

THE MILLER-THOMPSON ELECTION CONTEST

The history of congressional elections in Iowa¹ records nine contests² which have been carried into the House of Representatives for adjudication.³ The first and in many respects the most interesting of these contests was that of Daniel F. Miller (Whig) against William Thompson (Democrat) growing out of the campaign and election of 1848 in the First Congressional District. It is the purpose of this paper to review the history of that struggle.

Iowa was about evenly divided, politically, between the Democrats and the Whigs during the period from 1846 to 1854. Although defeated in the congressional campaigns of 1846 and 1847, the Whigs were nevertheless hopeful of electing their candidates in both districts in 1848. Solicitous over the outcome of the campaign in the First District, they entered upon a crusade to secure the votes of the Mormons

¹For a history of congressional elections in Iowa prior to 1850 see the writer's articles in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. X, pp. 463-502; Vol. XI, pp. 38-68.

²The contested congressional elections which have been carried from Iowa into the House of Representatives for final adjudication are as follows: Daniel F. Miller *vs.* William Thompson, Thirty-first Congress, 1849-1851; S. B. Black *vs.* Augustus Hall, Thirty-fourth Congress, 1855-1857; Legrand Byington *vs.* William Vandever, Thirty-seventh Congress, 1861-1863; J. C. Holmes *vs.* John L. Wilson, Forty-sixth Congress, 1879-1881; John C. Cook *vs.* Marsena E. Cutts, Forty-seventh Congress, 1881-1883; Benjamin T. Frederick *vs.* James Wilson, Forty-eighth Congress, 1883-1885; Frank G. Campbell *vs.* J. B. Weaver, Forty-ninth Congress, 1885-1887; William P. Hepburn *vs.* William D. Jamieson, Sixty-first Congress, 1909-1911; D. D. Murphy *vs.* Gilbert N. Haugen, Sixty-second Congress, 1911-1913. See Rowell's *Contested Election Cases in the House of Representatives, 1789-1901*, for a brief historical and legal digest of the first seven of these cases.

³The Constitution of the United States provides that each house of Congress "shall be the judge of the elections, returns and qualifications of its own members."—Article I, Section 5.

who had settled temporarily on the western frontier of the State.

A considerable number of Mormons were at that time sojourning at the town of Kaneshville (now Council Bluffs) in Pottawattamie County.⁴ The Kaneshville district, however, had not been organized under the laws of Iowa for election purposes when the campaign of 1848 was inaugurated. Indeed, the greater portion of the western half of Iowa had not been organized into counties prior to the August elections of that year.⁵ That is to say, the counties in the eastern portion of the State were organized first. As the organization of counties proceeded, there remained unorganized country lying to the west and varying from one hundred to two hundred miles in extent. By a number of acts passed by the Legislative Assembly of the Territory of Iowa and by the General Assembly of the State of Iowa, all the country lying west of certain organized counties was attached to such counties for revenue, election, and judicial purposes, and the inhabitants of such attached country were entitled to enjoy all the rights and privileges of citizens of the counties to which they were attached.

THE METHOD OF ORGANIZING ELECTION PRECINCTS

In accordance with this practice, an act was passed by the Legislative Assembly on June 11, 1845, providing for the organization of Kishkekosh (now Monroe) County. This was one of the frontier counties of central Iowa which were bounded on the west by the unorganized counties of the State. The sixteenth section of this act provided that "the territory west of said county be, and the same is hereby

⁴ See Mr. Jacob Van der Zee's article on *The Mormon Trails in Iowa*, in the present issue of THE IOWA JOURNAL OF HISTORY AND POLITICS.

⁵ See Garver's *History of the Establishment of Counties in Iowa* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. VI, pp. 375-457. See especially Maps I to XVI inclusive, pp. 441-457.

attached to the county of Kishkekosh, for election, revenue and judicial purposes."⁶ By the seventeenth section of a similar act approved on February 5, 1844, providing for the organization of Mahaska County, the country west of Mahaska County was attached to that county for election, revenue, and judicial purposes.⁷ And on February 16, 1847, the General Assembly of Iowa passed an act, the tenth section of which provided that the country west of Dallas County should be similarly attached to Dallas County.⁸

It is to be noted further that the elective franchise was secured to the inhabitants of the western portion of Iowa by an act of the Legislative Assembly approved on July 28, 1840, and by the State Constitution of 1846. The former provided that "all the country that is at present, or may hereafter be attached to any of the organized counties in the Territory, be, and the same is hereby attached for revenue, election and judicial purposes, and the inhabitants thereof shall be entitled to and enjoy all the rights and privileges of the county or counties to which they are attached that they would be entitled to were they citizens proper of some organized county."⁹ The Constitution of 1846 provided that "any country attached to any county for judicial purposes, shall, unless otherwise provided for, be considered as forming part of such county for election purposes."¹⁰

⁶ *Laws of Iowa*, 1845, pp. 103-106. On January 19, 1846, an act was passed by the Legislative Assembly changing the name of this county from Kishkekosh to Monroe.—*Laws of Iowa*, 1845-1846, p. 108.

⁷ *Laws of Iowa*, 1843-1844, pp. 85-89.

⁸ *Laws of Iowa*, 1846-1847, pp. 63-66.

⁹ *Laws of Iowa*, Extra Session, 1840, p. 15. The Constitution of 1846 provided that "All the laws now in force in this Territory, which are not repugnant to this constitution, shall remain in force until they expire by their own limitations, or be altered or repealed by the General Assembly of this State."—Article XIII, Section 2, quoted from Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. I, p. 208.

¹⁰ Constitution of Iowa (1846), Article XIII, Section 7, quoted from Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. I, p. 210.

But in what manner was the elective franchise of those resident in this attached country to be exercised? The Constitution of 1846 provided that "every white male citizen of the United States, of the age of twenty-one years, who shall have been a resident of the State six months next preceding the election, and the county in which he claims his vote twenty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law."¹¹ But how were places for holding elections within the country thus attached to organized counties to be provided?

An examination of the laws of Iowa prior to 1848 shows that the Boards of County Commissioners of the various counties to which unorganized territory was attached were empowered to organize such territory for election purposes. Three of these laws deserve special mention as bearing upon the later organization of Kaneshville into an election precinct: (1) an act providing for the organization of townships, approved on February 17, 1842,¹² the first section of which authorized the Boards of County Commissioners to divide counties into townships and to designate the places where the first meeting of the electors should be held;¹³

¹¹ *Constitution of Iowa* (1846), Article III, Section 1, quoted from Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. I, p. 194.

¹² *Laws of Iowa, 1841-1842*, pp. 97-103.

¹³ This section provided "That the board of county commissioners in each county, not yet divided into Townships, shall as soon as they are of the opinion that a majority of the people of the county desire it, proceed to divide the county into townships in the following manner: They shall divide the county into townships of such shape and size as the convenience and interests of the citizens may require, confer upon each township the name preferred by the inhabitants of the same, and appoint the place where the first meeting of the electors shall be holden. The clerk of the said board shall record the name of each township, the time when it was set off, and a particular description of its boundaries."

This provision of the act of February 17, 1842, was finally repealed by the act of January 21, 1847, which superseded it. A complete copy of the act of February 17, 1842, providing for the organization of townships may also be found in Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. III, pp. 253-262.

(2) "An Act providing for and regulating general elections", which went into effect on July 1, 1843,¹⁴ and by which the Boards of County Commissioners were required "at their regular annual session in July preceding the general election, where the counties are not organized into townships", to "appoint three capable and discreet persons, possessing the qualifications of electors, to act as judges of the election, at any election precinct"; and (3) an act approved on January 21, 1847, containing the following provisions:

That the Board of Commissioners of each county, which shall not be divided into townships when this act takes effect, and of each county to which any county or counties, not so divided, shall at that time be attached for election and judicial purposes, shall, at any regular or called session, as early as practicable, divide such attached county or counties, into townships of size and shape most convenient to the inhabitants; giving to each such name as the inhabitants thereof may prefer, and shall appoint a central and convenient place in each township, for holding the first township election; and the Clerk of the Board shall record the name of each township, with a particular description of its boundaries; and every county afterwards established, or organized, shall be divided into townships, in like manner, at any regular or called session of the Board of Commissioners thereof, or of the county to which the same may be attached.¹⁵

THE ORGANIZATION OF THE KANESVILLE PRECINCT

It is evident, therefore, that a method was provided by law for the immediate organization of Kaneshville for election purposes in order that the Mormons resident in that vicinity might participate in the general election of 1848. Such organization the Whig campaign managers proceeded to accomplish in the opening weeks of the campaign.

In this connection attention should be called to the fact

¹⁴ *Revised Statutes of the Territory of Iowa, 1842-1843*, pp. 244-256.

¹⁵ *Laws of Iowa, 1846-1847*, p. 29

that Pottawattamie County had already been established prior to the campaign of 1848. On February 24, 1847, the General Assembly of Iowa passed an act entitled "An Act for the organization of Pottawatamie¹⁶ and other counties". The act was, however, very general in character, in that it merely prescribed a method for the organization of Pottawattamie and other counties, although it named and dealt specifically only with Pottawattamie County. This act provided simply that "the country embraced within the limits of what is called the Pottawatamie purchase, on the waters of the Missouri river, in this State, be, and the same may be, temporarily organized into a county, by the name of Pottawatamie, at any time when, in the opinion of the judge of the fourth judicial district, the public good may require such organization."¹⁷ Although the boundaries of the Pottawattamie Purchase,¹⁸ which by the above act became also the boundaries of Pottawattamie County, were not definitely prescribed, the country included within the newly created county of Pottawattamie embraced the greater portion of southwestern Iowa.

While an attempt was made in the early part of the campaign of 1848 to secure an order from the Judge of the Fourth Judicial District authorizing the organization of Pottawattamie County,¹⁹ this county was not actually organ-

¹⁶ This is the spelling found in the act.

¹⁷ *Laws of Iowa*, 1846-1847, pp. 115, 116.

¹⁸ The date of this purchase is June 5 and 17, 1846. The territory thus ceded included all the lands claimed by the Pottawattamie Indians in Iowa.—See Kappler's *Indian Affairs, Laws and Treaties*, Vol. II, pp. 557-560. See also Garver's map descriptive of this cession in his *History of the Establishment of Counties in Iowa* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. VI, p. 250.

¹⁹ For an account of the establishment and organization of Pottawattamie County see Garver's *History of the Establishment of Counties in Iowa* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. VI, pp. 411-416.

ized until September 28, 1848.²⁰ In the meantime, Pottawattamie County remained an unorganized county and as such was, under the laws of Iowa, attached to the organized counties to the east for election, revenue, and judicial purposes, and was subject to division into townships for election and other purposes by the Boards of Commissioners of the respective counties to which the country included within Pottawattamie County was attached.

Early in the summer of 1848, Fitz Henry Warren, chairman of the Whig State Executive Committee and also treasurer of the National Committee, had a conference with William Pickett, traveling agent for the *St. Louis Republican*, the leading Mormon paper in Missouri.²¹ Nothing definite is known as to the subjects actually discussed at this conference; but in the light of later developments it is evident that the object of this meeting was the consideration of the Mormon vote in the ensuing election. Arrangements were entered into whereby Pickett was to secure the organization of Kaneshville for election purposes. This object Pickett at once proceeded to accomplish.

Immediately after the conference with Warren, Pickett set out for Kaneshville, arriving there about the 20th of May.²² The Mormons, anxious to secure a township organization for local government purposes, were persuaded to

²⁰ This is the date given by Garver in his *History of the Establishment of Counties in Iowa* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. VI, p. 412.

²¹ The writer has been unable to determine the exact time and place of this conference. It is probable, however, that it was held in Burlington some time during the month of May. This conclusion is based on newspaper reports of the period and on *House Miscellaneous Documents*, 1st Session, 31st Congress, 1849-1850, Document No. 47.

²² Testimony of Evan M. Greene, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 36. Greene was one of the clerks of the election held at Kaneshville on August 7, 1848, and later was appointed postmaster at that place. Greene testified that Pickett "came here about the 20th of May."

circulate a petition praying for such organization. Presuming, evidently, that Kaneshville lay directly west of Monroe County, the following petition, signed by a number of Kaneshville residents and dated June 12th, was addressed to the Board of Commissioners of Monroe County:

We, the undersigned, citizens residing near Council Bluffs, in the State of Iowa, ask your honors to grant us a township for the purpose of electing two justices of the peace and constables, as we labor under so much disadvantage from the want of legal authority in our midst, not having legal authority among us to authenticate an instrument in our necessary dealings and conveyances, or to take proper cognizance of those violating the law.

The election may be held at the council-house, in the village of Kaneshville, and Charles Bird, Henry Miller, and William Huntington would be suitable men to act as judges of said election.²³

Armed with this document, Pickett went to Monroe County; but before presenting it to the Board of Commissioners of that county he called at the home of James P. Carleton, Judge of the Fourth Judicial District. Pickett informed Carleton that he had brought a petition from Pottawattamie County asking for the appointment of an organizing Sheriff for that county²⁴—hoping, apparently, for an appointment

²³ This petition was included in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 4. The Clerk of Monroe County certified on October 26, 1848, that this was "a true copy of all the petition there is in the office at this time".

²⁴ Testimony of Judge Carleton given at Iowa City on March 6, 1850, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 120. The writer doubts whether Pickett did in fact have in his possession such a petition. Judge Carleton did not say that he saw the petition in question but that Pickett "came to my house with a petition signed by a number of persons, representing that he and the petition were both from Pottawattamie county, the petition praying for the appointment of an organizing sheriff for said county." Carleton stated that he refused to appoint Pickett on the ground that he had already appointed a Mr. Townsend for that purpose. Townsend did not, however, effect an organization for Pottawattamie County, a fact for which it is difficult to offer an explanation except perhaps that Townsend, who was a Democrat, felt certain the inhabitants of Pottawattamie County would support the Whig ticket and that therefore it was politically expedient to postpone the

whereby he would be able to organize Pottawattamie County independently. Carleton, however, refused to make the desired appointment. Defeated in this plan, Pickett went to Albia, the county seat of Monroe County and presented the same document to the Board of Commissioners. No one else being present at the time who knew anything about the location of Kaneshville, Pickett explained that he believed Kaneshville to be due west of Monroe County.²⁵ The Board of Commissioners thereupon issued, under date of July 3rd, an order granting the request set forth in the petition.

Ordered by the board of commissioners of the county of Monroe and State of Iowa, that that portion of country called Pottawatomie county, which lies directly west of Monroe county, be organized into a township, and that Kaneshville be a precinct for election purposes in said township; and that the election be held at the council-house in said village, and that Charles Bird, Henry Miller, and William Huntington be appointed judges of said election, and that the boundaries of said township extend east as far as the East Nishnabotna.²⁶

Pickett, appearing to be very anxious to reach Kaneshville in time to give the proper notices for holding the election, the Clerk of Monroe County requested a man named Townsend (who had accompanied Pickett to Albia) to prepare the

organization of that county. This was later charged against Townsend. Whatever explanation may be given, it appears from the records examined that Townsend advised Pickett to see Judge Carleton and in the event of his failing to secure the appointment as organizing sheriff to proceed to Albia where the Board of Commissioners of Monroe County was then in session. This Pickett did, accompanied by Townsend, and he secured the order. As a matter of interest, Judge Carleton did later appoint Pickett organizing sheriff for Pottawattamie County. This appointment, however, was not made till August 28th — three weeks after the general election. Pottawattamie County was organized on September 28th — in time for the county to participate independently in the presidential election of 1848.

²⁵ Testimony of William Townsend, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 63, 64.

²⁶ This order is incorporated in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 4, 5.

notices which the Sheriff of Monroe County authorized Pickett to post. Pickett lost no time in returning to Kaneshville, where he arrived some time during the early part of July. The order of the Board of Commissioners of Monroe County was duly executed; and Pickett, during the remaining weeks of the campaign, "used his utmost exertions in favor of the election of Daniel Miller . . . and of the Whig ticket generally."²⁷ For these services Warren paid Pickett the sum of one hundred and forty dollars.²⁸

EFFORTS OF THE WHIGS TO SECURE THE MORMON VOTE

In the meantime other agencies were employed by the Whigs for the control of the Mormon vote in the coming general election. On June 24th, Elder Orson Hyde, who was the leader of the Mormons in Iowa, left Kaneshville for the eastern part of the State.²⁹ It appears that Hyde had two principal objects in view in undertaking this journey: (1) a conference with Fitz Henry Warren concerning the political situation and the measures necessary to insure a Whig victory; and (2) the purchase of a printing press for the purpose of establishing a newspaper at Kaneshville.

Hyde arrived in Burlington in the first week of July, and had a conference with Warren. Although it is not known definitely what arrangements were entered into between these two men,³⁰ it is evident that a satisfactory agreement

²⁷ Testimony of Evan M. Greene, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 36.

²⁸ Warren acknowledged the payment of one hundred and forty dollars to Pickett for his services and traveling expenses, in a letter which appeared in the *Burlington Hawk-Eye* for August 31, 1848. This letter was printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 56.

²⁹ Testimony of Orson Hyde, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 45.

³⁰ Leading Democratic newspapers later charged that Warren gave Hyde a draft for one thousand dollars on Washington in return for the latter's active and open support of the Whig ticket. This alleged "corrupt bargain" will be considered in the following pages of this discussion.

was reached, for immediately after the conference, Hyde wrote a letter addressed to the Mormons in Iowa advising them to support the Whig ticket. This interesting communication reads as follows:

BURLINGTON, IOWA, July 8, 1848.

Dear Friends and Brethren:—

It has seemed good to me, your brother and companion in tribulation, and counsellor in the church of God, to advise and request you to cast your votes at the ensuing election for the Whig candidates for office. This letter is placed in the hands of Col. F. H. Warren, *who will give you or cause it to be done, all necessary information, HOW AND WHERE TO ACT.*

A due respect for our prosperity as a people and for the prosperity of the country at large, has influenced me to give you the above counsel; and with it I give you the assurance of my hearty good will, and an interest in my prayers that Heaven's blessings may rest upon you here, and that his glory may be your reward, where the "wicked cease from troubling, and the weary are at rest."

Your brother in Christ,

ORSON HYDE.³¹

The above letter was at once dispatched to all the Mormon settlements in the State and it is reasonable to suppose that it contributed in a considerable degree to the almost unanimous support of the Whig party by the Kaneshville voters at the ensuing election, for Orson Hyde was probably the most influential person among the Mormons in Iowa.³²

³¹ This letter is quoted from the *Keokuk Dispatch*, Vol. I, No. 14, August 26, 1848. It was published also in the *Iowa Democratic Enquirer* (Bloomington), Vol. I, No. 8, August 26, 1848. These two journals in turn copied the letter from the *Iowa State Gazette* (Burlington), to which it was first sent.

