

THE PALIMPSEST

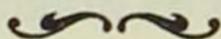
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Iowa Adopts a Constitution

Monday, August 3, 1846, was election day in the Territory of Iowa, the date set for the voters to decide upon the adoption or rejection of a State constitution. It was a momentous question — one fraught with many conflicting interests and opinions.

The question of statehood for Iowa had been argued pro and con for more than half a decade. In 1844 a constitutional convention had been held in the Capitol at Iowa City, and a constitution had been drafted. Because the boundaries prescribed by Congress were not satisfactory, that constitution was twice rejected by the people.

In May, 1846, a second constitutional convention convened at Iowa City, and another constitution was drafted. The question at the August election was whether or not this constitution would be adopted. The debate relative to the constitution and statehood presented at least three separate and distinct lines of argument.

First, there were those who favored or opposed statehood *per se*. During Territorial days, the Governor, the Secretary of the Territory, and the Judges of the Territorial Supreme Court were appointed by the President of the United States, and their salaries, as well as other expenses, were paid by the Federal government. Many residents of Iowa were quite willing that these expenses should continue to be borne by the United States and were opposed to statehood on that issue.

On the other hand, there were those who believed that, although statehood would tend to increase taxes, internal improvements would come more rapidly, immigration would be encouraged, and conditions quite generally would be better if Iowa became a State. Thus, quite aside from political issues as defined by the various political parties and aside from any particular provisions in the proposed constitution, some citizens opposed or favored statehood for what they considered economic reasons.

There was also a line of cleavage between citizens who favored or opposed statehood because of partisan considerations. The Democratic Party was dominant in Iowa in 1846 and it seemed reasonably certain that if statehood were accepted, that party would have sufficient strength to elect virtually all of the State officers

as well as the two Senators and the Representative. Accordingly, there was a decided tendency for Democrats to favor statehood; while members of the Whig Party quite generally were opposed to the change.

There were also many citizens who centered their attention on certain provisions in the newly proposed constitution and favored or opposed its adoption because of these provisions. Even a citizen who had decided on the basis of the advantage or disadvantage of statehood or for political reasons might study the proposed constitution to find provisions in it which would support his viewpoint. As a result there was much vigorous campaigning during the months preceding the August election and the provisions of the proposed fundamental law were critically discussed.

The constitution was not a perfect instrument, most people agreed, and it was not difficult for critics to find what they considered serious defects in it. Many objected to the prohibition of banking corporations. Others pounced on the provision for popular election of district court judges. Some still objected to the boundaries. Others opposed the limitation on the State debt.

One of the most able and most severe critics of the proposed constitution was William Penn Clarke of Iowa City, one of the leading Whigs

of his day. In addressing the electors of Muscatine, Johnson, and Iowa counties, Mr. Clarke very carefully analyzed the constitution and pointed out the defects as he saw them. In his introductory remarks he expressed the view that the adoption of the constitution as written would "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."

Under the leadership of Andrew Jackson, opposition to banks and bank money had become nation-wide. The "Miners' Bank of DuBuque" had been a local storm center of the bank question in Iowa. Because of the widespread opposition to banks, the Democratic delegates had inserted in the constitution of 1846 a clause which prohibited the establishment of banking corporations in Iowa.

Mr. Clarke objected to this clause and referred to banks as institutions "which are the inventions of trade, and which exist, not only in all the States of this Union, but in every civilized nation of any commercial or political importance."

The prohibition of banks, he said, was not a prohibition of the circulation of bank paper; the question was "*whether we will have banks of our own, and a currency of our own creation, and*

under our control, or whether we will become dependent on other States for such a circulating medium; trusting to the solvency and good faith of their institutions and affording them a market for their issues, without receiving any of the profits of the business." If a safe and sound currency were provided, capital could be employed advantageously, notes of foreign institutions would be kept out, local banks would draw capital to them, and, to use Mr. Clarke's words, "no country needs the *rhino* more than this."

Mr. Clarke also argued that population, with its many industrial interests, would follow capital. "Where money is plenty, there labor is amply rewarded, and all classes of society flourish." By prohibiting the creation of banks, declared Mr. Clarke, Iowans were only handicapping themselves — substituting foreign currency for home currency — making "Iowa the plunder ground of all the Banks in the Union".

Opponents of the constitution also contended that its provisions would virtually prohibit the construction of internal improvements and public works. The article of the constitution dealing with State debts provided for a State debt limitation of \$100,000. Another article provided that corporations should not be created by special laws, except for political or municipal purposes.

Members of the Whig Party argued that these two provisions together would block internal improvements. The State could not anticipate such improvements without power to incur indebtedness to carry out the project.

Railroads and improvements of that type, it was argued, never had been and never would be constructed under a general law, which might be repealed at any session of the General Assembly. Mr. Clarke went so far as to say: "If the framers of the Constitution had been *honest* men, and boldly avowed their intentions, they would have said in plain terms, that the people shall never be allowed to make such improvements."

