

CHAPTER II.

EARLY HISTORY—THE NAME—IMPORTANT DATES OF PUBLIC NOTICES—IMPORTANT PROCEEDINGS 1836 COUNTY COURT—FIRST CIRCUIT COURT—THE FIRST ATTORNEY FISTICUFF IN COUNTY COURT—MISCELLANEOUS NEWS FROM EARLY COURT DOCKETS—THE FIRST SHELBY COUNTY ELECTION—AUGUST ELECTION, 1836—AUGUST ELECTION, 1838—AUGUST ELECTION, 1839.

EARLY HISTORY.

October 1, 1812, Governor Clark issued a proclamation by which St. Charles county was organized and this Shelby county became a part thereof. December 14, 1818, Pike county was organized and it was included in the borders thereof. November 16, 1820, Ralls county was created and Shelby was included. Then Marion county organized December 23, 1826, and this territory was "attached to the said county of Marion for all military, civil and judicial purposes," leaving the seat of justice far from the early settlements. From 1831 to 1834 the present territory, known as Shelby county, was virtually a part of Warren township, Marion county. But in May, 1834, the Marion county court made the following order :

"It is ordered that all that portion of territory formerly included in Warren township lying west of the range line dividing ranges Nos. 8 and 9; also all that portion of territory lying west of the boundary line of Marion county which by law remains attached to said county, shall compose a municipal township, to be called and known as 'Black Creek Township,' and it is further or-

dered that the clerk of this court shall transmit to the office of the secretary of state a description of said township."

Elections in Black Creek township were to be held at the house of William B. Broughton. The first judges of election were Thomas H. Clements, Richard Gartrell and George Parker. The first justice of the peace was Thomas J. Bounds; the first constable, Julius C. Gartrell.

In November, 1834, Marion county court formed out of Black Creek a new township, called North River, by the order which follows :

"All territory; bounded on the north by the Lewis county line, east by the range line between ranges 8 and 9, and south by a line drawn from a point in the western boundary of Warren township on the dividing ridge between the waters of Black Creek and North Two Rivers, to the western boundary of the county, is hereby created into a new municipal township, to be called North River Township."

The first justices of peace for this township were Alexander Buford and Abraham Vandiver; constable, Oliver H. Latimore. They held no elections until

the township was detached from Marion county. This part of the country grew very fast, the land was inviting and, as it took on proportion, the settlers, realizing that the seat of justice at Marion was too remote, and a demand for a newly organized county, with justice at hand, became a popular idea, and in accordance, January 2, 1835, their petition was granted and the legislature granted the county of Shelby. Following is the act to organize the county of Shelby:

"Be it enacted by the General Assembly of the State of Missouri, as follows:

"1. The territory bounded as follows: Beginning at the southeast corner of township 57, of range 9 west, thence west with the line between townships 56 and 57, to the range line between ranges 12 and 13; thence north with the last mentioned range line to the line between townships 59 and 60, thence with the last mentioned line, east to the range line between ranges 8 and 9; thence south with the last mentioned range line to the place of beginning, shall be a distinct county, called Shelby county.

"2. Elias Kincheloe, of Marion county; James Day, of Lewis county, and Joseph Hardy, of Ralls county, are appointed commissioners for selecting the seat of justice for said county of Shelby; and they are vested with all the powers granted to commissioners under the law entitled 'An act to provide for organizing counties hereafter established,' approved January the fourteenth, one thousand eight hundred and twenty-five, and said commissioners shall select the place for the county seat of said county, within three miles of the geographical center of said county.

"3. The courts to be held in said

county shall be held at the house of Mr. Broughton until the county court shall fix on a temporary seat of justice for said county.

"4. The county courts for said county of Shelby shall be held on the first Mondays in January, April, July and October.

"5. The said county of Shelby shall be attached to and form a part of the twelfth senatorial district, and shall, in conjunction with the counties of Marion and Lewis, elect one senator at the general election in the year eighteen hundred and thirty-six.

"6. The governor is authorized and required to appoint and commission three persons, residents of said county, as judges of the county court thereof, and one person, also resident of said county, sheriff thereof, who, when so appointed and commissioned, shall have full power and authority to act as such in their respective offices, under the existing laws, until the next general election to be held in said county.

"January 2, 1835." (See Territorial Laws, Mo., 1835, Vol. 2, p. 426.)

