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CONSTITUTIONAL CONVENTION AND RATIFICATION

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For a generation after Colorado became a state in 1876, no territory--no matter how deserving its claim--could be admitted to the Union unless the same political party controlled both houses of Congress as well as the territory applying for admission. In the hotly contested presidential election of 1876, Colorado's vote determined the outcome. Both political parties--the one that made the mistake of admitting Colorado (and thereby losing the presidential election) and the one that came out ahead in the transaction--decided to play it safe after that. A divided congress from 1882 through 1888 thus was unable to admit any states at all. The blockade was broken when the political needs of the majority party in Congress suddenly demanded admission of six northwestern states in 1889-1890. This abrupt change meant that Idaho had to formulate and adopt a constitution. Unlike several other western territories, Idaho had not been in a position to get ready for sudden admission when the opportunity came. As a result, Idaho's constitutional convention had to assemble and get its work approved in a decidedly unusual way.

Until February 29, 1888--when a Congressional committee decided to preserve Idaho, rather than to divide the territory among some rapacious neighbors, mainly Nevada and Washington--prospects for an early Idaho constitutional convention seemed pretty dim. Nevada's avarice to take over all of southern Idaho, in fact, continued to imperil Idaho's hope for admission as a state until after the national election of 1888. At that point, the national political climate suddenly turned favorable for Idaho statehood. Although an Idaho admission act did not come up for a vote in Congress prior to adjournment in the spring of 1889, territorial officials were advised to go ahead with a constitutional convention that summer. Refusal of the territorial legislature to provide for a constitutional convention, however, made the whole process of drafting and ratifying the constitution somewhat irregular. No funds were available for elections to choose delegates to the constitutional convention, or to pay the delegates for their services, or to finance a ratification election which would allow the people to approve the constitution. Congress was expected to meet such costs whenever legislation might be enacted to admit Idaho as a state. In the meantime, Governor E. A. Stevenson went ahead with whatever arrangements he could work out for an Idaho constitutional convention.

Acting upon the explicit advice of United States Senators Shelby M. Cullon and Orville H. Platt, Governor Stevenson called a constitutional convention upon his own initiative, April 2, 1889. He recommended that each county elect delegates. That procedure turned out to be too expensive: only two counties were in any condition to try to elect delegates to the constitutional convention. Anticipating that few delegates would be elected on June 3--the day designated for that purpose--Governor Stevenson's successor, George L. Shoup, issued another proclamation reaffirming his predecessor's call for a

constitutional convention. In it, he admitted new less-expensive methods for choosing delegates:

If for any reason the citizens of any county prefer to elect their delegates by some other equitable method, I am satisfied that the delegates so chosen will be recognized and admitted to seats in the convention. The manner of choosing delegates is of less importance than that they should be representative men, of character and ability, whose work will be satisfactory to Congress and the people.

Shoup had a good point, and the system actually used had the merit of bringing together a constitutional convention of citizens better qualified for the job than partisan elections would have been likely to have chosen. In practice, each party was allotted half of each county's slate. Odd members were awarded to the party which carried the county in 1888. That way the best members of both parties from each county obtained seats in the convention. In ten counties, delegates were chosen by the party committees; in six more counties, delegates were chosen by county conventions arranged for by the county committees; in two more, Owyhee and Custer, a popular election on the appointed day ratified the choices. In the case of Owyhee, an unexpected opposition ticket emerged on the morning of the election in Silver City, where only eighty-three (or eighty-nine) votes were cast. (The canvassers could not get their figures to add up.) Only nineteen votes were cast for part of the regularly nominated slate, and for quite a few days, the opposition was thought to be successful. But returns from Bruneau finally overcame the Silver City result, and the Owyhee election ratified the party choices after all. In Lewiston, one member of the Nez Perce County delegation was chosen by a citizens meeting. In Boise, an effort to hold an election failed when only one party participated, although there was quite a contest before the constitutional convention decided to admit the Ada County bipartisan slate and to disregard the attempt at an election.

Aside from the Ada County dissension which had to be resolved by the constitutional convention after it assembled, one other case of serious trouble led to a lot of anguish in the county selection process. Alturas County, which had just lost most of its area in a bitter county seat and county division battle that had plagued the Idaho legislature for a number of years, had genuine difficulty in preparing its slate of convention delegates. Loss of many members of the county committees made it possible for one minority party member (armed with six proxies) to select themselves as the three-member Alturas minority contingent to the Idaho constitutional convention. Some other proxy holders from Hailey objected to these proceedings, but did not have the votes to beat the one member of the committee who actually turned up for the meeting. Leading citizens of Hailey arranged a protest meeting in Ketchum, June 1, 1889, in an effort to get the election reversed: they wanted a new assembly of the county committee to start all over. Ignoring a Hailey speaker's eloquence (along with his insistence he had the floor when an irreverent Ketchum advocate interrupted with a motion to adjourn), the anti-Hailey people declined to pay any attention to the protest: "In less than two minutes he had not only the floor, but the whole hall." Objections in Hailey notwithstanding, Lycurgus Vinograd and his two proxy-holding associates thus succeeded in electing themselves to the constitutional convention. This episode, along with the Ada County hassle, must not be regarded as entirely typical of the convention selection process in Idaho. But it illustrates with remarkable clarity how the

delegates from a majority of counties were chosen. Other counties managed to avoid the spectacle of having a meeting in which the only committee member present, along with two confederates, chose themselves to be members of the constitutional convention. This do-it-yourself style of putting together a constitutional convention provoked surprising little adverse reaction. Idaho had to hold a convention and to ratify a constitution in order to qualify for state admission, and no alternative course seemed feasible. Elegant explanations in political theory of the supreme rights of the people were adduced to support such informal arrangements necessary to get Idaho out of territorial bondage.

Ratification of the constitution had to be almost as informal as the business of selection delegates had been. Without funds for a ratification election, Idaho's counties had to resort to some unusual expedients, sometimes involving volunteer election judges and officials, in order to conduct the necessary referendum. Ordinary election law was regarded as inapplicable in many instances. One of the Hailey papers complained against the "pitchfork and drygoods box" election system used there, in which "anything wearing hide, hair, feathers or hoofs could vote." If there had been more time available, supporters of Idaho admission might have arranged for a more conventional system of getting the constitution adopted and ratified. Circumstances were such that they did not have time to go through any of the other more traditional steps for state admission, so they did not hesitate to go ahead and to do the best they could under truly awkward conditions.

Except in a few disaffected communities, those citizens who were allowed to vote endorsed the Idaho constitution and admission movement by an overwhelming margin on November 5, 1889. Mormons at that time were not allowed to vote, and since the constitution was designed to prevent them from voting in the future, they would have opposed it if they had been consulted. Even if the Mormons had been allowed to vote, the constitution still would have been approved. Although the somewhat volunteer election system did not appeal to opponents of the constitution, they scarcely could question that the people of Idaho wanted it ratified in spite of the difficulties in holding an election without any kind of legislative authorization. Congress approved of the entire transaction, and on July 3, 1890, Idaho became a state under its new constitution.