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ALABAMA MAKES HER DEBUT INTO THE UNION

By G. W. McGinty

Almost immediately following the end of the War of 1812, the nation began a period of reconstruction and expansion. A tariff was enacted by the Congress to protect the infant factories that had been built; the military was reorganized to provide a more efficient army and navy; the finances were revised and a Second Bank of the United States was chartered; and a program of internal improvements was launched calling for roads, canals, etc. to facilitate trade and communication between distant points.

The movement westward was accelerated by the admission into the Union of the states of Louisiana (1812), Illinois (1816), Mississippi (1818), Alabama (1819), and Missouri (1820). The energetic young nation was seeking new farms, new products, and new adventure which brought unheard of growth and prosperity by 1825.

The cotton gin was proving that growing cotton with slave labor could be profitable. People were leaving the older settled states of the Atlantic seaboard and moving west in search of fertile lands. The sons and sons-in-law of the slave holders from Virginia to Georgia were searching for cotton lands. Lesser folk came west for adventure, or to escape the law or debts back east. All were on the move to some degree.

Georgia did not cede her western lands to the United States until after the scandal of the Yazoo Land sales of 1793. These land claims cast a cloud over titles in the area organized as the Mississippi Territory, comprising most of the present states of Mississippi and Alabama. The Indian claims had to be disposed of before the area could be surveyed and sold to white settlers.

However, there were settlements around Mobile and along the Mississippi River dating back almost a hundred years. Around 1816 the Indians relinquished most of the land in what is now Alabama. Up to that date a majority of the settlers of the Mississippi Territory were along the Mississippi River and the territorial capital was first at Natchez and then Washington, a few miles east. Prior to 1816 the American settlers were concentrated in the valleys of the Alabama, Tombigbee, and Tennessee Rivers. Territorial delegates from the areas found it inconvenient to travel the great distance to Washington, where they were outnumbered and outvoted. Hence, in 1803 they began agitating for a division of the territory. They complained in 1816 that there were eight delegates from the settlements east of the Pearl River and sixteen delegates from west of that river, notwithstanding that the east had more free whites than the west. Senator George Poindexter had proposed in 1811 that Congress divide the Mississippi Territory with a line beginning at the mouth of the Yazoo River and running east to the Chattahoochee. Strong opposition killed the proposal. By 1800 a number of Americans had settled along the Alabama and Tombigbee Rivers where they experienced extreme hardships and privation because of isolation and Indian raids. Captain John Hunt built the first cabin in Huntsville in 1802, but he was not the first settler in the Tennessee Valley. Evidence indicates that the settlers

in this valley did not suffer as much privation, nor as many hardships as the earlier settlers in the river valleys to the south. The Alabama-Tombigbee settlers, however, had made economic and cultural progress by 1812, at which time Huntsville was one of the most promising villages on the American frontier and Madison County was conspicuous for its wealth and culture.

The rifle, axe, froe, and cow-bell were necessary accouterments for a comfortable existence on the frontier. The dwellings were small cabins built of rough poles with dirt, or rough plain puncheons, for a floor. The wardrobe consisted of wooden pegs attached to a log in the wall. Split logs were used for settees and chairs were blocks of wood. The master of the house had few tools with which to fashion his house and furniture. A mere opening through the woods was called a road and travel was on foot, horse-back, or ox wagon. A house-raising, a wood-chopping, or a log-rolling was a social event. Life was hard and somber but it did have excitement, romance, and some fun. The young folks frolicked at play parties in the log cabins and wedding festivities were a time of merriment.

The Indians had to relinquish their claims to the land before the land was surveyed and offered for sale at public auction. The land office for land sales in North Alabama was at Huntsville and the land office for South Alabama was Milledgeville, Georgia, at first, but later offices were opened in Mobile, St. Stephens, Cahaba and Tuscaloosa. Land sales generated nationwide interest. Men came from every part of the country to participate. Speculation in land was common. The opportunity for quick wealth by speculation generated conditions for still quicker wealth by swindling. The swindlers cooperated and one association of swindlers was said to have cleared approx-

imately two thousand dollars each on one transaction. The situation became so notorious that the Federal government authorized its agents to bid against the combinations when they thought it advisable at the land auctions.

