

WILLIAM PENN CLARKE

Comparatively few men receive the honors of this world and have their names written large on the pages of history. These rewards go to those who achieve the spectacular or who gain the high places in politics or in some other field of human activity, while many who accomplish much of the constructive work of their State pass off the stage into a relative obscurity, there to remain unless perchance some historical inquirer, seeking for new information concerning the past, should bring to light the record of their accomplishments and portray the part which they played in the history of their community.

Of this latter group was William Penn Clarke, who, though he never gained high office, was one of the most active citizens in Iowa City and in all Iowa during the earlier history of the Commonwealth. For almost a quarter of a century he was one of the most prominent individuals in Iowa. When he first came to Iowa he engaged in newspaper work, but soon gave that up in favor of the practice of law and became a lawyer with few equals in the State. As Reporter for the Iowa Supreme Court for five years he built himself a permanent monument in the first eight volumes of the *Iowa Reports*. He was one of the most prominent and active of the "fathers" of the present Constitution which has served the State so admirably since 1857.

Clarke was an ardent Free Soil advocate, and was active in aiding John Brown and his compatriots in their self appointed task of making Kansas free. As a politician his name was one to be conjured with, and he must be included

among the founders of the Republican party in Iowa. Though occupied with his own work he did not shirk the more ordinary duties and responsibilities of citizenship, as is shown by the fact that his name appears among the aldermen of Iowa City, the Curators of the State Historical Society, the trustees of the Iowa Institution for the Deaf and Dumb, and in other places.

During the Civil War, Clarke served as a paymaster in the Federal army, attaining to the rank of lieutenant colonel. For a few months, while his friend, James Harlan, was Secretary, he served as chief clerk of the Department of the Interior. Most of his later life — and he lived far beyond his allotted three score and ten years — was spent in Washington, D. C., where he practiced his profession as a lawyer. His long absence from the State resulted in his being forgotten by the people of Iowa so that when he died his passing was scarcely noticed. There are now probably very few Iowans who have any recollection of this man whose life, especially that part spent in Iowa, it is proposed to record in these pages.

EARLY LIFE

Little information is available concerning the early life of William Penn Clarke. It is known that he was born in Baltimore, Maryland, on October 1, 1817. In about his tenth year he went to Gettysburg, Pennsylvania, where he learned the printing business, serving a three year apprenticeship under Robert G. Harper who was the publisher of *The Adams Sentinel*. From Gettysburg he removed to Washington where he worked at his trade until the spring of 1838. He then decided to go west and started out on foot. He crossed the Allegheny Mountains to Pittsburgh where he worked for a time and then proceeded to Wheeling in what is now West Virginia. Thence he went down the

Ohio River in a skiff and reached Cincinnati on his twenty-first birthday.¹

At Cincinnati Clarke formed a partnership and began the publication of a small daily newspaper. Shortly afterwards he joined an expedition to go to Galveston, Texas, for the purpose of starting a newspaper there. The party became stranded at New Orleans, and Clarke worked his way back to Cincinnati and resumed his former position on *The Daily News*. For a time he was the editor of the *Logan Gazette*, published at Logan, Ohio.² His correspondence indicates that he was active in Whig politics during his sojourn in Ohio.³

IN TERRITORIAL IOWA

After a few years in Ohio, the restless spirit which had brought him to the West, urged him to move still farther to the westward. After looking about for a place that seemed to offer opportunities for advancement he decided to remove to the Territory of Iowa. Through a friend who had preceded him to Iowa City, he sought to secure a position on *The Iowa Standard*, a Whig newspaper published at Iowa City by William Crum. Though Crum was unfavorable to his proposition, Clarke was not deterred.⁴

According to his own account, Clarke came to Iowa City in November, 1844. It was his desire to become connected

¹ *Annals of Iowa* (Third Series), Vol. VI, pp. 77, 78; Stiles's *Recollections and Sketches of Notable Lawyers and Public Men of Early Iowa*, pp. 767, 768.

² *Annals of Iowa* (Third Series), Vol. VI, pp. 77, 78, Vol. XI, p. 458, footnote.

³ This is indicated, for instance, by manuscript letters from Henry Clay to William Penn Clarke, dated Ashland, September 10, 1842, and from Joseph Vance to William Penn Clarke, dated Washington, March 27, 1844, in *The Correspondence of William Penn Clarke* (Aldrich Collection) in the Historical Department at Des Moines. This will be referred to hereafter as the *Clarke Correspondence*.

⁴ Manuscript letter from John M. Coleman to William Penn Clarke, dated Iowa City, August 20, 1844, in the *Clarke Correspondence*.

with some Whig newspaper in the Territory, preferably the *Burlington Hawk-Eye*, in the capacity of an editorial writer. The Constitutional Convention, composed mainly of Democrats, had but a short time before drawn up the Constitution of 1844. This document Clarke proposed to attack in a series of articles, so on December 6, 1844, he wrote to the Whig Governor, John Chambers, seeking advice. On the 19th of the same month the Governor replied:

The new Constitution well merits the attention you propose to bestow it, but I would earnestly recommend that you do not give it a party aspect. Short and pithy articles are best calculated to effect your object. Labored essays on such a subject are not read by the masses, however well they may be written; and above all, do not give what you write an editorial character.

The Governor also informed Clarke that it would not be possible for him to become connected with the *Burlington Hawk-Eye*.⁵

Clarke followed the advice of Governor Chambers and published several articles in *The Iowa Standard* over the signature, "A Citizen". In these articles he attacked the Constitution of 1844, and, in turn, was bitterly attacked in the editorial columns of the Democratic newspaper, the *Iowa Capitol Reporter*, also published at Iowa City. This journal said in part, "One would have supposed that his six weeks residence in Iowa, hardly would have qualified him to determine upon these weighty matters". The *Reporter* certainly underrated Clarke's arguments when it characterized them as not "worthy of refutation, or scarcely of comment".⁶

The correspondence between Chambers and Clarke in 1844 was the beginning of a friendship between the two

⁵ Clarke's *Governor John Chambers* in the *Annals of Iowa* (Third Series), Vol. I, pp. 429, 430. The letter from Governor Chambers is also found in the *Clarke Correspondence*.

⁶ *The Iowa Capitol Reporter* (Iowa City), January 18, February 1, 1845.

men that continued long after the Governor left Iowa to return to his old home in Kentucky. During the legislative session of 1844-1845 at Iowa City, Chambers stayed at the hostelry known as the "Crummey House", conducted by Clarke's father-in-law, John Crummey. As Clarke also stayed there the two men had the opportunity to become well acquainted. It was at this session of the Legislative Assembly that a bill was passed providing that the Constitution of 1844, already rejected once by the people, should be submitted to another referendum. Chambers disapproved of this, but on the day that he intended to write his veto message he became ill so he asked Clarke to write the message for him. This Clarke did, spending most of the night at the task. The next morning Governor Chambers approved the message, signed it, and sent it to the Council in Clarke's handwriting.⁷

The bill was passed over the Governor's veto, and the Constitution of 1844 again became the chief topic of discussion in Iowa. The Whigs, as before, directed their attacks against the instrument, and William Penn Clarke aided in securing the defeat of the Constitution by a series of articles which he published in *The Iowa Standard*, of which he was at the time the editor, in association with A. P. Wood.⁸

Clarke was associated with *The Iowa Standard*, as editor, for about a year, during which time his editorials met with the approval of the Whigs. His aid to the Whig cause in the election of 1845 was especially pleasing to them and called forth from R. P. Lowe, later Governor of Iowa, a

⁷ Clarke's *Governor John Chambers* in the *Annals of Iowa* (Third Series), Vol. I, pp. 430, 431.

⁸ Clarke's *Governor John Chambers* in the *Annals of Iowa* (Third Series), Vol. I, pp. 431, 433; *The Iowa Standard* (Iowa City), December 26, 1844; manuscript letter from R. P. Lowe to William Penn Clarke, dated Bloomington, Iowa, December 8, 1845, in the *Clarke Correspondence*.

letter of commendation "for the Spirited, talented and judicious manner you as Editor conducted the canvass and advocated the Whig cause".⁹ Early in 1846, Clarke severed his connection with the *Standard*¹⁰ and thereafter, except for a short period in about 1856 when he acted as editor of the daily *Republican* at Iowa City, he had no direct connection with newspapers.¹¹

The newspaper activities of Clarke early earned for him a place in the Whig political organization in the Territory of Iowa. He had scarcely been in the Territory six months when, at the Whig Territorial Convention assembled at Iowa City, on June 12, 1845, he was appointed to act with James Robinson and James Trimble as a Whig Central Committee, authorized to call a Territorial Convention and to appoint county committees of correspondence.¹²

In the following year he was put forward by the Whigs as their candidate for the Council to represent Muscatine, Johnson, and Iowa counties.¹³ By this time the Constitution of 1846 had been drawn up and Clarke based his campaign on a platform of opposition to its adoption. On July 20, 1846, he issued a letter addressed "To the Electors of Muscatine, Johnson and Iowa Counties", which occupied almost an entire page in the *Standard*. It was an able document and well expressed the Whig point of view in regard to the Constitution of 1846.¹⁴ Clarke said:

⁹ Manuscript letter from R. P. Lowe to William Penn Clarke, dated Bloomington, Iowa, November 10, 1845, in the *Clarke Correspondence*.

¹⁰ *Iowa Capitol Reporter* (Iowa City), March 11, 1846.

¹¹ Aurner's *Leading Events in Johnson County Iowa History*, Vol. I, p. 556.

¹² Pelzer's *The Whigs of Iowa Territory* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. V, p. 80.

¹³ *The Iowa Standard* (Iowa City), July 8, 1846.

¹⁴ *The Iowa Standard* (Iowa City), July 22, 1846. This address is reprinted in Shambaugh's *Fragments of the Debates of the Iowa Constitutional Conventions of 1844 and 1846*, pp. 347-365.

In common with my fellow citizens, I have devoted some time to an examination of the proposed Constitution, and the conclusion at which my mind has arrived, guided by an eye single to the common welfare, is, that the adoption of that instrument, will prove greatly detrimental, if not entirely ruinous to the nearest and dearest interests of the people, by retarding the growth of the proposed State, in population, commerce, wealth and prosperity.¹⁵

He then explained the reasons for his opposition to the Constitution, which, briefly stated, were as follows: it prohibited the establishment of "banking incorporations" and the construction of internal improvements, it provided for an elective judiciary, it failed to secure to the people the right to elect their county officers, it could not be amended without calling a convention, and it would mean the removal of the capital from Iowa City to the Raccoon Forks.¹⁶ These reasons for opposing the Constitution failed to convince the majority of voters and in the election held on August 3, 1846, Clarke was defeated by his Democratic opponent for the Council and the Constitution was adopted.¹⁷

THE PRACTICE OF LAW

While still engaged in newspaper work Clarke had been studying law and early in 1846 he was admitted to the bar. After considering other possible fields for the practice of law he finally decided to remain in Iowa City,¹⁸ but it was not until rather late in 1846 that his professional "card", announcing him as an "Attorney at Law & Solicitor in

¹⁵ Shambaugh's *Fragments of the Debates of the Iowa Constitutional Conventions of 1844 and 1846*, p. 349

¹⁶ Shambaugh's *Fragments of the Debates of the Iowa Constitutional Conventions of 1844 and 1846*, pp. 349-364.

¹⁷ Clarke's *Governor John Chambers* in the *Annals of Iowa* (Third Series), Vol. I, p. 438; Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. I, pp. 213, 214.

¹⁸ Clarke's *Governor John Chambers* in the *Annals of Iowa* (Third Series), Vol. I, p. 438.

Chancery", first appeared in the *Standard*.¹⁹ In 1847 his name appears in the list of attorneys contained in Morris's *Iowa Reports*, published in that year.²⁰

Probably Clarke had a few "lean" years before he acquired a reputation as a lawyer. At least the Iowa Supreme Court *Reports* fail to record any case which he brought before that court prior to 1850. From that time on, however, his name appears often in the *Reports*. From 1850 to 1865 Clarke's name appears in connection with one hundred and thirty-one cases brought before the Supreme Court. This large number of cases is an index to his reputation as a lawyer. An examination of the *Reports* reveals that he won considerably more than a majority of these cases taken to the higher court.

