

## Comment by the Editor

### AN EYEWITNESS

In the July number thirteen border criminals came within a few beans of hanging. Instead they were merely whipped and exiled, with the result that one of them at least returned to take a prominent part in the murder of Colonel George Davenport. In the present number a man is actually hanged. The affair was a noteworthy one, but it occurred at so early a date that there are few records of it. Fortunately Eliphalet Price was there as an eyewitness. He had come to the lead mining regions by way of New Orleans about the time of the Black Hawk War. In fact one writer credits him with having had a part in that war, capturing twelve redskinned prisoners.

However that may be, Price was in Dubuque in 1834, and was a prominent figure in northeastern Iowa for nearly forty years thereafter. He held various offices and was influential in State politics, partly by reason of his unusual ability as a speaker and a writer. In the sixties he was a member of the Board of Curators of the State Historical Society of Iowa and wrote many graphic articles for the *Annals of Iowa* which the Society was then publishing.

#### IOWA IN 1834

When Patrick O'Connor killed his partner, George O'Keaf, in 1834, the country that is now Iowa was

without a local constitutional status. It was a part of no State or organized Territory. Missouri, of which it had been a part, became a State in 1821 and the land north of it to the Canadian boundary and west to the upper waters of the Missouri River was left without organized government. No legal courts sat within its borders; no sheriff or constable protected its inhabitants. For a long time these inhabitants consisted only of Indians and fur traders. Settlement was prohibited by act of Congress.

In 1830 a group of lead miners crossed to what is now Dubuque and began to work the mines. They met beside a cottonwood log on the shore and drew up a set of rules for their own government. But Zachary Taylor, in command of United States troops at Fort Crawford, sent a detachment of soldiers under Lieutenant Jefferson Davis to drive them out. After the Black Hawk War miners and settlers crossed the river in numbers and, although still technically trespassers, developed a pioneer community into which O'Connor and O'Keaf came and settled.

The murder, according to Price's account, took place on May 19, and the hanging on June 20, 1834. Eight days later an act of Congress was approved which placed the tract of land including modern Iowa under the jurisdiction of the Territory of Michigan.

“YE HAVE NO LAWS”

The hanging was extra-legal, but under the conditions it was essentially an act of authority. Justice

is not always dependent upon the citation of statutes and the functioning of commissioned officials; in fact justice is sometimes accomplished more truly where it is not trammelled by legal technicalities. O'Connor's punishment was the deliberate, carefully-weighed act of a people who exercised the judicial function because they had no legal machinery to serve them. He was tried before a jury of his peers; he was given the benefit of a counsel to plead his cause; and a month's time elapsed between his sentence and his execution. Looking upon it in another light, his hanging was the logical answer of the people of a community to a man who said: "I'll not deny that I shot him, but ye have no laws in the country, and cannot try me."

J. C. P.