

## SOLDIER VOTING IN IOWA

A large number of those who served in both the Union and Confederate armies from 1861-1865 were voters, and while these men were in the field several important elections were held. To deprive a man of the privilege of suffrage because he was fighting for the Union or for the Confederacy was obviously unfair, but the soldier certainly could not return to his voting precinct in order to cast his ballot. The question of permitting soldiers to vote in the field was raised, but some of the States found difficulties in the way. If the Constitution of a State clearly provided for the place where the voter might exercise the privilege of voting, then it was necessary to amend the Constitution before provision could be made for voting in the field. On the other hand, if the State Constitution was silent on this point or if it left the place of voting to be determined by the State legislature then it was not such a difficult task to enable soldiers to vote.<sup>1</sup>

The Constitution of no State provided the place where an elector should cast his ballot for members of Congress and for presidential electors, so it was clear that this matter was in the hands of the State legislatures to decide unless Congress should regulate the matter.<sup>2</sup> State legisla-

<sup>1</sup> Benton's *Voting in the Field*, Ch. 1.

<sup>2</sup> "The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislatures thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."—Constitution of the United States, Article I, Section 4.

"Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors."—Constitution of the United States, Article II, Section 1.

tures, then, could pass laws permitting soldiers to vote in the field for members of Congress and for presidential electors. The matter of permitting soldiers to vote for State and local officers, however, offered more difficulties. On April 1, 1864, the Supreme Court of Vermont declared an act permitting soldiers to vote in the field constitutional in respect to presidential electors and members of Congress but unconstitutional so far as voting for State officers was concerned.<sup>3</sup>

The Court said in part: "Looking to the language of our constitution, the state of things existing at the time of its formation, the early legislation under it, the uniform legislation and usage of the state since, and the various discussions and decisions in other states, we are clearly satisfied that by the fair construction of our constitution, the right of voting for governor and other state officers, can only be exercised within the state, in the 'freemen's meetings', to be held within the towns on the first Tuesday of September in each year." The Vermont tribunal decided, however, that the legislature could authorize voting in the field for presidential electors and members of Congress since the State Constitution was silent on the subject.<sup>4</sup> The fact that the Constitution of Iowa did not fix a place of voting but merely laid down the qualifications of voters<sup>5</sup> enabled the legislature of that State to pass a law allowing soldiers to vote not only for presidential electors and for members of Congress but also for State officers. Gov-

<sup>3</sup> Similar decisions were handed down in New Hampshire, Maine, and Kentucky.

<sup>4</sup> 37 Vermont 676.

<sup>5</sup> "Every white male citizen of the United States, of the age of twenty-one years, who shall have been a resident of this State six months next preceding the election, and of the County in which he claims his vote sixty days, shall be entitled to vote at all elections which are now or hereafter may be authorized by law."— Constitution of Iowa, 1857, Art. II, Sec. 1.

ernor Samuel J. Kirkwood called the Ninth General Assembly into special session on September 3, 1862, and recommended that the right of franchise be extended to Iowa soldiers qualified to vote no matter where they were stationed on the day of election. In his message to the legislative body, he said in part: "A very large number of the electors of the State are in the army. We say but little when we say that these men are as good citizens, as intelligent, as patriotic, as devoted to their country, as those who remain at home. Under existing laws these citizens cannot vote, and unless these laws can be changed it may be that the cause they are periling life in the field to maintain, may be lost at home through supineness or treachery."<sup>6</sup>

The Attorney General ruled that such a law was not contrary to the State Constitution, and the act was passed on September 11th. By the terms of this act, Iowa voters in the military or naval service of the State or of the United States were given the right to vote for State and Federal officers authorized by law whether they were able to be present in the voting precincts or not. To be a voter, of course, a person must be a white male citizen, twenty-one years of age and must have been a resident of Iowa for six months and of the county sixty days at the time he enlisted. Constables, justices of the peace, township officers, and county supervisors were not to be voted for in the field.<sup>7</sup>

After the election in October, 1862, the Supreme Court of Iowa was called upon to make a decision in regard to the constitutionality of the soldiers voting law. William G. Springer had been elected Clerk of the District Court in Iowa County having received a majority, counting the

<sup>6</sup> Shambaugh's *Messages and Proclamations of the Governors of Iowa*, Vol. II, pp. 315, 316.

