THE POWERS OF THE GOVERNOR OF IOWA

*By Russell M. Ross**

The official leader in state governmental affairs in Iowa has always been the governor. Even during the years that Iowa was a territory, the chief executive bore the title "Governor." Under the territorial constitution of 1838, however, the governorship was an appointive position, with the President of the United States naming the territorial executive. Complete executive power and authority under the territorial constitution rested with the governor, who held a three-year appointment, if not removed sooner by the President. The governor was charged with faithfully executing the laws of the territory.[1] His powers were very broad and inclusive, as he was not only the executive head but also exercised great influence over the legislative body, due to his semi-absolute veto power over all acts of the Assembly. Coupled with this extraordinary power was his appointive authority over all inferior judicial officers, justices of the peace, sheriffs, militia officers, and county surveyors. Thus, in summary, the first territorial governors possessed real power and prestige never equaled by any of the elected chief executives of the state.

Three men served as governors of Iowa Territory. First was Robert Lucas, appointed by the President in 1838. He served until 1841, when John Chambers was named to succeed him. The third, James Clark, served only one year, being appointed to his post in November of 1845 and terminating his services with the election of the first state governor of Iowa in 1846.[2] All three of Iowa's territorial governors were men of high caliber; all three had served in public office before assuming the executive post in Iowa; and none abused the powers and authority vested in them.

Second in authority in the executive office during the early days of government was the secretary of the Territory. Like the governor, he was

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[1] Dwight G. McCarty, *The Territorial Governors of the Old Northwest* (Iowa City, 1910).

[2] *Iowa Official Register, 1953-1954* (Des Moines, n. d.), 268.

appointed by the President for a term of years — in his case four years — subject to removal at any time by the President. As an administrative assistant the secretary performed the duties of the governor in the event of his death, resignation, or absence from the Territory. His regular duties included recording, preserving, and transmitting to the President the laws, acts, and proceedings of the Legislative Assembly. No officer in the state government today has such all-inclusive duties. In some aspects the present lieutenant governor has many of the territorial secretary's administrative duties, but other of his functions are now performed by the secretary of state, the chief clerk of the House, or the secretary of the Senate.

The governor, under the first state constitution of 1846, was given "supreme executive" powers. The office was filled by popular election, with the only three qualifications being that the candidate must be a United States citizen, male, and at least thirty years of age. The elective term in the 1846 constitution was four years. However, the constitution neglected to provide for a lieutenant governor, and from 1846 to 1857 Iowa government functioned without such an officer. The present constitution, adopted in 1857, provides for both a governor and a lieutenant governor.

Following the time-honored American custom, three separate departments of government were formed — the legislative, the executive, and the judicial. The constitution stipulated that any person who is properly allowed one group of powers is prohibited from exercising any functions pertaining to either of the other branches, unless specifically permitted. The division and separation of powers is not distinct nor was it intended to be absolute.

The constitution of 1857 provides that the governor shall be elected at the same time and place as the members of the General Assembly, and that he shall hold his office for two years, the term beginning on the second Monday of January following the election. This was a reduction in the term of office, since the 1846 constitution gave the governor a four-year term. Many political scientists believe that the two-year term is too short. Governors in a majority of the forty-eight states are now elected to four-year terms. However, Iowa is one of the thirty-one states having no restrictions on the re-eligibility of the governor to succeed himself. The tendency in Iowa has been to re-elect the governor to his post once but to reject him if he seeks a third term. From the time Iowa was admitted to the Union, on December 28, 1846, to the present, thirty men have served as governors. Of these, only four have been elected three times (Kirkwood,