The law of 1800 reduced the minimum tract to be sold to 320 acres and in 1804 it was reduced to 160 acres and the minimum price was \$2.00 per acre. The purchaser paid one-fourth of the price in cash and one-fourth each year thereafter until paid in full. The panic of 1819 caused a number of people to lose what they had previously paid, when they were unable to meet the annual installment. Congress responded in 1820 by reducing the minimum tract to eighty acres and the minimum price to \$1.25 per acre, provided it was a cash transaction. Following the auction the unsold land could be entered at the minimum price.

All land west of Madison County on both sides of the Tennessee River was offered for sale in 1818 through the Huntsville land office. Sales that year totaled \$7,000,000 with only \$1,500,000 of this sum paid in cash, over \$1,000,000 of which was Yazoo scrip. Men from Virginia, Georgia, Kentucky, and Madison County organized companies to speculate in these land sales. Some prominent Tennesseans bid against these speculators and bid the price up \$50 to \$100 per acre for the best land in the Tennessee Valley. Average cotton land sold from \$20 to \$30 per acre.

The prevailing situation was ripe for a rush to the unoccupied lands to be relinquished by the Indians. The influx of immigrants was so great in 1816 and 1817 that the Indians and scattered pioneers did not have enough corn to meet the needs of the newcomers. Corn along the road from Huntsville to Tuscaloosa sold for \$4 per bushel. The commodity became so

scarce among the Indians that the government extended relief in 1817 to forstall widespread starvation.

Immigrations were accelerated after 1815, even though the Indians had not completed their cession and the land had not been surveyed. The immigrants simply "squatted" on the land they wanted in spite of the law and the efforts of the government to prevent the intrusion before the sale at auction. It was difficult to remove these squatters. When troops arrived to burn the cabins of those who refused to evacuate, the squatters would return, rebuild their homes and resume life as usual. The problem persisted after the land was surveyed and put up for sale. Any man who would bid against the squatter for the land he had cleared and lived on for years was considered pretty low by all frontiersmen. Such a heartless purchaser would be ostracised, or run out of the community, if he gained title to the squatter land.

The earliest immigrants used the streams for ingress and transportation. Later the Federal Road from Athens, Georgia, to New Orleans passed through the southern part of the territory, and the Natchez Trace from Nashville to New Orleans traversed the northwestern corner, crossing the Tennessee River in the vicinity of Muscle Shoals. Another road from Augusta, Georgia, to Knoxville, Tennessee, had a spur connecting it with Huntsville. Huntsville had a road to Tuscaloosa, at the head of navigation on the Black Warrior River. This road passed through Jones Valley where present day Birmingham is located. A portage road connecting tributaries of the Tennessee with those of the Coosa River was used for travel and freight.

After purchasing new land in Alabama the prospective immigrant returned to his home, sold it, packed his household goods and farm implements on

wagons and began the journey to his new home. The slaves drove the herds of cattle and hogs, while the planter's family brought up the rear in a carriage. It was a tedious journey. The smaller streams were forded and the larger ones were ferried. Men and boys hunted along the way supplying the caravan with fresh meat. All gathered around the campfire at night to prepare the food, discuss the events of the day, and re-assess the plans for the next day or until they reached the journey's end. Quite often there was singing or other festivities.

On reaching his new land, the planter constructed a log cabin, which usually consisted of two log pens joined by a passageway or hall with a chimney at the end of each pen. These passageways were known in some sections as "dog trots." The chimneys were built of stone, if stone was available, if not, clay was used. The chimney was framed and the wood sticks were daubed with clay making the walls eight to twenty-four inches thick, the thickest part being at the bottom and thinning toward the top. The huge open hearths served for heating and cooking. A "lean-to" might be attached to one or both rooms in the rear. Later, as the family increased, additional "lean to's" might be constructed on the front or at the ends. The attic provided sleeping areas for the boys.

Before sawmills were constructed in the area, the floors were made of puncheons, or logs split in halves with the flat side upward. The space between the logs of the wall was filled with clay; the doors and shutters were of crude boards and the roof was of hand-split boards or shingles. In such a dwelling, the planter who brought his household furnishings could establish a kind of rude comfort, which sufficed for even the wealthiest immigrants in the first year's sojourn.

Miss Anne Royal described Huntsville in 1818 as a

rich and beautiful town of about 260 houses with a bank, courthouse, and market house. The square in the center of the town had twelve stores facing it. Many of the houses were constructed of brick and some were three stories high. The citizens were described as gay, polite, and hospitable.

