

ANNALS OF IOWA.

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THE EARLY HISTORY OF IOWA.

BY CHARLES NEGUS.

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ABOUT the commencement of the year 1843 there was one of the hardest times in the money market that had ever been known in the west. All the Illinois, and a great portion of the other western, bank notes had gone out of circulation; land and everything else had gone down in value to almost nominal prices; corn and oats could be bought at from six to ten cents per bushel, pork at a dollar a hundred, and the best kind of horses the farmers could raise would only bring from fifty to sixty dollars.

Most everybody was in debt, and the sheriff and constable, with a legal process, trying to collect a debt, were frequent visitors at almost every man's door, and much property was sold on execution, at very reduced prices.

To try to alleviate the general financial distress of the territory was the principal subject which occupied the attention of the legislature at that time. To accomplish this, there was passed what was commonly known as the "valuation law." This law provided that, when an execution was issued, the officer should levy upon such property as the defendant might direct. If the defendant turned out real estate, the officer was required to call an inquest of three disinterested men

ing admission by permits, as an appendage to the Indian agency, to the trading-houses, or for some other purpose, so as to make a settlement on some choice spot over the line. The constant applications of this character to Capt. John Beach, the Indian agent, became to him a source of great annoyance, and because he did not swerve from a strict course of duty, there was much fault found with him as an officer. Some applied to the Indian chiefs, and obtained permission from them to make settlements, marked off their claims, and commenced to build cabins, and would not leave till they were driven away by the dragoons. Beach was constantly on the look-out, to prevent these intrusions, and for several weeks before the first of May kept parties of dragoons traveling up and down the boundary line, in order, as far as possible, to maintain good faith with the Indians.

These precautions on the part of the agent greatly increased the anxiety to get possession of the country, and there were serious apprehensions that there might be an organized opposition sufficient to overrun the martial law attempted to be enforced by the United States troops; but those anxious to settle the new country, on proper reflection, thought it best to submit to these regulations, and abide their time; for it was generally understood that any claim which was marked off before the whites were permitted to settle the country would not be held valid under the claim laws.

Great preparations were made to be ready to move on to the new purchase on the first day of May — a day famous in the recollections of many of the first settlers of Iowa. For several weeks previous large numbers traveled through the new purchase, selecting sites for claims, and before the first day of May many moved their families and stock to the boundary line and camped, so that, when they were permitted, they would lose no time in taking possession of the spots selected for their homes. It was understood that, by the claim laws, the person who first marked out a claim after the whites were permitted to settle the country, would secure the title to it. And, for this purpose, many individuals hired persons to

stand at the corners of their selected land, who, as soon as the hour of twelve at night arrived, immediately proceeded by torch-light to mark out the boundaries of their claims. At many places they made arrangements to fire signal guns, so that the men stationed at the different corners would know the precise moment when to start. In this way many individuals, at the dead hour of night, acquired large and valuable possessions.

The scramble among the settlers for the choice places on the public domains produced many conflicting interests, and for a while there was a great deal of litigation about settlers' rights under the claim laws.

This tract of country, which had been for centuries occupied as the hunting grounds of the Indians, and none of it owned by whites on the last day of April, before night of the first day of May was occupied by thousands possessed of the habits and implements of civilized life, who immediately proceeded to build houses and open farms, and by their industry soon provided for themselves comfortable homes, and most of them that season raised on their new lands sufficient provisions for the coming winter.

As soon as the whites took possession of these lands, the Indians moved farther west, and located their principal village near the Raccoon fork of the Des Moines river. The United States, near the point where these two rivers unite, put up barracks and other requisite buildings and works necessary for a fort, and the company of dragoons which had been stationed at Phelps's trading-house the previous winter was removed to this point, which was called Fort Des Moines, which name was given to the town subsequently laid out at this place. Several persons, as appendages to the army and Indian agency, were permitted to settle about the fort, and acquired possessions there, which subsequently proved very valuable.

During that season the nearest post office to that point was Fairfield, and the soldiers came to this place regularly twice a week to get their mail.