<sup>7</sup> *Laws of Iowa*, 1862 (Extra Session), Ch. 29.

soldiers' votes. On the other hand, A. J. Morrison — his opponent — received a majority of the votes cast in the county, not including the votes of the soldiers in the field. Morrison contested the election and N. W. Isbell, Judge of the Eighth Judicial District, declared that he was elected, on the grounds that the law allowing soldiers to vote in the field was unconstitutional. Judge Isbell claimed that the Constitution clearly defined the place where an elector of the State should vote as well as his qualifications.<sup>8</sup>

The Supreme Court of Iowa, however, reversed this decision, Judge Wright writing the opinion. The main object of this section of the Constitution, according to Wright, was to define who should enjoy the privilege of voting. By its terms, a voter must be a white male citizen, twenty-one years old, a resident of Iowa six months and of the county sixty days preceding the election. In this decision Judge Wright said:

Now, if it be admitted that the incidents of residence in the State and county inhere in the voter, in the sense that sex, age and color inhere in the person as well as the voter, it by no means follows that the Legislature might not fix, at its discretion, the place where those to whom these incidents attach, or possessing these qualifications, may exercise the right; for it is admitted that when the Constitution says "white male citizens," it negatives the right of the Legislature to confer the elective franchise upon females or persons of color. So when it prescribes a residence in the State six months, and the county sixty days, it equally prohibits the conferring the right upon those having a residence of three months and of twenty days. If nothing was said about residence, it would be entirely competent for the Legislature to fix it at one day or five years. But the Constitution, in the language used, intended to declare who should enjoy the right of

<sup>8</sup> Morrison v. Springer, 15 Iowa 304, at 305-309.

suffrage, rather than where it should be exercised, and the incident of place, or the place of exercising the right, is not attached as a qualification of the voter.

Since it was impossible to point to any part of the Constitution which had been violated, Judge Wright claimed that the law should be upheld. He argued that the Court should declare a law invalid when necessary but it should never "by metaphysical doubts and difficulties defy and overrule the public will, by showing that the power exercised by the Legislature was or might be questionable."<sup>9</sup>

With the passage of the law permitting soldiers to vote, it was necessary to make provisions for exercising this privilege in the field. A commissioner, to be appointed by the State Census Board for each Iowa regiment, was provided and additional ones might be appointed by the Governor if necessary. Each commissioner was to receive poll books, ballots, and other necessary supplies from the Secretary of State. He was then to proceed to the particular regiment to which he was assigned. On the day of election, polls were to be opened in the field at nine o'clock or before and were to stay open for at least three hours. Provision was made for the appointment of the judges of election from among the soldiers present. It was their duty to provide ballot boxes and to see that the votes were cast properly.

In many instances the vote was cast in the immediate vicinity of fighting and in such cases balloting was taken care of quickly. One commissioner rode to the front in order to get the soldiers' votes. When he reached the Iowa regiment, judges were quickly appointed and a cigar box was provided as a ballot box. The soldiers were brought in as rapidly as possible and it was only a short time be-

<sup>9</sup> Morrison v. Springer, 15 Iowa 304, at 345-349.

fore all the votes were cast, and the commissioner started for the rear.<sup>10</sup>

The law provided that soldiers' votes were not to be invalidated even though minor details prescribed in the law were not carried out, but if the accounts in the news columns of the day are to be believed, a number of actual frauds were perpetrated in the field. It is well to keep in mind, however, that soldiers' voting laws were supported by Republicans and opposed by Democrats the country over. One authority who has made a careful study of this subject states that the reason for the opposition by the Democrats lay in the fact that soldiers' voting laws were Republican measures and naturally brought criticism from the opposition.<sup>11</sup> As a result, the Democrats made the most of any opportunity which presented itself to expose the Republican measure as unconstitutional and open to frauds of all kinds.