During the period of his law practice in Iowa City, Clarke entered three different partnerships. In 1856 he formed a partnership with John C. Henley. In their "card" they announced themselves as follows:

Clark & Henley, Attorneys at Law and Land Agents, Iowa City, Iowa, practice in the United States District Court, and the Supreme and District Court of the State, and make collections in the counties of Johnson, Muscatine, Washington, Linn, Cedar, Iowa and Louisa.²¹

This partnership continued until 1859²² and then Clarke practiced alone for a few months. About the middle of the following year he formed a new partnership with Theo. M. Davis.²³ During most of the time while Clarke was absent serving in the Union army during the Civil War, the business of the firm was carried on by Davis. But early in 1865

¹⁹ *The Iowa Standard* (Iowa City), September 16, 1846.

²⁰ Morris's *Iowa Reports*, p. ix.

²¹ *Iowa City Daily Republican*, June 11, 1856.

²² *Iowa Weekly Republican* (Iowa City), April 6, 1859.

²³ *Iowa Weekly Republican* (Iowa City), July 18, 1860.

it was announced that the partnership had been dissolved by the withdrawal of Clarke.²⁴

For a short time after the Civil War Clarke practiced law in Iowa City in partnership with William C. Gaston, the firm specializing in the collection of soldiers' bounties and claims.²⁵ This partnership was evidently dissolved after it had existed about a year, for the "card" of the firm no longer appeared in the *Republican* after October, 1867.²⁶

Besides being a lawyer of high reputation, William Penn Clarke could pride himself with the knowledge that he taught law to several young men who later became well-known. In the years not yet very remote, the common method of gaining admittance to the bar was to study law in the office of some practitioner. So it was that in 1853, William Peters Hepburn, who later enjoyed fame as a Congressman from Iowa, began to read law in Clarke's office. Clarke proved to be a hard task master but he grounded Hepburn thoroughly in the fundamentals of law. He also gave the young law aspirant the benefit of his wide acquaintance with public men, and gave him practical experience by having him assist in trials.²⁷

Another man who learned his law in Clarke's office was Samuel Husband Fairall, who later was Judge of the Eighth Judicial District and served in both houses of the Iowa General Assembly. Fairall, who was a college graduate when he came to Iowa City late in 1855, proved an apt pupil, for he was admitted to the bar after only about six months of Clarke's tutelage.²⁸

In all of Clarke's career as a lawyer in Iowa, two of his

²⁴ *Iowa City Republican*, January 25, 1865.

²⁵ *Iowa City Republican*, October 24, 1866.

²⁶ *Iowa City Republican*, October 9, 1867.

²⁷ Briggs's *William Peters Hepburn*, pp. 14, 15.

²⁸ *Annals of Iowa* (Third Series), Vol. IX, p. 78.

many cases stand out conspicuously — the Boyd Wilkinson lynching case and the county seat case of Marshall County. To understand Clarke's connection with the Wilkinson case, which was probably the most sensational criminal case in the history of Johnson County, it is necessary to review briefly the chief facts relating to it.

In 1850, Philip Clark, who had been the first settler in Johnson County, contracted the "gold fever" and set out for California, leaving his more than seven hundred acres of land south of Iowa City in the hands of his brother-in-law, F. H. Lee, on whom he conferred the power of attorney. For seven years no news was received from Clark and meanwhile his wife secured a divorce on the ground of desertion. With her consent, an arrangement was made by her attorney, William Penn Clarke, and Lee for the transfer of her ex-husband's land to other parties, without any attempt to compensate him.²⁹

News of these events gradually reached Philip Clark who thereupon returned to Iowa City in 1857, and took steps to regain his lost property. He consulted lawyers, and then proceeded to occupy a cabin on the land. To offset this, his alleged despoilers employed a notorious character by the name of Boyd Wilkinson to occupy, with his family, another cabin on the land. Wilkinson set out to intimidate Clark, his most serious offence being to waylay and assault the old man in March, 1858. For this Wilkinson was arrested but was released through the efforts of his attorney, William Penn Clarke.³⁰

Aroused by such treatment of their old friend Clark, a number of citizens met at the courthouse on April 24,

²⁹ *History of Johnson County, Iowa* (1883), p. 216.

³⁰ *Aurner's Leading Events in Johnson County Iowa History*, Vol. I, pp. 498-500; *History of Johnson County, Iowa* (1883), pp. 216, 217; *Iowa Weekly Republican* (Iowa City), September 1, 1858.

1858, and appointed a committee of one hundred to protect him. This committee sent Wilkinson notice to leave but on the advice of William Penn Clarke he disregarded the warning.³¹ Shortly afterwards, on the night of May 10, 1858, Philip Clark's barn was burned, and Wilkinson was immediately suspected of being the incendiary. Accordingly, over thirty men set out from Iowa City on the next day to secure the suspect. He was seized, his arms tied behind him, and he was placed in a hack which started with the mob toward Iowa City. While passing close to the Iowa River, Wilkinson was either thrown into the water or jumped to escape an anticipated hanging. At any rate he was drowned and his body was not recovered until ten days later.³²

Fifteen men were indicted for the murder of Wilkinson and on August 9, 1858, a special session of the District Court was begun at Iowa City for the trial of eight of these men. Never before or since has Iowa City seen a murder trial which aroused such widespread interest. The trial before Judge Isaac Cook lasted almost three weeks, the case for the State being conducted chiefly by William Penn Clarke, who acted as special assistant to the prosecuting attorney, Levi Robinson. The eight prisoners were defended by J. D. Templin, of Iowa City, assisted by Joseph Knox of Rock Island and William Smyth of Linn County. In spite of Clarke's efforts, the jury was not convinced that Wilkinson had been thrown into the river, and on September 1, 1858, brought in a verdict of "not guilty". This resulted in the freeing of the eight accused men — Philip Clark, Michael Freeman, Daniel Marshall, George W. Raw-

³¹ *Iowa Weekly Republican* (Iowa City), August 18, September 1, 1858, May 25, 1859.

³² *History of Johnson County, Iowa* (1883), p. 217; *Iowa Weekly Republican* (Iowa City), May 26, August 18, 25, 1858.

son, Charles Dow, Dennis Hogan, John McGuire, and Charles Brown.³³

Three of the fifteen indicted men — Henry Gray, James Taylor, and Patrick McCraith — were never apprehended but there remained to be tried the four who had demanded separate trials — Alfred Curtis, Peter Conboy, Samuel Shellady, and F. M. Irish. Eventually the charges against the first two were dismissed. Shellady was found guilty of second degree murder but escaped the penitentiary through a pardon from Governor R. P. Lowe. Chief interest centered in the trial of Captain Irish which was held at Davenport before Judge John F. Dillon, in May, 1859. The prosecution was conducted by William Penn Clarke assisted by Henry O'Connor of Muscatine, while the defence lawyers were Joseph Knox of Rock Island and James Lindley of Davenport. After a hard fought trial lasting about a week and a half, the jury, on May 14, 1859, returned a verdict of "not guilty".³⁴

Clarke's connection with the prosecution in the Wilkinson trials aroused bitter animosities toward him, which were accentuated by the fact that he was a Republican while the defendants, notably Irish, were Democrats. The newspapers of Iowa City took sides, the *Iowa Weekly Republican* defending Clarke, while *The Weekly State Reporter*, the Democratic organ, bitterly assailed him. The hatred with which Clarke came to be regarded was revealed about two years later when he sued Johnson County for payment for his services in aiding the prosecution in the Wilkinson trials. When the jury awarded him six hundred dollars the *Democratic State Press* denounced it as "Penn Clarke's

³³ *The Weekly State Reporter* (Iowa City), August 18, September 1, 1858; *Iowa Weekly Republican* (Iowa City), August 18, 25, September 1, 15, 1858.

³⁴ *History of Johnson County, Iowa* (1883), pp. 218, 219; *Iowa Weekly Republican* (Iowa City), January 26, February 9, May 18, June 22, 29, 1859; *The Weekly State Reporter* (Iowa City), May 18, 25, 1859.

Onslaught on the County Treasury". At the time it was asserted that Clarke's object in aiding the prosecution had been to get rid of persons who stood in his way and prevented him from securing Philip Clark's property.³⁵

Before passing judgment on Clarke, the political and personal character of the insinuations against him should be considered. The charges against him were made by his political enemies and by persons involved in the Wilkinson case as defendants. The fact that he continued to be highly regarded by his friends and the members of his own party indicates that they did not believe that he had ulterior motives in aiding in the prosecution of the Wilkinson cases. The jury award in his favor in 1861 is further evidence that his participation was not generally regarded as being animated by personal considerations.

Probably the most interesting civil case in which William Penn Clarke was involved was the county seat contest in Marshall County in 1858-1859. The county seat was originally located at Marietta, but, in an election held on April 5, 1858, a majority of one hundred and five votes was polled in favor of moving the county seat to Marshall (now Marshalltown). When the board of canvassers made their return after the election they refused to include the ballots cast in Marion, Le Grand, and Greencastle townships on the ground that the judges of election in those townships had not been sworn. Therefore, according to the canvassers, there was a majority of fifty-seven in favor of Marietta. On behalf of Marshall, Wells S. Rice secured a writ of mandamus to compel the county judge, William C. Smith, to recanvass the vote.³⁶

³⁵ *Democratic State Press* (Iowa City), April 3, 17, 1861.

³⁶ Briggs's *William Peters Hepburn*, pp. 29-32; Swisher's *County Seats in Iowa* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. XXII, pp. 290-292.

The case was appealed to the Supreme Court by Judge Smith, who was represented by Attorney Enoch W. Eastman. The interests of Marshall were cared for by William Penn Clarke who was assisted by H. C. Henderson and William P. Hepburn. On November 6, 1858, the decision was handed down by Judge William G. Woodward, affirming the decree of the district court "in awarding a peremptory *mandamus*".³⁷ On January 6, 1859, Judge Smith proceeded to recanvass the vote with the aid of two justices of the peace. As the writ of *mandamus* was directed only to the county judge, the two justices did not feel bound by it and again refused to include the vote of the three townships previously rejected, so Marietta remained the county seat.³⁸

On the following October 19th, the matter was again brought before the Supreme Court. On this occasion the Marshall faction was represented by Clarke and Henderson with Eastman and several other attorneys appearing for the Marietta group. The decision of the court was that the district court had erred in directing its writ to the county judge alone, and it held that the whole canvassing board should obey the *mandamus* and count all the votes.³⁹

Meanwhile the Marshall faction had tricked Judge Smith into canvassing the vote a third time at Marshall with two justices of the peace and into issuing an order to transfer the county records from Marietta. This transfer was, however, prevented by the inhabitants of Marietta, who placed an armed guard around their courthouse. Shortly afterwards Judge Smith undertook to issue twenty-six

³⁷ The State of Iowa ex rel. Rice v. The County Judge of Marshall County, 7 Iowa 186-203.

³⁸ Briggs's *William Peters Hepburn*, p. 33.

³⁹ The State of Iowa ex rel. Rice v. Wm. C. Smith, County Judge of Marshall County, 9 Iowa 334-337.

thousand dollars in county bonds to William Dishon for the purpose of building a new courthouse at Marietta. The Marshall group secured an injunction in the district court restraining Judge Smith from issuing the bonds, and in November the Supreme Court upheld the injunction.⁴⁰

The question of the location of the county seat was finally decided on December 29, 1859, by another official canvass of the election returns of April 5, 1858. This decision was favorable to Marshall, and on December 31, 1859, the county safe and records were removed from Marietta to that place.⁴¹ An attempt was made earlier to secure an injunction against the removal of the county seat but the district court dissolved the injunction. This action of the lower court was upheld by the Supreme Court on December 22, 1859. The Supreme Court on this occasion stated that there was insufficient evidence either to invalidate the election of 1858 or the returns of the three disputed townships.⁴² This decision removed the last legal obstacle to the ambition of Marshall to be the county seat. In each of the Supreme Court cases William Penn Clarke was an attorney for the Marshall faction and to him must go part of the credit for securing the removal of the county seat of Marshall County from Marietta to its present location.

