, via Lyons, Maquoketa, Iowa City, and Des Moines, to the Missouri River, seemed to be the most feasible and promising.

Yielding to the public sentiment, Judge Rice ordered an election, at which it was voted to subscribe one hundred and fifty thousand dollars to aid in building this road, but the Judge was "from Missouri"—he refused to issue any bonds until there was something to show for them. The road never got beyond the paper stage.

In the meantime, the Mississippi and Missouri Road was started from Davenport, to go to Missouri River by a route offering the best inducements. Strong effort was made to have the subscription to the Air Line Road transferred to this road. Judge Rice refused to sanction it, but later, under Judge Napier, who succeeded Rice, three hundred thousand dollars was voted by Polk County. Several other counties also voted aid and issued bonds, for the road was impecunious and clamorous for money, but Napier refused to issue bonds. The road got as far as Iowa City, became bankrupt, and was sold to the Chicago and Rock Island. Despairing of ever getting the road, Napier ordered an election, at which the subscription was rescinded, and Polk County—though it finally got the road—escaped the troubles and expensive litigation with counties which issued bonds, in which not a mile of road was built. For many years after, their Boards of Supervisors were hauled before the Federal Court here, fined and ordered to prison for contempt of court in refusing to levy a tax to pay the judgments on the bonds. They finally had to do it.

In 1855, the Judge resigned, and, with A. Newton, Wiley C. Burton, and Lovell White, built the Exchange Block, corner of Third and Walnut streets, the first brick business building erected in the town. The first floor was occupied by stores, and two banks, one of which was Greene, Weare and Rice. The upper floors were occupied with the United States Land Office, the River Improvement Company, Justice of the Peace, lawyers, etc. It was the center of business for several years. The *Register* was published there several years, and there James S. Clarkson was born into the literary world as "Ret."

In 1859, the Judge retired from the banking business and resumed the practice of law with "Dan" Finch, continuing to the Fall of 1876, when he retired from active business.

His last official act was the appointment of Doctor D. V. Cole, County Liquor Agent, under the prohibitory law, authorizing the sale of intoxicating liquors only by the County Agent.

Politically, the Judge was a Democrat of the conservative type. He was not a place-seeker, was public-spirited, and active in support of educational and civic advancement. Socially, he was popular. After his marriage, he built a fine house on Locust Street, west of where the Equitable Building is, where, with his jolly, good wife as hostess, social functions were frequent. Hoyt Sherman's house was at the corner of Sixth Avenue and Walnut Street, where the Utica Block now is. There were no other buildings in that section. There were few, if any, concerts or public amusements, hence the young folks had to amuse themselves. There was generally some social scheme brewing at Hoyt Sherman's, or "Dan" Finch's. It would be a dance, a picnic, a "surprise" on somebody in the country, or a serenade of the whole neighborhood, with most excruciating harmonies, the usual reward being a cabbage, a bunch of onions or wilted posies pitched out of an upper window, and received with exuberant thankfulness. In either event, there was more real, satisfying enjoyment than is had to-day, so say the old "girls" with a ringing laugh, as they tell it.

In the State House location fight, the Judge was a West Sider, and subscribed five hundred dollars to the "war fund."

He went to his final rest in 1897.

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