Hyde admitted in his testimony given at Kaneshville on March 19, 1850, that he had written a letter while in Burlington in 1848 advising the Mormons to vote the Whig ticket; that he left this letter with Mr. Warren; that he had not, however, signed it as head of the Mormon Church but as a private individual; and that he was "quite willing" that they should "use it publicly or privately."—See *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 47.

³² Hyde later professed that he had known nothing of the organization of Kaneshville for election purposes at the time of his visit in Burlington. This is

It appears further that while in Burlington Hyde effected an arrangement through which he secured the money for the purchase of a printing press. Evidence as to the source of this money is, however, vague and conflicting. While the newspapers a few weeks later charged that Hyde had received the money from the Whigs, Hyde himself testified that he had "received letters from another source, not in Iowa that were a benefit to me, through which I effected a loan of eight hundred dollars. With that money I purchased in Cincinnati my press and type."³³ While Hyde did not deny outright that he received the money in question from the Whigs, it can not be proved that he did obtain the sum from that source. In short, while it is evident that Hyde and Warren had an understanding with each other, the question as to whether Hyde joined with Warren in an alliance with money as the basis of the agreement is a matter of speculation.

The activities of Orson Hyde after the above objects were secured may be stated very briefly. Leaving Burlington immediately after the publication of his letter to the Mormons, he went to Cincinnati where he purchased his printing press. It is probable that he went on to Washington, D. C. No record, however, is to be found concerning his journey from the time he left Burlington until he returned to Kan-

probably true, for Hyde left Kaneshville on June 24th — ten days before Pickett secured the order from the Board of Commissioners of Monroe County authorizing the establishment of an election precinct at Kaneshville — and arrived in Burlington about the time that the above order was issued. But while Hyde may not have known of the action taken by the Board of Commissioners of Monroe County, he may nevertheless have anticipated such action, for he acknowledged that he had conferred with Pickett when the latter was circulating among the Mormons the petition which was later presented to the Board of Commissioners of Monroe County. Again, Hyde admitted that he had met Pickett when he (Hyde) was on his way to Burlington.— See testimony of Orson Hyde, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 41.

³³ Testimony of Orson Hyde, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 42.

ville on October 20th—more than two months after the general election and two weeks before the presidential election. Hyde at once installed his printing press and began the publication of his newspaper, the *Frontier Guardian*.³⁴

It is apparent, therefore, that Fitz Henry Warren, Orson Hyde, and William Pickett were laboring energetically to secure the Mormon vote at the general election of 1848 in order to insure a Whig triumph at the polls. While these influences were at work in behalf of the Whig candidates, the leading Democratic newspapers began to scent what they professed to regard a "corrupt bargain" between the Whig and Mormon leaders.

Two days before Orson Hyde issued his Burlington letter, the editor of the *Keokuk Dispatch* wrote an editorial in which he informed his readers that he had learned, while in Iowa City the week before, of "an arrangement" being made whereby "a few thousand" Mormons were to be incorporated within "some of the organized counties, for the purpose of voting the Whig ticket, in order, if possible, to secure the Whig ticket in the State." These considerations led the editor to observe that:

We would be the last to complain of the use of any honorable means to acquire a victory in a political struggle, but when we see a party, or an individual, endeavoring to thwart the wishes of the people of our State, by importing into our organized limits, a remnant of a sect whose customs are so unlike those of a christian community that their presence, in a body, can nowhere be tolerated, and that too when they have shown their disregard of our institutions, by refusing to organize and become subject to our laws, as they have done, our indignation becomes aroused to such an extent that we scarcely dare trust ourselves to speak of the matter, lest we indulge in the use of language unbecoming the columns of a newspaper. . . . In a short time the whole matter will manifest itself.³⁵

³⁴ Testimony of Orson Hyde, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 45.

³⁵ *Keokuk Dispatch*, Vol. I, No. 7, July 6, 1848.

And so it did, apparently, for just two weeks later, when the congressional campaign was at its height (July 20th), this same journal again called attention to the matter in the following words:

Information of the most unquestionable character has been received, that the leaders in the whig party in Iowa are making every effort to buy up the Mormon vote that is now sojourning on our western borders and throughout the State. Pledges of every description that they could ask have been made them to vote the whig ticket. Missionaries and runners from the whig camp here have been circulating to and from the head-quarters of the whig and Mormon leaders that the Mormons are all pledged, as far as political machinery can be made to influence them, to vote for D. F. Miller, and the whig ticket. We are also assured by the Mormon leaders the whig State Central Committee of Iowa have purchased a printing establishment, press, type, paper, &c., and made a present to the Mormons, with an understanding that if Pottawattamie county . . . cannot be organized in time to enable them to vote at the August election, they are to march in phalanx into the organized counties, and some three thousand of them vote the whig ticket.³⁶

THE CONGRESSIONAL CAMPAIGN OF 1848

The congressional campaign of 1848 was, during the month of July, characterized by great earnestness and enthusiasm.³⁷ Party lines were closely drawn and the Whigs were determined to win at the general election, while the Democrats were equally determined to retain their ascendancy. It was therefore to be expected that Whigs and Democrats would carry the campaign into the Mormon settlements. Indeed, the records show that the candidates for State and national offices did considerable electioneering in Kaneshville during the closing weeks of the campaign.

Among the Democrats who went to Kaneshville for elec-

³⁶ *Keokuk Dispatch*, Vol. I, No. 9, July 20, 1848.

³⁷ For an account of the congressional campaign and election of 1848, including a map showing the congressional districts, see the writer's article in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. XI, pp. 38-68.

tioneering purposes were Josiah H. Bonney of Van Buren County, candidate for Secretary of State, and Dr. John Selman of Davis County, candidate for State Senator.³⁸ William S. Townsend of Lucas County and George P. Stiles of Van Buren County also journeyed thither to give active support to the Democratic candidates.³⁹ Ezra P. Cone, the Democratic Sheriff of Monroe County, was present at the polls in Kaneshville on election day and electioneered "for William Thompson and the Democratic ticket."⁴⁰ William Thompson, too, made his appearance in that vicinity near the close of the campaign and hastened away again to look after his political fences in other quarters. Finally, it should be mentioned that the members of the Board of Commissioners of Monroe County were all Democrats and so was the Clerk of that county, and that these officials all "acted as the political friends and supporters of Hon. William Thompson in the Congressional election of 1848."⁴¹

The Whigs were no less determined to control the Mormon vote in the coming election. Intense partisan zeal was displayed by party managers and candidates. William Pickett made the final appeal to the Mormons to support the Whig ticket. It is not known whether Daniel F. Miller went to Kaneshville at any time during the campaign or not.

THE ELECTION AT KANESVILLE

The Kaneshville polls were opened on Monday morning, August 7th, the date of the general election. Charles Bird,

³⁸ Testimony of George P. Stiles, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 17, 18.

³⁹ Testimony of George P. Stiles, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 17, 18.

⁴⁰ *Admissions in reference to various matters*, by William Thompson, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 22.

⁴¹ *Admissions of Thompson in relation to the politics of the officers of Monroe County*, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 22.

Henry Miller, and William Huntington, who had been appointed by the Board of Commissioners to act as judges of the election, were duly sworn to serve in that capacity. The clerks of the election were James Sloan and Evan M. Greene.⁴²

According to the testimony of witnesses, the election was held in a legal and orderly manner.⁴³ No special incidents or violence of any sort occurred. When the polls were closed and the ballots counted, it was found that the Mormons had cast almost a unanimous vote for Daniel F. Miller and the other candidates on the Whig ticket. Out of a total of 523 votes cast in the Kaneshville precinct, Miller received 493 and Thompson 30. The other Whig candidates for State and local offices received almost the same majorities.⁴⁴

The news of this overwhelming triumph of Daniel F. Miller over William Thompson in the Kaneshville precinct was received with astonishment and chagrin by the Democratic leaders. In the first place, the Democrats had apparently been hopeful of polling a substantial vote among the Mormons. In the second place, it very soon became evident that upon the Kaneshville vote hung the issue as to whether Thompson or Miller was to represent the First Congressional District in the Thirty-first Congress. Interest, therefore, now centered at the county seat of Monroe County to which place the Kaneshville returns were brought for final record.

THE REJECTION OF THE KANESHVILLE POLL BOOK

It will be remembered that the Board of Commissioners of Monroe County had organized Kaneshville into an election

⁴² See *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 7, 8.

⁴³ Testimony of Evan M. Greene, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 37.

⁴⁴ Official returns as printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 5.

precinct in the belief that the Kaneshville district was included in the unorganized territory attached to Monroe County for election and other purposes. It therefore became necessary to file the Kaneshville poll book with the Clerk of Monroe County, whose duty it was to include the Kaneshville returns in the abstract of votes to be forwarded to the Secretary of State. Accordingly, James Sloan set out immediately with the poll book in question for Albia, where he arrived on Sunday evening, August 13th.⁴⁵

In the meantime it appears that leading Democrats were determined that the Kaneshville returns should not be received in case they should be found favorable to the Whigs. The leading figure in this preconcerted plan was J. C. Hall, the law-partner of William Thompson and later one of his attorneys in the contested election. According to his own confession, on the Wednesday preceding the election Hall went to Montrose in Lee County, where he had a conference with Augustus Caesar Dodge and L. W. Babbitt. The subject of the conversation was the Mormon vote. At the close of the conference Hall came to the conclusion that "no injury could arise from the vote of Garden Grove, in Appanoose county, or Pisgah, in Monroe county"; but he seemed to think otherwise with reference to the Kaneshville vote, for it was his judgment that inasmuch as "Kaneshville was north of Monroe county", the vote of that precinct "could not be legally received". Hall then told Dodge that he would, as "the friend of Mr. Thompson", attend to that matter.⁴⁶

Hall and Dodge left Montrose together on the same day for Madison. While at that place Hall again discussed the question of the Mormon vote in the presence of A. C. Dodge,

⁴⁵ Testimony of J. C. Hall, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 24.

⁴⁶ Testimony of J. C. Hall, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 25.

Ed Johnson, J. C. Walker, and ex-Governor James Clarke. After presenting his own views, Hall suggested that he would go to Albia and see to it that the Kaneshville vote should not be counted if they thought it advisable. They all urged that he should go, "expressing the unequivocal opinion that the vote would be illegal and fraudulent, and that it ought, if possible, to be suppressed from the canvass." It seemed to be the impression that the Kaneshville vote would be given to the Whigs.⁴⁷

Hall then returned to Burlington, where he remained until after the election. It is not known what conferences he may have had at that place in this interval. On Thursday following the election Hall left Burlington for Albia, with the intention of being present when the returns of the election were opened and of preventing the Kaneshville vote from being counted, on the ground that this vote was illegal and therefore void.⁴⁸ In the meantime James Sloan was on his way to Albia with the Kaneshville poll book.

On the morning of August 14th the office of the Clerk of Monroe County was the meeting-place of an anxious group of politicians representing both parties, for this was the day on which the returns were to be made, and the Whigs were alarmed lest the Kaneshville vote should be rejected; while the Democrats feared that the vote would be received. About thirty persons were present, among whom were William Pickett (who had accompanied Sloan to Albia) and J. C. Hall. Considerable discussion at once took place as to whether the Clerk (Dudley C. Barber) should receive the Kaneshville returns. Hall advised Barber not to receive them, giving as his reason that the organization of the Kaneshville precinct by the Board of Commissioners of Mon-

⁴⁷ Testimony of J. C. Hall, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 25, 26.

⁴⁸ Testimony of J. C. Hall, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 24.

roe County was illegal, inasmuch as Kaneshville was not directly west of Monroe County and, therefore, was not in the country attached to that county. Mr. Howell argued in favor of their acceptance.⁴⁹

After a short time Sloan produced a sealed package which he offered to Barber as the official returns of the Kaneshville precinct. Barber declined to receive the package, stating that he was satisfied that the Kaneshville precinct was not in Monroe County, and that it was therefore not his duty to receive the vote of that district. Sloan thereupon laid the returns upon the Clerk's table.

A heated discussion ensued. Finally, someone inquired what should be done with the returns in question. Hall replied: "*Sweep them out of doors*—they are waste paper." Pickett insisted that Barber had in fact received the papers, but the latter replied: "I have not, and I am not going to receive them". And he remained firm in his refusal. Soon afterwards Hall and Pickett and the others left the Clerk's office. The Kaneshville poll book was left lying on the table.⁵⁰

In the afternoon Sloan went back to the Clerk's office to induce Barber to endorse the poll-book. Sloan explained to him that he was going to start home the next morning and that he was desirous of securing his pay. Barber went to the table and took the poll book out from under some newspapers where he had placed it, but put it back in the same place without making any reply, whereupon Sloan left the office.⁵¹

⁴⁹ Testimony of J. C. Hall, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 24. See also the testimony of James Sloan, p. 68.

⁵⁰ Testimony of J. C. Hall, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 24, 25. See also the testimony of James Sloan, p. 68.

⁵¹ Testimony of James Sloan, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 68.

A few days later the editor of the *Iowa State Gazette* (Burlington) published an editorial in which he presented in full the following reasons offered by Barber for rejecting the Kaneshville vote:

1. The country called Pottawattamie county, in which Kaneshville is situated, had been conditionally organized by an act of the Legislature, and the power of final organization given to the Judge of the 4th Judicial district.

2. That when Kishkekosh (now Monroe) county was organized, Pottawattamie county was Indian country, and consequently not attached by the organizing act — and that the subsequent acquisition of that country did not enlarge the boundaries of Monroe county.

3. That the action of the Legislature in conditionally organizing the Pottawattamie country into a county, as soon as the Indian title was extinguished, showed that it was not regarded as being attached to Monroe.

4. That, even admitting the country lying immediately west of Monroe county be attached to Monroe for election purposes, clear through to Missouri river, there was no evidence in existence in the absence of Government surveys, to show that Kaneshville was west of said county; but, on the contrary, the maps showed it to be north of Monroe and west of Marion.

5. That the Commissioners of Monroe county had no authority to organize an election precinct out of Monroe and the legally attached counties; and that if they did so, it was the duty of the clerk to treat it as a void act.

6. That it was his duty to know the legal geographical boundaries of his county, and that he could not receive returns coming from any other place than Monroe county, or the legally attached country.⁵²

THE RESULTS OF THE CONGRESSIONAL ELECTION

The returns from the various counties in the First Congressional District came in slowly. Modern facilities for rapid communication and transportation had not yet made

⁵² Quoted in the *Iowa Democratic Enquirer* (Bloomington), Vol. I, No. 8, August 26, 1848.

their appearance in Iowa and ordinary travel was subjected to great inconveniences. Considerable delay was therefore experienced in the transmission of the election returns to the Board of Canvassers at Iowa City. Finally, however, on September 15th the Board of Canvassers, composed of Ansel Briggs, Elisha Cutler, Jr., and Joseph T. Fales, officially announced the votes cast by counties in the First District.⁵³

The abstract showed that William Thompson had received 6477 votes; Daniel F. Miller, 6091; and Samuel L. Howe, 310. In other words, Thompson's majority over Miller was 386.⁵⁴ The Kaneshville vote, having been rejected by the Clerk of Monroe County, was not included in the abstract of votes from that county and was therefore not counted by the Board of Canvassers. If this vote had been included in the general abstract the vote for the congressional candidates would have stood as follows: Daniel F. Miller, 6584; William Thompson, 6507; and Samuel L. Howe, 310. In short, Miller's majority over Thompson would then have been 77 votes, which would have entitled him to a seat in Congress.⁵⁵

THE DISAPPEARANCE OF THE KANESVILLE POLL BOOK

The matter of the Kaneshville returns, however, did not end with the refusal of the Clerk of Monroe County to receive the votes, for there occurred an incident which is an

⁵³ For the composition and the functions of the State Board of Canvassers in congressional elections in Iowa, see the act of January 24, 1848, providing for the election of Representatives to Congress.—*Laws of Iowa*, Extra Session, 1848, pp. 31, 32.

⁵⁴ Election returns as found in the Archives at Des Moines.

⁵⁵ In order to understand the full scope of this contest it should be mentioned in this connection that several other returns were later disputed and included in the congressional investigation. These disputes may be classified under two heads: first, the rejection of certain alleged legal votes; second, the counting of certain alleged illegal votes. These disputes do not, however, enter into the present discussion and will therefore be postponed for later consideration.

example of the tactics frequently employed in politics half a century ago and which was destined to provoke violent denunciation of the Democrats by the Whig press. This incident was the disappearance of the Kaneshville poll book on the evening of August 14th — the date of its rejection by the Clerk of Monroe County.

The facts concerning this episode appear to be as follows. According to J. C. Hall (the chief agent connected with the disappearance of the poll book and therefore the principal witness), some one whose name he professed to have forgotten came to him in the evening after the vote of Monroe County had been canvassed and told him that the Clerk would not have anything to do with the Kaneshville returns; that Pickett or the Mormons would get them and keep them if something were not done to prevent it; and that the Clerk "would not consent or dissent from any person's taking them". Hall replied that if the Clerk would not keep the returns so that they would be secure from alteration, the Democrats should have them; that a duplicate had been retained at Kaneshville; and that it would be well to keep this copy for the purpose of preventing fraud in case of a contest in the congressional election or the senatorial election for Monroe and Wapello counties.

It appears further from Hall's statement that he was informed "after dark" on the same evening that the returns "had been procured", but "how or by whom" he did not know nor did he inquire. He was informed "subsequently", he said, that the returns had been placed in his saddle bags. He did not recollect whether this fact was communicated to him at Albia, at Ottumwa, or at Agency City, but he believed it was at Agency City. At Fairfield he found a package which he supposed to be the Kaneshville poll book, and he took it to Burlington, where he kept it "sealed until sometime in the winter of 1849 when some

person or persons broke the seal". He "never looked at" it or "in any manner examined" it, "unless it was to compare" it with the list furnished by Daniel F. Miller in the contest; and he gave the poll book to William Thompson in the spring of 1849, after which time he never saw it again "until February 1850."⁵⁶

A critical review of the facts concerning the disappearance of the Kaneshville poll book at once suggests two questions: (1) What were Hall's motives in taking charge of the poll book?; (2) Did Hall have definite knowledge of the presence of the poll book in his saddle bags before he left Albia? For answers to these questions reliance must be placed on Hall's testimony and on his connection with the congressional election of 1848.

Concerning Hall's motives in taking possession of the Kaneshville poll book, it may be argued on the one hand that he had no other purpose in view than to prevent fraud by the Whigs in case they should contest the election. The Whigs already had in their possession the duplicate poll book and it was only fair that the Democrats should have the original, which they would have had in their possession in case it had been received by the Clerk of Monroe County. On the other hand, it may be contended that Hall was anxious to make way with the poll book in order to prevent its being used if the Whigs should contest Thompson's election. Whatever interpretation is placed on Hall's motives, two considerations should be kept in mind in rendering final judgment. In the first place, Hall as a member of the party to which Thompson belonged and as Thompson's law-partner was possessed of strong partisan zeal for his election and was determined, as soon as it became evident to him that Miller had won the almost unanimous support

⁵⁶ Testimony of J. C. Hall, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 25.

of the Mormons, that the Kaneshville returns should not be received. At the same time, he does not appear to have entertained any serious doubts as to the legality of the Kaneshville organization during the July campaign when both Whigs and Democrats were electioneering in this precinct for the support of the Mormons at the ensuing general election. In the second place, Hall did not publish the fact that he had taken the poll book, but kept the book and made no acknowledgment of having had anything to do with it until after it was accidentally discovered in February, 1850. In the meantime, the Kaneshville poll book was considered as lost.