IOWA GOVERNORS 1846 TO DATE

Name	*Date of Birth*	*Place of Birth*	*County of Residence*	*Date of Inauguration*	*Age at Inauguration*	*Years Served*	*Politics*	*Death Date of*
Ansel Briggs	1806	Vermont	Jackson	Dec. 3, 1846	40	1846-1850	Democrat	1881
Stephen Hempstead	1812	Connecticut	Dubuque	Dec. 4, 1850	38	1850-1854	Democrat	1883
James W. Grimes	1816	New Hampshire	Des Moines	Dec. 9, 1854	38	1854-1858	Whig-Rep.	1872
Ralph P. Lowe	1805	Ohio	Muscatine	Jan. 13, 1858	53	1858-1860	Republican	1883
Samuel J. Kirkwood	1813	Maryland	Johnson	Jan. 11, 1860	47	1860-1864	Republican	1894
William M. Stone	1827	New York	Marion	Jan. 14, 1864	37	1864-1868	Republican	1893
Samuel Merrill	1822	Maine	Clayton	Jan. 16, 1868	46	1868-1872	Republican	1899
Cyrus C. Carpenter	1829	Pennsylvania	Webster	Jan. 11, 1872	43	1872-1876	Republican	1898
Samuel J. Kirkwood	1813	Maryland	Johnson	Jan. 13, 1876	63	1876-1877	Republican	1894
Joshua G. Newbold	1830	Pennsylvania	Henry	Feb. 1, 1877	47	1877-1878	Republican	1903
John H. Gear	1825	New York	Des Moines	Jan. 17, 1878	53	1878-1882	Republican	1900
Buren R. Sherman	1836	New York	Benton	Jan. 12, 1882	46	1882-1886	Republican	1904
William Larrabee	1832	Connecticut	Fayette	Jan. 14, 1886	54	1886-1890	Republican	1912
Horace Boies	1827	New York	Black Hawk	Feb. 27, 1890	63	1890-1894	Democrat	1923
Frank D. Jackson	1854	New York	Polk	Jan. 11, 1894	40	1894-1896	Republican	1938
Francis M. Drake	1830	Illinois	Appanoose	Jan. 16, 1896	66	1896-1898	Republican	1903
Leslie M. Shaw	1848	Vermont	Crawford	Jan. 13, 1898	50	1898-1902	Republican	1932
Albert B. Cummins	1850	Pennsylvania	Polk	Jan. 16, 1902	52	1902-1908	Republican	1926
Warren Garst	1850	Ohio	Carroll	Nov. 24, 1908	58	1908-1909	Republican	1924
Beryl F. Carroll	1860	Iowa	Davis	Jan. 14, 1909	49	1909-1913	Republican	1939
George W. Clarke	1852	Indiana	Dallas	Jan. 16, 1913	61	1913-1917	Republican	1936
William L. Harding	1877	Iowa	Woodbury	Jan. 11, 1917	40	1917-1921	Republican	1934
N. E. Kendall	1868	Iowa	Monroe	Jan. 13, 1921	53	1921-1925	Republican	1936
John Hammill	1875	Wisconsin	Hancock	Jan. 15, 1925	50	1925-1931	Republican	1936
Daniel W. Turner	1877	Iowa	Adams	Jan. 15, 1931	54	1931-1933	Republican	
Clyde L. Herring	1879	Michigan	Polk	Jan. 12, 1933	54	1933-1937	Democrat	1945
Nelson G. Kraschel	1889	Illinois	Shelby	Jan. 14, 1937	48	1937-1939	Democrat	
George A. Wilson	1884	Iowa	Polk	Jan. 12, 1939	55	1939-1943	Republican	1953
B. B. Hickenlooper	1896	Iowa	Linn	Jan. 14, 1943	47	1943-1945	Republican	
Robert D. Blue	1898	Iowa	Wright	Jan. 11, 1945	47	1945-1949	Republican	
William S. Beardsley	1902	Iowa	Warren	Jan. 13, 1949	47	1949-	Republican	

Cummins, Hammill, and Beardsley). Fifteen others were re-elected to the office for a second term. Of the thirty governors, five were Democrats, twenty-four were Republicans, and one (James W. Grimes) was elected as a Whig, but left office as a member of the Republican party.

The constitutional requirements for the governorship are three in number. First, the candidate must be an American citizen. Second, he must have been a resident of Iowa for the two years next preceding the election. Third, he must be at least thirty years of age. The qualifications required by the constitution are not too meaningful. The youngest man to be elected governor was thirty-seven years old (William M. Stone); while the oldest (Francis M. Drake) was elected at the age of sixty-six.