Most of the small farmers came to the area with little or no property. Their household property and farming equipment were crude. In many instances their cabins only had dirt floors. They had come into the new country in search of economic freedom rather than to seek a fortune. These hardy pioneers sought subsistence for their family rather than cotton lands and accessible locations because they did not possess capital, and because it was not to their interest to do so. They, therefore, were not dependent on the price of cotton. A secluded nook would serve them well for they loved the freedom of the forest, the rifle, and the axe. They built their cabins, cleared small patches of land for corn and other foods and turned their hogs loose to roam the woods and multiply. The cattle likewise found subsistence in the woods and meadows.

In spite of the mixture which was produced by the flow of immigration into Alabama, three areas can be distinguished that have peculiarities characteristic of the predominant element in the population. For example, the preponderance of Tennesseans in the Tennessee Valley gave a strongly democratic flavor to the political ideas; in the Tombigbee-Warrior Rivers region, where the Carolina-Virginia immigrants predominated, there was a flavor of political conservatism; and in Montgomery County the influence of Georgia politics was clearly discernible. Nevertheless, there were other factors that were very potent in shaping opinions and politics along with the origin of population.

When Congress passed the enabling act for statehood, the seven eastern counties of the Mississippi Territory were designated the Territory of Alabama on March 3, 1817. President James Monroe signed the commission of William Wyatt Bibb as governor of the territory on September 25, 1817. The laws in force in the Mississippi Territory would remain in force in the new territory until changed by the Alabama Territorial Assembly. Thus the Mississippi officials functioned during the interval from March to September, 1817. St. Stephens was named the capital of the new territory and the first Territorial Legislature met there in two rented rooms of the Douglas Hotel on January 19, 1818. The thirteen members of the House of Representatives elected Gabriel Moore of Huntsville, speaker. The Council or Upper House, was composed of three members chosen by President Monroe from six names submitted to him by the territorial House of Representatives.

Governor Bibb recommended to the Legislature the promotion of education and internal improvements. The Legislature created thirteen new counties; divided the Alabama Territory into three judicial circuits; incorporated a steamboat company, a bank at St. Stephens and an academy; and elected John Crowell the first delegate to Congress.

The second session of the Legislature convened in November, 1818, created two new counties, and spent much time arguing over apportioning representatives from South and from North Alabama. The Tennessee Valley was the most populous and desired representation of white population only. This would give Madison eight representatives, whereas, the next most populous county would have four. South Alabama finally accepted this and agreed that the temporary capital be moved to Huntsville, but the permanent capital remain at Cahaba.

A census indicated that the population of Alabama exceeded 75,000 at this time. People were arriving so rapidly that it was difficult to get an accurate count. The Huntsville Republican, in April, 1819, estimated that the population was 100,000. The Legislature was optimistic over the chances of Alabama being made a state and authorized appropriations to pay the expenses of a State Constitutional Convention. At the same time the Legislature approved a petition for statehood, written by Clement Comer Clay and John W. Walker, Speaker of the House, both from Huntsville. Walker was directed to send copies of the petition to President Monroe, the territorial delegate, the Speaker of the House of Representatives, and to United States Senator Charles Tait of Georgia.

When Walker forwarded the petition to Senator Tait, he enclosed a letter stating that "I have---always regarded you as the effective delegate of the territory: and you will have seen that our House payed (sic) you the compliment of presenting to the Senate our Memorial for Admission to the Union." He asked Tait to work for admission of Alabama with the apportionment bill passed by the Territorial Legislature as the basis for apportionment of representation in the Constitutional Convention, and that Huntsville be the meeting place of the Convention.

Senator Tait wrote the Alabama Enabling Act, served as chairman of the committee to which it was referred, and steered the bill through the Senate. He successfully opposed the efforts of the Mississippi senators to change the boundary line of 1817. John Crowell, Alabama's territorial representative, presented the petition from South Alabama people opposing the "White" basis of apportionment as passed by the last Territorial Legislature, but failed to impress the House which approved the enabling bill as passed by

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the Senate. President Monroe signed it March 2, 1819.

The Constitutional Convention was to have forty-four members and was to meet in Huntsville. Two townships of land were granted for a seminary and the 640 acres given in 1818 for the capital at Cahaba were increased to 1620 acres. The sixteenth section of each township was set aside for the public schools and three per cent of all land sales within Alabama were to go for internal improvements

There ensued two months of spirited campaigning for delegates to the Convention. Madison had twenty-two candidates for the eight positions from the county; Limestone had seven candidates for three positions and Cotaco four for two positions. Madison had eight delegates; Monroe four; Blount and Limestone three each; Clark, Cotaco, Franklin, Lawrence, Montgomery, Shelby, Tuscaloosa and Washington two each; and the remaining counties each had one delegate. The delegates from Madison included lawyers and lawyer-planters who were well educated and particularly interested in political theory.