SUPREME COURT REPORTER

Closely related to Clarke's profession as a lawyer was his position as Supreme Court Reporter which he held from 1855 to 1859, inclusive. He began his service with the June, 1855, term of the court with the three newly elected judges

⁴⁰ *Rice v. Smith, County Judge, and Dishon*, 9 Iowa 570-579; Briggs's *William Peters Hepburn*, pp. 33-35.

⁴¹ Swisher's *County Seats in Iowa* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. XXII, p. 294; Briggs's *William Peters Hepburn*, p. 35.

⁴² *Dishon v. Smith, County Judge*, 10 Iowa, pp. 212-223.

— George G. Wright of Keosauqua, Norman W. Isbell of Marion, and William G. Woodward of Muscatine — on the bench. In the preface to his first volume which appeared in December, 1856, Clarke said:

In justice to himself, the Reporter deems it his duty to add, that the delay in the publication of this volume, was not occasioned by any want of zeal or interest in his work, but was the result of inexperience.⁴³

Clarke worked hard to produce creditable *Reports*. He did not rely on himself entirely but submitted the proof sheets to the judges who made obvious corrections, thus securing greater accuracy in the completed volumes.⁴⁴ The attitude of the legal profession toward Clarke's *Reports* is indicated by the following extract from a letter written to Clarke by Judge Wright:

We received the [proof] sheets and unite unhesitatingly as being well satisfied with their appearance. The members of the bar . . . are much pleased with the prospective appearance of the Vol. & with the prospect of having at last a chance to know what has been decided. You may rest assured that the profession appreciate your zeal and energy in the premises, as well as the neat character of the forthcoming volume.⁴⁵

Prior to the appointment of Clarke as Reporter, there had been but five volumes of Supreme Court *Reports* issued — one volume known as *Morris' Iowa Reports* covering the Territorial period, and four volumes known as *G. Greene's Reports* covering the period of statehood through the December, 1854, term of the Supreme Court.

⁴³ 1 Iowa, pp. iii-v.

⁴⁴ Manuscript letters from Judge Geo. G. Wright to William Penn Clarke, dated Iowa City, December 21, 1856, and from Judge W. G. Woodward to William Penn Clarke, dated Iowa City, December 20, 1856, in the *Clarke Correspondence*.

⁴⁵ Manuscript letter from Judge Geo. G. Wright to William Penn Clarke, dated Iowa City, December 9, 1856, in the *Clarke Correspondence*.

Several innovations were introduced during the period of Clarke's service as Reporter. He issued in all eight volumes of *Reports* which appeared under the title of *Iowa Reports*, a title which has been retained since, with the volumes numbered consecutively. Another desirable improvement was introduced beginning with 5 *Iowa Reports*, in that the cases were published in the order in which the opinions were filed, and the dates of the opinions were given. Clarke might well have been proud of his work as Reporter and his eight volumes exist today as a permanent memento of his services.

FRAMING THE CONSTITUTION

On the first Monday in August, 1856, an election was held in which the people of Iowa voted in favor of a Constitutional Convention. Accordingly Governor James W. Grimes issued a proclamation ordering an election to be held early in November of that year for the purpose of choosing delegates to the Convention.⁴⁶

After several others had declined, William Penn Clarke agreed, shortly before the election, to be the Republican candidate for delegate to represent the Twentieth District which was composed of Iowa and Johnson counties. His Democratic opponent was W. I. Gilbert whom the *Daily Evening Reporter*, the Democratic organ at that time in Iowa City, described as "a sound Constitutional lawyer, and a man versed in the affairs of the world, sufficiently to know and appreciate the true wants of society and knowing them, put forth all his energies to supply their deficiencies and remedy their ills."⁴⁷

In the short time intervening before the election the

⁴⁶ Shambaugh's *Documentary Material Relating to the History of Iowa*, Vol. I, pp. 217-222; Shambaugh's *History of the Constitutions of Iowa*, pp. 334, 335.

⁴⁷ *Daily Evening Reporter* (Iowa City), October 27, 28, 1856.

newspapers of the rival parties strongly urged the election of their favorites. Three days before the election there appeared in the *Republican* a rather long editorial comparing Gilbert and Clarke. After roundly denouncing Gilbert, the editorial went on to say:

His opposite in all these respects is Wm. Penn Clarke. By untiring industry and devotion to his profession, he has advanced himself to the head of the Bar in this section of Iowa. He is prompt to aid in every enterprise calculated to advance the educational and physical interests of the community in which he is permanently located, and with which he has been identified for years. He is thoroughly posted in the political history of the country and constitutional law. He would go into the Convention with the ability and disposition to serve the community and the State, while his opponent would be there as a mere partizan, to serve party purposes.⁴⁸

Two days later this editorial in Clarke's behalf called forth from the Democratic newspaper an acrimonious condemnation of Clarke, who was accused of being the author of the *Republican* editorial.⁴⁹ It was several days before John Teesdale, the editor of the *Republican*, denied the charge, saying: "Mr. C. never saw the article until it appeared in the paper. We edit our own paper."⁵⁰

When the election was held on November 4, 1856, Clarke defeated Gilbert, and thus shared in the victory of the Republicans who elected twenty-one of the thirty-six delegates who were to compose the Convention.⁵¹ The choice of Clarke was a happy one for in the Convention which began its sessions in the Old Capitol at Iowa City, on January 19,

⁴⁸ *Iowa City Daily Republican*, November 1, 1856.

⁴⁹ *Daily Evening Reporter* (Iowa City), November 3, 1856.

⁵⁰ *Iowa City Republican*, November 6, 1856.

⁵¹ *Daily Evening Reporter* (Iowa City), November 5, 1856; Eriksson's *The Framers of the Constitution of 1857* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. XXII, p. 57.

1857, he proved to be the outstanding figure. An analysis of the activities of the delegates shows that he spoke no less than two hundred and sixty-six times on one hundred and thirteen different subjects, a record in debate that was exceeded only by Rufus L. B. Clarke, a Republican delegate from Mt. Pleasant, and by Jonathan C. Hall, a Democratic delegate from Burlington. In the number of motions and resolutions offered and in the amount of committee work which he performed, William Penn Clarke far exceeded any other delegate. He offered no less than seven motions and nineteen resolutions, and served on two of the Convention's twelve standing committees and on nine special committees.⁵²

On the first day of the session a committee including William Penn Clarke was appointed to consider invitations to hold the sessions in Davenport or Dubuque. Clarke fought hard to retain the Convention in Iowa City, but for a time it seemed as though one of the invitations to meet elsewhere would be accepted. Some of the delegates expressed dissatisfaction with the hospitality offered by Iowa City, and they also objected to the cramped quarters afforded by the Supreme Court room in which they had to meet until the legislature adjourned. After the matter had been discussed at some length, with some of the delegates upholding Iowa City's hospitality, the subject of removal was postponed until January 21st. At that time Clarke presented to the Convention a proposal that the sessions be held in either the Masonic Hall or the Odd Fellows' Hall. Thereupon a motion to postpone indefinitely the matter of removal was carried and the Convention was saved for Iowa City. A few days later the legislature adjourned and allowed the Convention to meet in the Senate chamber, thus

⁵² Eriksson's *The Framers of the Constitution of 1857* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. XXII, pp. 58, 59, 60, 80, 81.

removing a leading cause of dissatisfaction. Later Clarke moved that the discussion on the question of removal be omitted from the printed debates, but his motion was defeated.⁵³

Another important special committee of which William Penn Clarke was the chairman was that appointed on the second day to draw up rules for the Convention. On the next morning Clarke reported for the committee a set of sixteen rules for the government of the Convention. These rules were adopted. In accordance with the tenth rule President Francis Springer proceeded to name the members of the standing committees of the Convention. Clarke was named as chairman of the important Committee on the Judicial Department and he was also placed on the Committee on Miscellaneous Subjects.⁵⁴

Other important special committees on which Clarke served were the committee which secured a reporter for the Convention, the committee to superintend the reporting and printing of the *Debates*, the committee on expenditures and accounts, the committee upon printing the *Journal* and Constitution, the committee to certify the accounts of W. Blair Lord and Luse, Lane and Company for reporting and publishing the *Debates* of the Convention, and the committee to examine the new Constitution. A rather amusing incident was connected with this last committee which was appointed on Clarke's own motion. On March 5, 1857, the last day of the Convention, when the Constitution came up for its final reading, he said:

I move that the constitution be referred to a committee of three of the most critical scholars in the convention, to examine and

⁵³ Eriksson's *The Framers of the Constitution of 1857* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. XXII, pp. 63-65.

⁵⁴ Eriksson's *The Framers of the Constitution of 1857* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. XXII, p. 65; *The Debates of the Constitutional Convention of the State of Iowa, 1857*, Vol. I, pp. 10, 20-22.

report upon it and I wish it to be understood that I do not wish to be placed upon the committee, for I do not include myself among the most critical scholars of the convention.

In spite of this he was made chairman of the committee, though he attempted to be excused after he was named.⁵⁵

Clarke's practical experience in printing aided very much the committees on which he served that had to do with the printing of the *Debates*, the *Journal*, and the completed Constitution. He was also instrumental in having enough copies of these documents printed to secure adequate distribution, and for this reason the present day historian owes him a debt of gratitude. On one occasion, when the matter of printing the debates was being discussed, he said:

I want to place this work in all the public libraries of our own State, and one in at least every county, and perhaps in every township In view of the uses to which this work will be applied, and in view of its importance to the future history of this State, I trust that we will print a number sufficiently large to answer the demand, until another Constitutional Convention is called and assembled.

Though not as many copies were printed as Clarke desired, and though they were not distributed in accordance with his wishes, it was largely because of his efforts that full publicity concerning the Convention of 1857 is available, which unfortunately is not true of the Conventions of 1844 and 1846.⁵⁶

The first article to be considered by the Convention was that on the Preamble and Bill of Rights. In the debate on this article in Committee of the Whole and on the floor of the Convention, Clarke frequently took part. It is interest-

⁵⁵ *The Debates of the Constitutional Convention of the State of Iowa, 1857*, Vol. I, pp. 10, 11, 179, Vol. II, pp. 743, 815, 1048, 1051.

⁵⁶ Eriksson's *The Framers of the Constitution of 1857* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. XXII, p. 67; *The Debates of the Constitutional Convention of the State of Iowa, 1857*, Vol. I, pp. 43, 44.

ing to note that he attempted, though unsuccessfully, to secure the insertion of a section stating, "The right of the people to prohibit by law the manufacture and sale of intoxicating liquors, as a beverage, shall not be violated."⁵⁷

As might be expected from so pronounced an abolitionist, Clarke directed his efforts in the debate on the Bill of Rights mainly to safeguarding the rights of negroes, especially the right to testify in court. In explaining his position he said, in part:

I stand here as a delegate to represent, not the white people of Iowa City, not the Republican party alone who elected me, but as the representative of my district, and of every human being in it We are making a Constitution here, not alone for the government of the white people of Iowa, but to govern all in our community, of all different complexions, climes and nativities. We stand here, not to provide protection for the strong alone, but for all alike.⁵⁸

The sentiments of Clarke and his fellow Republicans prevailed, for in the Bill of Rights as finally incorporated in the Constitution of 1857 there were no exceptions made of negroes. The article was finally adopted by a vote of twenty-six to six, with Clarke voting in favor of it.⁵⁹

In the debates on the second article, that on Suffrage, William Penn Clarke also took a prominent part. When the article was being discussed in Committee of the Whole, he attempted unsuccessfully to secure an amendment providing for a residence requirement of one year in the State instead of six months, as an aid "in protecting the integrity

⁵⁷ Eriksson's *The Framers of the Constitution of 1857* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. XXII, pp. 69, 70; *The Debates of the Constitutional Convention of the State of Iowa, 1857*, Vol. I, p. 139.

⁵⁸ *The Debates of the Constitutional Convention of the State of Iowa, 1857*, Vol. I, p. 196.

