

The Convention of 1844

Seventy-three delegates to the Constitutional Convention were elected at the general Territorial elections in August, 1844. These delegates were chosen on partisan grounds. With the electorate the primary question was not, "Is the candidate well grounded in the principles of government and administration?" but "What are his political affiliations?" When the votes were counted it was found that the Democrats had won a great victory. The Whigs had succeeded in electing less than one-third of the delegates.

Events were making rapidly toward the realization of State government. On Monday, October 7, 1844, the delegates met in the Old Stone Capitol at Iowa City and organized themselves into a constituent assembly. The honor of the Presidency fell to Shepherd Leffler of Des Moines County, who admonished the delegates on the "permanent, elementary, and organic" character of their work. "Your enactments", he said, "are to be permanent and lasting, sovereign and supreme, governing, controlling and directing the exercise of all political authority, executive, legislative and judicial, through all time to come."

Of the seventy-two members who labored in the Convention and signed the Constitution there were twenty-one Whigs and fifty-one Democrats. Twenty-six of the delegates were born in the South, twenty-three in the Middle States, ten in the New England States, ten in the States of the Old Northwest, one in Germany, one in Scotland, and one in Ireland. Of those born in the United States thirteen were from Pennsylvania, eleven from Virginia, nine from New York, eight from Kentucky, eight from Ohio, six from North Carolina, six from Vermont, and one each from Massachusetts, Connecticut, New Hampshire, Maine, New Jersey, Tennessee, Indiana, and Illinois. The oldest member was sixty-six, the youngest twenty-seven; while the average age of all was about forty years. As to occupation or profession, there were forty-six farmers, nine lawyers, five physicians, three merchants, two mechanics, two miners, two mill-wrights, one printer, one miller, and one civil engineer.

The Convention lost no time in procrastinating delays. Committees were prompt in making reports. Parliamentary wranglings were infrequent. There was no filibustering. The discussions were, as a rule, neither long, wordy, nor tiresome. Indeed, the proceedings were throughout conducted in a businesslike manner. The Democrats

were determined to frame a Constitution in accordance with what they were pleased to call "the true principles of Jeffersonian Democracy and Economy"; and they had the votes to carry out this determination. And yet the proceedings of the Convention were by no means formal and without enlivening discussion. The fragments of the debates contain many remarks suggestive of the life, character, and political ideals of the people of early Iowa.

The liberal religious spirit of the pioneers is evidenced by the principle of toleration which was incorporated into section four of the Bill of Rights. As introduced by the committee the section provided that "no religious test shall be required as qualification for any office or public trust, and no person shall be deprived of any of his rights, privileges, capacities, or disqualified for the performance of any of his duties, public or private, in consequence of his opinion on the subject of religion." To make sure that it did not exclude atheists from giving testimony in the courts, Mr. Galbraith moved to insert the words "or be rendered incompetent to give testimony in any court of law or equity." When the test vote was taken it was found that only nine members of the Convention were willing to deny to atheists the right to give testimony in the courts.

An interesting debate on salaries culminated in fixing the compensation of the State officers "for the first ten years after the organization of the government." Sums ranging from \$600 to \$1200 were suggested for the Governor. Mr. Hooton "thought the salary was about right at \$1000." Mr. Davidson said that "he came here to go for low salaries. He did not like \$1000". The Convention finally agreed upon \$800 as a proper salary for the Governor of the State of Iowa, \$500 for the Secretary of State, and \$300 for the Treasurer. The Judges of the Supreme Court were allowed the same pay as the Governor.

Not even the Judiciary was spared from the influence of western Democracy as it asserted itself in the Convention of 1844. The day of executive appointment and life tenure of judges had passed or was passing. The Committee on the Judiciary recommended that "the Judges of the Supreme Court and District Court, shall be elected by the joint vote of the Senate and House of Representatives, and hold their office for the term of six years;" but a minority report, introduced by Mr. Fletcher, proposed that all of the Judges be elected by the qualified voters of the State.