The huge Republican majorities in the field brought protests from the Democrats who charged their political opponents with influencing the vote of the soldiers unfairly. One of the leading Democratic organs of the State, the *Burlington Argus*, made the statement, after the elections of 1863, that the Democrats in the field had little chance to vote. Had they been allowed to use their ballots, the vote in the field would have been much heavier than it was. It was alleged that soldiers were warned not to vote the Democratic ticket and any who dared to do so were placed on extra duty or even imprisoned. Here, according to the *Argus*, was an explanation of the light vote in the army. The inference was that all those who did not vote in the army would have cast their vote for the Democratic can-

<sup>10</sup> Aldrich's *Voting With the Soldiers in 1864* in the *Annals of Iowa* (Third Series), Vol. VI, pp. 618-623.

<sup>11</sup> Benton's *Voting in the Field*, p. 306.

didates, but were not given a chance to vote.<sup>12</sup> This was a convenient explanation of the small Democratic vote.

Democratic newspapers throughout Iowa printed letters from citizens in the army who declared that the soldiers were being forced to vote the Republican ballot or none at all. "We had election the other day for Iowa State officers", wrote a young Iowa soldier in 1862. "I did not vote *neither did many of the Dem as they had no tickets* (a good joke on the Dems.)" In several cases, however, it was reported that Democrats in the army wrote the names of their party nominees on the Republican ballots.<sup>13</sup>

A passage from one of these letters of protest, sent to the *Burlington Argus* and reprinted in the *Iowa City State Press*, indicates the attitude Democratic papers were taking:

At noon, on election day, I went to the polls. There lay a great heap of tickets on the ground, and the boys searching for such as they wanted. I searched some time to find a democratic ticket, but did not succeed. The commissioner asked me what county I wanted. I told him Des Moines. "Oh yes," said he, "lots of them;" and handed me the republican nominations. I thanked him, but told him that I wanted the democratic ticket. "Oh, you do! Well, we don't consider that party as being Union. We folks rather regard it as leaning the other way, ourselves." These were his exact words, spoken in a very sarcastic manner. Many of the officers and men did not vote. They were disgusted with the arrangement, and pronounced it a one sided affair. The great bundles of tickets dumped over our parade ground were all republican, except an occasional democratic State ticket, thrown in as if for tally.<sup>14</sup>

<sup>12</sup> *Burlington Argus*, November 5, 1863.

<sup>13</sup> *The State Press* (Iowa City), October 25, 1862; *The Journal and Letters of Corporal William O. Gulick* in *The Iowa Journal of History and Politics*, Vol. XXVIII, pp. 556, 557. Corporal Gulick was not of age.

<sup>14</sup> *The State Press* (Iowa City), November 1, 1862.

From the beginning, Democrats questioned the honesty of the commissioners sent out to get the soldiers' votes. Since the Republicans had "their commissioners" to supply Republican ballots, plans were soon made to provide the Democrats in the field with tickets. It was recommended to all Democratic county committees of Iowa as soon as nominations were made and to all democratic candidates on being nominated that they secure a number of ballots with the name of the county printed at the top as required by law and send these to friends in the army as well as to persons throughout the State having friends or relatives in the field. The State Democratic Committee also suggested placing the following citation on the ballot: "The Democracy of Iowa favor PEACE upon the basis of a completely restored UNION; and will advocate the disbandment of the volunteer army of the United States, so soon as the people of the South, through their State organizations, shall return to the Union under the existing Federal and State Constitutions."<sup>15</sup> This apparently was intended to dispel the criticism that the Democratic party was against the Union and in sympathy with the seceding States.