⁵⁹ Eriksson's *The Framers of the Constitution of 1857* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. XXII, pp. 78, 79.

of the ballot box". Later, on the floor of the Convention he tried again to amend the residence requirement but, as before, without success. On this latter occasion he also moved to extend the residence requirement in the county from twenty days to three months, but this motion was also defeated.⁶⁰

The most interesting feature of the debates on the suffrage had to do with the efforts to strike out the word "white" from the Article on Suffrage. This attempt to confer the suffrage on negroes required caution. Neither Clarke nor the other Republicans were inclined to force the issue, so their discussions were mostly devoted to reviews of party history and principles, with special reference to slavery. Such a speech was that of Clarke, almost seventeen thousand words in length, which he delivered before the Committee of the Whole on March 2, 1857. This address was essentially an attack on the Democratic party's record in regard to slavery.⁶¹

While Clarke and his fellow Republicans in the Convention were thus defending their party and attacking the Democrats, they succeeded in escaping from an embarrassing situation by providing that the people, when they voted on the ratification of the Constitution, should signify on a separate ballot whether or not the word "white" should be stricken from the Article on Suffrage. After that decision the article was adopted by a vote of thirty to two, with Clarke again voting in the affirmative.⁶²

⁶⁰ Erbe's *Constitutional Provisions for the Suffrage in Iowa* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. XXII, pp. 195-198, 200.

⁶¹ Erbe's *Constitutional Provisions for the Suffrage in Iowa* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. XXII, pp. 195, 200, 201; *The Debates of the Constitutional Convention of the State of Iowa, 1857*, Vol. II, pp. 888-905.

⁶² Eriksson's *The Framers of the Constitution of 1857* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. XXII, pp. 70, 78, 79.

Since the Constitution of 1846 was so illiberal in its provisions relating to corporations and especially to banks, agitation had developed which led to the assembling of the Constitutional Convention of 1857. Naturally therefore the question of corporations was the most important subject to come before the new Convention. Clarke was opposed to the report of the Standing Committee on Corporations, which was submitted on January 30, 1857, so on February 7th, he offered a substitute for the whole report. He desired that political and municipal corporations be allowed to become "stock-holders in corporations for the construction of works of internal improvements within the State, upon a vote of the citizens of such political or municipal corporation, under such restrictions as the general assembly may provide."⁶³ It will be recalled that one of Clarke's reasons for opposing the Constitution of 1846 was its failure to provide for internal improvements.

In a lengthy discussion of the Article on Corporations, on February 9, 1857, Clarke made it clear that he wished to allow the various county and municipal governments to subscribe in the stock of railroad companies especially. His remarks on this occasion showed him to be in favor of complete State socialism for he said:

Now, if my views of government could prevail, I would have this government educate every child; I would have it build every road; I would have it construct every bridge; I would in fact, have it do everything which would conduce to the general happiness and welfare of the people. When a government does that, it will have attained its perfection, and not till then.

Clarke warmly defended corporations, especially railroads, saying:

⁶³ *The Debates of the Constitutional Convention of the State of Iowa, 1857*, Vol. I, pp. 96, 97, 304, 305; Eriksson's *The Framers of the Constitution of 1857* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. XXII, p. 71.

I think these corporations, instead of being hurtful, instead of injuring and oppressing the people, instead of endangering the perpetuity of government, have the very opposite tendency. I believe that every railroad that is made, tends to strengthen and perpetuate this union, and the State governments. I believe that every dollar that is invested in these works of internal improvement connects the holders of that capital, as it were with a chain of gold, to the support of the government. And I think the perpetuity, and the successful and prosperous destiny of this government will be enhanced and increased, just in proportion as you stretch these iron ribs from one end of the continent to the other.⁶⁴

The Convention refused to concur in Clarke's views concerning corporations — on the contrary a provision was inserted in the Article on Corporations stating:

The State shall not become a stock-holder in any corporation, nor shall it assume or pay the debt or liability of any corporation, unless incurred in time of war for the benefit of the State.

On March 4, 1857, the Article on Corporations was adopted by a vote of twenty-nine to six. Clarke cast his vote against its adoption, the other five negative votes being cast by Democrats.⁶⁵

In the discussion of the report of the Standing Committee on State Debts, Clarke took a stand against limiting too much the power of the State government to incur indebtedness. He expressed a preference for a limitation of \$500,000, as he wanted the amount large enough to enable the State to expand and progress. Furthermore, he expressed the opinion that it was unnecessary to check the government in this respect. But again the Convention was of a different opinion and the article as finally adopted placed the limitation at \$250,000. Clarke nevertheless

⁶⁴ *The Debates of the Constitutional Convention of the State of Iowa, 1857, Vol. I, pp. 336-342.*

⁶⁵ *The Debates of the Constitutional Convention of the State of Iowa, 1857, Vol. II, p. 1085; Eriksson's The Framers of the Constitution of 1857 in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. XXII, pp. 71, 78, 79.*

voted in favor of the article, which was adopted by a unanimous vote.⁶⁶

Though the third article of the present Constitution, dealing with the Legislative Department, is the longest in the document, it was adopted without any heated debate. In the debate on February 17th, Clarke moved that the article reported be amended so as to allow bills to be passed over the Governor's veto by a mere majority of the members of each house of the General Assembly present instead of by two-thirds of the members of each house. The motion was rejected as only nine votes were cast in favor of it. The twenty-fifth section of the article, dealing with the compensation of members of the General Assembly, was adopted as a substitute offered by Clarke for the similar section in the original report.

Attempts made by Clarke to amend the article in several other places were defeated, however. He sought to insert in section thirty-one a provision making it obligatory for the General Assembly to pass general laws on such subjects as the assessment and collection of taxes, but his motion was defeated by a vote of ten to nine. His effort to secure an amendment providing for annual sessions of the legislature for five years after the Convention and biennial sessions thereafter was also defeated. His inability to change the article as he desired, evidently influenced Clarke to vote against its adoption, but it was adopted by a vote of thirty to four.⁶⁷

⁶⁶ *The Debates of the Constitutional Convention of the State of Iowa, 1857*, Vol. I, p. 267, Vol. II, p. 1084; Eriksson's *The Framers of the Constitution of 1857* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. XXII, pp. 78, 79; Erbe's *Constitutional Limitations on Indebtedness in Iowa* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. XXII, pp. 388, 389.

⁶⁷ *The Debates of the Constitutional Convention of the State of Iowa, 1857*, Vol. I, pp. 525, 526, 529, 532, 558-567; Eriksson's *The Framers of the Constitution of 1857* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. XXII, pp. 72, 78, 79; Erbe's *The Legislative Department as Provided by the Consti-*

When the fourth article, that on the Executive Department, came up for discussion, William Penn Clarke supported an amendment to eliminate the office of Lieutenant Governor which was included in the report of the standing committee. He objected to the office on the grounds that it would make "a place for a partisan", the Senate was competent to select its own presiding officer, and, if elected for a term of years, a Lieutenant Governor might hold office while a majority of the Senators were of a different party. The amendment was defeated and the office was created by the article as finally adopted by a unanimous vote.⁶⁸

It will be recalled that one of the reasons which Clarke put forward earlier for opposing the Constitution of 1846 was that there was no way of amending the instrument without calling a new convention. Therefore when the report of the Standing Committee on Amendments to the Constitution came up for consideration, he took a stand in favor of some other method of amendment such as that contained in the first section of the present article. He did not favor the provision that a vote should be taken every ten years on the question of calling a convention, but he preferred to leave the matter of a referendum to the discretion of the General Assembly. Nevertheless he voted for the adoption of the article as now included in the Constitution, which carried by a vote of twenty-one to twelve.⁶⁹

tution of Iowa in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. XXIII, pp. 264-294.

⁶⁸ *The Debates of the Constitutional Convention of the State of Iowa, 1857*, Vol. I, pp. 592, 593, 595; Eriksson's *The Framers of the Constitution of 1857* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. XXII, pp. 73, 78, 79; Erbe's *The Executive Department of Government as Provided by the Constitution of Iowa* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. XXIII, p. 393.

⁶⁹ *The Debates of the Constitutional Convention of the State of Iowa, 1857*, Vol. I, pp. 603, 616, 617; Eriksson's *The Framers of the Constitution of 1857* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. XXII, pp. 75, 78, 79.

The members of the Standing Committee on Education and School Lands were unable to agree so they submitted a majority and a minority report. When the reports were considered in Committee of the Whole on February 25th, Clarke expressed himself at some length, in favor of the minority report. While he favored the creation of a State board of education he objected to having the manner of their selection prescribed by the Constitution. On this subject he said, in part:

I do not think it is necessary to provide in the constitution how this board shall be elected, in order to give them either character, permanency or stability. I think we may safely trust the creation of this board to the legislature; and I have no doubt that when they do create it, they will provide all the essential requisites for the successful operations of this board; that they will fix the length of time which each member of the board shall serve, and make all other necessary provisions in order to enable them to discharge their duties satisfactorily to themselves and to the people.⁷⁰

While the Article on Education and School Lands was being debated, Clarke moved that "The State University shall consist of a single institution, and be permanently located at Iowa City." In support of his motion he said, in part:

I desire to say a few words upon the subject of this proposition, though I am well aware that what I may say will be subjected to the charge of being interested. It is a well and old settled idea in the public mind that when the seat of government shall be removed from this city, the building we now occupy is to be used for the purposes of the State University. I think that, such being the case, this convention ought to have no hesitation in settling the question of its permanent location.

Objection was made to his proposition however and a substitute section was inserted in the article which did not

⁷⁰ *The Debates of the Constitutional Convention of the State of Iowa, 1857, Vol. II, pp. 744-747.*

fix the location of the university. The permanent location of the institution at Iowa City was accomplished by a section inserted later in the Article on Miscellaneous Subjects. When the vote was taken on the final adoption of the Article on Education and School Lands it carried by a vote of twenty-three to eight. Clarke voted in the negative.⁷¹

An examination of the *Debates* shows that Clarke had nothing to say in regard to either the Article on the Militia or on Schedule, neither of which was discussed at any length by the delegates. There remains to be considered Clarke's connection with two articles — that on the Judicial Department and that on Miscellaneous Subjects.

Probably the most important work which William Penn Clarke performed in the Constitutional Convention was in connection with the Article on the Judicial Department. In view of his reputation as a lawyer and his experience as Supreme Court Reporter, it was entirely fitting that he should be appointed chairman of the Convention's Standing Committee on the Judicial Department, the other members of which were James F. Wilson, R. L. B. Clarke, D. H. Solomon, and J. C. Hall.⁷²

This committee proceeded with its work, being aided in its deliberations by several resolutions referred to it by the Convention. The members, however, were unable to agree on all the provisions which should be incorporated in the article so, on January 31st, both a majority report and a minority report were presented to the Convention, the latter signed by William Penn Clarke alone. The chief difference between the two reports was that the majority

⁷¹ *The Debates of the Constitutional Convention of the State of Iowa, 1857*, Vol. II, pp. 838-841, 1088, 1092; Eriksson's *The Framers of the Constitution of 1857* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. XXII, pp. 78, 79.

⁷² Eriksson's *The Framers of the Constitution of 1857* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. XXII, p. 73.

favored the establishment of superior courts intermediate between the Supreme Court and the district courts.⁷³

At this juncture occurred an incident which indicates the seriousness with which Clarke regarded his work in the Convention. Rather than rely on his own opinion entirely he wrote to each of the Supreme Court Judges asking their advice in regard to the two reports which he enclosed without indicating his own relation to them. It is a tribute to his judgment that all three wrote him expressing a preference for the minority report.⁷⁴

When the Convention resolved itself into a Committee of the Whole, on the afternoon of February 4th, to consider the reports of the Committee on the Judicial Department, Clarke moved that the minority report be substituted for the majority report. This provoked a lengthy debate which was continued on February 5th. At this time Clarke explained his attitude towards the majority report as follows:

If the State were ten years older, I should be in favor of the system reported by the majority. It is conclusive, to my mind, that a system which will suit a population of three millions is too cumbersome and burdensome for a population of half a million. As I remarked before, it is only a question of time, and if our courts were overborne with business and inadequate for the litigation of the State, and if it were necessary to create an additional court, I would favor the system proposed by the majority I may say here, that the report of the minority proposes to leave it an open question, and gives to the Legislature the right to establish this court if it shall be deemed necessary.

⁷³ *The Debates of the Constitutional Convention of the State of Iowa, 1857*, Vol. I, pp. 33, 38, 46, 47, 81, 115-117; Erbe's *The Judicial Department of Government as Provided by the Constitution of Iowa* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. XXIII, pp. 441, 449, 452, 453.