The fort was about thirty miles from the boundary line, and, as no one could settle in this country for three years without a special permit from some government officer, there was no settlement between the boundary line and fort. The government, expecting to keep up a garrison at that point so long as the Indians remained on their former hunting grounds, and finding it very inconvenient for their soldiers and those in their employ to travel that distance without stopping for refreshments, made the proposition to Thomas and Henry Mitchell, prominent citizens of Jefferson county, to go up and erect a house for public entertainment, about half-way between the garrison and the settlements, which was accepted. The Mitchells selected a choice location on which to build the necessary houses and stables, and they soon became extensively known as popular landlords, and, improving this opportunity in securing title to lands, they laid the foundation by which they subsequently became wealthy.

The legislature, which met on the first Monday of December, 1843, passed no bills till January. One of the first acts of this legislature was to change the time of holding the general election from the first Monday in August to the first Monday in October, but there was but one election held under this law till it was repealed. This legislature also made provisions for taking the census of the territory, in May, and for an extra session of their body on the sixteenth of the next June, for the purpose of making a new apportionment of the representatives. Acts were also passed this winter for organizing the counties of Keokuk, Mahaska, Wapello, and Davis, making provisions that after the first of March, 1844, these counties should have all the privileges of other counties of the territory.

On the twelfth of February, 1844, the legislature passed an act for the purpose of letting the people have another opportunity to vote on the question of becoming a state. This act made provisions that at the next April election the judges of the election should ask each qualified elector, as he approached the polls, whether he was "in favor or against a convention

to form a state constitution," to which the elector was to answer "convention," or "no convention." And if it was found that there was a majority of all the voters in the territory in favor of a convention, then at the next August election delegates were to be elected. This act made provision for seventy members, but the legislature at their extra session, in June, added three more to the number, giving some of the new counties an increased number, who were to be citizens of the United States, and to have resided six months in the territory previous to the election.

The convention was to meet at Iowa City on the first Monday of the next October, and form a constitution, which was to be submitted to the vote of the people at the next April election, for them to ratify or reject. The vote at the April election was largely in favor of a convention, and a proclamation was issued for electing members at the August election.

At this time the expenses of the territory had been more than the appropriations made by congress, and there was quite a large debt hanging over the territorial government, with no means to pay. At the extra session of the legislature, in June, there was an act passed making provisions that if congress would transfer the appropriations made for defraying the expenses of the legislature for the ensuing year, so that it might be applied to the payment of debts already accrued, and the overplus, if any, to the payment of the expenses of the convention which was to form the constitution, that the annual election for the ensuing year for members of the legislature was to be suspended. But if congress should not transfer the appropriation, then the election for members was to be held on the first Monday of the next April, and the legislature was to hold its annual session on the first Monday of the following May; so that, by the provisions of this act, the legislature was not in session during the winter after the forming of the first constitution.

The members of the convention were elected at the August election, and convened at Iowa City at the stated time, and organized their body by electing Shepherd Leffler president,

and George S. Hampton secretary; and on the first of November closed their labors.

This constitution fixed the boundaries of the state as beginning in the middle of the main channel of the Mississippi river, opposite the mouth of the Des Moines river, thence up the Des Moines river to a point where it is intersected by the old Indian boundary between Missouri and the Indian country, thence west on a parallel of said line to the Missouri river, thence up that river to the mouth of the Sioux river, thence on a direct line to the St. Peter river where the Watonwan intersects the same, thence down the St. Peter river to the Mississippi, thence down the Mississippi to the place of beginning.

This constitution made provisions for biennial sessions of the legislature, and for the election, by the people, of a governor, secretary of state, auditor, treasurer, and superintendent of public instruction, who were to hold their offices for the term of two years. The judicial department was to consist of a supreme and district courts, and such other courts as might be established by law. The supreme court was to consist of three judges, to be elected by the legislature; and the district court of one judge, to be elected by the voters of his district, and the judges of both courts were to hold their offices for the term of four years. The state was prohibited from going in debt over one hundred thousand dollars, unless by a vote of the people.