In the light of these considerations, Hall's connection with the poll book is subject to censure. If his motives had been perfectly honorable, why did he permit the people of Iowa to think for over a year and a half that the poll book had been lost?

Whether or not Hall had any direct personal knowledge of the manner in which the poll book found its way into his saddle bags is a matter of speculation. It would seem that he must have known that he had it in his possession before he left Albia. It was frequently remarked, after Hall published a long letter in March, 1850,⁵⁷ explaining his connection with the poll book, "that if Hall had not found the poll book when he reached for it into his saddle bags he would have been the most disappointed man in the State of Iowa."⁵⁸

NEWSPAPER DISCUSSION OF THE MORMON VOTE

The whole subject of the Mormon vote now became the theme of the hour. As the facts relating to this topic reached the various localities of the State, politicians gath-

⁵⁷ This letter is quoted in full below, pp. 78-80.

⁵⁸ Statement of Judge C. C. Nourse to the writer.

ered at taverns, grocery stores, newspaper offices, and on street-corners to discuss the events connected with the contest for the Mormon vote and to pass judgment on the merits of the case. Farmers hailed one another on the country roads to exchange news and opinions. The whole editorial corps of Iowa turned its attention to this subject. Entire columns in the leading newspapers were devoted to reviews of the "Mormon Vote". Speculation and recrimination were exchanged by party editors. Charges of theft and bribery were hurled at opposing party leaders. For weeks and months the controversy continued, until it was finally settled in the autumn of 1850. For years after that date it was frequently called up in private conversation⁵⁹ and in newspaper editorials.⁶⁰

Two weeks after the rejection and disappearance of the Kaneshville returns the editor of the *Iowa State Gazette* (Burlington) declared that while he had known for some time that the Whigs based their hopes upon the Mormon vote, he did not believe that the Mormons as a body had intended to interfere in an election, in which, because of the temporary character of their sojourn in Iowa, they had no real interest or part. He could not say as much, however, for the leaders of the Mormons. "These men," said the editor, "we have no hesitation in saying, made a regular transfer of the Mormon vote to the whigs FOR A PRICE!" The editor then recounted the story of the activities of Pickett and Orson Hyde, and their negotiations with the Whig leaders. Hyde was specifically charged with having written his famous letter and with having sold his influence to the Whigs in return for a sum of money, which the editor declared to have been one thousand dollars. "The fact, then," was the conclusion, "is fully established, that to the

⁵⁹ Statement of Judge C. C. Nourse to the writer.

⁶⁰ See for example *The Weekly Hawk-Eye* (Burlington) for September 17, 1859.

extent of Hyde's influence the Mormons of Iowa amounting to thousands in number as they themselves declare — were not only transferred to the whigs *for a price*, at the late election, but, worst of all, like so many cattle, were turned over to F. H. Warren for instruction HOW AND WHERE TO ACT."⁶¹

"The long agony is over", was the comment of the *Iowa Democratic Enquirer* after reviewing the reasons for the rejection of the Kaneshville returns. "The whigs bade us not to crow, until we heard from Pottawattamie! We have heard from Pottawattamie! Their disgraceful scheme to overrule the people of Iowa, and to deprive them of their free choice, through the agency of 1500 illegal votes, bought for the occasion, is not only exposed, but has signally FAILED! Will anyone accuse us of injustice, hereafter, when we declare that the Federal party *fear the voice of a FREE people* as destructive of their schemes, and place their only hope of success, upon MERCHANTABLE VOTES and the corruption of the ballot box?" Finally, in referring to the sudden disappearance of the Kaneshville returns, the editor sarcastically remarked: "The whigs say the locos *stole* them. The more probable story is, that the Mormons, themselves, took the returns back with them — concluding to suppress the poll book, as they only agreed *to vote* to earn the 'one thousand dollars'."⁶²

The *Keokuk Dispatch* also denounced the Whigs in no uncertain terms for the alleged corrupt bargain with the Mormon leaders. After quoting Orson Hyde's letter in full the editor declared:

This letter was written on the eve of his departure for Washington, where it is supposed, he was to receive one thousand dollars, a

⁶¹ This editorial is quoted from the *Iowa Democratic Enquirer* (Bloomington), Vol. I, No. 8, August 26, 1848, which copied it from the *Iowa State Gazette* (Burlington) for August 23rd.

⁶² *Iowa Democratic Enquirer* (Bloomington), Vol. I, No. 8, August 26, 1848.

part of the consideration. To prove the actual bargain, its stipulations, &c., by witnesses who were present, is not to be expected on such occasions, but no man of ordinary reason will, after reading that letter, which was read to the multitude, doubt that the corrupt bargain was made. What must the people of Iowa think of a party that resorts to such means to gain an advantage — office — over their friends, neighbors, and brothers? And who, while a candidate before the people, becomes the agent for such a purpose?

We look for denunciations, deep and bitter from the whig press, for the manly refusal by the Clerk to receive and count the fraudulent vote, but we care but little — whigs will be whigs, and sanction the acts of their political friends, be they good or bad, and democrats are not so lacking in knowledge of their true character as to be frightened at their fancied discoveries of stupendous frauds.⁶³

In reply to these charges advanced by the *Iowa State Gazette* and reiterated by the other leading Democratic journals of the First Congressional District, Fitz Henry Warren wrote the following open letter which was published in the *Burlington Hawk-Eye* on August 31st:

TO THE PUBLIC

In reply to the charges made by the State Gazette of last week, of an attempted and actual bribery of the leaders of the Mormon church, whereby the entire vote was cast for the whig ticket at the late election, I deem it my duty to declare the statements made in that article to be utterly and basely untrue. No draught, letter of credit, or other evidence of value for one thousand dollars was ever given by me to Elder Orson Hyde, or to any other member of the Mormon church. Nor has there been, with the exception of one hundred and forty dollars, paid at different times to William Pickett, for the expenses of organizing precincts and general traveling outlay, a single dollar paid by me, or through my agency, to any individual connected with their organization. Nor has Elder Orson Hyde, in my belief, ever made such an acknowledgment of money received.

The evidence to sustain the truth of these declarations not being accessible, in consequence of the absence of this gentleman, I can

⁶³ *Keokuk Dispatch*, Vol. I, No. 14, August 26, 1848.

give, at this time, no further endorsement of this absolute and full denial of the whole matter of the accusation.

FITZ HENRY WARREN,
*Chairman of State Executive Committee.*⁶⁴

This unequivocal denial on the part of Fitz Henry Warren was circulated throughout the district and constituted the Whig defense against the Democratic charges of bargain and corruption.

But this did not daunt the opposition press. The editor of the *Keokuk Dispatch*, in answer to Warren's letter, remarked insinuatingly that "Fitz Henry Warren acknowledges that he paid a certain Mr. Pickett, an influential Mormon, one hundred and forty dollars for the expenses of organizing precincts and general travelling outlay."⁶⁵ Again, a week later, the editor of this same journal observed that "if the whigs and Mormons keep on in their endeavors to prove themselves innocent of the bargain and sale charged against them, we shall soon arrive at the full amount of the consideration."

In proof of this assertion the editor undertook to present "the following items" which, he said, had "already leaked out" from Whig sources:

Babbitt says that Hyde showed him a draft on Washington for	\$1000
Pickett acknowledged a draft for a Printing establishment..	\$1000
Warren said he paid Pickett expenses for organizing pre- cincts	\$ 140
Warren says he gave Lyons an order for paper and other materials	\$ 100
	\$2240 ⁶⁶

⁶⁴ This letter is quoted from *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 56.

⁶⁵ *Keokuk Dispatch*, Vol. I, No. 16, September 9, 1848.

⁶⁶ *Keokuk Dispatch*, Vol. I, No. 17, September 16, 1848.

These charges were all denied by the Whigs except the third, which Warren acknowledged in his open letter.

The Whigs also assumed the offensive in this controversy. It appears that Augustus Caesar Dodge took an active part in the congressional campaign of 1848, using his influence in favor of William Thompson. It was charged by James G. Edwards, editor of the *Burlington Hawk-Eye*, that Dodge had offered a bribe to secure the Mormon vote for the Democratic party in the August elections. This charge was reiterated by Mr. Howell, the editor of the *Des Moines Valley Whig*.

Dodge, however, emphatically denied the charge. He declared that Edwards and Howell had "personal and private griefs, which they have never had the manliness to attempt to redress" and consequently they "have ever been my ready defamers." Dodge thereupon wrote to Pickett and Babbitt asking them to relieve him of this infamous charge which they did in letters published in the *Weekly Miners' Express* of Dubuque, one of the leading Democratic organs in the State.⁶⁷

It should also be mentioned that the Whigs further charged the Democrats, who had electioneered in the Kaneshville precinct during the campaign, with having used corrupt means to swing over the Mormon vote. These charges were likewise met by emphatic denials.

These vigorous allegations and counter denials were followed by a heated controversy over the validity of the Mormon vote. The Democrats contended, of course, that the vote was illegal and should therefore be rejected. The reasons advanced in defense of this contention may be summed up broadly under two general heads: (1) the use

⁶⁷ See the *Weekly Miners' Express* (Dubuque), Vol. VIII, No. 5, October 3, 1848. This journal contains an article of two columns from which the above facts have been taken. Babbitt's letter was dated August 22nd and Pickett's letter was dated August 24th.

of bribery and corruption by the Whigs in their effort to secure the Mormon vote; and (2) the illegal organization of Kaneshville into an election precinct by the Board of Commissioners of Monroe County. The Whigs denied the validity of these reasons, arguing that the Kaneshville vote was legal and therefore should be received and included in the official canvass.

But the Whigs did not rest their case in simply defending the legality of the Mormon vote. They impeached the political integrity of the Democrats and challenged their consistency by reminding them of the following unwelcome considerations: (1) the organization of Kaneshville into an election precinct by the Board of Commissioners of Monroe County was a Democratic measure; (2) the Democrats had entered actively into the campaign for the Mormon vote in the general election and as long as they were impressed with the belief that the Mormons would support the Democratic ticket, they raised no question as to the validity of their ballots; (3) as soon as the Democrats ascertained that the Mormons would support the Whig ticket they made strenuous efforts to disfranchise them and throw out their votes as illegal; (4) if the Kaneshville returns were not legal why did Hall go all the way from Burlington to Albia to prevent them from being received?; and (5) if there was "no virtue or vitality" in the Kaneshville vote why did the Democrats steal the poll book?

"We have no epithets strong enough", said the editor of the *Burlington Hawk-Eye*, "to speak our condemnation of the poor, miserable trickery and baseness of those locofocos who have been foremost in their attempts to disfranchise the Mormons, simply because they chose to vote the whig ticket. These facts . . . exhibit a conspiracy to deprive freemen of the right of suffrage [sic] more base, more monstrous, more destructive to freedom, and

more worthy of universal condemnation, than anything yet recorded even in the history of locofocoism."⁶⁸

"The Commissioners of Monroe County, who organized the Kaneshville precinct, we learn, were all Democrats", observed the editor of the *Muscatine Journal*. "The Clerk of their Court was also a Democrat, and likewise the Sheriff of that County. The whole matter of this precinct organization was a Democratic measure from its alpha to its omega, and a Democratic delegation was there to show a fatherly care over the election, and to influence, if possible, its course. But lo, and behold! When the sheep would not run into the fold which the Democrats had so generously made for them, they called us goats, nay worse — wolves! Aliens. Minors, not twenty-one years of age! and had followed stealing for half a century! Disappointment and chagrin flew like wild-fire through the country. The Sheriff of Monroe County hurried home with adverse tidings, and informed the clerk of that county of the desperate condition of affairs in Pottawattamie, which caused him to come to the conclusion to reject the returns or poll book, even before he saw it."⁶⁹

The post-election wrangle over the Mormon vote question therefore falls into two general divisions: (1) the bargain and corruption controversy; (2) the dispute over the legality of the Mormon vote. As to the bargain and corruption controversy, it is difficult, if not altogether impossible, to pass judgment on the merits of the question. While circumstantial evidence points to the Whigs in particular and to the Democrats in a secondary degree as having employed questionable means to secure the Mormon vote, positive evidence to this effect is lacking. This fact does not, how-

⁶⁸ Quoted from the *Burlington Hawk-Eye* in the *Muscatine Journal*, Vol. I, No. 31, December 8, 1849.

⁶⁹ *Muscatine Journal*, Vol. I, No. 48, April 6, 1850.

ever, relieve either party of suspicion. Indeed, if the facts were known, it is probable that both parties would appear as guilty of corrupt practices in the campaign of 1848. That the Whigs were the chief offenders appears to have been the belief generally in Iowa at the time. When it is remembered that charges of election frauds were made by both the Democrats and the Whigs in the elections of 1846 and 1847,⁷⁰ and that attempts were made to bribe a member of the First General Assembly of Iowa in connection with the election of United States Senators in 1846,⁷¹ it seems reasonable to conclude that bribery and corruption were employed in the campaign for the Mormon vote in the congressional election of 1848.

Concerning the legality of the Mormon vote, the leading arguments of the Whigs and Democrats have already been presented. The merits of this controversy will be considered in a review of the majority and minority reports of the Committee on Elections and of the debate on these reports in the House of Representatives. It is sufficient to state in this connection that when the results of the election were published in the newspapers of the State and the news of the rejection and disappearance of the Kaneshville poll book became the subject for political gossip, attention was called by the Whig journals to the prospect of a contest over the right of William Thompson to a seat in the House of Representatives. The editor of the *Keokuk Register* referred to the matter of contesting the election in an editorial which appeared on September 28th.⁷²

THE CONTEST TRANSFERRED TO CONGRESS

Several weeks later Daniel F. Miller went to Washington,

⁷⁰ See Peterson's *Corrupt Practices Legislation in Iowa* in the *Iowa Applied History Series*, Vol. I, No. 5.

⁷¹ See Clark's *History of Senatorial Elections in Iowa*, Chapter I.

⁷² *Keokuk Register*, Vol. II, No. 19, September 28, 1849.

D. C., to consult with the leaders of the Whig party with reference to contesting the election of William Thompson. This provoked the editor of the *Iowa Democratic Enquirer* to remark that "Miller knew he would not have the least chance of success and that he was simply taking advantage of mileage and other expenses which it was customary to allow contestants."⁷³ Nevertheless, it had become apparent that the election of William Thompson was to be contested.

The Thirty-first Congress convened on December 3, 1849. This was the Congress that was to enact the Compromise of 1850 — the last great attempt to reconcile the conflicting interests of the North and South before the final appeal to arms in 1860. The Senate was perhaps the ablest body of men that ever assembled in Washington. Here appeared for the last time the great triumvirate, Clay, Calhoun, and Webster — the leading figures in American politics for forty years. The House of Representatives also contained many prominent men. Among these were Alexander H. Stephens, Robert Toombs, and Howell Cobb of Georgia, Horace Mann of Massachusetts, Joshua R. Giddings of Ohio, David Wilmot and Thaddeus Stevens of Pennsylvania, Preston King of New York, and Shepherd Leffler of Iowa.

The Democrats had a majority in the Senate, but they did not control a majority in the House. According to the *Congressional Globe* this body was composed of 112 Democrats, 105 Whigs, and 13 Free Soilers.⁷⁴ From these figures it will be seen that the Democrats were stronger than the Whigs, but the balance of power was held by the Free Soilers. It was inevitable, therefore, that the Democrats

⁷³ *Iowa Democratic Enquirer* (Bloomington), Vol. II, No. 20, November 24, 1848.

⁷⁴ *Congressional Globe*, 1st Session, 31st Congress, p. 1.

and the Whigs should spar for every advantage in order to secure control of the House. The first struggle occurred over the selection of a Speaker. After a wrangle of three weeks, during which, according to Horace Mann, several fistie encounters took place, Howell Cobb of Georgia was chosen and the organization of the House fell under Democratic control. Obviously, then, the contested election of William Thompson was destined to be of more than ordinary interest and concern.

It was on December 31, 1849, that Mr. Baker of Illinois introduced into the House of Representatives Daniel F. Miller's memorial contesting the right of William Thompson to a seat in that body.⁷⁵ This memorial was immediately referred to the Committee on Elections which was composed of the following members: William Strong of Pennsylvania, chairman, Sampson W. Harris of Alabama, John Van Dyke of New Jersey, David T. Disney of Ohio, John B. Thompson of Kentucky, Isham G. Harris of Tennessee, Edward W. McGaughey of Indiana, William S. Ashe of North Carolina, and George R. Andrews of New York.⁷⁶ The committee was composed of five Democrats and four Whigs. The Democratic members were Strong, Disney, Ashe, S. W. Harris, and I. G. Harris; while the Whigs were Van Dyke, McGaughey, Thompson, and Andrews.⁷⁷

It should be noted that while the Kaneshville vote constituted the essential issue over which the congressional election of 1848 in the First District of Iowa was to be contested, several other returns were later disputed and included in the congressional investigation. These disputed returns are to be classified under two general heads: first, the rejection of certain alleged legal votes; and second, the counting

⁷⁵ *Congressional Globe*, 1st Session, 31st Congress, p. 89.

⁷⁶ *Congressional Globe*, 1st Session, 31st Congress, p. 88.

⁷⁷ *Congressional Globe*, 1st Session, 31st Congress, p. 1.

of certain alleged illegal votes. In order, therefore, to understand the full scope of the investigation now to be undertaken by the Committee on Elections in the pending contest, attention must be given to the specific claims and counter-claims advanced by the contestants.

THE CLAIMS OF DANIEL F. MILLER

Daniel F. Miller declared the official returns from the First Congressional District of Iowa to be erroneous in three particulars, as follows:—

1. The Clerk of the Board of Commissioners of Monroe County, who was also by law a member of the County Board of Canvassers, suppressed the vote of Kaneshville, a precinct of Monroe County, and certified a false return of the votes given. The vote of Kaneshville thus suppressed was as follows: for Daniel F. Miller, 493; for William Thompson, 30. These votes should be added to the number officially returned.

2. The Board of Canvassers of Polk County counted and certified forty-two votes for William Thompson and six for Daniel F. Miller which were cast in Boone Township. These votes should be deducted from the aggregates of the official return because Boone Township was placed by the districting act of February 22, 1847, in the Second Congressional District.