⁷⁴ Manuscript letters from Judge W. G. Woodward to William Penn Clarke, dated Muscatine, February 18, 1857, Judge L. D. Stockton to William Penn Clarke, dated Burlington, February 9, 1857, and Judge Geo. G. Wright to William Penn Clarke, dated Keosauqua, February 7, 1857, in the *Clarke Correspondence*.

Clarke further objected to the superior courts proposed by the majority because "it will not only add to the expenses of litigation, but it will tend to create delay in legal proceedings." Furthermore, he objected that some of the district judges, who were to preside on the superior bench, would be overworked. He also opposed the establishment of superior courts because their power and jurisdiction would not extend outside the districts in which they were set up.⁷⁵

Before the day's session was ended the situation was further complicated by the submission of another majority report, signed by R. L. B. Clarke, J. C. Hall, and D. H. Solomon. This report substituted circuit courts for the superior courts of the first majority report. Following this William Penn Clarke resubmitted his minority report. It was not until February 12th that the reports on the Judicial Department were again taken up in Committee of the Whole.

At this session the majority report was first taken up and amended so as to omit the mention of any courts except the Supreme Court and the district courts. From this point confusion marked the deliberations of the Committee of the Whole. The majority report, together with a substitute proposed by R. L. B. Clarke, was laid aside and William Penn Clarke's minority report was taken up. No sooner was this done than James F. Wilson offered a substitute for the minority report, but the substitute was laid on the table. Thereupon R. L. B. Clarke proposed that the Article on the Judicial Department in the old Constitution be substituted for the minority report and this was agreed to.

The Committee of the Whole then proceeded to consider

⁷⁵ *The Debates of the Constitutional Convention of the State of Iowa, 1857, Vol. I, pp. 227-246.*

the subject of the judiciary with the article in the Constitution of 1846 as the basis of the discussions. Various amendments were proposed and some were adopted. Clarke favored the system of four Supreme Court Judges decided on by the Committee of the Whole, and he attempted to have the number of judicial districts set at four, as provided in his original minority report. Failing in this he succeeded in having the number of districts fixed at ten. These were the most important amendments made by the Committee of the Whole.⁷⁶

On the following day, February 13th, the Article on the Judicial Department, as agreed on by the Committee of the Whole, came before the Convention in regular session. An attempt was made to reduce the number of Supreme Court Judges to three, but this effort was opposed by Clarke, who urged strongly that the four judge system be given a trial. When the vote was taken the majority of the Convention decided in favor of three judges, and this provision was inserted in the completed Constitution. On Clarke's motion the provision was made that one Supreme Judge should go out of office every two years and that the Judge holding the shortest term should be Chief Justice. He also favored a long term for the Judges, but preferred five years instead of the six years finally decided on by the Convention. In arguing for the long term, he pointed out that it would tend to take the office of Judge of the Supreme Court out of politics and would also insure a better class of candidates for such judicial offices.

It was also on the motion of Clarke that the Convention voted to create the office of an elective Attorney General. He favored higher salaries for the Judges than the Convention was willing to agree to, and he was instrumental in

⁷⁶ *The Debates of the Constitutional Convention of the State of Iowa, 1857, Vol. I, pp. 256-260, 430-461.*

securing a provision allowing the Legislative Assembly to change the salaries after 1860.⁷⁷

When the subject of the judiciary came before the Convention again on February 16th, the matter of creating judicial districts was referred back to the Standing Committee on the Judicial Department for further consideration. On February 20th, William Penn Clarke, as chairman of the committee, reported to the Convention a recommendation that eleven instead of ten districts be created. This recommendation was adopted by a vote of thirty-one to three. In presenting and supporting the report, Clarke explained that he did so because four out of the five members of the committee had concurred in the report, and he felt that it was his duty as chairman to represent the committee. With the adoption of this report discussion on the Article on the Judicial Department came to a close and it was referred to the Committee on Revision. On March 4, 1857, the article was adopted by a vote of thirty-one to four, with Clarke voting in the affirmative.⁷⁸

William Penn Clarke was also a member of the Standing Committee on Miscellaneous Subjects, the chairman of which was David Bunker, and the other members of which were David P. Palmer, J. C. Traer, and M. W. Robinson. On February 26th, the report of this committee was taken up in Committee of the Whole. It was found to contain a section almost identical with that which Clarke had unsuccessfully attempted to insert in the Article on Education and School Lands, to the effect that the State University should be permanently located at Iowa City.

⁷⁷ *The Debates of the Constitutional Convention of the State of Iowa, 1857*, Vol. I, pp. 462-493, 504-507.

⁷⁸ *The Debates of the Constitutional Convention of the State of Iowa, 1857*, Vol. I, pp. 508, 509, 628-638; Eriksson's *The Framers of the Constitution of 1857* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. XXII, pp. 73, 78, 79.

This section was ordered stricken out by the Committee of the Whole without opposition, and later in the day the Convention concurred in this action by a vote of twenty-four to eleven. It seemed as though the attempt to secure for Iowa City a constitutional guarantee of the University had failed. But to the surprise of Clarke, there was introduced on March 2nd the following resolution, to be inserted in the Constitution as a separate article:

The seat of government is hereby permanently located, as now fixed by law, at the city of Des Moines, in the county of Polk; and the state university at Iowa City in the county of Johnson.⁷⁹

When the question came up for discussion the next day, Clarke proposed that the question of locating the capital at Des Moines and the University at Iowa City be submitted to a separate vote of the people at the time they voted on the Constitution itself. In explanation, he stated that he had not opposed the action in striking out the section of the Article on Miscellaneous Subjects dealing with the location of the capital and the University because he did not wish to "create division and dissension in this convention". He expressed surprise at the change in attitude on the subject on the part of members of the Convention. Clarke's substitute was defeated and the original article was adopted by the Convention. Though adopted as a separate article it was finally incorporated in the Article on Miscellaneous Subjects which was adopted by a vote of twenty-six to four, Clarke again voting in the affirmative.⁸⁰

On March 5, 1857, the last day on which the Constitutional Convention was in session the vote was taken on the

⁷⁹ *The Debates of the Constitutional Convention of the State of Iowa, 1857*, Vol. II, pp. 801, 811, 877; Eriksson's *The Framers of the Constitution of 1857* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. XXII, pp. 75, 76.

⁸⁰ *The Debates of the Constitutional Convention of the State of Iowa, 1857*, Vol. II, pp. 922-934, 1017, 1092; Eriksson's *The Framers of the Constitution of 1857* in *THE IOWA JOURNAL OF HISTORY AND POLITICS*, Vol. XXII, p. 78.

final adoption of the Constitution as a whole. The result was twenty-five to seven in favor of its adoption. When Clarke's turn to vote came he arose and said:

Before giving my vote upon this question, I desire to say that, as the records of this convention will show, there are several articles embodied in this constitution which do not meet my approbation, which I believe to be wrong, and which I fear will result in evil to the people. On the other hand there are many articles in the constitution which meet my warmest approbation, and which I think, if it becomes the fundamental law of the land, will secure better than our present constitution, the individual rights of the people. I shall, therefore, vote for the passage of the constitution, reserving to myself the right to determine, upon mature reflection, as to my vote at the polls.⁸¹

Just before the Convention adjourned *sine die* several delegates took advantage of the opportunity to explain their remarks in the course of the debates, remarks which had often been quite acrimonious. Clarke was one of those who thus apologized and helped to create a good feeling on the part of the members before leaving the Convention hall. He said, in part:

I take this occasion to say, that if, in the course of this debate, I have indulged in any severe criticism upon the conduct of others, I feel that I have had my full share in return. And I desire that when I shall leave this hall, and when I shall resign the position which I now occupy, and become again a private citizen, to bury every feeling of ill-will, every feeling but that of kindness towards every member of the convention. My desire is that we shall part here as friends and not as partizans. However differently we may view the proceedings of this convention, and the result of its labors, I hope at least that when we leave here, no member will entertain any cause of offence or unpleasant feeling towards another for anything that has been said or done here. Such is my feeling and desire, and I do trust that the spirit of crimination and recrimi-

⁸¹ *The Debates of the Constitutional Convention of the State of Iowa, 1857, Vol. II, p. 1054.*

nation, which has been indulged in here, will from this time cease, and that the closing hours of the convention will be marked by universal good feeling and harmony.⁸²

From the above account it is evident that Clarke played a very prominent part in the framing of the present State Constitution. Not only was he active in debate and committee work but a perusal of the proceedings of the Convention shows that it was Clarke who did much to speed the action of that body by calling for the "ayes and nays" on various questions and in similar ways. Though many of his proposals were defeated, nevertheless many of his suggestions were incorporated in the Constitution and to William Penn Clarke must be assigned one of the most honored places among "The Framers of the Constitution of 1857".

FREE SOIL ADVOCATE

There was probably no more ardent Free Soil advocate in Iowa in the period before the Civil War than William Penn Clarke. He was early connected with the activities of the Free Soil party but chief interest centers in his participation in the effort to make Kansas free and in his connection with the Underground Railroad. In this he was associated with such men as John Brown, James H. Lane, J. B. Grinnell, as well as lesser lights.

While he was identified with the Whig party after he first came to Iowa, the election of 1848 saw him running for the office of presidential elector on the Free Soil ticket, on which occasion he received some 1137 votes. In 1850, Clarke was the Free Soil candidate for Governor but on this occasion he ran a poor third to the Democratic candidate, Stephen Hempstead, who was elected, and to the Whig candidate, James Thompson. Clarke received only 575

⁸² *The Debates of the Constitutional Convention of the State of Iowa, 1857, Vol. II, pp. 1061, 1062.*

votes out of approximately 25,000 votes cast. His last appearance on a Free Soil ticket was in the election of August 2, 1852, when, running for the office of Representative in Congress, he received only 135 votes, as compared with 7777 polled for John P. Cook, the successful Whig candidate, and 7114 votes cast for Lincoln Clark, the Democratic candidate.⁸³ In view of his connection with the Free Soil party it is not surprising that he should later have become a prominent Republican and a leader in the movement for the abolition of slavery.

Though he sought to promote the Free Soil cause through politics he was not content with that and on every occasion possible he was instrumental in aiding the negroes. His correspondence contains many letters which indicate his activities on their behalf. As early as 1851 there is a letter showing that he was instrumental in sending a family of freed negroes to Liberia.⁸⁴

Later, when the Kansas-Nebraska question came to the fore, he was very active in aiding Colonel James H. Lane secure men and arms to be sent to Kansas to help make it a free State, and he also helped smuggle negroes to Canada and freedom. When Lane came to Iowa City on June 7, 1856, a meeting was arranged to be held in "the State House" on a few hours notice. A large crowd was present, and William Penn Clarke was the presiding officer. Of the speech the *Republican* said:

It was one of the most effective and withering we have ever heard delivered. The recital of scenes in Kansas, wrought up the feelings of the audience to the most intense pitch of excitement.⁸⁵

⁸³ Pelzer's *The Early Democratic Party of Iowa* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. VI, pp. 181, 192, 197.

⁸⁴ Manuscript letter from I. W. Lugenbeel, Recording Secretary, American Colonization Society, to William Penn Clarke, dated Colonization Rooms, Washington, D. C., May 17, 1851, in the *Clarke Correspondence*.

⁸⁵ *Iowa City Daily Republican*, June 9, 1856.

The following letter from Lane to Clarke found in the *Clarke Correspondence* is its own commentary on the relations between them during the period immediately preceding the Civil War:

I entrusted to Mr. Eldridge the duty of forwarding our arms & ammunition to Quincy [Iowa] where I intend to establish a depot. As you *love me & the cause* hasten everything of that kind to that point fail not in God name — ⁸⁶

Another letter from Lane to Clarke throws further light on the latter's connection with the "Free Kansas" movement.

The bearer of this R. Riddle Esq. is one of the true and reliable friends of Kansas charged with an important mission. —

Help him along that he may discharge it.

There was endorsed on the letter:

Rec of Wm. Penn Clark twenty five dollars on the above request
July 11 A D 1856

ROB'T RIDDLE
Exps Acct of
Col Lane.⁸⁷

Not only did Clarke aid the free Kansas movement by helping to forward men and arms and by contributing money, but as chairman of the Kansas Central Committee of Iowa he was instrumental in having the "Lane Trail"⁸⁸ adopted as the official route for free staters going to Kansas. By this route the "dangers and difficulties of sending emigrants to Kansas through Missouri" were avoided and

⁸⁶ Manuscript letter from James H. Lane to William Penn Clarke, dated Webster, Iowa, June 30, 1856, in the *Clarke Correspondence*.