Republicans were quick to defend the new law, maintaining that statements by the opposition in regard to the alleged destruction of Democratic ballots and the presentation of only Republican ballots to the soldiers in the field were false. It was claimed that, in many instances, Republican commissioners delivered addresses to soldiers which had been issued by the Democratic committees in Iowa and even handed them tickets prepared by these committees.<sup>16</sup> The *Des Moines Register* asserted that the vote

<sup>15</sup> *The State Press* (Iowa City), August 22, 1863.

<sup>16</sup> *Iowa State Register* (Weekly, Des Moines), November 5, 1862.



in the field was overwhelmingly Republican, not in a strict party sense, but in consideration of the administration's vigorous prosecution of the war and was due to a widespread conviction that the Democratic party was in sympathy with the secessionists.<sup>17</sup>

In all reports of election returns, a Democratic vote was recorded however small it may have been. To quote the *Iowa City Republican*: "The *Chicago Times* and other secession-sympathizing northern sheets are seeking to parry the effect of the blow which the Iowa soldiers in their recent vote has dealt them, by charging fraud, intimidation &c. in the taking of the vote. The charge of fraud is entirely without foundation, and the charge that the soldiers were intimidated, and voted as they did through fear of displeasing their officers and generals is an infamous libel upon the courage and manhood of every soldier in the army."<sup>18</sup>

There is little doubt, however, that the weakness of the law lay in its application. Colonel J. E. Williamson, of the Fourth Iowa Infantry, declared that every soldier who was a legal voter at home should have the privilege of voting while serving his country, although he doubted whether many of the soldiers who had long been in the service demanded, or even desired, to exercise the franchise. Colonel Williamson was also certain that the new voting law had made possible a scheme of electioneering in the army which was most undesirable. He hastened to add that no man in his command should be influenced from voting the way he pleased so long as he could prevent it.<sup>19</sup>

Cases were also reported where the soldiers had no

<sup>17</sup> *Iowa State Register* (Weekly, Des Moines), October 22, 1862.

<sup>18</sup> *Iowa City Republican*, October 29, 1862.

<sup>19</sup> *Iowa State Register* (Weekly, Des Moines), October 22, 1862.

opportunity to vote or were prevented from doing so. The chaplain of the Fifteenth Iowa Regiment which was stationed at Corinth, Mississippi, stated that there were over two thousand Union soldiers in the hospitals at Corinth during the elections in 1862, but no commissioner appeared to take the vote of the injured soldiers and none of them voted.<sup>20</sup>

Another case was reported where a regiment of Iowa soldiers was disfranchised because the commanding officer refused to allow the commissioner the necessary privileges. The regiment had been ordered to the front a few days before election and the commissioner, feeling certain that it would not return until after the day of election, volunteered to accompany the men "and if a scrimmage should occur, to take his chances of coming out of the fight with an unpunctured skin." His request was refused. Neither would the officer in command allow the poll books, ballots, and so forth to be taken with the regiment on its journey to the scene of battle so that the soldiers might vote when the day of election came. The commissioner was assured, however, that the soldiers would return to camp in time to cast their ballots, but the regiment did not return until the day after election and the soldiers were, therefore, disfranchised.

The commanding officer was correct in considering voting at that time as of less importance than fighting, and he also had the right to refuse to permit the commissioner to accompany troops to the front, but, as the *Daily Register* commented, "the exigencies of the expedition did not require that he should arbitrarily put it out of the power of his troops to vote, when election day came, and in so doing he committed a gross wrong upon the rights of his

<sup>20</sup> *The State Press* (Iowa City), November 1, 1862.

troops, and violated a special order of the officer in command of that Military Department.'<sup>21</sup>