THE NAME.

A great dramatist says there is nothing in a name, and yet in the face of the assertion all mankind is curious about a name, and it, generally speaking, indicates a great deal. It intimates at least the character of the people who settle the country. Names sometimes fall by accident, sometimes association and again in honor. Whether it be a wise or unwise policy, the naming of counties after statesmen or generals, the legislature certainly adhered to the practice to that extent that three-fourths of the

counties of our state were christened after men more or less distinguished in the history of our country, and it so follows in the naming of Shelby county.

The county was named in honor of General and ex-Gov. Isaac Shelby, Kentucky's first governor (1792), who was again honored in 1812 and 1816.

The commissioners to select the seat of justice were Elias Kincheloe, of Marion; James Day, of Lewis; Joseph Hardy, of Ralls.

The governor, Daniel Dunklin, was authorized to appoint three county judges and a sheriff "to serve till the next general election." The act provided that the courts of the county should be "held at the house of Mr. Broughton until the county court shall fix on a temporary seat of justice."

The county courts were ordered to be held on the first Mondays in January, April, July and October. The county was made a part of the 12th senatorial district, Marion and Lewis being the rest of the district.

FIRST COUNTY COURT.

The first session of Shelby county court convened at the home of William B. Broughton (Mr. Broughton referred to in the legislative act), on Thursday, April 9, 1835. The following justices were present: James Foley, Thomas H. Clements and Adolphus E. Wood, who were appointees of the governor. Mr. Broughton lived at Oak Dale, Jackson township (section 5—57—9). By the order of court, James Foley was made presiding judge, Thomas J. Bounds, clerk, and Russell W. Moss, assessor. There being no further business court adjourned for a week.

They reconvened April 17, all the judges being present. John H. Milton, appointee to the office of sheriff, was present and took the oath of office. Samuel J. Parker was appointed constable of Black Creek township, to fill the vacancy caused by the resignation of J. C. Gartrell.

John H. Milton, appointee to sheriff, failed to give bond, and the May term of court recommended to the governor that Robert Duncan be appointed in his place.

At a special term of court May 18, 1835, Robert Duncan was appointed elizor until he could be commissioned sheriff.

At this special term the first roads were duly established: A road running from the county line between Shelby and Monroe counties, at the termination of the Florida road, to intersect a road passing W. B. Broughton's at his residence.

A road from Broughton's "to where the 'Bee road' crosses Black Creek."

A road from "the large branch nearly a mile east of George Anderson's house, to the range line between ranges Nos. 10 and 11"; but, on the remonstrance of Anderson and others, the order establishing this road was rescinded.

Previous to the above acts, there were no highways in the county worthy the name. The Bee roads (commonly known) were the only highways running north and south. The first justices of court were all men that ranked high as gentlemen of intelligence and experience. A. E. Wood was a New Yorker and settled at Oak Dale. He was a brother of the Hon. Fernando Wood and Ben Wood, of New York City, the former an honorable politician and statesman, the latter

a congressman, newspaper publisher and capitalist. Judge Foley located two miles east of Bethel, hailing from Kentucky. He died at Shelbyville before the Civil war. Judge Clements also hailed from the Blue Grass country. He lived near Oak Dale and died in 1850.

IMPORTANT DATES OF PUBLIC NOTICE.

It was W. B. Broughton's residence that was christened Oak Dale, in the spring of **1834**, to establish the first postoffice of the county, and Mr. Broughton was made its postmaster. Mr. Broughton got his first pointers of Mr. Obadiah Dickerson, who was the expert of the Palmyra postoffice in her early days. In the winter of **1834**, Mr. Broughton realized the necessity of a store for the needs of the settlers thereabout and opened up a small general merchandise store in the room of the postoffice.

In June, **1835**, Broughton and Holliday received license "to retail merchandise for the period of one year" at the same place.

In August, 1835, W. B. Broughton was appointed treasurer and Robert Duncan collector.

The county tax levy the first year of its existence was $12\frac{1}{2}$ cents on the **\$100**. Poll tax, $37\frac{1}{2}$ cents. Collector Duncan, in December, reported the delinquent tax to be **\$2.60**, due from the following persons: Levi Dyer, **75** cents; William D. B. Hill, **\$1.00**; Michael Lee, 85 cents.