3. The Board of Canvassers of Marion County rejected seven votes cast for Daniel F. Miller in Pleasant Grove Township on the ground that the initial of the middle name had been omitted, though the Christian and surnames had been given correctly. These seven votes should therefore be allowed and added to the official returns.⁷⁸

⁷⁸ For statements of the allegations of Daniel F. Miller, see the *Congressional Globe*, 1st Session, 31st Congress, p. 1292; *Report of Committees* (House of Representatives), 1st Session, 31st Congress, Vol. III, No. 400, p. 1; and Bartlett's *Contested Election Cases in Congress, 1834-1865*, p. 119.

THE CLAIMS OF WILLIAM THOMPSON

In reply to these allegations, William Thompson presented the following counter-claims:—

1. The Board of Canvassers of Mahaska County had rejected the votes of White Oak Township on the ground that the judges of the election did not certify that they had been sworn according to the requirements of the laws of Iowa, although, as a matter of fact, such oath had been administered. The votes polled in White Oak Township were as follows: for William Thompson, 53; for Daniel F. Miller, 16. These votes should be allowed and counted.

2. The Board of Canvassers of Appanoose County had rejected the votes of Chariton Township for the same reasons for which the votes of White Oak Township had been rejected, whereas in fact the judges of the election in Chariton Township had been sworn. The vote of Chariton Township was as follows: for William Thompson, 16; for Daniel F. Miller, 0. This vote also should be added to the official returns.

3. The Board of Canvassers of Appanoose County had also rejected the votes of Wells Township for reasons similar to those assigned in the case of Chariton Township, although in this case, also, the judges of the election had been sworn. The Wells Township vote stood: for William Thompson, 11; for Daniel F. Miller, 3. This vote should likewise be added to the official returns.

4. The Board of Canvassers of Dallas County had received and counted fifty-six illegal votes for Daniel F. Miller. The persons who thus voted were not qualified voters, under the Constitution and laws of Iowa, in Dallas County. They were at that time non-residents of the county, and came, on the day next preceding the election, to the place at which the election was held, from without the bounds of the county of Dallas. These fifty-six votes were therefore il-

legal and consequently should be deducted from the number returned as having been given to Daniel F. Miller.

5. The Kaneshville vote, rejected by the Clerk of Monroe County, should not be allowed and counted in ascertaining the result of the election for the following reasons: first, the persons who voted at Kaneshville were unnaturalized aliens; second, they were non-residents of the State of Iowa, temporarily sojourning there, but having no domicile in the State; third, they had not resided six months in the State nor twenty days within the county in which they claimed to vote, as the laws of Iowa required; fourth, they were minors; fifth, the election at Kaneshville was not conducted in accordance with the provisions of the laws of Iowa governing general elections; sixth, under the laws of the State there was no legally authorized district which warranted the reception of any votes at Kaneshville; and seventh, neither Kaneshville nor the country in which any of those resided who voted at Kaneshville was any part of Monroe County, or attached to it for election purposes, but was a part of another county, and was at least six miles north of Monroe County.⁷⁹

PROVISION FOR THE TAKING OF EVIDENCE

The above allegations made by Miller and Thompson, respectively, were immediately taken up for investigation by the Committee on Elections, and they indicate at once both the scope of the inquiry before the committee and the nature of the evidence to be considered. The committee continued its deliberations from day to day examining official returns and other documents submitted to it for examination. After spending three weeks in going over the

⁷⁹ For statements of the counter-allegations of William Thompson see the *Congressional Globe*, 1st Session, 31st Congress, p. 1292; *Reports of Committees* (House of Representatives), 1st Session, 31st Congress, Vol. III, No. 400, pp. 1, 2; and Bartlett's *Contested Election Cases in Congress, 1834-1865*, pp. 119, 120.

evidence at hand the committee finally came to the conclusion that it could not pass upon the merits of the contest without parol evidence. It appears, however, that Congress had not up to this time passed any law allowing depositions to be taken in contested elections. In accordance, therefore, with the practice of the House in previous contested elections, William Strong, chairman of the Committee on Elections, reported to the House of Representatives on January 23, 1850, the following resolution authorizing the taking of the testimony of witnesses to be used in the contest of Daniel F. Miller *vs.* William Thompson:

Resolved, That the parties to the contested election from the first Congressional district of the State of Iowa be, and they are hereby, authorized to take the testimony of such witnesses as either of them may require, by depositions in conformity with the laws of the State of Iowa in force at the time of taking the testimony, before any judge of the supreme court, or of the district courts of said State, who are hereby empowered to take depositions in any part of said State, or before a clerk or clerks of any of the district courts, or before any notary public, or before any justice of the peace of said State, within the county in which such clerk, or notary public or justice of the peace may reside: *Provided*, That notice of the time and place of taking the depositions shall be given by the party taking the same to the opposing party, or to his attorney, at least ten days prior to taking the same, and one day in addition for every thirty miles travel from the place of taking the depositions to the place of residence of the person receiving the notice, or to the place where he may be when notice shall be received by him, if not received at his place of residence: *Provided, also*, That the parties may, by agreement in writing, regulate the mode of giving notice: *Provided also*, That when such depositions shall have been taken, they shall, together with the agreements and notice aforesaid, be sealed up by the officer taking the same, and be directed to the Speaker of the House.⁸⁰

The resolution proposed, in short, that there should be a continuance of the case for an indefinite period of time in

⁸⁰ *Congressional Globe*, 1st Session, 31st Congress, p. 214.

order to allow Miller and Thompson to secure the testimony of witnesses.

The reading of the resolution immediately precipitated a lively discussion, in the course of which three arguments were advanced against its adoption. In the first place, it was declared that the Committee on Elections was already in possession of official returns showing that Daniel F. Miller had a majority of the votes cast in the congressional election in 1848 and that he was therefore entitled to represent the First Congressional District of Iowa. In the second place, the Committee on Elections had assigned no reason for asking for a continuance of the case, although the House was entitled to know why the request had been made. Finally, it was argued that the resolution did not place any limitation on the time within which the taking of the depositions was to be completed. Mr. Thompson, it was contended, wanted delay. He desired that he might remain in his seat an indefinite length of time in order that further testimony might be taken if he chose to take it. The passage of the resolution, it was argued by the opposition, would therefore result in interminable delay in the adjudication of the case.

In reply to these arguments it was contended: first, that the Committee on Elections had not yet entered upon the trial of the case nor did they contemplate doing so until the whole evidence should be submitted to them, and that the committee had in fact determined nothing beyond the admissibility of certain documentary evidence which had been presented by the contestant; second, that the issue between the contestant and the sitting member was such that it could not be determined without parol evidence — the testimony of witnesses; and third, that it had been impossible for the parties themselves to determine, or for the committee to ascertain, what length of time would be required to secure

the testimony. There were many witnesses to be examined. They resided in different parts of the State of Iowa and at considerable distances from one another. Some time would therefore be required, inasmuch as it was necessary for both of the contesting parties to take depositions. Nor would such a limitation of time be necessary for the reason that either party, by giving notice, could compel the depositions to be taken within the earliest period under the provisions of the resolution. Neither party had made an application for a limitation of time. Hence, the committee had prescribed no limitation, thinking it best to leave the time to the parties themselves, only reserving the power to limit any abuses which might grow out of their action under this resolution.⁸¹

After considerable discussion Mr. Schenck (Whig) of Ohio introduced the following amendment to the resolution under consideration:

To take into their consideration all such petitions and other matters touching the election and returns in the case of the seat of WILLIAM THOMPSON, of the first district of Iowa, a sitting member of this House, contested by ——— Miller, and which has been referred to them; and all papers, evidence, and facts which have been brought before them in that case, and report as soon as practicable the state of the case to this House; and if, in the opinion of the committee, they ought to be further continued for additional testimony, then that they report the reasons why such continuance is necessary.⁸²

This amendment was adopted as was also the resolution as amended.⁸³ The congressional investigation was thereupon suspended to allow Miller and Thompson to secure the testimony of witnesses in Iowa with reference to the dis-

⁸¹ For a report of the speeches on Strong's resolution of January 23rd see the *Congressional Globe*, 1st Session, 31st Congress, pp. 214-219.

⁸² *Congressional Globe*, 1st Session, 31st Congress, p. 219.

⁸³ *Congressional Globe*, 1st Session, 31st Congress, p. 219.

puted claims of the two parties in the congressional election of 1848.

THE DISCOVERY OF THE KANESVILLE POLL BOOK

Interest now centered in the accidental discovery of the Kaneshville poll book which, it will be remembered, disappeared on the evening of August 14, 1848, the date of its rejection by the Clerk of Monroe County. The whereabouts of this document was kept secret for a year and a half. During this interval it became the generally accepted belief that the poll book had been either lost or stolen and destroyed. Then it was accidentally discovered just as Daniel F. Miller and William Thompson were making preparations to secure the testimony of witnesses.

It appears that on the evening of February 19, 1850, Daniel F. Miller went to the law office of Mason, Curtis, and Rankin in Keokuk. The persons present on that occasion were Judge Charles Mason, a member of the firm, Daniel F. Miller, Ver Planck Van Antwerp, and Joseph M. Beck. In the course of a general conversation the subject of the contested election was mentioned, when Mason informed Miller that he wished him to accept the service of a notice by William Thompson to take depositions to be used as evidence in the matter of the contested seat. Miller expressed his willingness to comply with the request, whereupon Mason produced a bundle of papers which he handed to Miller. Miller, upon receiving the papers, exclaimed: "Judge Mason, you have made a mistake! You have given me the poll-books of the Kaneshville precinct that Hall stole." Mason extended his hand as if to take them back, but Miller remarked: "We will examine them", or words to that effect. These remarks excited the curiosity of Beck and Van Antwerp, who arose and went over to the table where Mason and Miller were standing. Miller declared

the papers he held in his hand to be the Kaneshville returns that had been stolen and asked Mason how he had obtained them. Mason replied that he came by them honestly, that there was no impropriety connected with the transaction, but that he did not feel at liberty to state how it occurred or where or from whom he had obtained them.

Van Antwerp and Beck both examined the papers with Miller. Attention was called to the signatures of the election officers, the names of the voters, the number of ballots cast, and to the fact that the poll book was gotten up in good style. Miller thereupon returned the poll book to Mason with the remark that he should keep it and let no one else have it, observing further that if he found it in the hands of any other person he would take it at the peril of his life.⁸⁴

The news of the accidental discovery of the Kaneshville poll book spread rapidly over the State and immediately revived the indignation which its sudden disappearance had occasioned among the Whigs a year and a half before. On February 22nd, a Keokuk correspondent wrote a letter to J. G. Edwards, editor of the *Burlington Hawk-Eye*, in which he called attention to the public agitation over the discovery of the poll book in the following terms:

It is now three days since the stolen poll books were discovered, yet the excitement occasioned by it, still continues. Go where you may, into houses of public resort, into private habitations or on the streets, the theme of conversation is, the stolen poll books and the singular means by which they were brought to light. And it is truly gratifying to hear the sentiments of indignation expressed by the honest men of all parties against the perpetration of theft.

Most of the citizens here, are not inclined to believe that Judge Mason was concerned in the original 'taking' but they insist that as he was found in possession of the stolen property, he must, to clear

⁸⁴ Testimony of Joseph M. Beck and Ver Planck Van Antwerp, printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 19-21.

himself, make an exposure of the whole affair. Judge Mason is one of Thompson's counsel and attorneys, for the purpose of impeaching a portion of Miller's votes, but it is certainly no part of his professional duties to secrete stolen goods. The attorney may defend the horse thief when indicted, without censure, but it is no part of his duties to secrete the stolen horse in his stable.

My own opinion is that Thompson had the stolen books with him at Washington City, and that when he procured 100 days to take testimony in, he forwarded them through mail to Judge Mason for some purpose connected with his defence.

Hall, whose connection with the 'taking' has always been strongly suspected, left this place next morning after the discovery, under circumstances of suspicion, which induce many to believe that he fled through fear that Miller might cause him to be arrested.⁸⁵

Especially bitter was the editor of the *Burlington Hawk-Eye* in his arraignment of the Democratic leaders who were implicated in the poll book "transaction". He condemned the "whole of this transaction, from beginning to end", as "most infamous", as "an act which strikes the deadliest blow at freedom", "destroys the elective franchise, and at one fell swoop nullifies the boasted blessing of the ballot-box." With these general remarks, the editor addressed himself in particular to Hall and Mason as follows:

Whatever may have been our personal respect for some of those who are implicated in this transaction, justice and love for our institutions compel us to denounce them as traitors to the cause of freedom. If men of high standing in their party can consent to commit such a shameful moral and political robbery, for the sake of keeping that party in the majority — so hostile to all correct notions of free government — they will do no worse, it seems to us, to go a step farther and rob men of their money, as well as of their political rights.

⁸⁵ This letter was printed in the *Burlington Hawk-Eye* for February 28th, from which it was copied in the *Muscatine Journal*, Vol. I, No. 43, March 2, 1850. The Keokuk correspondent further went on to relate the manner of the discovery of the poll book, following which he appended the testimony of Ver Planck Van Antwerp and Joseph M. Beck to which reference has already been made. The letter was given wide publicity by the Whig journals.

They may set up the plea that these votes are illegal, but that does not mend the matter. They *thought* they were legal, and they *acted* as if they thought so. It seems to us too late for them to try to prove these stolen papers to be valueless. The *quo animo*, the intent, must be looked into, and it will be. Mr. Hall, or whoever stole the papers, may have thought a cute Yankee trick was being played; but every legal voter whose name is attached to that record has the right to arraign the thief and his accomplices before and after the fact, as robbers of their rights, which to them were considered more valuable than money, or any other species of mere property.

The men engaged in thus robbing the ballot-box of its potency deserve to be, and should be spurned from their party as deadly foes to liberty and right. If they are not, they will be dead weights to any party who may retain them. Mark that, ye locofocos who are still inclined to hug Hall, Mason, & Co. to your bosoms. Read the letter of our correspondent from Keokuk.⁸⁶

Two weeks later Orson Hyde, now editor of the *Frontier Guardian*, reprinted the above editorial in a special edition of that organ under date of March 13th. This was the very day of the arrival in Kaneshville of Judge Kinney and the attorneys of William Thompson for the purpose of taking evidence in the contested election. The revival of the discussion over the poll book and the arrival of these persons brought from Hyde the following significant remarks:

As the above named persons are representatives from the party who stole and secreted our votes, we trust that they will meet with that kind of *letting alone* which will prove to them that we have no fellowship with those who will steal our rights, nor with their representatives They will probably find out all they can, and we shall feel it our duty to help them about as much as they helped us to find our stolen poll-books, so as to be even in civility and kindness.

In our public speeches, in our letters, and by every means in our power, we endeavored to forestall any illegal voter that might at-

⁸⁶ This editorial was copied in the *Frontier Guardian* (Kaneshville) for March 13, 1850, from which it was copied in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 121.

tempt to cast a vote; and we believe that we were successful: at least we have no knowledge to the contrary.

If our poll books had not been stolen, but treated with respect and submitted to an honorable examination, we presume that every citizen here would be willing to afford every facility to this delegation to acquire all the information possible; but, as it now is, they cannot complain if we are not the most communicative people in the world.⁸⁷

HALL'S LETTER OF DEFENSE

These severe impeachments of the honesty and integrity of Hall and Mason by the Whig and Mormon editors led these two gentlemen to write open letters to the public in which they attempted an explanation in justification of their position. Hall's letter ran as follows:

KEOSAUQUA, MARCH 4, 1850.

Editors of the Gazette Burlington:

SIRS:—Pardon me for imposing upon you the following communication. The recent course pursued by the Whig press in relation to the contested election in the first Congressional District, and the manner in which they connect my name with the Kaneshville poll books, demands from me a plain statement of facts in relation to that matter. It is well known that the contest depends upon the legality or purity of that vote, both of which are denied by Mr. Thompson and his friends. The vote at Kaneshville was under a pretended organization, procured by the efforts of Fitz Henry Warren, Pickett and others, which Warren admitted in a Card published under his own name that he had paid Pickett a considerable sum of money. The asserted organization was got up in Monroe county about the first of July, 1848, a little more than a month before the election, and was based upon the supposition that the country was west of that county. Under this organization an election was said to have been held, and the poll books returned to the Clerk of Monroe county on Monday succeeding the election. At the instance of a number of democratic friends I was present when that return was made, and publicly advised the Clerk of Monroe county. I based the objection upon the ground that Kaneshville was not by any pos-

⁸⁷ *Frontier Guardian* (Kaneshville) for March 13, 1850, quoted in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 122.

sible construction within the limits of Monroe county; that the supposed organization was void, and did not even intend to embrace any other country than that which lay west of Monroe. The Clerk publicly announced that he should not receive the return and in a modest but firm manner informed the bearer that he should not receive it, and that he might do with it what he pleased. When this decision was made I left the office and have never been at it since.— Understanding during the day, that the Clerk would have no official or *unofficial* connection with the poll books, and that it was at the disposal of any person who saw proper to possess it, I suggested to some of Thompson's friends that, looking to a probable contest that might arise in relation to the State Senator and member of Congress, that it was important that it should not be permitted to go into the hands of Miller's friends. My confidence was too much shaken in the verity and good faith of that election to be willing to permit (if it could be prevented) that the whole evidence should remain upon one side. After the votes were canvassed and the result announced, I was informed that the poll book had been procured by the friends of Thompson,—subsequent to that time it was placed in my hands and I gave it to Mr. Thompson.

If the Clerk had consented to have received this poll book, or held it as a record on file in his office, then it never would have been interrupted. He was, I understand, peremptory in his declaration that he would have nothing to do with it; and as I believed the poll book was not removed until the votes had been canvassed, I thought then and think still that under the circumstances it was both just and proper for Thompson's friends to hold it. The duplicate was at Kanessville, and could be procured by Miller, and this one would operate as a check upon any change or fraud that might be attempted. One thing was certain, that either the friends of Thompson or Miller must take charge of the poll book. Perhaps Miller's friends had the better right, because they brought it there but on the other side it can be asserted with equal force that if this document was to be the subject of a future controversy, and Miller's friends had the duplicate, there could be no honest objection interposed to prevent this from remaining with the other side.

The idea is lately started that the poll book was taken so as to prevent the vote from being counted, and that Thompson's certificate of election was obtained upon this ground. Nothing could be farther from the truth. No such thing was the result.— Everything

would have been as it now is, only Miller's friends would have had the poll book in the place of Thompson's. This was so understood at the time. The Clerk was assailed for rejecting the vote, and the whole whig press were full of denunciation. The Democratic press defended him; and it will be recollected that at the Democratic barbecue held near Eddyville, in the fall of 1848, that Gen. Dodge called three cheers for Mr. Barber, the Clerk of Monroe county for his firmness in rejecting the Mormon vote, which was responded to from the crowd by long and loud cheering.

It will also be recollected that immediately after the August election the whigs went to work to procure an organization of Pottawattamie county and the vote at the Presidential election was given under that subsequent organization. The Monroe county precinct was immediately abandoned; and subsequent surveys have established the fact, beyond controversy, that the Clerk was right in rejecting that vote; that it was a nullity, and had no validity in his county. The evidence which is about to be taken will in my opinion, prove every word that I have written.