The small percentage of the soldiers voting was partly due, as has been noted, to the difficulty in securing the soldiers' votes in the vicinity of actual fighting. In addition to this, many of the soldiers were not yet twenty-one and were, therefore, ineligible to vote. In a careful study made of several Iowa regiments, it was found that there were not nearly as many soldiers under sixteen as had been reported in the press, that more enlisted at eighteen than at any other age, and that probably about thirty per cent of the soldiers were under twenty-one and not voters.<sup>22</sup> Just how many soldiers used the ballot and what influence did the soldiers' votes have on the Iowa State and national elections during the Civil War? During the first two years of the war, Iowa furnished about 46,000 men but, of course, all were not on the field at the time of the election. If about one-third, or 15,000, soldiers were discounted as not being of voting age, nearly 31,000 remained who were eligible to exercise the right of franchise. Over 19,000, or nearly two-thirds of those eligible to vote, did so at each election. Owing to the difficulties in reaching the soldiers especially in the vicinity of actual fighting, it would seem that the law permitting soldiers to vote in the field worked fairly well. At least the per cent of non-voters was no larger than among voters in general.

Furthermore, the soldiers' vote seems to have exercised little or no influence on the outcome of the elections in Iowa, merely increasing the Republican majority in almost all cases. At the October elections in 1862, the total vote in the State was 116,913. The soldiers' vote totaled around

<sup>21</sup> *Iowa State Register* (Weekly, Des Moines), October 28, 1863.

<sup>22</sup> Gist's *The Ages of the Soldiers in the Civil War* in *The Iowa Journal of History and Politics*, Vol. XVI, p. 399.

19,000 or about sixteen per cent of the whole.<sup>23</sup> The State election of 1863 brought practically the same results as the previous year with the soldiers' vote totaling 19,000 or about fourteen per cent of the State's vote of 142,266. The Republican candidate for Governor was victorious both at home and in the field gaining a majority of nearly 30,000 votes.<sup>24</sup> In the presidential election of 1864, the total vote in Iowa for President amounted to 138,025. Again, the soldiers' vote totaled something over 19,000. Lincoln easily carried the State over his Democratic opponent by a majority of 39,000 votes, receiving all but 2000 of the 19,000 votes cast in the field. This indicates rather decisively the sentiment of the soldiers.<sup>25</sup>

The law permitting soldiers to vote in the field was evidently regarded as a temporary measure, for it failed to appear in the *Code of 1873*, and an absent voters' law passed in 1915 seemed to make the soldiers' voting law unnecessary. However, when the provisions of the law of 1915 are examined, it is noted that the conditions of voting differ from those under the law of 1862, since application for a ballot must be made not more than twenty days before the election by any voter who expects to be absent from his voting place on the day of the election.<sup>26</sup>

<sup>23</sup> *Iowa State Register* (Weekly, Des Moines), November 19, 1862.

<sup>24</sup> William M. Stone, Republican candidate for Governor in 1863, polled 86,107 votes while his Democratic opponent, James M. Tuttle, had a total of 56,132. There was a scattering vote of 27. Stone received a vote of 16,791 in the field to 2904 for his opponent.—*Iowa State Register* (Weekly, Des Moines), November 25, 1863; *Iowa Official Register*, 1929-1930, p. 445.

<sup>25</sup> Abraham Lincoln had a total vote in Iowa of 88,500 and George B. McClellan a total of 49,525. Lincoln's vote in the field was 17,252 and McClellan's 1920.—*Iowa State Register* (Weekly, Des Moines), December 7, 1864; *Iowa Official Register*, 1929-1930, p. 444.

<sup>26</sup> *Code of 1924*, Secs. 927, 928. The Spanish-American War closed before the date of election, except for those units sent to the Philippine Islands. Because of the distance and the small number of voters concerned, it appears

Iowa sent nearly 4500 men to serve on the Mexican border in 1916 in answer to President Wilson's call, and in the election that year, the question of the soldiers' votes again arose, and it was finally decided that the old law applied and was easier to operate than the new absent voters' law. In the presidential election of that year, the soldier vote in Iowa totaled something over 2200 ballots, Charles E. Hughes receiving 1108 votes and Woodrow Wilson 1102, with a scattering vote of 31. In the race for Governor of Iowa, William L. Harding, the Republican nominee, won the election by a plurality of over 126,000 votes, receiving a plurality of over 600 in the field.<sup>27</sup>