The Convention which met in Huntsville on July 5, 1819, was composed of eighteen lawyers, four physicians, two ministers, a surveyor, a merchant, and four planters or farmers. No information on the other delegates before or after the Convention was found. Nine of the delegates were former judges or legislators in their home states. For instance, Harry Toulmin, ex-president of Transylvania University, had been secretary of state in Kentucky and judge in the Mississippi Territory. William Rufus King had been a member of Congress from North Carolina, 1804-16, and secretary of the American legation in St. Petersburg, Russia. Israel Pickens was a member of Congress from North Carolina, 1811-17, and Marmaduke Williams had also represented North

Carolina, 1803-17. At least eight delegates had some college training. Six delegates later became governors of the state; six became judges of the Alabama Supreme Court; and six represented Alabama in the United States Senate.

The birthplace of twenty-eight delegates has been ascertained and fifteen of these were from Virginia; five from North Carolina; Georgia and South Carolina each furnished two; Delaware, Pennsylvania and Vermont one each; and one was a native of England. The average length of residence in the Alabama Territory of twenty-six delegates was five years. William Rufus King had been in the territory only one year, whereas, Israel Pickens and Henry Hitchcock had been here two years. Oldtimers like Harry Toulmin, John W. Walker, Marmaduke Williams, Clement C. Clay, and Thomas Bibb had been in the territory fifteen, nine, nine, eight, and eight years, respectively. Governor Bibb was not a member of the Constitutional Convention, but two of his brothers, Thomas Bibb, and John Dandridge Bibb represented Limestone and Montgomery Counties respectively.

The Convention unanimously elected John W. Walker to preside over the sessions and John Campbell was made secretary. Thus, Huntsville furnished the officials and influenced the work of the Convention in many ways. Besides, North Alabama had twenty-eight delegates to sixteen from South Alabama. The proceedings were conducted informally and with little decorum. Strict parliamentary procedure was not followed. Secretary Campbell wrote his brother in Tennessee that President Walker "knew little more parliamentary proceedings than your boy Richard, although an accomplished scholar." Campbell also wrote his brother that Thomas Bibb, one of the leaders of the Convention and Alabama's second governor

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"gets sometimes in his cups; and during the sitting of the convention when in that situation would keep the house in a roar for an hour at a time."

Five days after the Convention opened, Campbell wrote his father in Virginia: "The convention is composed of forty-four members and I have never seen in any deliberative body for the numbers more urbanity and intelligence. It would do no discredit to any country however old and respectable."

A committee of fifteen was appointed to write the Constitution. Of these, eleven were lawyers, three were physicians, and one a merchant. Most of them were also planters. The majority of the committee was from the Tennessee River, the lower Tombigbee, and Alabama River valleys. Seven counties with a slave population of forty per cent or more had nine of fifteen members; six counties with a slave population between thirty and forty per cent had five members; and nine counties with a slave population of less than thirty per cent were represented by only one member. Thus, eight counties with a slave population of less than thirty per cent had no representative on the committee. Madison County, with a slave population of forty nine per cent, had three members. North Alabama had a majority with eight and South Alabama had seven. The Chairman was C. C. Clay of Madison. These statistics indicate the influence the slave holders exercised over the Convention.

The original draft of the Constitution, prepared by the committee of fifteen, was changed only slightly by the Convention. It contained a preamble and six articles: (1) a declaration of rights, (2) the separation of powers, (3) the legislature, (4) the executive, (5) the judiciary, and (6) the general provisions, with sections on education, banks, slavery, amending procedure, and a schedule for putting the constitution into effect.

The only name suggested for the new state was "Alabama." There was no mention of submitting the Constitution to the people for approval, because this had never been done. Minnesota in 1857 was the first state to have her Constitution approved by popular vote.

The framers of the Alabama Constitution were guided by experience, the practices in other states, and by the economic situation at the time. This fact is evident in the qualification for voting, holding office, appointive power given the governor, election by the Legislature or by the people, the freeing of slaves, and the provision for slavery. The economic situation in 1819 must have been of deep concern to the delegates and especially speculation in land. Land near Cahaba in the Black Belt, for instance, sold for \$150 per acre the previous year.

