

Morton's History of Nebraska

Authentic, Complete

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CHAPTER VII CONTINUED (24)

Poppleton and Richardson of Douglas and Latham and Thompson of Cass argued that under the organic law the possession of the governor's certificate was conclusive, and that there could be no appeal or contest but to him. Decker of Pierce, Wood of Forney, and Doyle of Dodge insisted that the well-settled principle that legislative bodies have the right to pass upon the qualifications of their members applied to this case. The Palladium admits that "Poppleton, the mover, closed the debate in a tolerably able vindication of the amendment." Even then Poppleton must have been a tolerably good jurist; and he must have laughed in his sleeve as his defense of his novel doctrine rolled out in plausible phrase and with unctuous smoothness.

Nebraska, we believe, is unique in the discovery and application of this principle of parliamentary procedure. The provision of the organic act bearing upon this question is as follows: "The person having the highest number of legal votes in each of said council districts for members of the council"—or the house, as the case may be—"shall be declared by the governor to be duly elected;" and this wording is found substantially in the organic acts of all the northwestern territories. We find a like lack of restraint in the organization of the first legislatures of other territories, though under the usual parliamentary rule. The first legislature of Kansas, at the first, arbitrarily unseated nine free-soil members who held certificates, and because they were free-soilers, the other two having resigned partly through disgust and partly through the "moral suasion" of the pro-slavery members." In Wisconsin the first house unseated a certificated member and seated the contestant, according to the general, but against the Nebraska parliamentary principle; and the first house of Indiana, whose first act was to consider the qualifications of its members, arbitrarily unseated the regular member from St. Clair county.

The blindness of the presiding genius of the Palladium to the palpable inevitability of the sacrifice of Bellevue by a majority deviously procured, and his simple optimistic hope that some way ideal justice might hold sway in such an atmosphere of lawless might is half pathetic and half tragical:

"The people of this district have been disfranchised by an act of arbitrary power, and they intend to be heard upon the question whether this right is to be restored, whether they are to take the place of freemen or sink into a state of vassalage and slavery. We are satisfied that a great deal of fraud and injustice has been committed in the organization that has taken place, and that if 'righteousness was laid to the line and judgment to the plummet' there would be but little left of the foundation which has been established."

On the first day of the session it appears that two of the contestants from Bellevue, J. Sterling Morton and Stephen Decatur, were admitted into the house and participated in the discussion about Cuming's credentials or certificates; and from what we of the present know of Morton we may be sure that the discussion was not lacking in aggressive vigor. The sardonic answer of the report of the committee on privileges and elections to the editor's hope and prayer for righteousness was that "Mr. Decatur advanced his claim on the ground that Douglas county is separate and distinct from Omaha, and that he is the representative from Douglas county, having received a greater number of votes in that county than Mr. Poppleton;" but "Mr. Poppleton in defense produced a certificate from the governor of Nebraska declaring him duly elected a representative from Douglas county."

It did not matter that the conclusion of the committee violated immemorial parliamentary usage and renounced all spirit of fairness; it was backed by a majority as resolute as it was oblivious of any such nice considerations. The finding was brief and to the point, as it could afford to be:

"After considering the evidence of each party your committee are of the opinion that A. J. Poppleton is entitled to a seat in this house according to the organic law and rules adopted by this house."

Of the five members of the committee four had voted for the obnoxious rule, and afterward consistently voted to locate the capital at Omaha. It is a barren formality to add that every member to whom Governor Cuming had given his certificate held his seat. This was the beginning of the end of the most important act of the first legislature.

The council or upper house, the equivalent of a state senate, contained some men of remarkably good intellect, and several of previous experience in legislative bodies. Col. Joseph L. Sharp, nominally of Richardson county, who was elected president of the council over his bitter political and personal rival, James C. Mitchell of Florence, had formerly been a member of the legislature of Illinois and also of the legislature of Iowa. He was a disciplined and ready parliamentarian. He knew, and could apply with quick decision, the rules governing deliberative bodies. Down to this day no one has pre-

sided over the senate, or any other deliberative body of the state, with more skill or dignity. He was a man of italic individuality. His person was angular, and his height six feet three. His hair was abundant and iron gray, and it covered a leonine head. His eye was a bright steel-blue, his chin square, his mouth tight-shut and firm. In the little council chamber where these primitive lawmakers were laying the footings for the walls of the civic edifice since built there was but small space for spectators; but they drifted in from the curious East, now and then, and standing against the railing which fenced them out from the members, took notes and made whispered observations among themselves upon the proceedings of the council and the demeanor of its president. It was the misfortune of Colonel Sharp to have been fearfully scarred, indented and pitted with smallpox. That dreadful disease had bleared, glazed over and destroyed the sight of his left eye, and at the same time had twisted and deeply indented his prominent nose, which looked somewhat awry; so that altogether the victim's facial expression was rather repellent. Right against the lobby rail was the desk and seat of his spiteful and malignant competitor, Jim Mitchell, as he was called. Mitchell was a lithe, slender, small man, about sixty years of age, not more than five feet six inches tall and weighing not more than one hundred and twenty pounds. He was quick of mind, had a hair-trigger temper, and his courage was unquestioned. He had justifiably killed his man at Jackson, Iowa, had been tried and honorably acquitted. Therefore no bully presumed to insult him, though his features were mild, gentle and pallid as those of a studious orthodox clergyman, and his manners were refined and quiet. His hatred of Sharp was deep and relentless. One day a couple of visitors from "down east" were leaning against the railing by Mitchell's desk, watching President Sharp and listening to his rapid decisions and rulings, and finally one said to the other, in an undertone which reached the alert ear of Mitchell: "That president knows his business. He is able and impartial, quick and correct, but certainly the homeliest man I ever looked at"; and Mitchell, with a cynical smile and tranquil irony, remarked: "Hell! You should have seen him before he was improved by the smallpox." Possibly state senators of this day keep sarcasm in stock sharper and more spontaneous than that, but they seldom exercise it.

