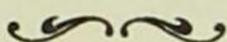


THE PALIMPSEST

EDITED BY JOHN ELY BRIGGS

VOL. XXIV ISSUED IN DECEMBER 1943 No. 12

COPYRIGHT 1943 BY THE STATE HISTORICAL SOCIETY OF IOWA



New Counties in 1843

According to the treaty of October 11, 1842, the Sauks and Foxes agreed to remove by the following May 1st to the west side of the line "running due north and south from the painted or red rocks on the White Breast fork of the Des Moines river, which rocks will be found about eight miles, when reduced to a straight line, from the junction of the White Breast with the Des Moines." The President was authorized to appoint a commissioner to survey the line north to the Neutral Ground and south to the boundary of Missouri, and to mark the line so that the Indians and white men might readily distinguish the boundary separating their possessions.

The treaty negotiators apparently misunderstood the Indians' or traders' description of the location of the red rocks. Following the treaty directions the survey commissioner could find no red rocks on the White Breast eight miles from its mouth. On the north side of the Des Moines

River, however, about eight miles above the mouth of the White Breast, was a very conspicuous ledge of deep red sandstone, just such as would be a landmark known far and wide. Indeed, this was the only outcrop of red rock in that vicinity, situated near the center of section 35, township 77 north, range 20 west. The line, as surveyed, ran about a mile and a half west of the meridian separating ranges nineteen and twenty.

The Sauk and Fox cession in October, 1842, was not approved by the United States Senate until late in the winter and the treaty was finally proclaimed on March 23, 1843, but Iowa settlers anticipated no delay in the fulfillment of the terms. There was, in fact, a rush of squatters into the new country on May 1st. The surveyor general had been instructed on April 4, 1843, to begin running the township lines, and by November many of them in the southern half had been located. It was a "beautiful country," he reported, "and a heavy tide of population is rapidly rolling upon it for the purpose of *bona fide* settlement. Intelligence, industry, and enterprise are the characteristics of that population."

It was evident to the legislature of the Territory, before the treaty was ratified or the survey was begun, that provision should be made for local government in the new cession. On motion

of Thomas Cox, the Council resolved on January 18, 1843, to instruct the committee on Territorial affairs "to inquire into the expediency of so organizing new counties, in the late purchase from the Sac and Fox Indians of this Territory, so that the new counties, may elect Justices of the Peace, Constables, &c., and be attached to the adjoining counties for other judicial purposes, and that said new counties, be laid off and governed by the west boundaries of the old counties, and by a line running from the north west corner of the counties west of the Indian boundary line".

The committee, which consisted of William Patterson, Thomas Cox, and William H. Wallace, considered the matter and on January 27th reported a bill "to establish new counties and define their boundaries". After being amended by the judiciary committee, the bill was passed on February 2nd, apparently without opposition or debate.

As adopted by the Council, the measure created nine new counties and redefined the boundaries of three which had been established in 1837 but, contrary to later practice, had included territory which had not then been ceded by the Indians. Counties created ahead of the public land survey were irregular in shape, but the boundaries of those established afterward followed township

lines. Governor Lucas had insisted upon that principle in 1839. Thus, the size and shape of Iowa counties were no longer causes of serious controversy among the members of the legislature. It was comparatively simple to describe the new county boundaries in terms of township lines. Moreover, the committee which drafted the bill was directed to define the boundaries of the new counties in conformity with the western lines of the frontier row of old counties.

In naming the new counties the original bill honored several contemporary leaders in Iowa and national politics, as had been the custom. Already four counties had been named for Presidents—Washington, Jefferson, Jackson, and Van Buren. Clayton, Buchanan, Linn, and Jones were members of Congress for whom Iowa politicians had expressed respect in county names. It was natural, therefore, that the proposed names of the new counties should follow the same pattern. As approved by the Council the bill named the new counties Davis, Clarke, Chambers, Harrison, Dodge, Lucas, Iowa, Wapello, Calhoun, Tecumseh, and Black Hawk. The western boundary of Buchanan was altered indirectly but the bill did not contemplate reconstituting or renaming it.

In the House of Representatives the measure encountered opposition. Instead of correcting