The Constitution was evaluated as a "mixture of liberalism and conservatism, a product of the past and forerunner of the future." Another critic thought that the document conformed more to that of Mississippi than to any other state's, but was regarded as more democratic in suffrage, office holding, popular elections, protection of slaves, the amending process, religious restrictions, and education.

A voter had to be a white male, twenty-one years of age, a resident of the state one year and of the district three months. He was required to be a member of the militia, unless exempt by law from military service. This was undoubtedly the result of the Indian menace at the time. It was not required of the voter to own property or be a tax payer.

The Federal ratio was set as the basis of apportionment in the State Legislature; annual elections and annual sessions of the Legislature were provided; the governor was given the veto power and some appointive

power; and he was required to be elected by the people every two years.

The governor's veto could be overridden by a majority of the elected members of each house. The Legislature, by joint vote, elected all state judges. The judges held office during good behavior and could be removed by the governor if approved by two thirds vote of the Legislature. There was no property qualification for membership in either house of the Legislature. Another unusual provision was that slaves were granted trial by jury in cases more serious than petty larceny, and in case a slave suffered personal injury, the offending party should be punished just as though the person injured had been a white man. Owners could emancipate slaves and the Legislature could prohibit acquiring slaves as merchandise.

All forty-four members of the Convention signed the Constitution on August 2, 1819. It was transmitted to Congress, which accepted it the first Monday in December of that year. President Monroe signed it on December 14, 1819 and Alabama became the twenty-second state of the union on that date.

One analyst thought two factors at work in the state shaped the Constitution. These factors were the frontier, which was a leveling force regardless of property or social background. It tended to put all men on the same basis. Opposed to this was a force tending to build up or create an aristocratic class. This tendency was already evident in the Tennessee, Alabama and, lower Tombigbee river valleys. This element was composed of planters from Georgia, Virginia, Tennessee, and the Carolinas and was based on the plantation slavery system. These planters, as a rule, were educated and trained for leadership and were already steeped in plantation-slavery tradition

when they came to Alabama. It has been suggested that this social class furnished the leadership of the Convention and dominated the Committee of Fifteen which wrote the original draft of the Constitution. Changes made to the original draft were the work of plain men who came largely from the "white counties."

The personal visit of President Monroe to Huntsville a few weeks before the Constitutional Convention convened might have enhanced the prestige of the Huntsville leaders in the Convention. Whether it was so intended is doubtful. The visit of the President seems to have been an incident in his tour of the South to inspect the forts and to ascertain locations for new defences if necessary. The city of Huntsville sought to express its appreciation of the honor by giving a public dinner for the President. Most of the prominent men and women of the Valley attended and made it a festive occasion. The President was saluted with the firing of cannon, patriotic songs were sung and toasts were drunk "to the President, to the Constitution of the United States, to national heroes and celebrities, to the army and navy, to the late treaty with Spain, to the women, to education, to the industries, to Alabama, to the people west of the Mississippi, to the friends of freedom in South America, to public sentiment, etc." The President's visit served as a tonic to stimulate the hopes and aspirations of a people on the verge of assuming the duties and responsibilities of statehood.

In the election of 1820, William Wyatt Bibb received 8,342 votes to 7,140 for Marmaduke Williams in the race for governor. The first Legislature chose John W. Walker and W. R. King to represent Alabama in the United States Senate. Charles Tait became the first Federal judge and William Crawford was appointed the first Federal district attorney for Alabama.

The first Legislature met in Huntsville in October for a six weeks session. It created six new counties; passed a law forbidding dueling; tried to prevent fraud at public land sales; created a system of patrols to preserve order among slaves and to capture runaways; and leased salt springs and lands donated by the Federal government. Religious societies were extended the right to incorporate and to hold real estate not to exceed fifteen acres. A university was chartered; however, its location at Tuscaloosa was not made until 1827, and it did not open its doors until 1831.

Immigrants continued to come into the new state and the census of 1820 recorded 127,901 people. This number increased to 309,527 ten years later. The percentage of negroes in the total population increased from thirty-one to thirty-eight percent between 1820 and 1830. It was estimated that one family in four owned slaves.

This cursory description of the economic, political and social situation of Alabama as she acquired statehood during the Era of Good Feeling leaves much to be said. Nevertheless, it is the fervent hope of the writer that it has in some measure fulfilled your expectations in a similar spirit to that of the old lady who thought that a remarriage could not offer more comforts than she was enjoying.

McGinty: Alabama Makes Her Debut into the Union