I am now on my way west to procure the depositions to be used in this contest.

Yours,

J. C. HALL.⁸⁸

MASON'S LETTER OF DEFENSE

Mason's letter in explanation of his connection with the Kaneshville poll book appeared about the same time in the columns of the *Keokuk Dispatch*, to which it had been sent for publication. After reviewing the circumstances surrounding the rejection of the poll book by the Clerk of Monroe County, Mason offered the following defense of his connection with that document:

About two weeks since, a paper which I supposed to be the same was placed in my hands, as the Attorney in fact, of Mr. Thomson [sic], and for a legitimate purpose. I shall retain it until that purpose is accomplished, and shall attach it to the depositions taken in the contested election case, to be sent therewith to the Speaker of the U. S. House of Representatives.

⁸⁸ *Iowa Democratic Enquirer* (Muscatine), Vol. II, No. 36, March 21, 1850.

It must be a diseased imagination that can perceive anything improper in my thus holding and treating that paper. It has long ceased to be of any value to Mr. Miller. The certificate of election was received by Mr. Thompson more than a year since, and thus gave him his seat. When Mr. Miller commenced taking steps to contest the election, I freely made admissions which enabled him to use a copy of the Poll Book, instead of the original. He procured such copy, and is now seen on file at Washington, and answers all the legitimate purposes of the original Poll Book.

So far as I have had anything to do with this controversy it has only been as Attorney for Mr. Thomson [sic]. As such I have endeavored to conduct it in a perfectly fair, courteous, gentlemanly manner. It would be far more pleasant if this endeavor could be reciprocated. But if, from taste, habit, constitutional peculiarity, or any other cause, others choose to pursue a different course, I shall not quarrel with them on that account. Every one has in this respect, a wide latitude of choice which I shall make no effort to restrict.⁸⁹

These two communications were published in the leading Democratic newspapers of the State as true statements of the facts in the case and as a complete vindication of Hall and Mason for the part which they had taken in the poll book affair. But this did not end the controversy. The Whigs continued to assail Hall and Mason for their conduct in stealing and concealing the poll book, whereupon the Democrats replied that the Whigs were simply trying to kick up a dust in order to divert public attention from the bargain and corruption charge. "We are surprised that our whig friends should be so eager to stir this matter up, and drag it before the public", observed the editor of the *Iowa Democratic Enquirer*. "Have they forgotten that the

⁸⁹ Quoted from the *Keokuk Dispatch* in the *Iowa Democratic Enquirer* (Muscatine), Vol. II, No. 34, March 7, 1850. The *Enquirer*, after publishing in full Mason's letter of explanation, added that "the discovered Poll Book could not have the slightest bearing on the contest of Miller and Thompson, as the former had an attested copy, confessed to by his opponent, before the committee of Congress."

people are yet a little curious about the dealings of Fitz Boodle with Mormondom by which the Mormons secured a printing press''?⁹⁰

THE TAKING OF PAROL EVIDENCE

While the Whigs and Democrats were thus engaged in bitter controversy over the Kaneshville poll book affair, Daniel F. Miller and William Thompson, through his attorneys, began the taking of parol evidence in Iowa in conformity with the resolution passed by the House of Representatives on January 23rd. On February 18th Charles Mason, attorney for William Thompson, addressed to Daniel F. Miller the following notice:

You are hereby informed that the purpose of all the testimony to be taken by me at each of the points indicated by me, in relation to the contest between us, will be to establish the truth of the allegations contained in my answer to your petition; each and all of which I shall attempt to prove substantially and fully. In particular, I shall endeavor to show that you received fifty-five illegal votes in Boone township, Dallas county. The names of the illegal voters in that township are contained in the list marked A with which you are hereby furnished.

Also, that you received four hundred and ninety-three illegal votes at Kaneshville, Pottawattamie county. The list marked B with which you are herewith furnished, contains the names of the illegal voters at Kaneshville.

I shall endeavor to show that all the persons whose names are contained in each of the lists above referred to were not qualified to vote, for the following reasons:

1st. That they had not resided in the county where they offered to vote for twenty days next preceding the election in August, 1848.

2d. That they had not been inhabitants of the State for six months next previous to the said election.

3d. That they were not naturalized citizens.

4th. That they were not twenty-one years of age.⁹¹

⁹⁰ *Iowa Democratic Enquirer* (Muscatine), Vol. II, No. 36, March 21, 1850.

⁹¹ This notice is copied in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 53.

It appears that Mason had told Miller to come to his office in Keokuk to accept the service of this notice. At any rate Miller appeared the following day — the occasion of the accidental discovery of the Kaneshville poll book.

Several days later Daniel F. Miller notified William Thompson through the latter's attorney, Charles Mason, that he would take parol evidence before "competent authority" for the purpose of having "the same used in the contested election now pending between you and myself in the House of Representatives", as follows:

1st. To rebut any proof you may have produced affecting the legality of the votes cast at Kaneshville and in Dallas county at the August election of 1848.

2d. To show the legality of the votes cast in said places at said election.

3d. To show that Kaneshville precinct was organized by your political friends to aid you in your election contest against me, and that your political friends all regarded Kaneshville as a legal place of voting, and the voters there as good voters until after the election was over; and that after the election was over, and I had beaten you at that precinct, your political and personal friends stole that copy of the Kaneshville poll books which had been filed in the clerk's office of the board of commissioners of Monroe County, Iowa, whereby the citizens of Kaneshville were disfranchised of their electoral rights, and you secured the certificate of election.

4th. That you had the stolen poll books of said precinct in your possession at Washington City at the very time I charged you with it before the Committee on Elections, and that you afterwards sent them by mail to Iowa to your counsel, Charles Mason, esq., in whose hands I discovered them on the 19th of February, 1850.⁹²

The above notice was dated at Fort Madison, February 23rd, and was acknowledged three days later by Charles Mason, acting as attorney for William Thompson.⁹³

⁹² This notice is copied in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 23.

⁹³ *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 23.

The taking of parol evidence covered a period of approximately six weeks, beginning at Keokuk on February 20th and closing at Dubuque on April 5th.⁹⁴ The attorneys in charge of taking the depositions of witnesses were Daniel F. Miller for himself, and Charles Mason, J. C. Hall, and L. E. Johnson for William Thompson. These men were assisted by other attorneys at such points as were not easily accessible to the "attorneys in fact". The principal witnesses examined were S. T. Marshall, George P. Stiles, Joseph M. Beck, and Ver Plank Van Antwerp at Keokuk on February 20th and 21st, before Jesse B. Browne, Justice of the Peace for Jackson Township in Lee County;⁹⁵ Jonathan Scott, Isaac Bartlett, and J. F. Stratton at Centerville in Appanoose County on March 6th, before J. F. Kinney, Judge of the Supreme Court of Iowa;⁹⁶ Joseph T. Fales, Josiah H. Bonney, and James P. Carleton at Iowa City on March 6th, before the Clerk of the District Court for Johnson County;⁹⁷ Benjamin Gholson, Sherman Canfield, William M. Morrow, and Samuel Bressler at Oskaloosa in Mahaska County on March 8th, 9th, and 11th, before E. W. Eastman, Notary Public;⁹⁸ James G. Edwards and John W. Webber at Burlington on March 9th and 11th, before Oliver C. Wrightman, Clerk of the District Court for Des Moines

⁹⁴ This statement is based on the parol evidence printed in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47. The number of days' notice (ten days) to which the respective parties to the contest were entitled under the resolution of January 23rd was waived in order that the taking of parol evidence might proceed without further delay.

⁹⁵ *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 15-21.

⁹⁶ *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 111-117.

⁹⁷ *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 118-120.

⁹⁸ *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 94-111.

County;⁹⁹ William S. Townsend, James Sloan, and A. P. Henderson at Traders' Point in Pottawattamie County on March 15th, before Judge Kinney;¹⁰⁰ Reuben Oaks, Hiram Oaks, Even M. Greene, and Orson Hyde, at Kaneshville in Pottawattamie County on March 18th and 19th, before Judge Kinney;¹⁰¹ Lewis Whitten at Fort Des Moines on March 29th, before Hoyt Sherman, Clerk of the District Court for Polk County;¹⁰² and James M. Marsh at Dubuque on April 5th, before J. P. Van Hagen, Clerk of the District Court for Dubuque County.¹⁰³

Any digest of the evidence thus taken would transcend the limits of this discussion. It is sufficient to state in this connection that the investigation consisted of an inquiry into the respective claims of Miller and Thompson as presented by them to the House of Representatives. The evidence was sealed and transmitted to the Speaker of the House of Representatives, who, on March 19th¹⁰⁴ and April 19th,¹⁰⁵ laid it before the House, and it was immediately referred to the Committee on Elections. When the evidence was all in, William Strong, chairman of the committee, reported the following resolution on May 15th:

Resolved, that the testimony taken and submitted in the matter of the contested election in the first congressional district of the

⁹⁹ *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 57-62.

¹⁰⁰ *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 63-78.

¹⁰¹ *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 31-53.

¹⁰² *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 117, 118.

¹⁰³ *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 53-55.

¹⁰⁴ *Congressional Globe*, 1st Session, 31st Congress, p. 549.

¹⁰⁵ *Congressional Globe*, 1st Session, 31st Congress, p. 775.

State of Iowa, be printed for the use of the committee and of the House.¹⁰⁶

This resolution was read and adopted. Two weeks later (May 30th) Mr. Schenck of Ohio offered the following resolution:

Resolved, That the Printer of this House be directed to print the testimony in the contested-election case pending from the State of Iowa, and furnish the same for the use of this House and the Committee on Elections, in advance of all other printing.¹⁰⁷

No objection being made to the reception of this resolution, the question was put and the resolution adopted, whereupon Mr. Schenck moved to reconsider the vote and to lay the motion on the table, which was agreed to.

The evidence as printed appeared as Document No. 47 in the *House Miscellaneous Documents*, First Session, Thirty-first Congress, 1849-1850. Arranged in no systematic or logical order, the subject-matter of this document may be classified under three general heads: (1) parol evidence: the testimony of witnesses; (2) the certified abstracts of election returns for all the counties in the First Congressional District of Iowa; (3) miscellaneous materials, including letters and editorials from the leading newspapers of Iowa during the period under consideration. The writer has already made frequent reference to this document in the foregoing pages. Moreover, the report of the Committee on Elections was based in part on the evidence therein contained.

THE MAJORITY REPORT

On June 18, 1850, Mr. Strong presented a majority report from the Committee on Elections to the effect that "William Thompson is entitled to the seat in this House which he now occupies as the Representative from the first congressional

¹⁰⁶ *Congressional Globe*, 1st Session, 31st Congress, p. 996.

¹⁰⁷ *Congressional Globe*, 1st Session, 31st Congress, p. 1089.

district of Iowa". Mr. Van Dyke reported the minority views of the Committee, which were in effect that Daniel F. Miller was entitled to the seat in question. It was then voted that these reports should be printed and that their further consideration should be postponed until June 26th.¹⁰⁸

The contest between Miller and Thompson was taken up for consideration by the House of Representatives on the appointed day. After the disposition of a few minor matters, Mr. Van Dyke moved the usual resolution admitting the contestant to a seat "in the Hall" and authorizing him to address the House during the continuance of the case. The motion was carried, whereupon Mr. Strong presented the majority report and Mr. Van Dyke presented the minority report.¹⁰⁹ The majority report was signed by the Democratic members of the Committee on Elections (Strong, Disney, Ashe, S. W. Harris, and I. G. Harris); the minority report was signed by the Whig members of the committee (Van Dyke, McGaughey, Thompson, and Andrews). Mr. Strong requested that inasmuch as the reports had been printed but a day or two, they should be read before the debate proceeded. The request was granted and the reports were read, the records showing that the reading consumed about an hour of time.¹¹⁰

The majority report first claimed attention.¹¹¹ This report opened with a detailed statement of the various allegations made by Daniel F. Miller and William Thompson.¹¹²

¹⁰⁸ *Congressional Globe*, 1st Session, 31st Congress, p. 1227.

¹⁰⁹ *Congressional Globe*, 1st Session, 31st Congress, p. 1292.

¹¹⁰ *Congressional Globe*, 1st Session, 31st Congress, p. 1292.

¹¹¹ For a complete copy of this report see *Reports of Committees* (House of Representatives), 1st Session, 31st Congress, Vol. III, No. 400, pp. 1-12. See also Bartlett's *Contested Election Cases in Congress, 1834-1865*, pp. 118-128. References will be made in the following pages to Bartlett's work, which was a government publication.

¹¹² For a statement of the allegations of Daniel F. Miller and William Thompson see above, pp. 68-70.

These allegations were presented at the outset in order that the House might with less difficulty comprehend the application of the testimony submitted. Four of these allegations were briefly dismissed: the third claim of the contestant and the first, second, and third claims of the sitting member. That is to say, the majority report upheld the claim of the contestant to seven additional votes in Marion County which had been rejected by the Board of Canvassers of that county on the ground that the initial of the middle name had been omitted;¹¹³ and it also upheld the claims of the sitting member to the vote of White Oak Township in Mahaska County¹¹⁴ and of Chariton and Wells townships in Appanoose County,¹¹⁵ which had been rejected by the county boards of canvassers on the ground that the judges of election in those townships did not certify that they had been sworn, although as a matter of fact the oath had been administered to these officials.¹¹⁶ The above claims of the contestant and the sitting member had been satisfactorily proved by the evidence submitted and the votes should therefore be received and counted.

These claims having been disposed of, the committee stated that but three questions remained for consideration: (1) Should the Kaneshville vote be received and counted?; (2) Should the vote of Boone Township in Polk County be rejected?; and (3) Should the return of the votes of Boone

¹¹³ An abstract of the votes in Marion County is given in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 30, 85.

¹¹⁴ An abstract of the votes in Mahaska County is given in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 84, 105, 110.

¹¹⁵ An abstract of the votes in Appanoose County is given in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 27, 116.

¹¹⁶ Testimony of Benjamin Gholson, Sherman Canfield, William M. Morrow, and Samuel Bressler in *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 94-111. See also testimony of Jonathan Scott, Isaac Bartlett, and J. F. Stratton, pp. 111-117.

Township in Dallas County be purged of the fifty-six votes alleged by the sitting member to have been illegally received there?

In discussing these important questions at issue the committee reminded the House that by the Constitution of the United States "the *times, places and manner* of holding elections, and the *qualifications of voters*" were "left to the control of the States". The elective franchise was a political, not a natural, right and could be exercised only "in the *way, at the time, and at the place*" which might be designated by law. If by the Constitution and the laws of Iowa, therefore, it were required that electors should vote only in the counties in which they resided and at designated places in those counties, it could not be doubted that votes given in other counties, or at other than the designated places must be treated as nullities. To deny this was to deny to the State the power expressly reserved in the Constitution of the United States to prescribe the place and the manner of holding the elections — a power essential to the preservation of the purity of elections.¹¹⁷ With these general observations the committee at once proceeded to the consideration of the three important questions now before the House.

1. *The Kaneshville Vote.* The committee dismissed the first, second, third, fourth, and fifth objections urged by the sitting member against the allowance of the Kaneshville vote with the remark that these objections were not sustained by the evidence presented.¹¹⁸ The qualifications of voters in the State of Iowa as defined by the Constitution of 1846 were six months' residence in the State on the part of white male citizens of the United States and twenty days' residence in the county in which the vote was claimed.

¹¹⁷ Bartlett's *Contested Election Cases in Congress, 1834-1865*, pp. 120, 121.

¹¹⁸ For a statement of these objections see above, p. 70.

While it was true that to constitute residence within the constitutional meaning of the term there must be the "intention to remain", such intention was nevertheless "entirely consistent with a purpose to change the place of abode at some future and *indefinite* day." Actual abode was "prima facie" residence. The committee was unable to perceive anything in the evidence submitted which removed the presumption that the Kaneshville residents were qualified to vote within the limits of the State of Iowa.¹¹⁹ Assuming, then, that those who voted at Kaneshville were qualified voters, it remained to be considered whether they had voted at the place prescribed by law.¹²⁰

The committee, in its majority report, thereupon submitted a statement of the facts concerning the organization of Kaneshville as an election precinct, the refusal of the Clerk of Monroe County to receive the returns, and the disappearance of the poll book.

These facts having been presented, the committee began the argument of the case. The committee wished it to be understood, however, that it did not justify the conduct of the Clerk of Monroe County or of those who took the poll book and retained it in their possession. On the contrary, it condemned such conduct as meriting "the severest censure." The Clerk had no authority under the laws of Iowa to refuse to receive that which purported to be the return from an election district. It was his duty to receive the return and lay it before the legally constituted Board of Canvassers, of which he was a member. But the action of the Clerk in rejecting the Kaneshville poll book, "censurable though it be", did not affect the decision of the question whether the Board of Commissioners of Monroe County acted with or without legal authority in organizing a town-

¹¹⁹ Bartlett's *Contested Election Cases in Congress, 1834-1865*, p. 120.

¹²⁰ Bartlett's *Contested Election Cases in Congress, 1834-1865*, p. 121.

ship, appointing judges of the election, and directing a poll to be opened at Kaneshville, and whether the votes there received could be counted legally in ascertaining the result of the election in the First Congressional District.¹²¹ As a matter of fact, the committee had found, upon an examination of the evidence presented, that the Kaneshville vote could not be received and counted, for two reasons: (1) the Board of Commissioners of Monroe County had no legal right to appoint the judges of the general election held at Kaneshville on August 7, 1848, nor did it have any right to authorize the holding of said election; (2) Kaneshville was not as a matter of fact within the territory attached to Monroe County and under its jurisdiction.

In considering the first objection to the reception of the Kaneshville vote, the committee admitted for the sake of argument that Kaneshville was situated within the country attached to Monroe County and that those who voted there were legal residents of that county. Under the Constitution and laws of Iowa all the territory that was attached to any county was a part of that county and the citizens of such attached territory had the same rights and privileges as the citizens of the county to which said territory was attached. The committee was of the opinion, therefore, that the Board of Commissioners of Monroe County had the power, under the act of January 21, 1847, to establish townships in the territory attached to Monroe County. But the power to establish a township was limited to fixing its boundaries, giving it a name, and appointing a central place within it for holding the first *township* election. They had no authority to appoint judges. Any persons appointed by them to act as judges would therefore act, if they acted at all, without legal sanction. Moreover, the act of June 5, 1845,¹²² pro-

¹²¹ Bartlett's *Contested Election Cases in Congress*, 1834-1865, p. 122.

¹²² *Laws of Iowa*, 1845, pp. 27-30.

vided that in all township elections, the electors present should, at their first meeting, elect by ballot three persons to act as judges of the election, and that at all subsequent elections the Township Trustees were to act as judges. The committee concluded therefore, from this view of the case, that the order of the Board of Commissioners of Monroe County was "entirely unauthorized" and "in contravention of the plain provisions of the law."