⁸⁷ Manuscript letter from James H. Lane to William Penn Clarke, dated Knoxville, July 5, 1856, in the *Clarke Correspondence*.

⁸⁸ For a full description of the "Lane Trail" with maps see Connelley's *The Lane Trail* in the *Collections of the Kansas State Historical Society*, Vol. XIII, pp. 268-279.

instead, the committee announced in a circular issued on July 4, 1856:

It is proposed to take the following course through Iowa, leaving Iowa City proceed to Sigourney, thence to Oskaloosa, thence to Knoxville, thence to Indianola, thence to Oceola, thence to Sidney and to Quincy, in Fremont county, Iowa on the Missouri river, 80 miles from Topeka, the capitol of Kansas.

The committee also announced that arrangements had been made with the Western Stage Company to run regular coaches over the route, a distance of three hundred miles, at a cost of about twenty-five dollars for each passenger. This circular put out relative to the "Lane Trail" was signed by each member of the Kansas Central Committee — Clarke as chairman, C. W. Hobart as secretary, H. D. Downey as treasurer, with L. Allen, Jesse Bowen, M. L. Morris, G. D. Woodin, J. N. Jerome, and J. Teesdale as the other members.⁸⁹

Shortly after this circular was issued, Clarke attended the National Kansas Aid Convention held at Buffalo, New York, on July 9 and 10, 1856. At this Convention he was appointed a member of the National Committee. The most important thing he did at the Convention was to secure the adoption, by a unanimous vote, of the Iowa or "Lane Trail" as the official route for free State emigrants to Kansas.⁹⁰

The adoption of the "Lane Trail" and the fact that Clarke and other members of the Kansas Central Com-

⁸⁹ *Daily Evening Reporter* (Iowa City), July 24, 1856. When this Democratic newspaper republished the circular it accompanied it with a denunciatory editorial under the title "A Precious Document". It should be noted that the circular contains several errors in regard to the location of points mentioned.

⁹⁰ This information was gained from a manuscript letter from W. F. M. Army, the Secretary of the National Kansas Aid Convention, to William Penn Clarke, dated Chicago, Illinois, July 16, 1856, and from a copy of the printed proceedings of the convention accompanying the letter, in the *Clarke Correspondence*.

mittee of Iowa lived in Iowa City made that city the chief headquarters for the free State men west of the Mississippi River. Money, arms, and other supplies, not to mention men, were collected there to be sent on to Kansas, and it was because of this that John Brown came in contact with Clarke, Dr. Jesse Bowen, and other residents of the city.

When journeying through Iowa with negroes whom he was secretly transporting toward Canada, Brown was accustomed to partake of the hospitality of J. B. Grinnell at Grinnell. From there he would pass on to the Pedee Settlement of Quakers about seventeen miles northeast of Iowa City where he would quarter his men. Then he would return to Iowa City to consult with Clarke and others. According to Dr. Frederick Lloyd, who in 1866 wrote an account of John Brown's activities among the Pedee Quakers, based on information furnished by various men who had been associated with Brown:

On such occasions Brown generally required the benefit of a clear head and cool hundred, both of which he never failed to find at the office of Clarke, who often made up any deficiencies there might be in funds, or contributed the whole amount himself.⁹¹

Probably the greatest service which Clarke rendered to Brown was early in 1859, on the occasion of the latter's last trip through Iowa prior to his ill-fated Harper's Ferry venture. On February 4, 1859, Brown left Kansas with twelve negroes in his party and, on the 25th of the same month, reached the Pedee Settlement, having passed through Iowa City during the previous night, as was his custom. It soon became noised about in Iowa City that John Brown was in the vicinity with the negroes, and, attracted by the reward of three thousand dollars which had been offered by the Missouri authorities for the apprehen-

⁹¹ Lloyd's *John Brown Among the Pedee Quakers* in the *Annals of Iowa* (First Series), Vol. IV, pp. 665-670.

sion of the negroes, certain "disinterested advocates of the rigid enforcement of the fugitive slave law, who cared nothing particular about other laws", under the leadership of Samuel Workman, the postmaster of Iowa City, began to make plans for Brown's capture. To make the situation more dangerous for Brown, a United States marshal was at Davenport with a warrant for his arrest.

Meanwhile, J. B. Grinnell, fearing trouble, had gone to Chicago to secure a box car so that Brown's party might be quietly removed to Chicago. But the superintendent of the railroad feared prosecution under the fugitive slave law and so refused permission for the negroes to be sent over his line. He, however, gave to Grinnell his draft for fifty dollars. At about this juncture, William Penn Clarke, who had been absent, returned to Iowa City, and Brown, disregarding the danger of capture, came to the city to see him. Clarke learned from Brown of Grinnell's failure to secure the box car for the fugitive negroes so he undertook to secure one.

Before departing for Davenport for that purpose, Clarke and L. A. Duncan of the Iowa City *Republican* called on Colonel S. C. Trowbridge, roused him from bed, for it was about midnight, and persuaded him to help Brown escape from Dr. Bowen's house where he was staying and return to Pedee. Trowbridge outwitted the guards Workman had stationed to prevent Brown from leaving the city — the expectation being to seize him in the morning — and he and Brown reached the Pedee Settlement safely.

That same morning Clarke took an early train for Davenport where he interviewed Hiram Price, the secretary of the railroad. Price had no authority to assign a car but he gave Clarke a letter of introduction to the deputy superintendent of the railroad. Armed with this and the draft which the superintendent at Chicago had given to Grinnell,

Clarke returned to West Liberty, about fifteen miles east of Iowa City, to which point Brown and his party had proceeded and concealed themselves in Keith's Steam Mill.

By exhibiting the letter from Price and the superintendent's draft, Clarke convinced the local agent of the railroad that the railroad officials connived at what was being done, so he agreed to furnish a box car. Brown's whole party was then loaded in and shipped safely to Chicago as freight, the superintendent's draft being given in payment of the freight charges. Shortly afterwards Clarke apologized to the railroad president in order to save the agent at West Liberty from dismissal.⁹²

Clarke continued to correspond with Brown, and evidently knew of the plans which he attempted to carry out at Harper's Ferry for after Brown's capture, there were among his papers letters from both Clarke and Grinnell, which their enemies claimed to be incriminating.⁹³

After Brown's departure from the West, Clarke continued to coöperate with such men as Grinnell in maintaining the Underground Railroad. Thus, in the summer of 1860 Grinnell wrote to him:

Tomorrow or next day there will be a company of 20 odd persons well armed passing on to Springdale.

If they are to be troubled I trust they may have a fair warning.⁹⁴

This letter was typical of others received by Clarke in the period prior to the Civil War and indicates that he was one of the chief factors in the operation of the Underground Railroad in Iowa.

⁹² Lloyd's *John Brown Among the Pedee Quakers* in the *Annals of Iowa* (First Series), Vol. IV, pp. 712-719.

⁹³ Herriott's *Republican Presidential Preliminaries in Iowa—1859-1860* in the *Annals of Iowa* (Third Series), Vol. IX, p. 260.

⁹⁴ Manuscript letter from J. B. Grinnell to William Penn Clarke, dated Grinnell, Iowa, August 15, 1860, in the *Clarke Correspondence*.

POLITICAL ACTIVITIES

Throughout his whole career in Iowa, William Penn Clarke manifested the keenest interest in politics and was an active participant in the political activities of his time. It was not his fortune to be elected to high office but he was often a candidate. During the campaigns he was always in demand as a speaker and the newspapers of the period frequently contained notices of political rallies which he addressed.

Mention has already been made of Clarke's early connection with the Whig party and of his affiliation with the Free Soil party from 1848 to 1852. Information concerning his political connections between 1852 and the formation of the Republican party is meagre, but letters found in his correspondence indicate that he was for a time a member of the American or "Know Nothing" party, which he used, as did many others during that troubled period, as a stepping stone to the Republican party.⁹⁵

During the period in which the Republican party was in process of formation in Iowa, Clarke was in correspondence with many of the public men who became members of the new party. Letters indicate that he used his influence to bring about a fusion of the "Know Nothings" with the Republicans.⁹⁶ The way for this fusion was paved by the Convention of the American party which was held in Iowa City on November 6 and 7, 1855, and was practically completed at the Convention held in Iowa City on February 22, 1856, when the Republican party of Iowa was formally organized. The call for the Republican Convention was

⁹⁵ The American party affiliations of Clarke are indicated, for example, by manuscript letters from F. A. Bettis to William Penn Clarke, dated Bellevue, Iowa, January 29, 1856, and from Dr. R. Howe Taylor to William Penn Clarke, dated Marshalltown, July 22, 1856, in the *Clarke Correspondence*.

⁹⁶ For example, a manuscript letter from N. M. Hubbard to William Penn Clarke, dated Marion, Iowa, December 24, 1855, in the *Clarke Correspondence*.

issued on January 3, 1856, over the signature of "Many Citizens" and was published in various newspapers. The real authorship of the call is in doubt but it is interesting to note that William Penn Clarke later claimed to have penned it.⁹⁷

Clarke's name does not appear in the list of delegates who attended this first Republican Convention in Iowa, nor is there any indication that he had any connection at the time with the party other than in the capacity of a private citizen. He was neither nominated for office nor named on any of the committees of the Republican State organization.⁹⁸ His absence from this State Convention is to be explained by the fact that on the very day on which it was held, he was in Pittsburgh attending the preliminary Republican National Convention of which he was one of the secretaries.⁹⁹

In 1857 Clarke began a campaign to secure the United States Senatorship in 1858 in opposition to James W. Grimes and James Thorington. His correspondence indicates that he sent out "feelers" to determine the sentiment in various parts of the State in regard to his candidacy. The replies were not very encouraging and Grimes probably at no time found his chances of election endangered by Clarke's candidacy.¹⁰⁰

By the time the Republican State Convention met at Iowa

⁹⁷ Pelzer's *The Origin and Organization of the Republican Party in Iowa* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. IV, pp. 495-521.

⁹⁸ Pelzer's *The Origin and Organization of the Republican Party in Iowa* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. IV, pp. 521-525.

⁹⁹ Gue's *History of Iowa*, Vol. IV, pp. 52, 53; Rhodes's *History of the United States*, Vol. II, pp. 118, 119.

¹⁰⁰ Manuscript letters from James Thorington to William Penn Clarke, dated Davenport, October 27, 1857, and from William Vandever to William Penn Clarke, dated Dubuque, December 20, 1857, in the *Clarke Correspondence*; Herriott's *The Republican State Convention in the Annals of Iowa* (Third Series), Vol. IX, p. 436.

City on August 19, 1857, Clarke had become connected with the party in an official capacity, for one of the acts of the Convention was to vote to continue for another year the State Central Committee composed of William Penn Clarke, Samuel J. Kirkwood, Henry O'Connor, George D. Woodin, and Hiram Price.¹⁰¹

Clarke's prominence in the Republican party in Iowa is further shown by the fact that, prior to the State Convention of 1859 he was mentioned as a gubernatorial possibility.¹⁰² However, it was not the office of Governor, but rather a position on the Iowa Supreme Court bench that Clarke desired. As early as April 1, 1859, it was proposed that his name be presented to the State Convention for that position.¹⁰³ Shortly afterwards the *Republican* formally called attention of the Republicans of the State to the fact that Kirkwood was a candidate for the office of Governor and Clarke for the office of Supreme Court Judge. Of the two men, the newspaper editor said:

We are personally and intimately acquainted with both gentlemen, and know them to be Republicans of the genuine ring and of the right grain through and through. Each in their respective positions and each according to his opportunities have done eminent service in the cause of republicanism. In our humble judgment they possess talents of a kind and order that peculiarly qualify them for the stations to which the partiality of their friends would call them.¹⁰⁴

When the State Convention met at Des Moines on June 22, 1859, Clarke's ambition received a rude blow. Fourteen

¹⁰¹ Pelzer's *The History of Political Parties in Iowa from 1857 to 1860* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. VII, p. 179.

¹⁰² Pelzer's *The History of Political Parties in Iowa from 1857 to 1860* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. VII, p. 205.

