

## CHAPTER II.

### EARLY OFFICIAL HISTORY.

When Shelby Belonged to Marion County—First Division of the Territory into Townships by the Marion County Court—Organization of the County—The Organizing Act—First Sessions of the County Court—The First Roads—Miscellaneous Proceedings—First Circuit Courts—First Grand Jury and First Indictments—A Fight Between Lawyers—Miscellaneous Items—The First Elections.

### EARLY OFFICIAL HISTORY.

Upon the acquisition by the United States, in 1803, of the Territory of Louisiana, including what is now the State of Missouri, the territory embraced within the present metes and bounds of Shelby county belonged to the “*District*” of St. Charles. October 1, 1812, St. Charles county was organized by proclamation of Gov. Clark, and this county was made a part thereof. December 14, 1818, upon the organization of Pike, it became a part of that county. November 16, 1820, when Ralls county was created, it was included therein. Upon the organization of Marion, December 23, 1826, the territory was “attached to the said county of Marion for all military, civil and judicial purposes.”

After 1831 and up to 1834 what is now Shelby county was virtually a part of Warren township, Marion county. In May, 1834, the county court of Marion 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 No. 8 and 9; also, all that portion of territory lying west of the western boundary line of Marion county which by law remains attached to said county shall compose a municipal township, to be called and known by the name of “*Black Creek Township*,” and it is further ordered 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; constable, Julius C. Gartrell.

In November, 1834, the Marion court formed out of Black Creek a new township, called North River, the following being the order:—

\* \* \* 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; along said dividing ridge, in a north-westerly direction 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 the peace for this township were Alexander Buford and Abraham Vandiver; constable, Oliver H. Latimore. No elections were held so long as the township was attached to Marion.

This portion of territory was settling up fast, and being so remote from the seat of justice of Marion, a demand for its organization into a separate and distinct county became so imperative that on January 2, 1835, the Legislature heeded the prayers of a number of petitioners and erected the county of Shelby. The county of Stoddard was organized at the same time. The following is the section of the act defining the metes and bounds of Shelby county:—

The territory bounded as follows: Beginning at the south-east corner of township 57, 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 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. (See Territorial Laws, Mo., 1835, Vol. ii, p. 426.)

The county was named in honor of Gen. and ex-Gov. Isaac Shelby, of Kentucky.

The commissioners to select the seat of justice were Elias Kinche-loe, of Marion; James Lay, of Lewis, and Joseph Hardy, of Ralls.

The Governor (Daniel Dunklin) was authorized to appoint three county judges and a sheriff “to serve until the next general election.”

The act provided that the courts of the county should be “held at the house of Mr. Broughton,<sup>1</sup> 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 to form a part of the Twelfth Senatorial district, Marion and Lewis being the other counties.

#### FIRST SESSION OF THE COUNTY COURT.

The first session of the Shelby county court convened at the residence of Wm. B. Broughton (the “Mr. Broughton” referred to in

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<sup>1</sup> William B. Broughton.

the organizing act) on Thursday, April 9, 1835. There were present as justices: James Foley, Thomas H. Clements and Adolphus E. Wood, all of whom had been commissioned by the Governor. Mr. Broughton lived at Oak Dale (section 5 — 57 — 9) in what is now Jackson township.

Upon the assembling of the court, James Foley was made presiding justice, Thomas J. Bounds was appointed clerk, and Russell W. Moss appointed assessor. There being no other business the court adjourned to meet a week later.

April 17 the court re-assembled, all the judges being present. John H. Milton, who had been appointed by Gov. Dunklin the sheriff of the county, appeared and took the oath of office. J. C. Gartrell resigned as constable of Black Creek township, and Samuel J. Parker was appointed in his stead.

At the *regular* May term the only business done was the recommending to the Governor that Robert Duncan be appointed sheriff in the room of John H. Milton, who had failed to give bond according to law.

At a *special* term begun May 18, 1835, Robert Duncan was appointed elizor until he could be commissioned sheriff. At this term the *first roads* in the county were duly and legally established, as follows: —

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.

Prior to the establishment of these highways there were no roads in the county worthy of the name. What were known as the "Bee roads" were the only roads running north and south. (See description of these elsewhere.)

Of the first justices of the county court it may be stated that they were all gentlemen of intelligence and experience, and made efficient officers. A. E. Wood, a New Yorker, lived at Oak Dale, and was a brother of the Hons. Fernando Wood and Ben. Wood, of New York City, the former a well known politician and statesman, the latter a prominent capitalist, newspaper publisher, member of Congress, etc. Judge Foley was a Kentuckian and lived two miles east of Bethel.

He died in Shelbyville before the Civil War. Judge Clements was also a Kentuckian. He resided in the south-eastern part of the county, three miles from Oak Dale, and died many years since — before 1850.

#### MISCELLANEOUS PUBLIC PROCEEDINGS.

County and circuit courts were held at the house of W. B. Broughton, at Oak Dale, until July 6, 1836, when the first term was held at Abraham Vandiver's, in Shelbyville. This house was called "the court-house," until the completion of the *real* building of that name, in December, 1838.