It was argued, however, said the committee, that the power to appoint judges of the election was vested in the Board of Commissioners by the general election law of 1843, the third section of which provided that the Board of Commissioners "shall at their regular annual session in July preceding the general election, where the counties are not organized into townships, appoint three capable and discreet persons to act as judges of the election, at any election precinct". The same section of this act provided also that "in all organized townships, the trustees of said townships" were to "act as judges of all elections held under the provisions of this act."¹²³ It was obvious, therefore, that the appointment of judges, for which provision was made in this act, could be only for election *precincts* as distinguished from *townships*.

This conclusion was rendered inevitable by reference to the act of June 5, 1845, which devolved upon the electors in each township the duty of electing judges at the first election. The act of January 21, 1847, authorized the Boards of Commissioners of counties to which unorganized *counties* were attached to lay out townships in these attached *counties*. If unorganized *country* was not considered as part of the county proper and subject to division, then the Board of Commissioners of Monroe County had no right to establish a township in the attached country, and the power

¹²³ *Revised Statutes of the Territory of Iowa, 1842-1843*, pp. 244-256.

to create *election precincts* there and to appoint judges was vested in them under the general election law of 1843. But the act of January 21, 1847, included all attached *country*. The Board of Commissioners of Monroe County so understood it. Their order establishing a *township*, fixing its boundaries, and designating Kaneshville as the place of holding the election indicated that they had acted under the law of 1847 and not under the law of 1843. The committee, therefore, again emphasized its conclusion that the appointment of the judges of the election in that township was unauthorized by law and that the judges thus appointed could not legally act.

But even if this conclusion were not correct, argued the committee, neither the act of January 21, 1847, nor the order of the Board of Commissioners of Monroe County warranted any other than a *township* election, as distinguished from a *general* election. The duties of the Commissioners were declared in the act to be preliminary to the *first township election*. By the laws of Iowa all township elections were to be held on the first Monday in April of each year. Hence, any election in the new township thus established was unwarranted until the first Monday of April, 1849.¹²⁴

The committee urged, however, that there was a more serious objection to the reception of the Kaneshville vote: Kaneshville was not, as a matter of fact, situated within the territory attached to Monroe County, and consequently was not under its jurisdiction. The evidence which had been submitted established conclusively the fact that Kaneshville was at least six miles north of any part of Monroe County and in a district which had never been attached to that county for election or any other purposes. This had been

¹²⁴ Bartlett's *Contested Election Cases in Congress, 1834-1865*, pp. 122, 123.

proved by the statement of Charles Mason,¹²⁵ which was admitted by the contestant as evidence,¹²⁶ and by the testimony of John W. Webber¹²⁷ and Jonathan F. Stratton.¹²⁸ It had also been admitted by the contestant¹²⁹ that a majority of those who voted at Kaneshville in August, 1848, resided north of a line running due west from the northern boundary line of Monroe County. In other words, they resided in the territory which had been attached to Mahaska County and consequently they could vote only in Mahaska County. The committee asked, in view of these facts, how it could be claimed that the Kaneshville votes could be legally counted except in plain violation of the constitutional provision restricting the right to vote to the county in which the elector was a resident. The committee then referred to the fact that in many of the States the right to vote was confined by law to the ward or township in which the elector resided and that even under this more stringent regulation, votes cast in other wards or townships had been uniformly adjudged illegal.¹³⁰

¹²⁵ For Mason's statement, see *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 55. Mason's communication was dated at Keokuk, February 22, 1850. In this document Mason stated that he and John W. Webber of Burlington went to Kaneshville in November, 1849, for the purpose chiefly of determining the location of that place. He learned from the surveyor general that the line which divided townships 78 and 79 north had, under the authority of his office, been run and marked through to the Missouri River as part of the public surveys. Using this line as a basis for determining the location of Kaneshville, they found that Kaneshville was situated "six miles and a half farther north than the north line of Monroe county."

¹²⁶ *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 55, 56.

¹²⁷ *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 58-62.

¹²⁸ *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 112, 113.

¹²⁹ *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 35.

¹³⁰ Bartlett's *Contested Election Cases in Congress, 1834-1865*, pp. 123, 124.

Finally, it was obvious from the foregoing considerations that the Board of Commissioners of Monroe County had no more authority to establish an election district at Kaneshville than they had to establish one within the organized portion of Mahaska County. The board was one of limited jurisdiction. Beyond the prescribed limits of its jurisdiction, its acts were null and void, and consequently neither gave nor took away any rights. The Kaneshville voters were not disfranchised,¹³¹ for they were not affected by the order of the Board of Commissioners of Monroe County. They might have voted as before had Kaneshville been properly organized for election purposes by the Board of Commissioners of Mahaska County. The fact that they voted in the belief that they were legally attached to Monroe County was immaterial, though it was their misfortune. Their right to vote was a political right restricted by their actual residence and not by what they may have supposed it to be. The opposite doctrine would convert the constitutional provision into a declaration that the voter should cast his ballot in the county in which he supposed he resided and thus make the elective franchise dependent upon his own conjecture. The vote at Kaneshville was therefore illegal and could not properly be counted.¹³²

2. *The Boone Township Vote in Polk County.* The vote of this township stood: for William Thompson, 42; for Daniel F. Miller, 6. The contestant claimed that these votes should be rejected on the ground that Boone Township was in the Second and not in the First Congressional District. The majority views of the committee on this question were as follows:

The State of Iowa was divided into two congressional

¹³¹ It was argued by the opposition that the rejection of the Kaneshville vote would have the effect of disfranchising "an entire township" of legal voters.

¹³² Bartlett's *Contested Election Cases in Congress, 1834-1865*, p. 124.

districts by the act of February 22, 1847.¹³³ The First District was declared by this act to include the counties in the southern half of the State and all unorganized territory south of a line running due west from the northwest corner of Polk County; while the Second District included the counties in the northern half of the State and all of the unorganized territory north of the line just described. Polk County (organized) was in the First District; while Boone County (unorganized) was in the Second District. By an act of January 17, 1846, the unorganized counties of Story, Boone, and Dallas (afterwards organized), and the country north and west of said counties, were attached to the county of Polk for revenue, election, and judicial purposes.¹³⁴ In pursuance of this act the Board of Commissioners of Polk County in 1847 established a township in this attached country, including all of it, and called it the township of Boone.¹³⁵ The electors resident in this township voted at the congressional election of 1848 and their votes were returned and counted in Polk County, to which the township had thus been attached. For all election purposes and therefore for all the purposes of this investigation, Boone County or Boone Township was as much a part of Polk County as was any township within the county proper.¹³⁶

The Constitution of Iowa provided that any country attached to any county for judicial purposes should, unless otherwise provided for, be considered as forming a part of said county for election purposes.¹³⁷ Unless, therefore, the

¹³³ *Laws of Iowa, 1846-1847*, p. 84. See also the writer's article in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. X, pp. 485-487, for a full statement of the provisions of this act and an accompanying map.

¹³⁴ *Laws of Iowa, 1845-1846*, pp. 93-95.

¹³⁵ *Bartlett's Contested Election Cases in Congress, 1834-1865*, p. 124.

¹³⁶ *Bartlett's Contested Election Cases in Congress, 1834-1865*, pp. 124, 125.

¹³⁷ *Constitution of Iowa (1846)*, Article XIII, Section 7.— See Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. I, p. 210.

vote of Boone Township were received and counted as a part of Polk County, this constitutional provision became a nullity and the voters of Boone Township were entirely disfranchised. Their votes could be received and counted at no other place. No provision had ever been made for their voting in any other county than Polk.

But, said the committee, it was argued that the Constitution of Iowa contained also a provision that "no county shall be divided in forming a congressional, senatorial, or representative district."¹³⁸ That is to say, if Boone County was to be considered as forming a part of Polk County, then a county had been divided in forming a congressional district and therefore the districting act of February 22, 1847, was to be considered as repealing the antecedent act attaching Boone to Polk County.

To this argument the committee replied that if within the meaning of the Constitution of Iowa the districting act did divide Polk County by separating Boone Township from it, the act itself was unconstitutional and inoperative in so far as it aimed to sever Boone County from the county of which, under the Constitution and laws of Iowa, it formed a part.

The committee ventured to state further, however, that there was no legitimate reason for the assertion that the districting act of February 22, 1847, had repealed the law of January 17, 1846, attaching Boone to Polk County. It did "not purport to repeal any law". The true meaning of the constitutional provision that no county should be divided in the formation of a congressional district had been misinterpreted. The design of this provision, unquestionably, was "to guard against the division of the votes of the inhabitants of any county — to provide that all the votes of the electors of each county should be counted together and

¹³⁸ *Constitution of Iowa* (1846), Article IV, Section 32.— See Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. I, p. 210.

certified as an entirety, not in fragments." The Board of Canvassers of each county was required by law to certify an abstract of the vote of their county to the Secretary of State. The abstract thus certified was a record of the entire vote of the county, including all the territory which was attached to and part of it. That abstract might not be divided. The purpose of the constitutional provision "would ill be answered by severing from the remainder the votes of a constituent part of Polk county, though only an adjunct." In conclusion, therefore, the committee saw no satisfactory reason why the vote of Boone Township should not be counted in Polk County and in the First Congressional District.¹³⁹

3. *The Boone Township Vote in Dallas County.* It appeared from the official returns of the election held in that township in August, 1848, that seventy-two votes had been received and counted.¹⁴⁰ The sitting member contended that fifty-six of these votes were illegal on the ground that the voters did not reside in Dallas County and consequently had no right to register their votes there. These fifty-six votes should therefore be deducted from the certified returns of Dallas County.

The testimony of Reuben Oaks¹⁴¹ and Hiram Oaks¹⁴² proved, urged the committee in its majority report, that these two gentlemen and fifty others went, immediately before the August election of 1848, from Pottawattamie County (a distance of one hundred and forty miles) to Boone Township in Dallas County, where they voted on the day of

¹³⁹ Bartlett's *Contested Election Cases in Congress, 1834-1865*, p. 125.

¹⁴⁰ *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 92-94.

¹⁴¹ *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, pp. 31-35.

¹⁴² *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 35.

the election. These persons all came from the Mormon settlements west of the Nishnabotna River.

Furthermore, the testimony showed the exact places of residence of thirty-seven of these voters. The residence of the others had not been proved, though five of them had been recognized by Reuben Oaks, Hiram Oaks, and E. M. Greene as having been in the party. The committee inferred the place of residence of the others from the fact that they all went in a body from Pottawattamie County; and it was fair to presume that they all resided in the same neighborhood. Of all the places named at which these persons resided, Harris Grove seemed to have been the place most distant from Kaneshville and the northernmost.

Finally, the testimony proved conclusively that Harris Grove was at least two miles south of the south line of Dallas County, and consequently that all the places at which these persons resided were south of any portion of country which had been attached to Dallas County for election purposes.¹⁴³ That is to say, Harris Grove and these other places were not within the country attached to Dallas County, but were in the unorganized territory which had been attached to Mahaska County, to the south of Dallas, and hence the persons referred to by Oaks and Greene were entitled to vote only in Mahaska County.

Why these persons voted in Boone Township of Dallas County was immaterial. It was important to note, however, that they went from the vicinity of Kaneshville and therefore must have known either that that place was not west of Monroe County or that their places of residence were not west of Dallas County. But the question to be decided was how many of these votes should be rejected. More than fifty men were in the company that went to Dallas County. Only forty-two, however, had been recognized by Reuben

¹⁴³ Bartlett's *Contested Election Cases in Congress, 1834-1865*, p. 126.

Oaks, Hiram Oaks, and E. M. Greene. These, it was agreed by the contestant,¹⁴⁴ with the exception of four, voted for him. It followed, then, that he had received at least thirty-eight illegal votes. The committee was of the opinion that this number should be deducted from the official number returned as having voted for Miller.¹⁴⁵

The committee having presented its majority views on all the questions the consideration of which was necessary to the adjudication of the case, concluded its report by reminding the House that the following considerations had no relevancy to the actual merits of the controversy: (1) the conduct of the friends of the parties or even of the parties themselves; (2) the fact that the electors acted under an honest though mistaken impression as to their rights; (3) the fact that the Commissioners of Monroe County were the political friends of one of the litigants; (4) the fact that the campaign was conducted by the friends of the candidates as if the election at Kaneshville were regular and legal; and (5) the fact that a majority of the legal voters resident within the district expressed their preference for one of the candidates. These were matters entirely foreign to a legitimate consideration of the question as to who was entitled to a seat in Congress from the First Congressional District of Iowa. The House, in judging of the elections of its own members had no discretion to exercise. It acted in a judicial manner; and the only question to be answered was who had received a majority of the votes of the electors in the First District, polled at the time, in the manner, and at the places prescribed by law.¹⁴⁶

In final summary of its conclusions, the committee appended to the majority report the following tabulation as

¹⁴⁴ *House Miscellaneous Documents*, 1st Session, 31st Congress, Document No. 47, p. 92.

¹⁴⁵ Bartlett's *Contested Election Cases in Congress*, 1834-1865, p. 127.

¹⁴⁶ Bartlett's *Contested Election Cases in Congress*, 1834-1865, p. 127.

“the correct statement of the votes received by the sitting member and the contestant”:

	For William Thompson	For Daniel F. Miller
<i>Election Returns</i>		
Official abstract as returned.....	6477	6091
Pleasant Grove Township vote in Marion County		7
White Oak Township, Mahaska County	53	16
Chariton Township, Appanoose County	16	
Wells Township, Appanoose County	11	3
	<hr/>	<hr/>
Total.....	6557	6117
Illegal vote given to the contestant in Boone Township, Dallas County		38
		<hr/>
Final result.....	6557	6079
Majority for William Thompson	478 ¹⁴⁷	

It was apparent, said the committee, that even if the Kaneshville vote were received and counted, William Thompson would still be in the lead, for in that case his vote would be increased to 6587, while Daniel F. Miller's vote would only reach 6572, thus leaving a majority of fifteen votes in favor of William Thompson. The committee was therefore of the opinion that William Thompson received a majority of the votes which were legally polled and was justly entitled to represent the First District of Iowa in the Thirty-first Congress. The majority report closed with a resolution to this effect.¹⁴⁸

THE MINORITY REPORT

The minority report differed from the majority report on all three of the major questions presented for adjudication.

¹⁴⁷ Bartlett's *Contested Election Cases in Congress*, 1834-1865, p. 127.

¹⁴⁸ Bartlett's *Contested Election Cases in Congress*, 1834-1865, p. 128. See also *Congressional Globe*, 1st Session, 31st Congress, p. 1292.

1. *The Kaneshville Vote.* The minority urged that this was a question of much importance. In the first place, it was not a matter of a few illegal votes but one of the admission or destruction of the vote of an entire township or precinct — one of the largest in the State. Again, it had been fully established, as well as admitted, that the persons voting in this precinct had a perfect right to vote in the First Congressional District and to vote for either the contestant or the sitting member. Furthermore, it had not been pretended that any fraud or unfairness had been practised by either the voters or the election officers towards any one, but everything had been done honestly, fairly, and in good faith, and the persons voting were legal voters in the district. Finally, in view of these facts and in view of “the great principles of our institutions which seek to afford to all citizens of the Union the right of suffrage”, it was believed that the reasons for wholly setting aside the returns of this precinct “should be exceedingly strong.” The reasons given were, however, “purely technical” in their nature. Although entitled to proper consideration, they should not, in the absence of all improper conduct, destroy the votes of so large a portion of the citizens of Iowa, “whose right to vote in the First District and for either of the contestants” was “unquestioned”.¹⁴⁹

The minority then proceeded to review the laws of Iowa governing the establishment of townships and election precincts in the unorganized counties of the State. Attention was called in particular to the law of February 17, 1842, providing for the organization of townships,¹⁵⁰ and the law of 1843 providing for and regulating general elections.¹⁵¹ Under the former act the Boards of Commissioners were

¹⁴⁹ Bartlett's *Contested Election Cases in Congress, 1834-1865*, p. 129.

¹⁵⁰ *Laws of Iowa, 1841-1842*, pp. 97-103.

¹⁵¹ *Revised Statutes of the Territory of Iowa, 1842-1843*, pp. 244-256.

authorized to divide counties into townships, and to appoint the place where the first meeting of the electors should be held; under the latter, these boards were required "at their regular sessions in July, preceding the general election, where the counties are not organized into townships, to appoint three capable and discreet persons to act as judges of the election at any election precinct." Under the authority of these two laws, argued the minority, the Boards of Commissioners had "always been in the practice and habit, in the unorganized country, of appointing not only the judges of election, but of fixing also the precinct or place where the election should be held wherever they supposed the convenience of the voters required it." Furthermore, it had been found by the evidence presented, that, at their regular July sessions immediately preceding the general election of 1848, these Boards of Commissioners had established a number of election precincts in unorganized territory and a number of townships in organized territory and appointed judges of election "for them all, respectively."¹⁵²

In a similar manner had the election precinct of Kaneshville been established by the Board of Commissioners of Monroe County. Kaneshville was situated one hundred and twenty-five miles west of Monroe County, in a wild, unsurveyed country. But everybody supposed it was located within the country attached to Monroe County for election and other purposes. There had not at that time, however, been any lines run fixing the boundaries of counties in that part of the State and therefore no one could locate such boundaries with precision.¹⁵³

It had been shown, however, by surveys made since the election of 1848, that Kaneshville lay some five or six miles north of the north line of Monroe County. The question

¹⁵² Bartlett's *Contested Election Cases in Congress, 1834-1865*, pp. 129, 130.

¹⁵³ Bartlett's *Contested Election Cases in Congress, 1834-1865*, p. 130.

that at once presented itself was whether this fact should "annul the whole election". In answering this question it was to be borne in mind: (1) that all the persons voting had a right to vote at some place for either of the two candidates; (2) that it was not a question of conflicting jurisdiction between two adjacent counties, for no such question had arisen; and (3) that the method of voting did the sitting member no injustice, for if the Kaneshville votes had been cast in a different county, as he insisted they should have been, they would have defeated his election if that election depended upon those votes.¹⁵⁴

But while there was no governmental line run between the county of Monroe and the county north of it in 1848, the minority of the committee reminded the House that "there was an understood line, a claimed line, an admitted line" which "ran north of Kaneshville" and according to which the authorities of Monroe County claimed and exercised jurisdiction over Kaneshville as a part of that county. This jurisdiction had been assented to by the residents of Kaneshville and had never been resisted by the county in which Kaneshville was now alleged to be situated. Although it had recently been determined that Kaneshville was situated north of a line drawn due west from the northwest corner of Monroe County, it was nevertheless to be borne in mind that up to that time, there had never been any settlement of the question such as to overthrow or shake the jurisdiction which Monroe County had exercised over Kaneshville. In the light of these facts, therefore, the minority contended that the exercise of such jurisdiction had not been absolutely void.¹⁵⁵

Again, it was argued that neither the contestant nor any of his friends could be charged with any unfairness in this

¹⁵⁴ Bartlett's *Contested Election Cases in Congress, 1834-1865*, p. 130.