The political parties require more practical tests of the candidates in their quest for suitable men.[3] The candidate must be on good terms with the element of the party that is exercising control at the time. He must be personally acceptable. His professional or business record must be of such a nature that it will attract voters. Governors of Iowa have come from various trades and vocations. The predominate profession is, of course, law, with twenty-one of Iowa's governors being lawyers. Surprisingly, for an agricultural state, only three list their occupation as farming, and only one was actually residing on a farm when elected. For the most part, Iowa's governors have been men of rather wide political experience. The majority, twenty of the thirty, had legislative experience before becoming chief executive of the state. Typical of the legislative experience of the governors is the career of the 30th governor, William S. Beardsley, first elected in 1948. Beardsley served in the Iowa Senate in the 45th, 46th, and 47th General Assemblies and in the Iowa House in the 52nd General Assembly. Many of the men who have won the gubernatorial office have used it as a political steppingstone to Washington. Nine of the governors have been elected to the United States Congress following their terms. Six became United States Senators (Grimes, Kirkwood, Cummins, Herring, Wilson, and Hickenlooper), two became Representatives (Carpenter and Kendall), while Gear served in both the House and the Senate. Two governors later became members of presidential cabinets — Kirkwood as Secretary of the Interior under Garfield; Shaw as Secretary of the Treasury under Theodore Roosevelt.

[3] Jacob A. Swisher, *Iowa Governors* (n. p., 1939), and "Early Iowa Governors," *The Palimpsest*, 16:1-30 (January, 1935).

The salary and expenses now allowed the governor of Iowa place him in the upper half of the governors in the United States. However, it has been only since July 1, 1947, that the Iowa governor has been receiving what may be classified as adequate compensation. Today his salary is $12,000; before this time the annual salary was $7,500, somewhat below the 1945 national average of $8,000.

It was also in 1947 that the 52nd General Assembly appropriated funds for the purchase of a governor's mansion. Previous to the purchase of the $40,000 home on Grand Avenue the chief executive of Iowa was forced to rent or purchase his own residence in Des Moines. The governor receives, besides his annual salary and executive mansion, official cars, a secretary with an annual salary of approximately $5,000, and an expense account of approximately $21,400 for "salaries, support, maintenance and miscellaneous purposes."

The governorship may become vacant in Iowa by at least five methods. These include, according to the state constitution, the governor's "death, impeachment, resignation, removal from office, or other disability." In case one of these five methods of removing the governor should occur, the lieutenant governor assumes the duties and prerogatives of the office. The succession of the gubernatorial post as provided in the constitution goes from the lieutenant governor to the president pro-tempore of the Senate to the Speaker of the House of Representatives. The procedure followed in impeachment as outlined in the constitution of Iowa is copied after that of the national government. The House of Representatives has the sole power of impeachment, and the Iowa Senate acts as the jury. Guilt is found only when two-thirds of the senators present agree to conviction. It is assumed that the practice employed by the United States Senate of having the Chief Justice of the Supreme Court preside would be used in a state impeachment case. No governor of Iowa has ever been impeached. Two governors, Kirkwood and Cummins, have resigned to accept election to the United States Senate. Kirkwood's term was filled out by Newbold; Cummins', by Garst. It should also be noted that Iowa does not use removal by recall.

The staff and aides provided Iowa's chief executive are relatively few in number. Included in the governor's office are the following positions, besides the governor's executive or appointive secretary: a personal secretary, four assistant secretaries, a messenger, a clerk, and two typists. In

addition, each year there are several part-time assistants who receive hourly compensation.