In the absence of any official record on the subject, some idea of the amount taxable property in the county this year may be gleaned from the fact that Russell W. Moss received for his services as county assessor the pittance of **\$12.75**.

In November of the same year, a road

was opened from the county line, near what was known as Lyle's mill, on North Fabius, in Marion county, to Peter Stice's place, Bethel, Shelby county, giving the settlers in the eastern and north-eastern borders of the county "a nearer cut" to mill.

In December, **1835**, the plat of the seat of justice, which had been prepared by T. J. Bounds, was submitted and adopted by the County court, and the seat named Shelbyville. T. J. Bounds was appointed county seat commissioner and was ordered to plat the town into blocks and lots as soon as possible.

Up to July **6, 1836**, County and Circuit court was held at the residence of W. B. Broughton, Oak Dale, but on the above date the first session was held at Shelbyville, at Abraham Vandiver's. This house was called the "Court House" until the completion of the court house in December, **1838**.

Upon the first assembling of the County court there was no effort at changing the township division first made by Marion county authorities, but left it for years with the same municipal division, not even sanctioning the Marion County court.

IMPORTANT PROCEEDINGS 1836 COUNTY COURT.

In February Broughton and Holliday secured a license to keep an inn and tavern at Oak Dale for one year, on payment of \$10. In May, George Parker was appointed first administrator on the estate of John G. Gillis. In June, four free mulatto children were bound as servants and apprentices to Samuel Buckner. These were children of Mr. Buckner by his negro mistresses. Their names

(which always bears an interest) were Leannah, Clarinda, Maria and Theodor. In June the first grocery stocks were installed in Shelbyville. James W. Eastin and Robert Duncan each secured a license to run a grocery store at \$5 per annum.

On the sixth of July the first term of county court that convened in Shelbyville was held at the house of Abraham Vandiver, who built the first house in Shelbyville. During this term a road was established from Shelbyville to the Lewis county line in the direction of Fresh's mill, on the South Fabius. This mill was located about one mile southwest of the present town of Newark, Knox county.

In the August term of court, William R. Ford was pronounced insane by a jury and James Ford was appointed his guardian. This was the first case of insanity in the limits of Shelby county.

In 1836 the county expenditures were about \$300 and delinquent taxes amounted to \$5.70.

In November, Obadiah Dickerson was appointed superintendent of public buildings, and preparations begun for the building of a court house.

FIRST CIRCUIT COURTS.

The first term of the circuit court of Shelby county held forth Thursday, November 26, 1835, at the home of W. B. Broughton, Oak Dale. Hon. Priestly H. McBride, judge of the second judicial circuit, presided.

Sheriff Robert Duncan opened court and Thomas J. Bounds acted as clerk.

The following men served on the grand jury: William Moore, foreman; George Parker, George W. Gentry, William S.

Chinn, Peter Stice, Bryant Cockrum, Joseph West, Elisha K. Eaton, Silas Boyce, James Blackford, Samuel Bell, Albert G. Smith, Josiah Bethard, Cyrus A. Saunders, Hill Shaw, John Thomas, Robert Reed, Russell W. Moss, Henry Musgrove, Ezekial Kennedy. The record reports "twenty good and lawful men."

The attorneys were present at this court, all coming from Palmyra: James L. Minor, John Heard and J. Quinn Thornton. Minor, who was appointed circuit attorney, later became secretary of state. John Hearn became circuit attorney shortly after and Thornton was a politician and editor, and later gained some state eminence as such. He edited papers at Palmyra and Hannibal, so the first circuit courts of our county were not lacking in legal lights.

The grand jury reported they had no business before them and were duly discharged.

The following cases were disposed of: "Graham Williams and sundry other heirs of Elisha Williams, deceased; petition for partition. Uriel Wright appointed guardian ad litem for the minor heirs."

"John H. Milton, assignee of Robert Reed vs. Silas Boyce; petition and summons. Motion to dismiss sustained."

On the third day of the term, Elias Kincheloe, one of the county seat commissioners, reported the action of the commissioners, and submitted the title papers for the land on which the seat of justice was situated. "These papers," says the record, "were examined and pronounced good and sufficient in law to vest the title in said county."

On the third day court adjourned until "court in course."