¹⁵⁵ Bartlett's *Contested Election Cases in Congress, 1834-1865*, pp. 130, 131.

matter. The members of the Board of Commissioners of Monroe County were all the political friends of the sitting member; a majority of the election officials at Kaneshville were also his political friends; a number of his influential friends went a long distance to Kaneshville prior to the election on an electioneering campaign in his behalf; the Sheriff of Monroe County, a political friend of Thompson, was likewise at Kaneshville and voted there on election day. On the other hand, it appeared that while the contestant, Daniel F. Miller, had political friends at Kaneshville, neither he nor any of his friends from a distance ever visited Kaneshville at or before the election for political purposes. Moreover, no question had ever been raised by any one against the correctness of the proceedings until after the election; and the balloting had been conducted and the poll book kept with more than usual care and regularity.¹⁵⁶

After reciting the history of the Kaneshville poll book the minority stated its opinion that "under all the circumstances of the case" the Kaneshville vote should be received and counted.¹⁵⁷

2. *The Boone Township Vote in Polk County.* The minority argued that the Boone Township vote in Polk County should be rejected for the following reasons: (1) Boone Township (county) was in reality situated in the Second Congressional District and all persons voting in this township were actually residents of the Second Congressional District at the time of voting; (2) by an act of Congress, approved on June 25, 1842,¹⁵⁸ every State entitled to more than one representative was required to be divided into congressional districts — each district to elect one Representative; and (3) by an act passed by the General As-

¹⁵⁶ Bartlett's *Contested Election Cases in Congress*, 1834-1865, p. 131.

¹⁵⁷ Bartlett's *Contested Election Cases in Congress*, 1834-1865, pp. 131, 132.

¹⁵⁸ *United States Statutes at Large*, Vol. V, p. 491.

sembly of Iowa and approved on February 22, 1847,¹⁵⁹ the State was divided into two congressional districts. In the opinion of the committee, Congress, in passing the act providing for the district election of Representatives, did not intend that the inhabitants of one district should vote in another. Nor was it to be supposed that the General Assembly of Iowa in running a line across the State intended to say that, after all, that line meant nothing and that the inhabitants of one district when voting for Representatives in Congress might vote in the other district. If such a principle were permitted to prevail it would have the effect of destroying the whole district system.¹⁶⁰

Again, it was contended that if the construction insisted upon by the sitting member were correct it would carry the votes of half of the Second District into the First District, for the same law which attached Boone County to Polk County for election and other purposes also attached to Polk County the counties of Story and Dallas and all the country lying north and west of these counties. The voters of all that section would therefore have the same right to have their votes counted in the First District as those resident and voting in the township of Boone. Such a principle was not in accordance with the true intent of the law. Inasmuch, then, as the voters in Boone Township were in reality residents of the Second Congressional District, in which, if anywhere, they had a right to vote for a Representative in Congress, and since, in consequence, they certainly had no right to vote anywhere for either the contestant or the sitting member, the minority of the committee was of the opinion that the Boone Township vote should be excluded altogether.¹⁶¹

¹⁵⁹ *Laws of Iowa, 1846-1847*, p. 84.

¹⁶⁰ Bartlett's *Contested Election Cases in Congress, 1834-1865*, p. 132.

¹⁶¹ Bartlett's *Contested Election Cases in Congress, 1834-1865*, pp. 132, 133.

3. *The Boone Township Vote in Dallas County.* Mention has already been made of the fact that the country lying directly west of Dallas County had been attached to that county for election purposes, and that a number of persons not living within the limits of Dallas County proper, but living west thereof, voted in Boone Township in that county. The total number of votes cast was seventy-two, of which Daniel F. Miller received sixty-two and William Thompson ten. The sitting member contended that fifty-six of the votes given to the contestant should be rejected on the ground that the voters were non-residents of Dallas County whose actual place of residence was in the country situated south of a line running due west from the southwestern corner of Dallas County. That such persons were not legal voters of Dallas County was conceded in the minority report. The points to be determined were: first, how many of these persons voted for the contestant; and second, on which side of the southern boundary line of Dallas County did they reside. On these points the majority and minority reports disagreed.¹⁶²

The only evidence as to whom these persons voted for was to be found in the admission of the contestant. Miller acknowledged that all the persons recognized by Oaks and Greene in their testimony voted for him, except four. The number thus recognized was forty and subtracting four, the number proved or admitted as having voted for the contestant was reduced to thirty-six.¹⁶³

In taking up the second point, namely, the determination of the actual place of residence of these voters with a view to ascertaining the legality of their votes, the minority of the committee insisted in its report that the burden of proof rested entirely upon the sitting member, for the reason that

¹⁶² Bartlett's *Contested Election Cases in Congress, 1834-1865*, pp. 133, 134.

¹⁶³ Bartlett's *Contested Election Cases in Congress, 1834-1865*, p. 134.

since the judges of election had received the votes in question as legal votes and the Board of Canvassers had allowed them, every presumption was in favor of their legality until the contrary should be fully established. In the second place, the sitting member had failed to prove beyond a reasonable doubt that the votes thus received and counted were illegal. That is to say, no line had as yet been run through that section of country where these voters resided, showing the southern boundary line of Dallas County, and hence it was not possible to prove that these voters resided outside of the jurisdiction of said county.

Furthermore, an examination of the facts showed that there were but ten votes which could with any kind of propriety be pronounced illegal. In view of all these facts the minority of the committee recommended the rejection of ten votes given to the contestant in Boone Township, Dallas County.¹⁶⁴

The other questions submitted to the Committee on Elections for investigation need not be discussed, for the minority report was in substantial agreement with the majority report in the findings. It was conceded that Daniel F. Miller was entitled to the seven rejected votes in Marion County¹⁶⁵ and that the votes which had been given to William Thompson and Daniel F. Miller respectively in White Oak Township of Mahaska County and in Chariton and Wells townships of Appanoose County, which votes had been rejected by the Board of Canvassers for technical reasons, should in all cases be allowed.¹⁶⁶

In final summary, then, the findings presented by the minority report may be briefly stated as follows:

¹⁶⁴ Bartlett's *Contested Election Cases in Congress*, 1834-1865, pp. 134, 135.

¹⁶⁵ Bartlett's *Contested Election Cases in Congress*, 1834-1865, p. 129.

¹⁶⁶ Bartlett's *Contested Election Cases in Congress*, 1834-1865, p. 133.

<i>Election Returns</i>	For William Thompson	For Daniel F. Miller
Official abstract as returned.....	6477	6091
Rejected votes in Marion County..		7
The Kanessville vote	30	493
White Oak Township, Mahaska County	53	16
Chariton Township, Appanoose County	16	0
Wells Township, Appanoose County	11	3
	—	—
Total.....	6587	6610
	—	—
Illegal vote of Boone township in Polk County	42	6
Illegal vote of Boone township in Dallas County	0	10
	—	—
Total.....	42	16
	—	—
Deducting the illegal vote of Boone township in Polk County and of Boone township in Dallas County the final result stood..	6545	6594
	—	—
Majority for Daniel F. Miller		49

The minority report was concluded with seven resolutions recommending the adoption of the above findings.¹⁶⁷

THE VOTE IN THE COMMITTEE

This review of the reports of the Committee on Elections would be incomplete without an analysis of the vote of the committee on each of the seven propositions submitted by the claimants to the contested seat in Congress. The committee was unanimously in favor of counting the Pleasant Grove Township vote in Marion County, the White Oak

¹⁶⁷ Bartlett's *Contested Election Cases in Congress, 1834-1865*, p. 135.

Township vote in Mahaska County, and the Chariton Township vote in Appanoose County. On the question as to whether the Wells Township vote in Appanoose County should be counted the vote of the committee stood eight in favor and one opposed — Andrews alone voting in the negative.¹⁶⁸

On the three major questions there was not only a difference of opinion as reflected in the majority and minority reports of the committee, but also a difference in the vote on each of those questions. On the question as to whether the Kaneshville vote should be received the vote stood five in favor and four opposed.¹⁶⁹ All the Whig members favored the reception of the Kaneshville vote, whereas all the Democratic members opposed it, except Ashe, who voted with the Whigs. Thus, while the majority report argued against the reception of the Kaneshville vote, a majority of the committee nevertheless favored its reception. The majority report overcame this inconsistency, however, by counting in the Kaneshville vote and announcing that even if this vote were admitted Mr. Thompson would still have a majority of fifteen votes.

The Boone Township vote in Polk County was rejected by the committee by a vote of six to three — S. W. Harris and I. G. Harris joining with the Whig members in voting in the affirmative, and Strong, Disney, and Ashe alone voting in the negative.¹⁷⁰ Here again it is to be noted that while the majority report argued against the rejection of this vote and indeed did not reject it, the majority of the committee voted in favor of its rejection. Had the majority report rejected the Boone Township vote in Polk County and subtracted it from the total number as it did in the case of the

¹⁶⁸ *Congressional Globe*, 1st Session, 31st Congress, p. 1292.

¹⁶⁹ *Congressional Globe*, 1st Session, 31st Congress, p. 1292.

¹⁷⁰ *Congressional Globe*, 1st Session, 31st Congress, p. 1292.

Kanesville vote, Daniel F. Miller would have had a majority of 21 votes.

Finally, on the question as to whether the votes in Boone Township, Dallas County, should be rejected, the vote of the committee stood six in favor and two opposed — McGaughy and Andrews voting in the negative and Thompson not voting.¹⁷¹ It will be recalled that the difference between the majority and minority reports on this question was not as to whether the votes thus proven illegal should be rejected, for on this point they agreed, but as to how many of said votes had actually been proved to be illegal.

It is apparent from the foregoing analysis of the votes of the Committee on Elections that on every one of the questions presented there had been "such a decision by a majority of the committee as to give the contestant the seat which he claims."¹⁷² That this was not, however, the final judgment of the committee is shown by the vote on the following resolution appended to the majority report:

Resolved, That William Thompson is entitled to the seat in this House which he now holds as the representative from the first congressional district of Iowa.¹⁷³

The vote of the committee stood five to four in favor of the resolution. It was cast on strictly party lines — the Democratic members voting in the affirmative and the Whig members voting in the negative.¹⁷⁴ The contest was now transferred to the House of Representatives for final decision.

THE DEBATE IN THE HOUSE OF REPRESENTATIVES

The debate in the House occupied four days, beginning on Wednesday, June 26th, and closing on Saturday, June 29th.

¹⁷¹ *Congressional Globe*, 1st Session, 31st Congress, p. 1292.

¹⁷² *Bartlett's Contested Election Cases in Congress, 1834-1865*, p. 129.

¹⁷³ *Congressional Globe*, 1st Session, 31st Congress, p. 1292.

¹⁷⁴ *Congressional Globe*, 1st Session, 31st Congress, p. 1292.

The speeches in defense of the majority report were delivered by Strong,¹⁷⁵ Disney,¹⁷⁶ and I. G. Harris¹⁷⁷ of the Committee on Elections and by McDonald of Indiana,¹⁷⁸ Leffler of Iowa,¹⁷⁹ and Thompson of Pennsylvania.¹⁸⁰ The speeches against the report were delivered by Van Dyke,¹⁸¹ Ashe,¹⁸² Thompson,¹⁸³ and McGaughey¹⁸⁴ of the Committee on Elections, and by Evans of Maryland¹⁸⁵ and Toombs of Georgia.¹⁸⁶

While this four days' debate was conducted with much ability and some show of feeling on both sides a brief outline will be sufficient, since nothing essentially new was contributed to the facts and arguments presented in the majority and minority reports of the Committee on Elections.

Mr. Strong opened the debate in favor of the adoption of the majority report. He wished to call attention to two important considerations which must be constantly borne in mind, namely, that this was a judicial investigation in which the House could not exercise any discretion or prejudice, and that the contest must be decided according to the laws of Iowa.¹⁸⁷

¹⁷⁵ *Congressional Globe*, 1st Session, 31st Congress, pp. 1292-1294; 1310.

¹⁷⁶ *Congressional Globe*, 1st Session, 31st Congress, Appendix, pp. 782, 783.

¹⁷⁷ *Congressional Globe*, 1st Session, 31st Congress, p. 1301.

¹⁷⁸ *Congressional Globe*, 1st Session, 31st Congress, pp. 1294-1296.

¹⁷⁹ *Congressional Globe*, 1st Session, 31st Congress, pp. 1301, 1302; Appendix, pp. 818-823.

¹⁸⁰ *Congressional Globe*, 1st Session, 31st Congress, pp. 1306, 1307.

¹⁸¹ *Congressional Globe*, 1st Session, 31st Congress, pp. 1307, 1308.

¹⁸² *Congressional Globe*, 1st Session, 31st Congress, p. 1303.

¹⁸³ *Congressional Globe*, 1st Session, 31st Congress, p. 1294.

¹⁸⁴ *Congressional Globe*, 1st Session, 31st Congress, pp. 1299-1301.

¹⁸⁵ *Congressional Globe*, 1st Session, 31st Congress, pp. 1302, 1303.

¹⁸⁶ *Congressional Globe*, 1st Session, 31st Congress, p. 1307.

¹⁸⁷ *Congressional Globe*, 1st Session, 31st Congress, p. 1293. The greater part of Strong's speech was devoted to an examination of "the testimony that was applicable to the case."

Mr. Thompson of Tennessee, who was one of the minority members of the Committee on Elections, argued in substance that if the votes in the committee on the seven points involved in the case were to be considered then it would be found that Miller was entitled to a seat in the House. And yet the majority had come to "a perfect non-sequiter, a most lame and illogical conclusion". Especially did he oppose the rejection of the Kaneshville vote. "The strained quibble about the place of voting," he declared, "might do in a contest about the return, or the right to a seat in Parliament under the old rotten-borough English system. A tortfeasor or trespasser might at law cavil about the *locus in quo*, or a felon stickle about the venue of an alibi; but in the face of manifest right, to cripple the elective franchise, and against all equity to stifle and drown the voice of Kaneshville, is surely undemocratic, anti-republican, against the former decisions of this House, and against manifest right."¹⁸⁸

The permitting of party feeling to enter into the decision of cases of this kind was lamented by Mr. McDonald (Democrat) of Indiana. He argued for the acceptance of the Boone Township vote in Polk County, and pointed out the inconsistency of the minority in insisting upon the counting of the votes of the Kaneshville precinct, which was north of Monroe County, and at the same time acquiescing in the rejection of the votes in Dallas County which came from the country south of the southern line of that county. He declared that the Mormons at Kaneshville had no right to vote, since they were "mere wanderers in search of a home", and that the organization of the Kaneshville precinct was not the work of the Democrats, but was managed by the Whigs under the leadership of Fitz Henry Warren and "paid for out of the funds of the Whig central committee of Iowa".¹⁸⁹

¹⁸⁸ *Congressional Globe*, 1st Session, 31st Congress, p. 1294.

¹⁸⁹ *Congressional Globe*, 1st Session, 31st Congress, pp. 1294-1296.

The ablest speech of the entire debate was delivered by Mr. McGaughey of Indiana, who spoke against the majority report. He pointed out the discrepancies between the votes in the Committee on Elections on the seven points decided and the final report of the majority, which presented the "singular anomaly of men agreeing in a result, and disagreeing about the very facts necessary to produce that result." In fact, he said, the real minority report had been given under the caption of a majority report; while the real majority report had been termed a minority report. This was an important consideration because many members of the House were accustomed to inquire simply "which way the majority of the committee having charge of the subject have decided it, and then go with that majority, without further investigation."

Turning to the Kaneshville poll book episode, Mr. McGaughey contended that the responsibility for this transaction should be placed, not on the Clerk of Monroe County, but on J. C. Hall for fraudulently taking the poll book and on William Thompson for keeping it in his possession and concealing it, when he knew that it had been stolen, from the spring of 1849 to the spring of 1850. Even if Thompson had been fairly elected, said the speaker, his conduct with reference to the Kaneshville poll book made it "the duty of every honorable man, on this floor, to expel him." Thompson should have returned the poll book to the Clerk immediately.

Coming now to the essential issues in the contest, Mr. McGaughey presented the following argument which constitutes the strongest defense of accepting the Kaneshville returns and the Boone Township vote in Dallas County that was offered during the course of the controversy:

Now in order to give these Iowa laws a proper construction, we must look to the circumstances under which they were enacted, the

condition of the country at the time, and the objects intended to be accomplished. The eastern part of the State had been first settled, and organized into counties, and there was also a large tract of country lying west of those organized counties, of more than a hundred and fifty miles in width, and extending north and south along the entire western side of the State; this country was an entire wilderness, unsurveyed, and but few settlements scattered through it. In order to bring these sparse settlements under the legal jurisdiction of the State, and confer upon them also the rights of citizenship, laws were passed attaching to the organized counties, all the territory lying west of them for election, revenue, and judicial purposes. The Legislature must have known, when they passed those laws, that there was no means of knowing exactly and certainly the location of settlements one hundred and fifty miles west, in a wilderness without roads, and unsurveyed; and hence the Legislature could not have designed that in elections the people should lose their right of voting because the county court should, in organizing a precinct, or township, make a slight mistake, and organize a precinct a few miles, or a half mile, north or south of a line running due west from either side of the county. The Legislature must have foreseen, that if their laws were to have a rigid and technical construction, that the laws would be rendered totally inoperative. All the people on the Missouri river, within fifty miles of Kaneshville, seem by the evidence to have been honestly mistaken as to what counties they were west of, and the county court of Monroe county labored under a like mistake, supposing Kaneshville to lie west of Monroe county. But it seems that when the Government came to run out its township lines, it was ascertained for the first time that all were a little mistaken. The Legislature must, as I said before, have foreseen that just such mistakes would occur. In view of these facts, I hold that the only way to make these laws operative and effectual, to carry out the object for which they were passed, is to give them a liberal construction; and by all means this ought to be done in favor of a people in the exercise of their elective franchise — a right so inestimably dear to freemen. Upon these principles, therefore, I hold that the Kaneshville vote ought to be received and counted, and for the same reasons also the vote in Boone township, in Dallas county, should be received.

The one remaining question was whether or not the Boone

Township vote in Polk County should be counted. This question Mr. McGaughey answered in the negative by elaborating on the argument advanced in the minority report to the effect that Boone County belonged in the Second Congressional District.¹⁹⁰

Mr. Shepherd Leffler of Iowa delivered a speech of considerable length in which he went out of his way to discuss the character and history of the Mormons, and to say much that was both irrelevant and unwarranted. Aside from this his speech was merely a repetition of the arguments in support of the majority report.¹⁹¹

Mr. Ashe explained that he had voted in committee in favor of receiving the Kaneshville returns because the voters believed that Kaneshville lay due west of Monroe County. The error was not discovered until later, and the Kaneshville voters were not responsible for this error but rather the Board of Commissioners of Monroe County who had admitted Kaneshville into that county for election purposes. He stated that there was evidence before the committee to the effect that the Kaneshville people had been taxed under the jurisdiction of Monroe County and that they had paid their taxes. Kaneshville, therefore, was as much a part of Monroe County for election purposes as for revenue purposes.