With the coming of the World War and the entrance of great numbers of Iowa troops in the military service of the United States there was more discussion of the possibility of soldiers voting. By an opinion handed down by Attorney General Havner on October 2, 1917, soldiers were included in the class of absentee voters. Any soldier or sailor absent from his residence on election day could make application to the county auditor for a ballot not less than three days before the date of the election. In order to save time, the county auditor was to furnish the official application to each elector in his county by sending it to the commander of the regiment under whom the elector served. In this manner, delivery might be made promptly.<sup>28</sup>

On August 31st, the Attorney General also submitted another opinion to Governor Harding stating that the Iowa soldiers also had the right to vote under the Civil War laws and that the Governor had the power to appoint a commission to take the vote as provided by the act of the Ninth

that no attempt was made to enable the men still in service to vote in November, 1898.

<sup>27</sup> *Iowa Official Register*, 1917-1918, pp. 482-485.

<sup>28</sup> *Biennial Report of the Attorney General*, 1917-1918, pp. 374, 375.

General Assembly of Iowa.<sup>29</sup> Of course, that section of the law of 1862 providing for the printing of ballots<sup>30</sup> had to give way to the new law which made the use of the official ballot compulsory. The ballots, no longer printed by the political parties but under the direction of the county auditor, were to be provided at the polling places in large enough numbers to supply each soldier voter with a ballot from the county in which he resided before enlisting in the army.<sup>31</sup>

The Attorney General also called attention to the fact that the object of the act was to permit every soldier to vote whether visited by a commissioner or not, Section 8 of the law providing that "a poll shall be opened at every place whether within or without the state where a regiment, battalion, battery or company of Iowa soldiers may be found or stationed", and Section 9 permitting "any company or detached portion of a regiment to open a separate poll, the electors present to choose three judges from the qualified electors present whose duty it shall be to act as such judges."<sup>32</sup>

Two methods were in use in 1918. The soldier could exercise the privilege of suffrage as accorded him by the law of 1915 or by the earlier law of 1862. As a matter of fact, however, it proved much more difficult to secure the votes of the soldiers during the World War than it was in the

<sup>29</sup> "Section 1 of Chapter 29 of the extra session of the 9th General Assembly provides in substance that every male citizen who has been a resident of Iowa six months, and of some county therein for sixty days next preceding his entering the military service shall be entitled to vote at all elections authorized by law as provided in said act. The term, 'in the military service,' we think should be construed to cover those who may be in the naval, marine or aerial service." — *Biennial Report of the Attorney General, 1917-1918*, p. 70.

<sup>30</sup> *Laws of Iowa, 1862 (Extra Session)*, Ch. 29, Sec. 15.

<sup>31</sup> *Biennial Report of the Attorney General, 1917-1918*, p. 72.

<sup>32</sup> *Biennial Report of the Attorney General, 1917-1918*, p. 71.

Civil War. This was due partly to the policy adopted by the government of distributing troops without much regard for States. There were no State regiments, except possibly those in the National Guard divisions and these soon received recruits from other States. The fact that many from the various States were so widely scattered in camps in the United States and abroad also added to the difficulty. In spite of this, nearly 6000 soldiers cast their ballots at the Iowa State election in 1918, and again there was recorded a large Republican majority.<sup>33</sup>

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<sup>33</sup> The soldiers' vote for Governor was : William L. Harding (Republican), 4086, and Claude R. Porter (Democrat), 1798, and a scattering of 50 votes. The total vote for Harding was 192,662 and for Porter, 178,815. In the race for United States Senator, William S. Kenyon had nearly double the vote of his Democratic opponent and won the soldiers' vote by a plurality of more than 2500.—*Iowa Official Register*, 1919-1920, pp. 363-366.