The following are the governor's powers as listed in Iowa's 1857 constitution:

> *Art. IV — Sec. 1* — The Supreme Executive power of this State shall be vested in a Chief Magistrate, who shall be styled the Governor of the State of Iowa. . . .
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> *Sec. 7* — The Governor shall be commander in chief of the militia, the army, and navy of this State.
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> *Sec. 8* — He shall transact all executive business with the officers of government, civil and military, and may require information in writing from the officers of the executive department upon any subject relating to the duties of their respective offices.
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> *Sec. 9* — He shall take care that the laws are faithfully executed.
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> *Sec. 10* — When any office shall, from any cause, become vacant, and no mode is provided by the Constitution and laws for filling such vacancy, the Governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the General Assembly, or at the next election by the people.
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> *Sec. 11* — He may, on extraordinary occasions, convene the General Assembly by proclamation, and shall state to both Houses, when assembled, the purpose for which they shall have been convened.
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> *Sec. 12* — He shall communicate, by message, to the General Assembly, at every regular session, the condition of the State, and recommend such matters as he shall deem expedient.
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> *Sec. 13* — In case of disagreement between the two Houses with respect to the time of adjournment, the Governor shall have power to adjourn the General Assembly to such time as he may think proper; but no such adjournment shall be beyond the time fixed for the regular meeting of the next General Assembly. . . .
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> *Sec. 16* — The Governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses except treason and cases of impeachment, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the General Assembly at its next meeting, when the General Assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and

forfeitures, under such regulations as may be prescribed by law; and shall report to the General Assembly, at its next meeting, each case of reprieve, commutation or pardon granted, and the reason therefor; and also all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted. . . .

Sec. 20 — There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called the Great Seal of the the State of Iowa.

Sec. 21 — All grants and commissions shall be in the name and by the authority of the people of the State of Iowa, sealed with the Great Seal of the State, signed by the Governor, and countersigned by the Secretary of State. . . .

Art. VI — Sec. 3 — All commissioned officers of the militia (staff officers excepted) shall be elected by the persons liable to perform military duty, and shall be commissioned by the Governor.

It would seem to be logical that the Iowa General Assembly would augment the supreme executive power of the governor to enable him to perform his constitutional duty of executing the laws. However, the Iowa legislature has been reluctant to give the governor extensive powers by state statute. Thus, the power and influence of the governor depends more on his official status and his position as state leader of his political party than it does on definite legislative grants of authority.

The most essential power to the effective exercise of administrative direction and control is that of appointment.[4] However, Iowa has traditionally followed the theory that democracy implies popular election of state officials. Therefore, the secretary of state, the attorney general, the secretary of agriculture, the state auditor, the state treasurer, and members of the commerce commission are elected by the people. Until 1952 the office of superintendent of public instruction was elective, but at the 1953 session of the General Assembly this office was made appointive.

Thus, the governor's appointive power is sharply curtailed, but there are still numerous relatively minor administrative posts that he can fill. The governor's appointive power, however, is not complete in the state printing board, board of law examiners, state board of health, State Fair board, and the geological board, since many state officers serve in part as ex officio

[4] Carl H. Erbe, "The Executive Department of Government as Provided by the Constitution of Iowa," Iowa Journal of History and Politics, 23:363-405 (July, 1925).

members of these boards. In all, there are approximately twenty state agencies of varying importance that are constituted wholly or partially by election. Many of these state boards and commissions in numerous other states are filled by the governor.

The governor of Iowa does have the exclusive right to appoint, without any restrictions, the following officials and boards:

Adjutant General
State Comptroller
Notaries Public
Board of Engineering Examiners
Board of Architectural Examiners
Curators of the State Historical Society (9 of the 18 members)
State Board of Health (5 members)
Commission for the Blind (2 of 3 members)
Board of Podiatry
Board of Osteopathic Examiners
Board of Chiropractic Examiners
Board of Nurse Examiners
Board of Barber Examiners
Board of Medical Examiners
Board of Embalmers Examiners
Board of Cosmetology Examiners
State Board of Accountancy
Board of Examiners in the Basic Sciences
Iowa Development Commission
Pharmacy Examiners
Commission on Uniform State Laws
Watchmakers' Board
Building Code Council
Merit System Council
Board of Dental Examiners
Board of Optometry Examiners

The governor also makes the following appointments, but they must be confirmed by two-thirds of the Senate:

Board of Parole
State Tax Commission
State Highway Commission
State Board of Education
Commissioner of Public Health
Board of Control of State Institutions
The Conservation Commission
Labor Commissioner
Industrial Commissioner
Insurance Commissioner
Superintendent of Banking
Iowa Employment Security Commission
Iowa Liquor Commission
Commissioner of Public Safety

The act making the office of superintendent of public instruction appointive also provided for a new board of public instruction with nine members. Eight of the members are to be elected by the boards of education of the eight congressional districts; the ninth member is to be appointed by the governor.