Mr. Ashe also contended that the Boone Township vote in Polk County should be counted, inasmuch as the voters in this township had been compelled to bear the burden of taxation in Polk County. But in conclusion, according to the reporter, Mr. Ashe "went over the lists of votes, and after making such changes as are necessary to shape it to the resolutions reported by the majority of the Committee on

¹⁹⁰ *Congressional Globe*, 1st Session, 31st Congress, pp. 1299-1301.

¹⁹¹ *Congressional Globe*, 1st Session, 31st Congress, pp. 1301, 1302; Appendix, pp. 818-823.

elections, he made it appear by the result that the sitting member was elected by a majority of thirteen."¹⁹²

An elaborate speech in favor of the minority report was made by Mr. Toombs of Georgia, who, a few years later, was the champion of James Harlan in his contest for a seat as United States Senator from Iowa. He was "opposed to the rejection of the vote of any citizen because the voter had not deposited his vote under or over a given line."¹⁹³

No sooner had Toombs concluded his appeal than Mr. Van Dyke, who had been waiting for a favorable opportunity, made a motion to amend the resolution reported by Mr. Strong for the majority of the Committee on Elections to the effect that William Thompson was entitled to his seat. Mr. Van Dyke proposed to amend this resolution by striking out everything after the word "Resolved" and inserting in lieu thereof the seven resolutions offered in the minority report, together with an additional one:

1. *Resolved*, That the seven votes cast at Pleasant Grove, with the middle letter of the contestant's name omitted, be allowed and counted for him.

2. *Resolved*, That the vote cast at Kaneshville be allowed and counted as a legal vote.

3. *Resolved*, That the vote cast at White Oak be counted and allowed as a legal vote.

4. *Resolved*, That the vote cast at Chariton be allowed and counted as a legal vote.

5. *Resolved*, That the vote cast in Wells township be allowed and counted as a legal vote.

6. *Resolved*, That the vote cast in the township of Boone, in the county of Polk, in the second district, be disallowed and deducted from the votes counted for the first district.

7. *Resolved*, That the votes cast in the county of Dallas, by persons proved to have been residing at the time south of the southerly line of Dallas, be rejected and disallowed.

¹⁹² *Congressional Globe*, 1st Session, 31st Congress, p. 1303.

¹⁹³ *Congressional Globe*, 1st Session, 31st Congress, p. 1307.

8. *Resolved*, That Daniel F. Miller is entitled to a seat in this House as the Representative from the first congressional district of Iowa.¹⁹⁴

Mr. Van Dyke thereupon spoke in defense of his amendment, following, in the main, the arguments set forth in the minority report and paying special attention to the Kaneshville vote. "Suppose a line had been run", he said, "from the northwest corner of Monroe county due west to the Missouri river, and that had been found wrong: if it had been marked by metes and bounds, and all had understood it at the time as correct, and if afterwards it should have turned out — after the election — to be wrong, would you say that all the votes and acts, during the continuance of this error, should be all invalid? The county of Monroe claimed jurisdiction over Kaneshville, and exercised it."¹⁹⁵

At the conclusion of this speech Mr. Burt of South Carolina moved the previous question. Mr. Strong then arose to claim his right to close the debate on the motion which he had introduced, and there ensued a parliamentary wrangle concerning this point. Finally, however, Mr. Strong gained the floor¹⁹⁶ and spoke at considerable length in support of the adoption of the original resolution of the majority report. In conclusion, he called upon the House "to decide this question according to the principles upon which, as a judicial tribunal, they were bound to adjudicate all such cases, without traveling beyond the bounds prescribed by the Constitution, without conferring rights which the State Constitution of Iowa did not give, for they could not give rights which her constitution denied without a palpable violation of the Constitution of the United States."¹⁹⁷

¹⁹⁴ *Congressional Globe*, 1st Session, 31st Congress, pp. 1307, 1311.

¹⁹⁵ *Congressional Globe*, 1st Session, 31st Congress, pp. 1307, 1308.

¹⁹⁶ *Congressional Globe*, 1st Session, 31st Congress, pp. 1308, 1310.

¹⁹⁷ *Congressional Globe*, 1st Session, 31st Congress, pp. 1310, 1311.

THE FINAL VOTE ON THE CONTESTED ELECTION

The previous question having been moved and sustained and the debate concluded, the question now before the House was on the adoption of the eight amendatory resolutions proposed by Mr. Van Dyke¹⁹⁸ to the original resolution reported by Mr. Strong. The vote on the question was announced as follows: in favor of the amendatory resolutions, 95; opposed, 94.¹⁹⁹ The Speaker thereupon voted in the negative and so the amendatory resolutions proposed by Mr. Van Dyke were rejected as a whole by the vote of the Speaker, and Daniel F. Miller was excluded from the seat thus contested.²⁰⁰

The question now recurred upon the adoption of the original resolution reported by Mr. Strong. After considerable filibustering on the part of the Democrats, in the midst of which great confusion and excitement prevailed, the question was finally taken and decided in the negative as follows: in favor of the resolution, 94; opposed, 102. Thus the resolution proposed by Mr. Strong was likewise rejected and it was decided that William Thompson was not entitled to the seat contested by Daniel F. Miller.²⁰¹

Mr. McGaughey thereupon introduced the following resolution:

Resolved, That a vacancy exists in this House from the first congressional district of the State of Iowa, and that the Speaker be requested to notify the Governor of said State thereof.²⁰²

After considerable discussion as to the necessity of such a resolution the question was taken and the resolution was adopted by a vote of 109 to 84.²⁰³

¹⁹⁸ *Congressional Globe*, 1st Session, 31st Congress, p. 1311.

¹⁹⁹ *Congressional Globe*, 1st Session, 31st Congress, p. 1311.

²⁰⁰ *Congressional Globe*, 1st Session, 31st Congress, p. 1311.

²⁰¹ *Congressional Globe*, 1st Session, 31st Congress, pp. 1311, 1312, 1315.

²⁰² *Congressional Globe*, 1st Session, 31st Congress, p. 1315.

²⁰³ *Congressional Globe*, 1st Session, 31st Congress, pp. 1315-1317.

Following this action Mr. Van Dyke offered a resolution providing for the payment of the expenses of the contest and the mileage and per diem expenses of Mr. Miller. The reception of the resolution was objected to by Mr. Jones (Democrat) of Tennessee and it was rejected, whereupon the House adjourned.²⁰⁴

Thus did the House of Representatives declare, that in view of the evidence presented, neither Daniel F. Miller nor William Thompson was entitled to a seat in Congress and that a vacancy existed in the office of Congressman from the First District of Iowa. Or, in other words, the House of Representatives acknowledged its incompetence to pass upon the merits of the contest and so referred the whole matter back again to the people of Iowa.

THE SPECIAL CONGRESSIONAL ELECTION

“Congress has sent Thompson and myself back to run our election over. I will speak in Keokuk this day two weeks.”²⁰⁵ Thus ran Daniel F. Miller’s laconic dispatch from Washington informing his constituents of the final action taken by the House of Representatives.

The receipt of this news at once evoked bitter comment from the leading party editors in the First Congressional District. The editor of the *Burlington Hawk-Eye* made the simple comment that “The First Congressional District in this state is now unrepresented.”²⁰⁶ “Well, who ‘unrepresented’ it at this important crisis?” asked the *Iowa Capital Reporter*. “Answer: Ninety-five as highhanded and villainous whig votes as were ever cast in Congress.”²⁰⁷ To this statement the editor of the *Muscatine Journal* replied: “If ‘ninety-five highhanded and villainous Whig votes’

²⁰⁴ *Congressional Globe*, 1st Session, 31st Congress, p. 1317.

²⁰⁵ *Muscatine Journal*, Vol. II, No. 6, July 6, 1850.

²⁰⁶ Quoted in the *Muscatine Journal*, Vol. II, No. 8, July 20, 1850.

²⁰⁷ Quoted in the *Muscatine Journal*, Vol. II, No. 8, July 20, 1850.

could do all the above, how many poll books will the Locos have to steal this time to have the district *represented* again?" "After Thompson holding his seat for seven months," continued the editor, "the wise Locofocos of the House of Representatives have come to the conclusion that nobody was elected in the first Congressional district. Although the House has decided against Miller, to whom the seat rightfully belongs, the people will no doubt elect him by a triumphant majority, and make the poll book thieves look more sheepish than did Judge Mason when the stolen poll books were found in his pocket."²⁰⁸

While the party editors thus revived the bitterness of nearly two years earlier, the regular congressional campaign and election of 1850 was held. With this out of the way, the attention of the people was directed to the coming special election. In accordance with the power vested in him by the act of January 24, 1848, providing for the election of Representatives in Congress,²⁰⁹ Governor Briggs issued a proclamation directing a special election to be held on September 24th for the purpose of filling the vacancy in the office of Congressman from the First District.²¹⁰ Notice of this election was dispatched to the several counties in the district and the political machinery of the respective parties was again put into operation for the brief though spirited contest which was to ensue.

In the meantime William Thompson returned to Iowa and addressed the following letter to his constituents:

In August, 1848, during my absence, you elected me to represent you in the present Congress by an official majority of 386 votes and by a real majority of the legally qualified votes cast at that election of over 470; but notwithstanding this a combination of the whig

²⁰⁸ *Muscatine Journal*, Vol. II, No. 8, July 20, 1850.

²⁰⁹ For a copy of this act see the writer's article in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. X, pp. 501, 502.

²¹⁰ *The Burlington Tri-weekly Telegraph*, Vol. I, No. 39, September 5, 1850.

members of Congress with the ultra free soilers on the one hand and the ultra southern members on the other, in direct opposition to the Constitution and laws of your State, and in violation of the authority vested in them by the Constitution of the United States, succeeded in vacating the seat. This high-handed and flagrant act has deprived you of a representation in Congress at one of the most critical periods of our government a period when, not only the interests of your own State and district require attention, but when the greatest questions of the nation are at issue and the perpetuity of our glorious Union itself, menaced and in danger.

The present session of Congress will, doubtless, be brought to a close before another election can be held for the purpose of supplying the vacancy, but it is important that it should be filled by the commencement of the next session and for this purpose a special election will be ordered.

It has now been more than two years since you, by our time-honored and well approved usages, placed my name before the public as a candidate and will, very soon, be two years since you paid me the distinguished compliment of an election. Since that time many and important changes have taken place, both in our own State and the whole country. Our population has greatly increased and our wants have multiplied; our improvements have progressed and our donations have been curtailed and crippled. While the old landmarks of party politics remain unchanged and immutable, pointing with certainty the line which divides the broad principles of *justice and equality* from that narrow policy which seeks the aggrandizement of the *monied few* at the expense and degradation of the *laborious masses*, by means of special legislation granting special privileges and such general legislation as gives money and capital undue advantages over labor, and opens all possible avenues for convinous and *Galphinous* speculation; many new and momentous questions have recently been raised upon measures, in some instances, of a sectional and ephemeral character, and, in others, for the purpose of effecting objects in a new, different and disguised manner. In addition to the old questions of Bank, Tariff, Distribution, Sub-Treasury, Special Privileges and Non-Interference, we now have the President's Plan, Doty's Plan, the Clay Compromise, the Missouri Compromise and the Peacable Dissolution of the Union, together with all other projects for the settlement of existing difficulties which may have been entertained and advocated during the present Congress.

In this state of affairs I think it my duty — having been nominated at a time when a special election could not have been contemplated — to request you to call a convention as early as practicable, or take such other measures as may be deemed most advisedly to select a suitable person to be run as a candidate at the special election to fill the vacancy.

It is desirable that you should have a candidate who can, at once, concentrate your entire support, substantially reflect your sentiments and maintain your best interests; and I know of no means so well adapted to the procurement of such an one, as a convention.

With the sincere assurance that I have no desire for the nomination, unless it may be thought necessary and proper to promote the best interests of the democratic party, and that I shall exert myself as an elector, to the extent of my ability, as zealously in the maintenance of our principles as if I were your standard citizen.

I am, your fellow citizen,

WM. THOMPSON.

Mt. Pleasant, July 20, 1850.²¹¹

The Whigs held no convention. It was understood that Miller would again be a candidate and so it was agreed that he should be the nominee of the party, without the formal action of a convention. In other words, Daniel F. Miller was re-nominated by common consent.²¹²

The Democratic Convention was held at Ottumwa on September 5th.²¹³ No record of the proceedings of this convention has been found, but it appears that William Thompson was the only candidate really considered for the nomination. Delazon Smith seems to have been the only one who contested the nomination with him. But Smith had already “proclaimed himself as an independent candidate” and had “gotten into a fuss generally with his party”, and so was “treated as not one of them.” Thompson was therefore nominated by the unanimous vote of the convention.²¹⁴

²¹¹ *The Iowa Star* (Fort Des Moines), Vol. I, No. 44, August 1, 1850.

²¹² *The Burlington Tri-weekly Telegraph*, Vol. I, No. 39, September 5, 1850.

²¹³ *The Burlington Tri-weekly Telegraph*, Vol. I, No. 39, September 5, 1850.

²¹⁴ *The Burlington Tri-weekly Telegraph*, Vol. I, No. 39, September 5, 1850.

Delazon Smith was a Democrat in politics, but becoming dissatisfied with the course of the Democratic party in Iowa and not being in sympathy with Thompson's candidacy for the office from which he had just been excluded, he determined to bolt the party at this crisis and become a candidate for the office for which Miller and Thompson were both again to be contestants. Whether Smith entertained seriously the thought that he really stood a good chance for election to Congress, or simply hoped to draw enough votes from the Democrats to defeat Thompson and elect Miller can not be judged with any degree of certainty. But whatever his real motives were, Smith's entrance into the field as an independent candidate was the cause of considerable anxiety to the Democrats.

Delazon Smith was, as a matter of fact, an astute political manager, an orator of exceptional ability, and a man of prepossessing personality.²¹⁵ Some idea of his ability and influence may be gained from the fact that he was Thompson's competitor for the Democratic nomination for Congress in 1848, and that after figuring prominently in Iowa politics in these early years, he emigrated to Oregon where in 1857 he was elected a delegate to the convention which adopted the Oregon Constitution and in 1859 was elected as one of the first United States Senators from that State.²¹⁶

Smith's independent candidacy for Congress at this juncture was well summed up by the editor of the *Muscatine Journal* as follows:

The above-named gentleman, generally known as — "Delusion Smith", or the "lost Tyler Man," is creating quite an uproar in the household of the faithful. He has been living on "hope deferred" long enough, and has announced himself as an independent Democratic candidate for Congress, in the First District. The election to fill the vacancy occasioned by the ejection of Thompson from the

²¹⁵ Statement of Judge C. C. Nourse to the writer.

²¹⁶ *Annals of Iowa* (Third Series), Vol. IV, p. 624.

seat which he acquired by fraud and theft, is, according to the proclamation of Gov. Briggs, to take place on the 24th day of September, 1850. David [Daniel] F. Miller will be the Whig candidate;— it is supposed that Thompson will receive the locofoco nomination. Smith, knowing the dissatisfaction which exists among the locos in reference to Thompson, has concluded that there will be a chance for him— has entered the field and is now engaged in stumping the District. As a man of talent, he is far in advance of Thompson, and, indeed, as a stump orator, the Locos have no man in their ranks that will equal him.²¹⁷

The triangular campaign which followed, though short, was nevertheless an exciting one. A number of speeches were delivered by Delazon Smith. The party editors renewed the already familiar lines of attack and ridiculed the independent candidacy of Smith. No special incidents, however, marked the campaign. As the day of election approached there was much speculation as to the outcome. It was freely predicted that Miller would win.

The election was held on September 24th. The vote, as announced officially from Iowa City by the Board of Canvassers, stood as follows: Daniel F. Miller, 5463; William Thompson, 4801; Delazon Smith, 365; and scattering, 24. Miller therefore had a majority of 662 votes over Thompson and was elected to represent the First Congressional District of Iowa in the Second Session of the Thirty-first Congress. Miller carried thirteen of the twenty-one counties in the district while Thompson carried the remaining eight. Pottawattamie County (now organized) gave Miller 273 votes and Thompson 56. Smith's candidacy did not affect the general result, for even if the vote given to him be added to the vote received by Thompson, Miller would still have a majority over Thompson of 297 votes. The following table gives the vote by counties for Miller and Thompson and the third party candidate in both the regular congres-

²¹⁷ *Muscatine Journal*, Vol. II, No. 15, August 31, 1850.

sional election of 1848 and the special congressional election of 1850:

REGULAR CONGRESSIONAL ELECTION OF 1848				SPECIAL CONGRESSIONAL ELECTION OF 1850			
COUNTIES	WILLIAM THOMPSON	DANIEL F. MILLER	SAMUEL L. HOWE	DANIEL F. MILLER	WILLIAM THOMPSON	DELAZON SMITH	SCATTERING
Appanoose	113	67	0	119	153	3	0
Dallas	22	88	0	38	33	2	0
Davis	432	363	0	273	253	34	0
Decatur				40	53	0	0
Fremont				34	22	0	0
Henry	483	662	0	674	339	0	0
Jasper	49	69	0	77	64	1	3
Jefferson	758	710	9	531	514	2	1
Keokuk	347	266	0	171	229	7	14
Lee	1460	1264	110	1213	1067	17	0
Lucas				29	40	0	0
Madison				36	52	0	0
Mahaska	362	397	0	356	306	13	0
Marion	298	257	0	149	192	2	1
Monroe	172	149	0	118	196	6	0
Polk	300	237	0	193	220	0	0
Pottawattamie ...				273	56	2	0
Poweshiek	22	27	0	37	22	0	0
Van Buren	1028	976	55	656	496	241	5
Wapello	631	559	1	422	483	35	0
Warren				24	11	0	0
Total	6477	6091	310	5463	4801	365	24 ²¹⁸

The election returns were slow in coming in, and it was several weeks before the result was officially declared. The announcement that Miller was elected evoked from the editor of the *Keokuk Register* the following comment: "Let 662 be the handwriting on the wall, to strike terror to the hearts of Poll-book thieves in all time to come when they shall present themselves for the suffrages of an honest people."²¹⁹ Other Whig editors expressed themselves in

²¹⁸ Election returns as found in the Archives at Des Moines.

²¹⁹ Quoted from the *Keokuk Register* in the *Muscatine Journal*, Vol. II, No. 25, November 16, 1850.

similar fashion. The Democratic editors had nothing to say.

Immediately after the official announcement, Daniel F. Miller hastened to Washington. On December 20th he presented his certificate of election duly certified by the Governor of Iowa and was admitted to his seat in the House. Thus ended the most famous contested congressional election case in the history of Iowa and one of the most famous in the history of the nation.

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