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The Territory of Wisconsin

Even after the permanent settlement of the Iowa country in the early thirties and its union with the Territory of Michigan in 1834, constitutional government west of the Mississippi continued to be more nominal than real. This is true notwithstanding the fact that the archives of the Territory of Michigan show that the Governor and the Legislative Council made a serious attempt to provide for and put into operation local constitutional government.

In a memorial to Congress drawn up and adopted by a delegate convention of the people west of the Mississippi assembled at Burlington in November, 1837, this statement was made in reference to the two years from 1834 to 1836: "During the whole of this time the whole country . . . sufficient of itself for a respectable State, was included in the counties Dubuque and Des Moines. In each of these two counties there were holden, during the said term of two years, two terms of a county court . . . as the only source of judicial relief".

The position of the Iowa country for several months immediately preceding the organization of

the Territory of Wisconsin was indeed peculiar. In the eastern part of what had been the Territory of Michigan the people had framed and adopted a State Constitution. As early as October, 1835, they elected State officers. But on account of a dispute with Ohio over boundary lines, Congress was in no hurry to recognize the new State. For a time there were two governments — the government of the State of Michigan and the government of the Territory of Michigan — each claiming to be the only rightful and legitimate authority. It was not until January, 1837, that the existence of Michigan as a State was recognized at Washington.

The actual political status of the Iowa country prior to the organization of the Territory of Wisconsin is evident when to the documentary proof is added the testimony of the early squatters who declare that the only government and laws they knew or cared anything about were the organization and rules of the claim club. It is substantially correct to say, that the Territorial epoch in our history dates from the fourth day of July, 1836, when Wisconsin was constituted "a separate Territory," and that our first text of fundamental law, that is, the first Constitution of Iowa, was an act of Congress establishing the Territorial Government of Wisconsin.

The area of Wisconsin Territory west of the Mississippi was far more extensive than the area of the same Territory east of the river. In population the two areas were nearly equal; but the country west of the Mississippi tended to increase more rapidly than that east of the river. The importance of the western area is further evidenced by the removal of the capital in 1837 from Belmont in Eastern Wisconsin to Burlington in Western Wisconsin. The constitutional history of Wisconsin up to the division of the Territory in 1838 is, therefore, clearly a part of the Territorial history of Iowa.

The propriety of referring to the Organic Act of a Territory as a Constitution may be questioned. It is true that the act establishing the Territorial government of Wisconsin was not drawn up by the people of the Territory. It was not even submitted to them for ratification. Handed down to them by Congress, in the form of an ordinary statute, it was a product of legislation. Nevertheless, this instrument was a veritable Constitution, since it was a written body of fundamental law in accordance with which the government of the Territory was organized and administered. It was supreme, serving as the absolute rule of action for all departments and officers of the Territorial government.