In general, it is asserted that the governor is free to appoint without restriction any one he chooses for members of the minor administrative boards. The most important officer in this group is the comptroller, who

should of course be responsible to the governor, but who, in his auditing capacity, should be accountable to the state legislature. In contrast, the agencies that must have senatorial approval are powerful agencies with each assigned an important field of administration and vested with important responsibilities. Combined with the elective officials, these governor-appointed officers form the bulwark of Iowa's administrative organization. Therefore, it is not entirely fair to hold the governor solely responsible for the activities of many of the most important officials whom he has only a share in appointing. The approval by the Senate of appointees is primarily a holdover from the national system of checks and balances. There are strong arguments for both senatorial approval and for relieving the Senate of this responsibility. The weight of authority and experience indicates that little is to be gained by having the Senate approve of the governor's appointments. In Iowa there apparently is no reason for some officials' appointments being subject to senatorial scrutiny while others are not. The Iowa governor has relatively little power over local officials of the state. He has no appointive or removal power over county or city officers other than those already mentioned.

The power of removal of the governor in Iowa is more limited than his appointive powers.[5] The elective and constitutional state officers are removable only by impeachment. The procedure that the governor must use to remove the other officers is cumbersome. He may order the attorney general to file with the appropriate court for causes specified in the law a petition for removal of any appointive officer. The court, upon hearing the charges, then removes the accused official if it deems the charge sufficient. There are a relatively small number of state officials over whom the governor has greater powers in regard to their removal. For illustration, the governor may remove at any time a member of the board of architectural examiners. However, most of the administrative officials serve fixed terms, which range from two to six years, and removal is only by court procedure. Many of these commissions and boards have staggered terms, and only a minority may ever come up for appointment by any one governor.

The immediate administration of the state militia is charged to the adjutant general, who is appointed by the governor. Under the constitution, the governor is the commander in chief of the armed forces of the state.

[5] O. K. Patton, "Removal of Public Officials in Iowa," *Iowa Applied History Series* (6 vols., Iowa City, 1912-1930), 2:389-440.

In emergencies he may order out the militia, but this action is usually expensive and is resorted to only after all other measures have failed.

One of the powers that the governor of Iowa can exert over legislation passed by the General Assembly is through the exercise of his right of veto. Iowa's constitution allows the governor only a limited veto. If the legislature remains in session, the governor is given three days, Sundays excepted, in which to determine whether to sign or veto a bill that has been sent to him by the Iowa General Assembly. Should be decide to veto the bill he returns it to the originating house with his reasons for vetoing. It may become a law over his veto if passed by a two-thirds majority of both houses. If the governor does not take any action within the three days following presentation of a bill to him, it becomes a law just as if he had signed it. Any bill that the legislature submits to the governor during the last three days of the legislative session must be deposited by the governor in the secretary of state's office within thirty days after the end of the session with either his signature or with his reasons for a veto. While the Iowa veto is correctly termed limited, the governor's veto has never been overridden by a two-thirds vote of both houses of the General Assembly in the history of the state. Iowa's governors have not abused their veto power,[6] as evidenced by the fact that no bills have become law, once they were vetoed. However, there has been no movement to grant the Iowa chief executive the item veto that is used in all but 8 of the 48 states.

The governor is empowered to call extraordinary sessions of the General Assembly if he desires to do so. In only twelve instances have governors believed it necessary to convene the legislature in special session. Several governors have resorted to polling the legislators to determine whether or not they believed a special session desirable, and have been guided by the answers of the lawmakers in calling or not calling the session. Once the governor orders the Assembly to convene, he usually addresses them, outlining the problems he believes they should consider. From that point on the legislators can do whatever they like, as there is no limitation on the subjects that they can legislate upon in an extraordinary session.