Upon the first assembling of the county court there was no attempt to change the township division which had been made by the Marion county authorities. Our court left the municipal division as it found it for some years — not even confirming the action of the Marion court — perhaps because it was not deemed necessary.

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

The county tax levy the first year of the county's 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; Wm. D. B. Hill, \$1.00; Michael Lee, 85 cents.

The first store in the county was opened by W. B. Broughton, at Oak Dale, in the winter of 1834. In June, 1835, Broughton & Holliday received license "to retail merchandise for the period of one year" at the same place. Broughton's residence, it will be remembered, was called Oak Dale. The first post-office in the county was established here, in the spring of 1834, and Broughton was made post-master.

In November a road was opened from the county line, near Lyle's mill, on the North Fabius, in Marion, to Peter Stice's (Bethel), in this county, giving the settlers in the eastern and north-eastern portions of the county a road to mill.

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

In December, 1835, the plat of the seat of justice, as prepared by T. J. Bounds, was adopted by the county court, and the town called *Shelbyville*. T. J. Bounds was appointed county seat commissioner, and ordered to lay out the town into lots and blocks as soon as convenient.

## MISCELLANEOUS COUNTY COURT PROCEEDINGS IN 1836.

In February Broughton & Holliday were licensed to keep an inn and tavern at Oak Dale for one year, on the payment of \$10.

In May the first administrator was appointed, George Parker, on the estate of John G. Gillis.

In June four free mulatto children were bound as apprentices and servants to Samuel Buckner. Their names were Leannah, Clarinda, Maria and Theodoric. As stated elsewhere, these were the children of Mr. Buckner by his negro mistresses.

In June the first grocery stores were established in Shelbyville. James W. Eastin and Robert Duncan each obtained a grocer's license at this time; fee, \$5 per annum.

On the 6th of July the first term of the county court was held in Shelbyville, at the house of Abraham Vandiver, the first in the place. At 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 stood about one mile south-west of the present town of Newark, Knox county.

The first case of insanity in the county was that of William R. Ford, who was pronounced insane by a jury, in August of this year, and James Ford was appointed his guardian.

The county expenditures for the year 1836 were about \$300, and the delinquent tax list was \$5.70.

Obadiah Dickerson was appointed superintendent of public buildings in November, and preparations were begun at once to build a court-house.

## FIRST CIRCUIT COURTS.

The first term of the circuit court of Shelby county convened Thursday, November 26, 1835, at the house of W. B. Broughton, at Oak Dale. Hon. Priestly H. McBride, then judge of the second judicial circuit, presided. Sheriff Robert Duncan opened court, and Thomas J. Bounds was the clerk.

The grand jury was composed of the following: 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, Ezekiel Kennedy, "twenty good and lawful men," says the record.

Three attorneys were present at this term of court, all of whom lived at Palmyra: J. Quinn Thornton, John Heard and James L. Minor. The latter gentleman (afterwards Secretary of State) was appointed circuit attorney *pro tem*. Thornton was an editor and politician as well as an attorney, and subsequently conducted newspapers at Palmyra and Hannibal. John Hearn became circuit attorney in a year or two.

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

The following were the only cases before the court and the disposition made of them: "Graham Williams vs. 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, made a report of the actions of the commissioners, and submitted the title papers for the land on which they had located the seat of justice. 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 till "court in course." The total expenses of the term were \$16.87 $\frac{1}{2}$ , as follows: To W. B. Broughton, for house rent, \$4; Robert Duncan, sheriff's fees, \$9.50; T. J. Bounds, clerk's fees, \$3.37 $\frac{1}{2}$ .

The July term, 1836, was the second term of the circuit court. It was held at Mr. Broughton's. Hon. Ezra Hunt was judge, A. B. Chambers, of Pike county, was circuit attorney. Other new attorneys admitted to practice before the court were Thomas L. Anderson and S. W. B. Carnegy, both of Palmyra, and both now (1884) living.

The third term was held in December, 1836, at the house of the clerk, Thomas J. Bounds, in Shelbyville. Ezra Hunt was judge, A. B. Chambers, circuit attorney. William Porter was a new lawyer, and James Lear was foreman of the grand jury.

In 1837 the March term was held at the house of Ezekiel Kennedy, in Shelbyville. Hon. P. H. McBride was on the bench, and John Heard circuit attorney. New attorneys were Uriel Wright, J. R. Abernathy, P. Williams and W. R. Van Arsdall.

The July term was held at the house of Thomas O. and H. W. Eskridge, in Shelbyville. McBride, judge; Heard, 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. He 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 the costs, however, and was compelled to ask a nonsuit. No cases of any consequence were tried at these terms.

At the March term, 1838, which was held at the house of Abraham Vandiver, in Shelbyville, a number of indictments were found against some of our people for gaming. Some of the indicted parties were among our best and most prominent citizens. Times were dull and amusements scarce, and it is scarcely to be wondered at that the old pioneers should seek some form of diversion other than toiling in the woods and clearings.