The total expenditures of the term was \$16.87½, as follows :

To W. B. Broughton, to house rent. . .	\$4.00
To Robert Duncan, sheriff fees	9.50
To T. J. Bounds, clerk fees.	3.37½

The July term, 1836, the second term, was convened at Mr. Broughton's. Hon. Ezra Hunt was judge; A. B. Chambers, circuit attorney. The new attorneys admitted to practice before the court were Thomas L. Anderson and S. W. B. Carnegie, both of Palmyra.

The third term of Circuit court was held in the house of Thomas J. Bounds, in Shelbyville, December, 1836. Ezra Hunt was judge; A. B. Chambers (nicknamed the A. B. C. politician), of Pike county, was circuit attorney; James Lear was foreman of the jury, and William Porter was admitted to the bar.

The house of Ezekiel Kennedy was the "court house" at Shelbyville for the March term of court, 1837. Hon. Priestly H. McBride presided. John Heard was circuit attorney. The following new lawyers were admitted: Uriel Wright, J. R. Abernathy, P. Williams and W. R. Van Arsdall.

The following term met in July at the house of Thomas O. and H. W. Eskridge, in Shelbyville. The Hon. Mr. McBride was presiding judge, Heard was circuit attorney, Maj. Obadiah Dickerson was foreman of the grand jury, which found the first criminal indictment in the county, against Henry Meadley for grand larceny. Meadley was arrested, but the charge was dismissed and he brought suit against James Lair, the prosecuting witness, for damages for false imprisonment. He could not give security for costs of a

suit, however, and had to ask a dismissal. No case of consequence was tried at these terms.

The March term, 1838, convened at Shelbyville, and a number of indictments were brought upon the people for gaming. This indulgence was in the form of amusement for dull days, but authorities looked upon it as a dangerous practice, also as a means of "stuffing" their pocketbooks and creating a little stir, and the reform movement brought to justice for gaming:

Bryant Cockrum, George Gentry, William Payne, Isaac Wooley, Elijah Owens and Robert Joiner, "for playing at loo"; Joseph Holeman and Abraham Vandiver, "for playing seven-up"; Elijah Owens, John Ralls and Abraham Vandiver, "for playing three-up"; Wesley Halliburton and Joseph Holeman were indicted "for permitting gaming in their house." Three of the parties were convicted. George Gentry was fined \$2; Isaac Wooley \$1, and William Payne \$5. The others were acquitted, and 'twas said the indictments were resurrected through malice, and 'twas well proved that settlers only engaged in the game for a pastime.

At this term Mathias Meadley was brought before the court as a vagrant, and James Shaw was indicted for "selling spirituous liquors to be drank in his home without a license." His case was dismissed.

THE FIRST ATTORNEY FISTICUFF IN COUNTY COURT.

The early lawyers were to back up their arguments if the occasion demanded, but such an emergency did not arise in our county until the July term

of the 1838 court. Samuel T. Glover was a young lawyer ambitious to make his mark, and E. G. Pratt, jealous of any inroads a young lawyer might gain over his eminence, each overzealous in his career, let their choler rise and came to blows and fought savagely until separated. Both lawyers hailed from Palmyra. In the very presence of his honor, the presiding judge, McBride, did they parade their angry passion. Glover was fined \$10 "for contempt of court in striking E. G. Pratt," and in turn Pratt was fined for "insulting language and striking back." Then the grand jury took a whack at each of them. They were arraigned, plead guilty, and were fined \$5 each. This did not cool their ardor, for Mr. Pratt was an able lawyer and Mr. Glover became pre-eminently noted throughout the state as an able, high-class jurist. He died in St. Louis in 1884. Mr. Pratt died many years previous in Palmyra.

MISCELLANEOUS NEWS FROM EARLY COURT DOCKETS.

The first term of Circuit court held in the court house was the March term, 1839.

The first foreigner naturalized in Shelby county was Ole Rierson, a native of Norway, who took out naturalization papers in the March, 1839, term of court.

November, 1839, a grand juror was fined \$5 for appearing in court in a state of intoxication.

In July, 1842, Lucy, a slave belonging to George Gaines, was convicted of arson. Her sentence was "thirty-nine lashes on her bare back, to be well laid on by the sheriff of said Shelby county." She was also to be banished from the

state of Missouri for the term of twenty years.

THE FIRST SHELBY COUNTY ELECTION.