The clause on incorporations amounted to almost a prohibition of all incorporated bodies, for it was so stringent that there was not much inducement, if any, for persons to become incorporated. No corporation was to exist for more than twenty years, unless it was for public improvement. All the private property of the stockholders was to be liable at all times for all the debts of the corporation, and the legislature had the power to repeal all acts of incorporation. The property of the inhabitants of the state was never to be used by any corporation without the consent of the owners—a provision which, experience has shown, would have made it

almost impossible to have obtained the right of way for railroads and other internal improvements. And there was to be no banks, unless the law creating them was first submitted to, and voted for, by a majority of all the electors.

This constitution was formed just after the people had suffered severely from worthless banks and fraudulent corporations, and a war against banks and incorporated institutions was a leading principle with the democratic party — and the democrats, having a large majority in the convention, made the constitution a little more democratic than pleased the people, as was shown by their subsequent vote. The convention did not wait to see if the people would ratify their work, but immediately sent the constitution to congress, to be admitted as a state.

As provided by the previous legislature, in contemplation of the adoption of the constitution, there was no session of the legislature the winter after the convention.

About the same time that Iowa sought to become a state, Florida formed a constitution and made application for admission into the Union, and on the third of March, 1845, congress passed an act admitting Florida and Iowa into the Union as sovereign states. But the act curtailed the boundaries of Iowa, and, instead of adopting the boundaries as defined in her constitution, enacted that they should begin at the mouth of the St. Peter river, thence up that river to the parallel of latitude passing through the mouth of the Wakaton or Blue Earth river, thence west along said parallel of latitude to a point where it is intersected by a meridian line, seventeen and a half degrees west of Washington, thence due south to the state of Missouri, thence on the north line of that state till it strikes the Des Moines river, thence down that stream to the Mississippi, thence up the Mississippi to the place of beginning — making the western boundary of Iowa on a line with the western boundary of Missouri, and cutting off nearly all the western slope of the state, as the boundaries were subsequently established.

The opponents of the constitution offered this curtailing of

the boundaries of the state as a reason why the people should not adopt the constitution. This argument seemed to have much force, especially with the whig party; and, to counteract this opposition brought to bear against the adopting of the constitution, A. C. Dodge, who was then the delegate of the territory in congress, prepared a circular and had it sent all over the territory, in which he gave it as his opinion that Iowa could never get a better boundary than the one which had been given her by the act of congress. But the constitution, contrary to the expectation of most of the leading democrats, was voted down by a large majority.

The defeat of the constitution was attributed, by those favorable to its adoption, to the act of congress curtailing the boundaries of the state.

Dodge was a candidate again for re-election as a delegate, but his circular in reference to the boundary of the state, and the opinion expressed that they could not get more favorable state boundaries, put him in an awkward position before the voters, as the citizens were generally opposed to the boundaries which he had given his opinion as not being likely to be changed. After Dodge's nomination, and while the canvass was going on, ably and earnestly contested by his opponent, Ralph P. Lowe, Samuel J. Bayard, who held the office of receiver in the land office at Fairfield, having, for some political reason, taken a dislike to Dodge, wrote a very argumentative and sarcastic letter, under the signature of "Wapello," in which he reviewed Dodge's political course, and particularly his circular, and presented him before the people in no very enviable light.

This letter very much annoyed Dodge, and came very near defeating him; but, having previously been very popular, and being regarded as a faithful public officer, and there being a large democratic majority in the territory, he was again returned to congress.

At the April election of 1845 there was an election of members of the legislature, which convened at Iowa City on the fifth of the following May.

One of the first things which claimed the attention of the legislature was the defeated constitution. The leading politicians among the democrats being anxious for a state government, and claiming that the constitution had been defeated on account of the change of the boundaries by congress, used every exertion in their power with the members of the legislature to have it again submitted to a vote of the people, with the boundaries as defined by the convention. And the legislature passed a law providing that the constitution, with the boundaries as adopted by the convention, should, at the next August election, be again submitted to the voters for their ratification or rejection. But this law especially provided, if there was a majority in favor of the constitution, so submitted, it was not to be considered as accepting the boundaries fixed by congress, and there was to be no election of state officers, and the admission was not to be deemed as complete until whatever conditions might be imposed by congress should be ratified by the popular vote.