The parties indicted for gaming were 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." Only three of the parties were ever convicted. George Gentry was fined \$2, William Payne \$5, and Isaac Wooley \$1. The others had the charges *nolle pros'd*, or were tried and acquitted. It is said that the indictments were the result of malice. That the pioneers were playing merely for sport is quite certain; that they were gambling for the money that was to be made out of it is preposterous.

At the same term Matthias Meadley was presented as a vagrant, and James Shaw was indicted for "selling spirituous liquors to be drank in his house without license." The latter case was dismissed.

#### A FIGHT IN COURT.

The pioneer lawyers were not only powerful in polemics, but when the occasion demanded they were plucky as pugilists. Arguments took the form of blows sometimes. During the July term, 1838, two of the attorneys had a fisticuff in court. Samuel T. Glover, then a young lawyer, and E. G. Pratt, both of Palmyra, let their angry passions rise and fought bravely with fists and feet until separated.

The fight took place in the court room, in the immediate presence of His Honor, Judge McBride, who fined Glover \$10 "for contempt of court in striking E. G. Pratt," and then fined Pratt "for insulting language used and for striking S. T. Glover." The matter did not rest here. The grand jury took it up, indicted both parties; they were arraigned, pleaded guilty, and were fined \$5 each.

Mr. Glover, it will be remembered, rose to distinction as a lawyer, being justly regarded as one of the ablest in his profession in the State. He died in January, 1884, in St. Louis, where he had resided for many years. Mr. Pratt died in Palmyra years ago.

#### MISCELLANEOUS ITEMS FROM THE EARLY COURTS.

The first term of the 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 his papers at the March term, 1839.

In November, 1839, Wm. P. Adkins was fined \$5 for appearing in court as a grand juror "while in a state of intoxication."

In July, 1842, Lucy, a slave belonging to George Gaines, was convicted of arson. She was sentenced to "receive thirty-nine lashes on her bare back, to be well laid on by the sheriff of said Shelby county," and also to be banished from the State of Missouri for the term of 20 years.

#### THE FIRST ELECTION.

The first election in Shelby county after its organization was the August election of 1835. There were but two townships and two voting places at the time. In Black Creek township, the voting place was at the house of Wm. B. Broughton, and George Parker, Wm. Holliday and Anthony Blackford were the judges. In North River the polls were opened at the house of Alexander Buford, and Robert Joiner, Wm. Moore and Wm. Chinn were the judges.

About 85 votes were cast, and at this time there were perhaps 100 voters in the county — not more.

The officers to be elected were two members of Congress, a circuit and county clerk, assessor and surveyor. The sense of the people was also taken on the question of holding a State Constitutional Convention. At that date and until 1846, the Representatives in 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 by the *viva voce* method which prevailed in Missouri until 1863. (See Laws of 1863, p. 17; Statutes of 1865, p. 61.) The total vote in this county was: —

*Congressmen* — Wm. H. Ashley, 66; James H. Birch, 45; Geo. F. Strother, 30; Albert G. Harrison, 30.

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

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

*Surveyor* — Wm. J. Holliday, 82.

*Convention* — For, 34; against, 27.

At this election, and at many another for some time afterward, party lines were not strictly drawn, but it is quite probable that a majority of the voters in the county in 1835 were Whigs, or "Clay men," as Gen. Ashley and Mr. Birch were Whigs, while Judge Harrison and Gen. Ströther were "Jackson men," or Democrats.

Four justices of the peace were chosen at this election, as follows: Black Creek, Montillion H. Smith and Josiah Abbott; North River, Abraham Vandiver, B. F. Forman, Samuel Cochran and Alexander Buford.

AUGUST ELECTION, 1836.<sup>1</sup>

*Governor* — Lilburn W. Boggs (D.), 66; Wm. H. Ashley (W.), 39.

*Lieut.-Governor* — Franklin Cannon (D.), 59; — Jones (W.), 28.

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

*State Senator* — Wm. McDaniel (D.), 71; Wm. Carson (W.), 55.

*Representative* — Wm. J. Holliday ( ), 70; Abraham Vandiver ( ), 50.

*Sheriff* — Robert Duncan, 101.

*Justices County Court* — Dr. A. E. Wood, 68; Wm. S. Chinn, 69; Wm. 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; Wm. Moffitt, 31.

*Coroner* — Silas Boyce, 81.

About 125 votes were polled, of which nearly 100 were from Black Creek township.

## AUGUST ELECTION, 1838.

*Congress* — Albert G. Harrison (D.), 152; John Miller (D.), 151; John Wilson (W.), 119; Beverly Allen (W.), 116.

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

*Representative* — Elias Kincheloe (D.), 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. Carnegie, 69.

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

<sup>1</sup> No record of the vote at the Presidential election, 1836, can be found in this county, and the copy sent to the Secretary of State was burned in the fire that consumed the Capitol building, in 1837.

## AUGUST ELECTION, 1839.

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

*Surveyor* — Wm. H. Davidson, 162 ; John Bishop, 74.

A special election was held October 28, 1839, to choose a member of Congress in the room of Hon. Albert G. Harrison, who had died. The candidates were John Jameson, Democrat, and Thornton Grimsley, of St. Louis, Whig. In Shelby county the vote stood : Jameson, 81 ; Grimsley, 67.



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