In discussing this question the Convention desired to follow the wishes of the people; but it

was not known that the people themselves really desired to elect the Judges. On the other hand there is no evidence that anyone favored executive appointment. The outcome of the debate was a compromise. The Judges of the Supreme Court were to be named by the General Assembly; but the Judges of the District Court were to be elected by the people.

That the pioneers of Iowa, including the members of the Convention of 1844, were democratic in their ideals is certain. They believed in equality. They had faith in Jeffersonianism. They clung to the dogmas of the Declaration of Independence. They were sure that all men were born equal, and that government to be just must be instituted by and with the consent of the governed. Such was their professed philosophy. Was it universally applicable? Or did the system have limitations? Did the Declaration of Independence, for example, include negroes?

The attitude of the Convention on this perplexing problem was probably expressed in the remarkable report of a select committee. They freely admitted "that all men are created equal, and are endowed by their Creator with equal unalienable rights," and that these rights are "as sacred to the black man as the white man, and should be so regarded." At the same time they

looked upon this declaration as "a mere abstract proposition" which, "although strictly true, when applied to man in a state of nature . . . becomes very much modified when man is considered in the artificial state in which government and society places him. . . .

"However your committee may commiserate with the degraded condition of the negroes, and feel for his fate, yet they can never consent to open the doors of our beautiful State and invite him to settle our lands. The policy of other States would drive the whole black population of the Union upon us. The ballot box would fall into their hands and a train of evils would follow that in the opinion of your committee would be incalculable. The rights of persons would be less secure, and private property materially impaired. The injustice to the white population would be beyond computation. There are strong reasons to induce the belief that the two races could not exist in the same government upon an equality without discord and violence, that might eventuate in insurrection, bloodshed and final extermination of one of the two races. No one can doubt that a degraded prostitution of moral feeling would ensue, a tendency to amalgamate the two races would be superinduced, a degraded and reckless population would follow; idleness, crime

and misery would come in their train, and government itself fall into anarchy or despotism."

Although the report was laid on the table, it nevertheless represented the dominant opinion then prevalent in Iowa. Our pioneer forefathers believed that the negroes were men entitled to freedom and civil liberty. But more than a score of years had yet to elapse before there was in their minds no longer "a doubt that all men [including the negroes] are created free and equal."

When the delegates were elected to the Convention of 1844, the people of the Territory were still suffering from the effects of over-speculation, panic, and general economic depression. Many of them still felt the sting of recent bank failures and the evils of a depreciated currency. Hence it is not surprising to learn from the debates that not a few of the delegates came to the Convention instructed to oppose all propositions which in any way favored corporations, especially banking corporations.

Mr. Hall said that "Banking was a spoiled child; it had been nursed and petted till it had become corrupt." He objected to banking "because it conferred privileges upon one class that other classes did not enjoy." He believed that the people would find that "a Bank of earth is the best Bank, and the best share, a Plough

share." Mr. Gehon wanted to put his "feet upon the neck of this common enemy of mankind." In accord with this attitude, the Convention declared that "no bank or banking institution, or corporation with banking privileges" should be created without the specific consent of the people.

From the viewpoint of subsequent events the most significant provision of the Constitution of 1844 was the one which defined the boundaries of the future State. The Convention favored certain lines which were in substance the boundaries recommended by Governor Lucas in 1839. The Lucas boundaries were based upon the topography of the country as determined by rivers. On the east was the Mississippi, on the west the Missouri, and on the north the St. Peters. These natural boundaries were to be connected and made continuous by the artificial lines of the surveyor on the south and between the mouths of the Big Sioux and the Blue Earth rivers.

On Friday morning, November the first, the Constitutional Convention of 1844 adjourned *sine die* after a session of just twenty-six days. The Constitution of 1844 as submitted by the Convention to Congress and to the people of the Territory of Iowa contained thirteen articles, one hundred and eight sections, and over seven thousand words.