August, 1835, was the date of the first election held in Shelby county after its organization. There were but two organized townships and two voting precincts at that date. The North River township polls were opened at the house of Alexander Buford; Robert Joiner, William Moore and William Chinn acting as judges.

The Black Creek township voting place was at the house of William B. Broughton; George Parker, William Holliday and Anthony Blackford acting as judges.

There were about one hundred voters in the county, and the "casting up" aggregated eighty-five votes, so the pioneers evidently had not taken to the modern practice of stuffing the ballot box. The offices to be filled were two members of congress, one circuit and one county clerk, an assessor, and surveyor. The will of the people was also sounded on the question of holding a state constitutional convention. At that date and till 1846 the representatives to congress from Missouri were elected by the voters of the state at large, and not by congressional districts, as is now the case. All voting was the *viva voce* method, practiced in Missouri until 1863.

(Taken from Laws of 1863, p. 17; Statutes of 1865, p. 61.) Following is the will of the county at its first election:

Congressmen—William H. Ashley, 66; James H. Birch, 45; George F. Strother, 30; Albert G. Harrison, 30.

Clerk—Thomas J. Bounds, 44; Thos. Eskridge, 40.

Assessor—Thos. Holeman, **42**; Abraham Vandiver, **41**.

Surveyor—William J. Holliday, **82**.

Convention—For, **34**; against, **27**.

At this election nor at any other time were the party lines strictly drawn, but it seems evident that the controlling party in the county in **1835** were Whigs, or "Clay men," as General Ashley and Mr. Birch were Whigs, while Judge Harrison and General Strother were Democrats or "Jackson men."

The following justices of the peace were chosen at this election:

Black Creek, Montillion H. Smith and Josiah Abbott; North River, Abraham Vandiver, B. F. Foreman, Samuel Cochran and Alexander Buford.

AUGUST ELECTION, 1836.

No record of the presidential election of **1836** can be resurrected in the county, and the state record was destroyed by fire in **1837**.

Governor—Lilburn W. Boggs (Dem.), **66**; William H. Ashley (W.), **39**.

Lieutenant Governor—Franklin Cannon (Dem.), **59**; Jones (W.), **28**.

Congress—Albert G. Harrison (Dem.), **77**; John Miller (Dem.), **56**; George F. Strother (W.), **19**; James H. Birch (W.), **19**; S. C. Owens (Independent), **4**.

State Senator—William McDaniel (Dem.), **71**; William Carson (W.), **55**.

Representative—William J. Holliday, **70**; Abraham Vandiver, **50**.

Sheriff—Robert Duncan, **101**.

Justices County Court—Dr. E. A. Wood, **68**; William S. Chinn, **69**; William B. Broughton, **68**; Anthony Blackford, **82**; Thomas H. Clements, **77**. Two were to be chosen.

Assessor—Thomas Holeman, **38**; Samuel Parker, **23**; Robert Blackford, **14**; Samuel Smith, **10**; William Moffitt, **31**.

Coroner—Silas Boyce, **81**.

There were about **125** votes cast, of which about **100** were from Black Creek township.

AUGUST ELECTION, 1838.

Congress—Albert G. Harrison (Dem.), **152**; John Miller (Dem.), **151**; John Wilson (W.), **118**; Beverly Allen (W.), **116**.

State Senator—G. M. Bower (Dem.), **157**; Joshua Gentry (W.), **127**.

Representative—Elias Kinchloe (Dem.), **158**; James Foley (W.), **158**.

Sheriff—Robert Duncan, **201**; Robert A. Moffitt, **67**.

Assessor—Joseph Holeman, **88**; John J. Foster, **82**; Robert Lair, **57**.

Circuit Attorney—James R. Abernathy, **159**; S. W. B. Carnegy, **69**.

County Justice—William J. Holliday, **164**; John B. Lewis, **93**.

AUGUST ELECTION, 1839.

Assessor—William Gooch, **127**; William W. Lewis, **108**.

Surveyor—William A. Davidson, **162**; John Bishop, **74**.

A special election was held October 28, **1839**, to choose a member of congress to fill a vacancy caused by the death of Hon. Albert G. Harrison. The candidates were John Jameson (Democrat) and Thornton Grimsley (Whig). Grimsley was a St. Louis man, and the vote cast in Shelby was: Jameson, **81**; Grimsley, **67**.