¹⁰³ Manuscript letter from John Shane to William Penn Clarke, dated Vinton, Iowa, April 1, 1859, in the *Clarke Correspondence*.

¹⁰⁴ *Iowa Weekly Republican* (Iowa City), May 25, 1859.

names were presented to the Convention for the three Supreme Court positions. On the first informal ballot, R. P. Lowe, L. D. Stockton, and Caleb Baldwin received the highest number of votes, and were then formally nominated. Clarke stood sixth on the first ballot with ninety-nine votes.¹⁰⁵ A hint as to why Clarke was defeated may be gleaned from an article signed "Looker On" which appeared earlier in the Democratic organ, the *Reporter*, published at Iowa City. According to this writer, the Johnson County Convention had assembled on June 4, 1859, at Market Hall, and had named delegates to the State Convention who were inimical to Clarke. The article claimed that Clarke had been so angered by this that he had denounced the meeting and had then left the hall.¹⁰⁶ Without the support of the delegation from his home county he could hardly have expected to receive the nomination at the hands of the State Convention.

Though his political enemies intimated that he was disaffected because of his defeat and would not support the Republican ticket actively, he denied the charge, and a perusal of the *Republican* during the period of the campaign shows that he took the stump on behalf of his party. When the Republican victory was finally won, a celebration was held in Iowa City on the night of October 14, 1859. Bonfires were lighted, a parade was held, and the crowd assembled on the corner of Clinton and Washington streets to hear speeches by Clarke, Kirkwood, and other Republican leaders.¹⁰⁷

No sooner was the State election of 1859 over than plans began to be made for the State Convention to choose dele-

¹⁰⁵ *Iowa Weekly Republican* (Iowa City), June 29, 1859.

¹⁰⁶ *Weekly Iowa State Reporter* (Iowa City), June 8, 1859.

¹⁰⁷ *Iowa Weekly Republican* (Iowa City), July 13, 27, August 3, September 28, October 5, 19, 1859.

gates to attend the Republican National Convention in Chicago in 1860. The Johnson County Convention met at the courthouse at Iowa City on December 31, 1859, and Clarke was named as one of the delegates to the State Convention.¹⁰⁸ This body met in Des Moines on January 18, 1860, and proceeded to select the delegates to the National Convention. As reported in the *Republican*:

On the first formal ballot, our worthy fellow citizen and unmitigated Republican, W. Penn Clarke, was elected chairman of the delegation, a compliment well deserved from the hands of the Republicans of Iowa.¹⁰⁹

As chairman of the delegation, Clarke made arrangements for the establishment of the Iowa headquarters in a suite of rooms at the Tremont House in Chicago.¹¹⁰ In connection with this action an amusing anecdote was related by Charles C. Nourse, one of the delegation. After referring to the needlessness of such quarters, Nourse said:

The result to Clarke was hard on his pocket book. There were a few in our delegation who liked wines and Kentucky Bourbon more than was good for them and at the convention such gay lords had plenty of encouragement to indulge their fondness for spirits. Clarke himself was not much given to such diversion, if at all. Those who were so addicted ordered such liquors as they desired and had the costs charged to the "Iowa Headquarters". The subjects under discussion at the conclaves of those partizans — the fates of candidates and the welfare of the nation were too important and pressing, you know, to permit those stern patriots to think of such prosy matters as immediate payment of the price. In the furious excitement just preceding and following the nomination they totally forgot that they had ordered or were ordering all sorts of high priced liquors. After the Convention was over, and the delegates had dispersed, the bill was presented to Clarke. It took

¹⁰⁸ *Iowa Weekly Republican* (Iowa City), January 4, 1860.

¹⁰⁹ *Iowa Weekly Republican* (Iowa City), January 25, 1860.

¹¹⁰ *Iowa Weekly Republican* (Iowa City), March 28, 1860.

his breath, but he had to pay it and he realized as never before the beauties and benefits of fame among politicians.¹¹¹

But there was at least one man in the delegation who was a good sportsman, for in the *Clarke Correspondence* there is a letter from William B. Allison, later United States Senator, inquiring about the expenses of the Iowa delegation at Chicago and offering to pay his share.¹¹²

Prior to the assembling of the National Convention at Chicago on May 16, 1860, William Penn Clarke received letters from various individuals urging him to support their candidates. Several citizens of Pennsylvania wrote to him, urging him to vote for Simon Cameron of that State. It was pointed out that it was absolutely essential for Republican success to carry Pennsylvania and it was claimed that Cameron was the only man who could win a victory over the Democrats who were purported to have healed their differences.¹¹³ Another urged him to support Salmon P. Chase of Ohio as a "Representative of the West",¹¹⁴ while still another wrote him a long letter urging the nomination of Judge William Lewis Dayton of New Jersey, who was described as "a true Republican", who could be trusted, and furthermore it was claimed that he could carry New Jersey and Pennsylvania.¹¹⁵

¹¹¹ Nourse's *A Delegate's Memories of the Chicago Convention of 1860* in the *Annals of Iowa* (Third Series), Vol. XII, p. 462.

¹¹² Manuscript letter from William B. Allison to William Penn Clarke, dated Dubuque, August 26, 1860, in the *Clarke Correspondence*.

¹¹³ Manuscript letters from J. P. Landerson to William Penn Clarke, dated Philadelphia, March 6, 1860, from Russell Errett to William Penn Clarke, dated Pittsburg, April 17, 1860, and from Joseph Hunsicker to William Penn Clarke, dated Upper Providence, Pennsylvania, May 6, 1860, in the *Clarke Correspondence*.

¹¹⁴ Manuscript letter from H. B. Carrington to William Penn Clarke, dated Columbus, Ohio, March 5, 1860, in the *Clarke Correspondence*.

¹¹⁵ Manuscript letter from James T. Sherman to William Penn Clarke, dated Trenton, New Jersey, April 9, 1860, in the *Clarke Correspondence*.

Such letters, however, failed to influence Clarke, for, on all three of the ballots taken, on the third day of the Chicago Convention, he voted consistently for William Henry Seward of New York who received only one other Iowa vote. On the first ballot Iowa's eight votes were divided among six candidates but on the third and last ballot the Iowa vote stood: Seward 2, Abraham Lincoln $5\frac{1}{2}$, and Chase $\frac{1}{2}$.¹¹⁶ When the first ballot was being taken there occurred an incident which caused general astonishment and probably considerable embarrassment to Clarke. When he arose to announce the Iowa vote he found himself unable to utter a word. Though he was a gifted public speaker, he would occasionally suffer an impediment of his speech when laboring under great excitement. Perceiving Clarke's predicament, another Iowa delegate came to his relief and announced Iowa's vote.¹¹⁷

During the campaign of 1860, Clarke was an active participant in support of the Republican cause. It was on his motion that the Republicans of Johnson County, in a convention at the courthouse at Iowa City on May 5, 1860, took steps to fit up a "*Republican Wigwam*" as headquarters for a "Johnson County Republican Club". The Metropolitan Hall in Iowa City was secured and converted into a "*Wigwam*", and there the State Republican Convention met on May 23, 1860. Clarke was present as a delegate from Johnson County. On the next day the Republican Congressional Convention assembled in the same place. Clarke's name was put before this Convention as a candidate for the nomination as Representative in Congress.¹¹⁸

¹¹⁶ Herriott's *Iowa and the First Nomination of Abraham Lincoln* in the *Annals of Iowa* (Third Series), Vol. VIII, pp. 110, 111, 188; *Iowa Weekly Republican* (Iowa City), May 23, 1860.

¹¹⁷ Nourse's *A Delegate's Memories of the Chicago Convention of 1860* in the *Annals of Iowa* (Third Series), Vol. XII, pp. 462, 463.

¹¹⁸ *Iowa Weekly Republican* (Iowa City), May 9, 23, 30, September 12, 1860.

but he was defeated by William Vandever. Nevertheless, in the ensuing campaign, Clarke took the stump in support of the Republican party and contributed his share to the victory gained in the fall of 1860, when Abraham Lincoln was elected to the presidency.

A PUBLIC SPIRITED CITIZEN

In spite of the busy life which he led, Clarke found time to give to various humanitarian and civic duties which others in his position might have avoided. Especially in his earlier years in Iowa he was interested in the anti-capital punishment movement. As early as 1847, there appeared in the *Standard* a letter signed by William Penn Clarke, as secretary of the "Iowa Anti-Capital Punishment and Prison Discipline Society". In this communication it was stated:

Now we believe that this thing of throttling human beings to death, is inhuman and anti-christian, to say nothing of its inexpediency; and we believe, further, that every discussion before the people, strengthens our cause, and increases the number of its advocates.¹¹⁹

Several letters appear in his correspondence which indicate that he communicated quite often with a similar organization in New York, known as the "New York Prison Association". Clarke was still secretary of the Iowa organization in 1850, but no letters or other information are available after that date to show whether or not his interest in the anti-capital punishment movement continued.¹²⁰

¹¹⁹ *The Iowa Standard* (Iowa City), January 27, 1847.

¹²⁰ Manuscript letters from New York Prison Association to William Penn Clarke, dated July, 1847, from John D. Russ and George W. Smith to William Penn Clarke, dated New York, February 16, 1848, and from John D. Russ to William Penn Clarke, dated New York, February 1, 1850, in the *Clarke Correspondence*.

Clarke's interest in local education was shown when he acted as the secretary of a meeting of citizens of School District No. 2, Iowa City Township, which was held on April 22, 1848.¹²¹ When the Institution for the Deaf and Dumb was established at Iowa City by an act of the General Assembly, dated January 24, 1855, he became a member of the first board of trustees, the other members being S. J. Kirkwood, E. Sells, J. P. Wood, H. D. Downey, and William Crum, with W. E. Ijams as principal.¹²²

For over five years Clarke remained a trustee of the institution and also served as its treasurer. In 1860, however, several incidents occurred which caused him to resign from the board and from the office of treasurer. He was criticized by certain creditors of the institution for not paying their claims. This led him to make a lengthy reply through the columns of the *Republican*, in which he passed the blame on to State Treasurer John W. Jones for not supplying funds. Clarke was also dissatisfied with some new legislation regulating the funds of the institution. When Governor Kirkwood wrote to him accepting his resignation he informed Clarke that he misconceived the new law governing the funds of the institution.¹²³

Clarke also found time to participate in the city government of Iowa City. The city was granted a charter by the General Assembly on January 24, 1853, and on April 1st of the same year the charter was approved by the people of the city and the officials were, at the same time, elected. Jacob P. De Forest was elected mayor, Anson Hart, recorder, and C. H. Buck, treasurer, while William Penn

¹²¹ *The Iowa Standard* (Iowa City), April 26, 1848.

¹²² Irish's *History of Johnson County, Iowa*, in the *Annals of Iowa* (First Series), Vol. VI, p. 207.

¹²³ *Iowa Weekly Republican* (Iowa City), April 18, 1860; manuscript letter from Governor Samuel J. Kirkwood to William Penn Clarke, dated Iowa City, Iowa, July 18, 1860.

Clarke was chosen as one of the three aldermen from the second ward.¹²⁴ After he had served his term in this office, he continued his interest in the city government. An account which appeared in the *Republican* as late as 1860 stated that he was the chairman of a local gathering of Republicans, assembled at Market Hall on March 26, 1860, for the purpose of nominating city officers to be voted on a week later. On this occasion Clarke was present as a delegate from the first ward.¹²⁵

He was also actively interested in the State Historical Society of Iowa, which was established in 1857 by an act of the General Assembly. He was a member of the first Board of Curators and during the year 1867 he was president of the Society. As late as 1875 his name appears in the list of members though his major interests were by that time elsewhere than in Iowa.¹²⁶

Mention has already been made of Clarke's friendliness for railroads as exhibited in the Constitutional Convention of 1857 during the debate on the Article on Corporations. His interest in securing a railroad through Iowa City had been manifested from the first. When a meeting was called at Chicago on May 25, 1853, for the purpose of organizing the Mississippi and Missouri Railroad Company, Le Grand Byington and William Penn Clarke were sent to the meeting by the Iowa City council, "authorized in their discretion to subscribe to the capital stock of said company in the name of said Iowa City ———— thousand dollars, upon

¹²⁴ *Laws of Iowa, 1852-1853*, pp. 99-107; Irish's *History of Johnson County, Iowa*, in the *Annals of Iowa (First Series)*, Vol. VI, pp. 211, 212; Aurner's *Leading Events in Johnson County Iowa History*, Vol. I, p. 139.