This bill, from the whig portion of the legislature, met with a strenuous opposition, every whig using all his exertions to defeat the measure; but it was carried by a strict party vote.

The whig members of the house, not being satisfied with voting against the bill, after it had passed, probably to have effect before the people, drew up a lengthy protest, and had it entered upon the journals, which was published in all the whig newspapers throughout the territory. When the bill was submitted to Governor Chambers, he returned it with his veto; but the democrats having, in both branches of the legislature, a majority of two-thirds, passed the bill by the requisite majority over the veto, and it became a law.

Though the whig members of the legislature and the governor were not able to defeat the passage of the law, yet when the constitution was again submitted to the people, it was voted down by a much larger majority than at the first time of voting; so that the labors of this convention proved to be of no avail, much to the chagrin of some of the leading politicians.

Owing to the probability that the territory might become a state, the election for members of the legislature was postponed from August till the first Monday of the next April.

At this session of the legislature, acts were passed for organizing the counties of Iowa, Kiskekosh (now Monroe), and Marion. The two former counties were organized on the first day of July, 1845, and the latter on the first day of August of that year. And all the country west of the organized counties was attached to them for civil and judicial purposes.

The affair of the Miners Bank, of Dubuque, again came up for consideration, and the legislature for the first time undertook to make some arrangements for paying the debts which were due the bank from the territory; and on the tenth of June they passed an act requiring the territorial treasurer to sell enough of the unsold lands in Iowa City, belonging to the territory, to pay the bank debt, and apply the proceeds of the sale for that purpose. This was the first step taken by the legislature to pay a just debt, which had been contracted more than four years previous, and had been due over three years, and no part of the principal or interest had been paid; and during this time the legislature had been carrying on a warfare against this institution for not redeeming its notes. But before the legislature had done this act of justice, they had taken the steps to give the institution its death blow, for on the fourteenth of May they passed a bill repealing its charter, and providing for winding up the business of the bank. The law made it the duty of the district court to appoint two trustees, who were authorized to settle the affairs of the bank, to sell its personal and real estate, collect money and pay debts, and manage the whole business, as an administrator would the assets of an insolvent estate.

The bill was presented to the governor, but he did not approve it, nor return it to the legislature, doubtless thinking if he should veto it that it would be passed by a two-thirds majority; and, after it had remained with him three days, it became the law of the territory by the law of congress.

The owners of the bank did not feel disposed to submit to

this summary proceeding without being heard in their defense, and resisted the enforcement of the law. Judicial proceedings were commenced, and the right of the legislature to repeal the charter and close up the business of the bank was resisted till the question was decided by the supreme court.

The act creating the bank had a provision, "that if said corporation should fail to go into operation, or should abuse or misuse this charter, it should be in the power of the legislature of the territory at any time to annul, vacate, and make void this charter." The bank contended that in thus disposing of its charter, it had not had any chance to defend itself, and that, before the charter could be taken away or repealed, it should be decided by some judicial tribunal, after due investigation, that it had abused or misused its privileges guaranteed to it by the charter; but the supreme court decided the act of the legislature repealing the charter to be a valid act, and the institution was closed up.

[TO BE CONTINUED.]

LYNCH LAW AT THE DUBUQUE MINES.

BY ELIPHALET PRICE.

IN executing the laws of Judge Lynch at the Dubuque mines in the spring and summer of 1834, not only much good was accomplished, but wrong was often done. It was an easy matter, in those days, to raise a hue and cry against a person, particularly if he was a stranger, and friendless; and the mob once let loose upon him, seldom paused for evidences of guilt beyond the report in circulation.

A number of instances of this kind came under our personal observation, but none made so lasting an impression upon our mind as the whipping of William Hoffman, a discharged sol-

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