A third objection to the constitution arose from the clause which provided for an *elective* judiciary, except the Judges of the State Supreme Court, who were to be chosen by the joint vote of both houses of the General Assembly. The opponents of the constitution did not deny the right or the competency of the people to elect their judicial officers, but they "viewed with alarm" a constitutional provision of this type which would "place upon the bench *political partisans*" and "elevate to the judiciary second or third rate men in point of talents and legal acquirements". On the other hand Democratic defenders of the constitution urged that the people had a right to

choose any kind of men they wished to fill all public offices.

It was also pointed out, on the other hand, that the constitution did not provide for the right of the people to elect county and township officers. There was nothing to prevent the legislature from appointing such officials or authorizing the Governor to appoint them. This was referred to by the opposition as being a "fatal" omission. In this, as in other particulars, it was said, "the substantial interests of the community have been wholly disregarded."

Members of the Whig Party, always hopeful of a majority and a chance to change the objectionable provisions, found another defect in the proposed constitution; it did not make provision for amendments. It was argued that if a constitution were adopted without provision for amendment, defects might be recognized later, yet the people would be loath to incur the expense of another convention, and so the defects might be perpetuated for many years. It was charged in some quarters that members of the Democratic Party, with deliberation and design, had framed the constitution in this form and had included in it "certain partisan dogmas" which they wished to perpetuate. This made the constitution a partisan document which should be rejected.

The question of State boundaries had been the paramount issue in the discussion of the constitution of 1844, and dissatisfaction with the boundaries fixed by Congress was chiefly responsible for that instrument's being twice rejected by the people. Happily, however, the boundary question was not a serious issue in connection with the constitution of 1846.

While the people of Iowa were preparing for the second constitutional convention, Congress had been considering new boundaries for Iowa. On December 19, 1845, Augustus Caesar Dodge, the Iowa Delegate in Congress, introduced in the House of Representatives a bill to give Iowa the boundaries defined in the original constitution of 1844, the Missouri River forming the western boundary and the St. Peter's River making part of the northern boundary. This bill also provided for the repeal of the act of March 3, 1845, by which Congress had materially changed the boundaries of the proposed State and reduced the size of Iowa. On March 27, 1846, Stephen A. Douglas, a member of the Committee on Territories, offered an amendment to this bill, setting forth the present boundaries of Iowa. While this measure was pending in Congress, the constitutional convention had met at Iowa City in May and had incorporated in the constitution of 1846 the boun-

daries as suggested by the Committee on Territories.

Mr. Dodge agreed to the boundaries suggested by the committee, and in advocating the passage of the measure extending Iowa's western boundary to the Missouri River, he said: "a very large portion of the people of Iowa believe and desire that their ultimate seat of government should be on the Des Moines river." Because of this statement Dodge was accused of laboring to "promote the interests of speculators and landjobbers in the south-west." Indeed, some opponents of the constitution claimed that the boundaries set forth in it might result in the removal of the capital from Iowa City.

In June, 1846, the Congressional act setting forth the boundaries was approved by the House of Representatives and sent to the Senate. It passed the Senate on August 1st. On August 3rd the people in Iowa voted upon the constitution. The Congressional act relative to boundaries was signed by President James K. Polk on August 4th — one day after the people had approved the constitution, although the result of the election was not yet known. Thus the two instruments were approved — one by the Congress, the other by the people, each independent of the other. But Iowa was not yet a State.

On September 9th, a little more than a month after the election was held, the votes were still not all reported, but Governor James Clarke ascertained that the majority in favor of the constitution, listed as 456 out of a total vote of 18,528, exceeded the total vote cast at the last preceding election in the counties not yet heard from, Delaware and Buchanan. This margin, he believed, made it manifest that a majority vote had been cast in favor of adopting the constitution and he proclaimed Monday, the 26th of October, as the date for holding an election for State officers. The Governor was justified in ordering the election, for the missing votes from Delaware and Buchanan counties as finally recorded showed eighty-eight for the constitution and sixty-nine against it, adding nineteen to the total majority, making it 475.

On the date designated, the election was held and Ansel Briggs, Democratic candidate for Governor, was elected for a term of four years. The Democratic Party also elected a majority of the members of the First General Assembly. On Thursday, December 3, 1846, in the Hall of Representatives in the Stone Capitol in Iowa City the new Governor was inaugurated.

A few days after the inauguration of Governor Briggs, Augustus Caesar Dodge, Delegate to

Congress, presented in the House of Representatives a copy of the constitution and introduced a bill for Iowa's formal admission to the Union. The measure passed the House and was reported to the Senate. After some debate it passed the Senate, on December twenty-fourth. Four days later it received the approval of President James K. Polk and thus, on December 28, 1846, Iowa was admitted as the twenty-ninth State of the Union.

JACOB A. SWISHER