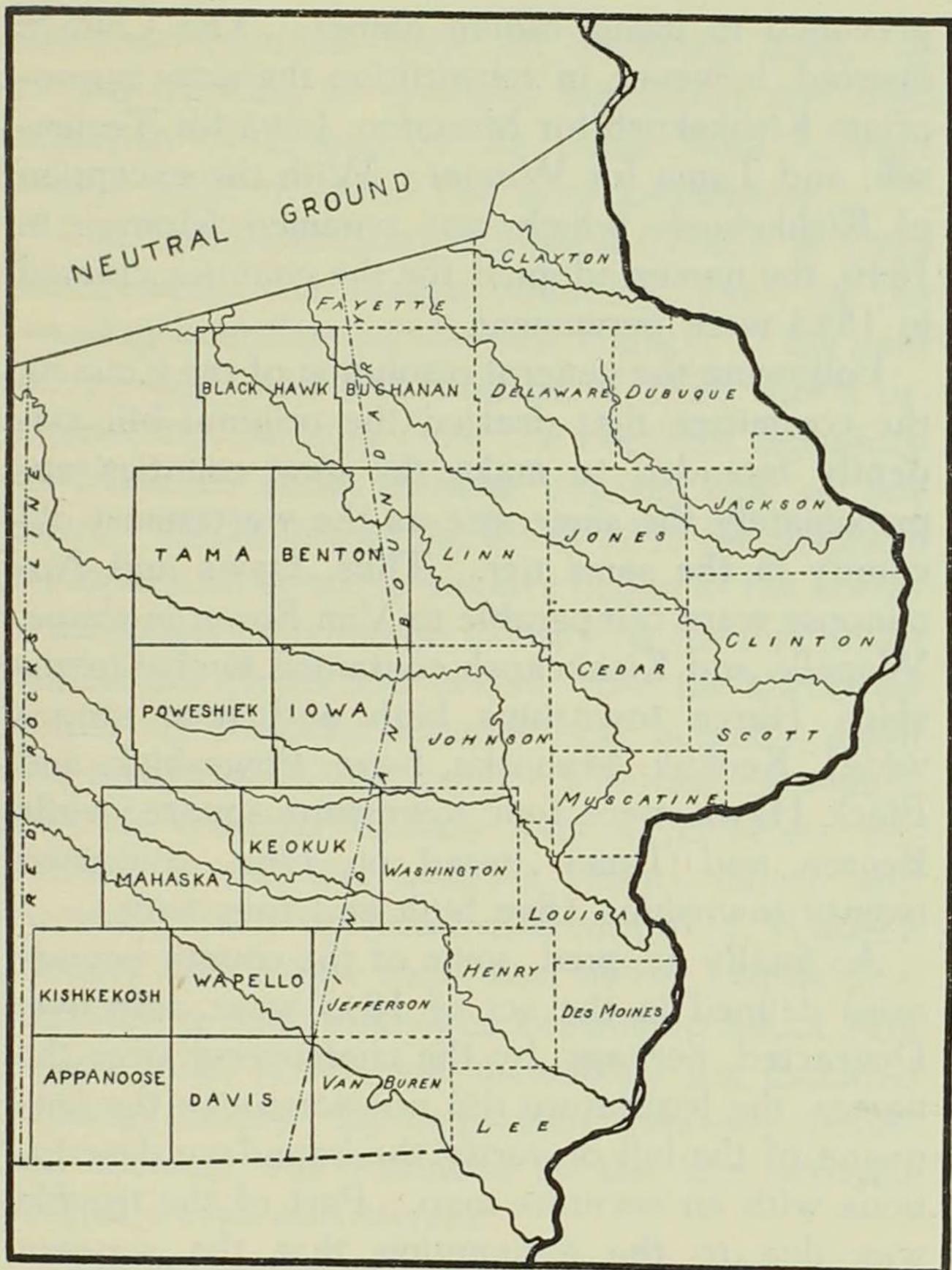
certain defects in the description of boundaries, however, the controversy seems to have centered upon the names of the counties. On February 3rd, upon the second reading of the bill, Thomas Rogers of Dubuque County moved to table the measure, which would have killed it. When this motion was lost, Thomas McMillan of Henry County persuaded the House to consider the bill in the committee of the whole. Apparently, some questions could not well be decided by so large a group and so, after some discussion on February 9th, the bill was referred to a special committee of one member from each Representative district.

When the special committee reported on Monday, February 13th, the nature of the dispute was revealed in the *Journal* of the House of Representatives. A large faction believed that Indian names would be more appropriate for the counties than the names of political leaders. The committee, therefore, proposed a series of amendments to that effect, most of which were adopted by the House. Appanoose was substituted for Clarke, Wapello for Chambers, Manaton for Harrison, Keokuk for Dodge, Mahaska for Lucas, Tecumseh for Iowa, Poweshiek for Wapello, Maquoketa for Calhoun, and Winani for Tecumseh. Only the name of Black Hawk was not

challenged. Neither Musquaquee nor Massaaskuc was acceptable in place of Davis, in honor of Representative Garret Davis of Kentucky, but Seponoma was finally substituted by a narrow majority.

Though the original bill had included four Indian names, the House proposed to apply three of them to different counties. Keokuk (assigned to the unorganized county west of Johnson in 1837) was changed in the Council bill to Iowa, but the House substituted Tecumseh and shifted the name of Keokuk to the new county directly south. The Council named the county west of Iowa for Wapello, but the House applied that name to the county where Wapello's village was located on the Des Moines River and substituted Poweshiek as the name of the county west of Iowa. The county north of Poweshiek, called Tecumseh by the Council, was renamed Winani by the House, and Tecumseh was substituted for Iowa.