The governor outlines for the General Assembly at the time of his inauguration his policies of administration and emphasizes the problems he believes must be solved. From time to time the governor transmits special

[6] Jacob A. Swisher, "The Executive Veto in Iowa," IOWA JOURNAL OF HISTORY AND POLITICS, 15:155-213 (April, 1917).

messages to the assembly, the most important of which is the budget message. These messages exert marked influence upon legislation, with the budget message forming the background and basis for most of the appropriation measures that are enacted by the Iowa General Assembly. Another power or influence over legislation and the legislators in the hands of the governor is his authority to proclaim special elections.

The real measure of the governor's control over legislative action lies not so much in his constitutional powers as in his personality and influence as the leader of a political party. The governor, if he is to guide the legislature, must be a man of purposeful character with positive force. Through his personality and political affiliations a strong governor may often determine which bills will become statute law and which will be lost.

In analyzing the Iowa gubernatorial post, it must be concluded that Iowa has placed her governors in the almost impossible position of being by law responsible for the over-all administration of the state yet not having sufficient power and authority to control the hierarchy completely. Often governmental units grant power without responsibility, but here is presented a situation of responsibility without commensurate power.

One of the first changes that might well be considered, if a truly integrated administrative organization is to be accomplished, would be to eliminate the popular election of the secretary of state, secretary of agriculture, state treasurer, state auditor, and attorney general, and to make these positions appointive. All of these officials, except the state auditor, should be responsible to and cooperate completely with the governor. If a strong, centrally controlled, efficient state administration is to be maintained, the governor should be able to control these administrative officers, and control can best be attained by giving him the power to appoint. These changes, except in the case of the secretary of agriculture, would require an amendment to the state constitution, or could be included in a revision of the constitution, when and if that should ever occur.

The appointive power that the governor now possesses in Iowa should be strengthened. Membership on too many important state boards and commissions is an ex officio duty of administrators who should be devoting full time to their primary job and not be expected to drain off their energies and attention to secondary obligations on boards and commissions. Likewise, some authorities question the soundness of the device used widely in Iowa of requiring the governor to appoint two members of a five-man board from

the minority party. The tendency would too often seem to be to appoint relatively "weak" members of the opposition party to board and commission posts, and to replace the minority members with others as frequently as possible, so that no minority party member could build up experience on a board or commission. Likewise, the value of senatorial approval of almost all appointments is subject to considerable question in the minds of many administrators.

Iowa might well give attention to granting the governor more influence over the legislature and making him a more effective legislative leader. Allowing the governor to have an item veto would make him a more positive force in his budgetary relationships with the General Assembly. Iowa has never given the governor this power, but it might improve his position. His staff is likewise inadequate. He should have a staff with several administrative assistants and aides. His present office force is a mere skeleton as compared with the staffs provided most of the state governors. The executive council might become a useful cabinet for the governor, if its members were all directly responsible and accountable to him rather than being completely independent as they are at the present time.

In direct contrast to the powers of the President of the United States, the authority of the governor in a majority of the forty-eight states is just as narrowly restricted as it is in Iowa. Fear of vesting power in the executive can be traced back to the days of colonial government, when the governors of the colonies were appointed by the king. Thus, when the first states wrote their constitutions, the executive department was deliberately made weak. As new states were formed, they tended to copy the constitutions of the older states. A movement for concentrating power and authority as well as responsibility in the hands of the governor is slowly gaining support, however, in spite of bitter opposition. Many persons contend that it is "Un-American" to vest too much power in the hands of a governor. New York and California are two of the states that have completely reorganized their state administrative machinery and have placed power commensurate with responsibility in their executive officer. Iowa has as yet resisted any movement to centralize the control over the administration in one individual, preferring to stay with the time-honored custom of electing administrative officers, who form what is called an "executive council," but do not perform as do the presidential cabinets on the national scene, even though in outward appearance the members may resemble those of the federal cabinet.