¹²⁵ *Iowa Weekly Republican (Iowa City)*, March 28, 1860.

¹²⁶ *First Annual Report of the State Historical Society of Iowa, 1857*, p. 11; *Sixth Biennial Report of the Board of Curators of the State Historical Society of Iowa, 1867*, p. 15; *Tenth Biennial Report of the Board of Curators of the State Historical Society of Iowa, 1875*, p. 9.

condition that said city is made a point on said road, by irrevocable order of the managing board of said Rail Road Co.; and upon further condition that said stock shall be payable in the bonds of said city bearing interest at the rate of ——— per cent per annum, and subject to the approval of a majority of the electors of said city at an election which may be hereafter held for that purpose.”

As a result of this Iowa City issued \$50,000.00 in bonds for a like amount of railroad stock, the road was built and on January 3, 1856, a great celebration was held in honor of the arrival of the Mississippi and Missouri Railroad in Iowa City.¹²⁷ After the Mississippi and Missouri Railroad had been constructed, Clarke acted as one of its attorneys.¹²⁸

CIVIL WAR AND LATER

When the election of Lincoln in November, 1860, was assured, Clarke, according to letters found in his correspondence,¹²⁹ undertook to start a boom for Fitz Henry Warren of Burlington, Iowa, for the office of Postmaster General, but without success. After the new administration had taken office, Clarke undertook to secure for himself an appointment as judge of the Court of Claims. He was strongly supported by Senator James Harlan, with whom his correspondence indicates he had long been on very friendly terms. John A. Kasson of Iowa, who was in Washington as Assistant Postmaster General, also worked

¹²⁷ Aurner's *Leading Events in Johnson County Iowa History*, Vol. I, pp. 220-224; Shambaugh's *Iowa City, a Contribution to the Early History of Iowa*, pp. 105-107.

¹²⁸ 8 Iowa 148; 18 Iowa 280.

¹²⁹ Manuscript letters from J. P. Landerson to William Penn Clarke, dated Philadelphia, November 27, 1860, from James Harlan to William Penn Clarke, dated Washington City, D. C., December 12, 1860, and from Fitz Henry Warren to William Penn Clarke, dated Burlington, Iowa, November 30, 1860, in the *Clarke Correspondence*.

in his behalf, as did G. W. Ells of Davenport. The latter attempted to secure for Clarke the support of Secretary of the Treasury Salmon P. Chase, who replied as follows:

I recognize Mr. Clarke as one of the true men and good lawyers of the country, and freely acknowledge his services in the great cause which is now vindicating itself before the world. It would gratify me to see him in an exalted and satisfactory position, but for the one to which you refer I am already committed by a previous promise.

Chase was pledged to support R. P. Spalding of Cleveland, Ohio, for the appointment. As it developed, neither Clarke nor Spalding received the judgeship which went to W. Joseph Casey of Pennsylvania, through the efforts of Simon Cameron of that State, who was at the time Secretary of War.¹³⁰

Having failed to secure a desirable civil appointment at the hands of the Republican administration, Clarke next turned his attention to securing a commission in the Union army. On September 21, 1861, he wrote to the Adjutant General of Iowa in regard to receiving a position as an officer in one of the Iowa regiments, but was informed that all the commissioned officers needed had been secured and "To commission more would be inconsistent with the interest of the service at the present time."¹³¹

After this rebuff, Clarke sought to secure an army appointment through Washington. His friend, Senator Harlan, recommended to the President that he be appointed a

¹³⁰ Manuscript letters from R. P. Spalding to William Penn Clarke, dated Cleveland, Ohio, May 21, 1861, from R. P. Spalding to William Penn Clarke, dated May 27, 1861, from S. P. Chase to G. W. Ells, dated Treasury Department, May 25, 1861, from G. W. Ells to William Penn Clarke, dated Davenport, May 31, 1861, and from John A. Kasson to William Penn Clarke, dated Washington, May 28, 1861, in the *Clarke Correspondence*.

¹³¹ Manuscript letter from Adjutant General N. B. Baker to William Penn Clarke, dated Adjutant General's Office, Davenport, September 30, 1861, in the *Clarke Correspondence*.

paymaster with the rank of major and an annual salary of \$3000.00. By November, 1862, John A. Kasson, who was also aiding him to secure the appointment, wrote him that Secretary of War Edwin M. Stanton had given out the information that the commission would be issued to Clarke as soon as funds were available in the Treasury,¹³² but it was not until January 23, 1863, that Clarke wrote to his son, Fred, who was also in the army, that his appointment as paymaster had been confirmed by the Senate.¹³³

Clarke continued in the Union army for over three years. His services as a paymaster took him from St. Louis to Vicksburg and then with Sherman in his Atlanta campaign.¹³⁴ Letters found in his correspondence indicate that he was respected by the soldiers and well-liked by his fellow officers. There must have been some reason for the following tribute contained in one of the letters which he received after the close of the war:

I begin to have some faint idea of what your troubles and tribulations must have been when "in Atlanta's Grand Campaign" you shared the dangers of War to pay the men at the front — I have bragged a good deal on you & [T. H.] Stanton as the best paymasters I ever saw & I believe that you were the best anybody ever saw. The "boys" thought so too.¹³⁵

That his services were also appreciated by his superiors

¹³² Manuscript letters from James Harlan to William Penn Clarke, dated September 26, 1862, and from John A. Kasson to William Penn Clarke, dated Washington, November 18, 1862, in the *Clarke Correspondence*.

¹³³ Manuscript Letter from F. M. Clarke to William Penn Clarke, dated Headquarters, 1st Brigade, 2nd Division, Army S. E. Missouri, West Plains, Missouri, February 3, 1863, in the *Clarke Correspondence*.

¹³⁴ Letters from William Penn Clarke to Mrs. William Penn Clarke, dated near Vicksburg, June 21, 1863, and from William Penn Clarke to Mrs. William Penn Clarke, dated Atlanta, Georgia, October 29, 1864, printed in the *Iowa City Republican*, July 8, 1863, and November 9, 1864.

¹³⁵ Manuscript letter from William W. Belknap to William Penn Clarke, dated Keokuk, Iowa, December 22, 1866, in the *Clarke Correspondence*.

is proved by the fact that he was promoted, "for faithful and meritorious services", to the rank of brevet lieutenant colonel, United States Volunteers, the new rank to be effective from November 28, 1865.¹³⁶

While he was in the army, Clarke kept up his interest in politics. His relations with Governor Kirkwood seem to have been strained even before he entered the military service. When Kirkwood was seeking election as a United States Senator in 1865-1866, Clarke was urged to spend his thirty days leave in Iowa throwing his influence against the election of Kirkwood. Clarke's interest in Iowa politics is further evidenced by the fact that in 1863 he attempted to start a boom for General Fitz Henry Warren for Governor.¹³⁷

The close of the Civil War brought to Clarke, as it did to thousands of others, the problem of what he should do in the future. On the advice of Senator Harlan he sought a position in the newly created Freedmen's Bureau, but without success.¹³⁸ For a time he contemplated securing a transfer to the regular army and remaining in the military service. He secured for this purpose a recommendation from his old friend, General William Vandever of Dubuque, but nothing materialized.¹³⁹ He also considered forming a

¹³⁶ Manuscript letter from Secretary of War Edwin M. Stanton to William Penn Clarke, dated War Department, Washington, November 29, 1865, in the *Clarke Correspondence*.

¹³⁷ Manuscript letters from M. L. Morris to William Penn Clarke, dated Camp Warren, September 15, 1861, from H. C. Henderson to William Penn Clarke, dated Marshalltown, Iowa, May 22, 1863, and from Elijah Sells to William Penn Clarke, dated Washington, D. C., December 12, 1865, in the *Clarke Correspondence*.

¹³⁸ Manuscript letters from T. H. Stanton to William Penn Clarke, dated Washington, D. C., March 18, 1865, and from T. H. Stanton to William Penn Clarke, dated Washington, D. C., March 31, 1865, in the *Clarke Correspondence*.

¹³⁹ Manuscript letter from William Vandever to William Penn Clarke, dated Dubuque, September 10, 1865, in the *Clarke Correspondence*.

partnership with N. P. Chipman for the purpose of conducting claims against the government — Clarke to have his office in Nashville, Tennessee, while the headquarters of the firm should be in Washington, D. C. Clarke felt that he had outgrown Iowa City and that he could attain greater success elsewhere.¹⁴⁰ This contemplated partnership did not materialize and Clarke remained in the army for some time longer.

It was not until early in the spring of 1866 that he was mustered out.¹⁴¹ By this time his friend James Harlan was Secretary of the Interior in President Andrew Johnson's cabinet, so it is not surprising that Clarke was appointed chief clerk in the Department of the Interior. However, he held the office only a few months. He was a radical Republican, and as such found his views incompatible with those of the administration. Consequently, late in the summer of 1866, he withdrew from the position in the Department of the Interior and returned to establish his home temporarily in Iowa City.

When the news reached his home city that he was returning, a meeting was held on September 10, 1866, and arrangements were made to tender him a public reception. A committee of prominent citizens, with Colonel John Williams as chairman, was appointed to care for the details of the reception. When Clarke arrived in the city on September 14th, "a good number" were present to greet him in spite of the fact that there was a strong counter-attraction in the form of horse races at the Fair. Clarke was called on for a speech, and, having been forewarned by his friend Dr. Frederick Lloyd, was able to speak for about half an

¹⁴⁰ Manuscript letter from N. P. Chipman to William Penn Clarke, dated Military Commission, Court of Claims Rooms, Washington, September 22, 1865.

¹⁴¹ Manuscript letter from T. H. Stanton to William Penn Clarke, dated Richmond, Virginia, April 27, 1866, in the *Clarke Correspondence*.

hour, most of his speech being a denunciation of President Johnson and his policies.¹⁴²

As has already been mentioned, Clarke resumed his law practice in Iowa City where he remained about a year. But he was dissatisfied with what he regarded as a limited field so he removed to Washington, D. C., where, during the remainder of his active career, he practiced law, specializing in cases before the Court of Claims. At times he practiced alone, at other times as a member of a firm. The letter head of a letter which he wrote in 1869 shows that he was at that time in partnership with John J. Weed, the firm being known as "Weed & Clarke, Attorneys at Law and Solicitors of Claims".¹⁴³ As late as 1893 he was associated with St. Julien B. Dapray, in the firm of "Clarke & Dapray, Counselors at Law and Solicitors of Claims".¹⁴⁴

There is nothing to indicate that Clarke's career in Washington, D. C., was especially brilliant. While he undoubtedly enjoyed a good law practice, he was lavish in his expenditures, and ended his days in relative poverty. He was especially interested in collecting pictures, and it was his intention to leave his art collection to the State of Iowa, but after his death the pictures were sold at auction under mortgage.

Clarke was so long absent from Iowa that he had been practically forgotten by the time of his death¹⁴⁵ at the ripe

¹⁴² Manuscript letter from Dr. Frederick Lloyd to William Penn Clarke, dated Iowa City, September 12, 1866, in the *Clarke Correspondence; Iowa City Republican*, September 12, 19, 1866.

¹⁴³ Manuscript letter from William Penn Clarke to Dr. J. W. Huff, dated Washington, D. C., February 7, 1869, in the possession of the State Historical Society of Iowa.

¹⁴⁴ Manuscript letter from William Penn Clarke to Charles Aldrich, dated Washington, D. C., December 1, 1893, in the *Clarke Correspondence*.

¹⁴⁵ *The Register and Leader* (Des Moines), April 16, 1905; *Iowa City Republican*, February 12, 1903; *Iowa State Press* (Iowa City), February 18, 1903; *Annals of Iowa* (Third Series), Vol. VI, pp. 77, 78.

old age of eighty-six. When he died on February 7, 1903, his demise was given scarcely more than a passing notice by Iowa newspapers. His body was cremated and the ashes were buried in Arlington cemetery. Thus there passed off the stage one who had been a leading actor in the formative years of Iowa's history.

ERIK MCKINLEY ERIKSSON

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