After the Council had refused to accept the House amendments and the House had refused to recede, a conference committee agreed upon a compromise. The name of Benton was retained for the county west of Linn in place of either Calhoun or Maquoketa, and Davis was restored in place of Seponoma. Otherwise the House



NEW COUNTIES IN 1843

prevailed in using Indian names. The Council insisted, however, in substituting the more appropriate Kishkekosh for Manaton, Iowa for Tecumseh, and Tama for Winani. With the exception of Kishkekosh, which was renamed Monroe in 1846, the names adopted for the counties created in 1843 were permanent.

Following the general resolution of the Council, the committee that drafted the original bill evidently intended to make the new counties approximately the same size as the westernmost old county in the same tier. Thus, Davis and Appanoose were comparable to Van Buren in shape, Wapello and Kishkekosh contained twelve townships (three townships high and four ranges wide), Keokuk, Mahaska, Iowa, Poweshiek, and Black Hawk were four townships square, while Benton and Tama, based on Linn, contained twenty townships (five high and four wide).

As finally adopted, some of the county boundaries defined in the act of 1843 were defective. Distracted, perhaps, by the controversy over the names, the legislature did not scrutinize the language of the bill or verify the boundary descriptions with an accurate map. Part of the trouble was due to the assumption that the western boundaries of the old counties, which were to be identical with the eastern boundaries of some of

the new counties, were all township lines. A careful reading of previous legislation and consultation of a map of the public land surveys would have revealed this misapprehension.

The statute creating Jefferson County in 1839 designated "the Indian boundary line" as the western boundary of the new county. This limit of the Sauk and Fox cession of 1837 was a diagonal line running from the northern boundary of Missouri about thirteen degrees east of due north. According to the act of 1843 the northern boundary of Wapello County began at the northwest corner of Jefferson County on the line dividing ranges eleven and twelve. But the northwest corner of Jefferson County was actually about five miles east of that point. The eastern boundary of Wapello County was nevertheless described as the line between ranges eleven and twelve. Even the southeast corner of Wapello County was a few rods west of the Indian line. This left a triangular area containing about fifty square miles which was technically not included in either county. By implication, however, Jefferson County was extended to the line between ranges eleven and twelve.

Another source of ambiguity related to the unorganized counties of Buchanan, Benton, and Keokuk, established in 1837, which extended

westward across Indian lands to the Missouri River. Overlooking this fact, the framers of the act of 1843 located the northeast corner of Black Hawk County at the northwest corner of Buchanan and fixed the western boundary of Black Hawk on the line between ranges fourteen and fifteen. This, of course, was impossible, because the northwest corner of Buchanan was on the Missouri River. Assuming, however, that the western boundary of Buchanan might have been located on the line between ranges ten and eleven, then both counties would have been the same size. This was apparently what the legislators had in mind, though they certainly did not say so, for the boundaries of Black Hawk were actually established in accordance with this interpretation.

Benton and Keokuk counties, which, like Buchanan, had been abnormal, were, unlike Buchanan, definitely reestablished with standard boundaries. Benton County was reduced to the same size as Linn which it joined on the east. In describing the new boundaries, however, an error occurred. The north line was to run west "to range (13) thirteen" and the west boundary was run from that point south to the corner of townships eighty-one and eighty-two between ranges thirteen and fourteen. Thus, the south end of the west line would be six miles west of the north

end. This inaccuracy also affected Tama County because its eastern boundary was defined as the western boundary of Benton. The wording of the law gave no basis for determining which meridian was meant. So much confusion resulted that the legislature in 1858 declared the line between ranges twelve and thirteen to be the true boundary, making Benton and Tama counties equal in size.

Whereas Keokuk County, between 1837 and 1843, had bordered Johnson County on the west, the new act moved it one tier of counties south so that it was located directly west of Washington County. Only the northern tier of townships in reconstituted Keokuk County had been included in the former county of that name. It was practically a new county, but technically it must be considered as an old one reduced in size and partially relocated; otherwise the former county of the same name would still exist because it was not specifically abolished.

In describing the boundaries of Davis County the word northwest was used where northeast was undoubtedly meant. It was a mistake easy to make and likely to be overlooked. Read literally, the sentence in which it occurred did not make sense. This error was corrected by the law in 1844 authorizing the organization of the

government of Davis County, wherein the boundaries were redefined permanently.

A hundred years ago, in 1843, thirty-one counties had been created by law in the Territory of Iowa. Most of them were in their final form. Practically all the land which had been ceded by the Indians was divided into counties. As rapidly as possible the section lines were surveyed and the land was offered for sale. Settlement was most rapid in the southeastern portion of the Sauk and Fox cession of 1842; and consequently county governments were organized first in Davis, Wapello, Keokuk, and Mahaska counties. The others established in 1843 were temporarily attached for political purposes to adjacent counties until the population justified locating a county seat and electing officials.

JOHN ELY BRIGGS