The other lawmaker of experience in the council was Origen D. Richardson of Douglas county. He had served in the Michigan senate and had also been governor of that state. He was a native of Vermont, level-headed, honest and of sound judgment. More than any other individual, Richardson determined the character and quality of the legislation of that first assembly. As chairman of the permanent committee on the judiciary, in the council, he did an enormous amount of thoughtful, diligent and efficient labor. He no doubt planned, formed and shaped more statutes than any other member of either house, not excepting Andrew J. Poppleton, who was the most capable, industrious and painstaking member of the house committee on judiciary, the superior of any lawyer then in Nebraska, and the peer, perhaps, of any who have since practiced in the courts of this state. In those earlier days Mr. Poppleton was almost passionately fond of public speaking, for which he was well equipped with an unusual share of personal magnetism, reasoning power and a plausible and persuasive address. He manifested a keen interest in political affairs up to the time of the segregation of his services in the office of the Union Pacific Railway Co., which was a distinct loss to the commonwealth.

Among the most far-sighted lawmakers of that first council was Dr. M. H. Clark, member from Pontonelle, Dodge county. He was a type of the vigorous frontiersman in form and mind. He was an enthusiast as to the commercial future of Nebraska. As chairman of the committee on corporations he made a report to the council on the 16th of February, 1855, which was a prophecy of remarkable accuracy, and which has been completely verified.

The report in its advocacy of the chartering of a transcontinental railroad forecasts the future of such a road, and in concluding declares that if it could be built, "The millions of Europe would be brought in contact with the hundreds of millions of Asia, and their line for quick transit would be, to a great extent, across our continent. Their mails, their ministers, their most costly and interesting travel and trade would take this route, and augment our business and multiply our resources. In view of the comparative cost to the wonderful changes that will result your committee can not believe the period remote when this work will be accomplished; and with liberal encouragement to capital, which your committee are disposed to grant, it is their belief that before fifteen years have transpired the route to India will be opened, and the way across this continent will be the common way of the world. Entertaining these views, your committee report the bill for the Platte Valley and Pacific railroad,

feeling assured that it will become not only a basis for branches within Nebraska, but for surrounding states and territories."

The report begins with this sentence: "It is generally conceded that the portion of the territory of Nebraska which will first seek organization as a state is that which lies between the parallels of 40 degrees and 43 degrees, extending west to the Rocky mountains."

That this discerning pioneer should thus have foretold the future northern and southern boundaries of the state is more significant than remarkable for prescience when we consider that it is simply a reflection of the original Iowa idea. This was the original and persistently proposed northern boundary for the territory until, at the last moment, all that remained of the unorganized part of the purchase was included. It was the boundary in the bills introduced by Douglas in 1844 and 1848, and of the bill of the Iowa senator (Dodge) in 1853—the bill which, as amended, was finally passed—and the 40th parallel was the southern boundary in the bill of 1848. This boundary had been fixed by the united desire or judgment of the bordering promoters of organization, and in accordance with the reasons given by the Iowa statesman already freely quoted. This forecast indicates that Mr. Clark was, to some extent, familiar with what had gone before; and his judgment as to the desirable and probable location of the coming state was confirmed by its projectors.

That report, written and published before civil government in Nebraska was six months old, and when most of the people of the United States who had thought about the subject at all believed that the construction of a railroad from the Missouri river across the plains and through the Rocky mountains to the Pacific coast was an impossibility, is a notable piece of economic and industrial faith, if not of foresight.

Acting Governor Cuming delivered the first executive message to a joint meeting of the two houses in the chamber of the house of representatives at three o'clock in the afternoon of the first day's session. As might be expected of a man so able and of such positive parts, the message was comprehensive and well composed, and for the greater part direct, concise and incisive; and as might be expected in one so young—he was only twenty-six—it not only had the unnecessary and at least now quite unusual appendage of a peroration, but this peroration was grandiloquent indeed. When it is considered that no other executive message since delivered in this commonwealth, except that of the ripe statesman, Governor Richardson, equals this first one—the composition of an inexperienced boy—in point of saying what should be said and saying it well, we readily overlook the final efflorescence.

The temporary governor bespeaks for the expected permanent executive, Governor Izard, the blending of "a dignified disinterestedness with an appreciated efficiency . . . well befitting the chief magistrate of the largest commonwealth of freemen within the limits of the Union or the world." Our appreciation of the unerring western apotheosis of mere size is heightened by the reflection that this physically greatest of all the territories, past or present, was the least of all in population. It is significant that the first recommendation of this first Nebraska message was in favor of a memorial to Congress in behalf of the construction of the Pacific railway up the valley of the Platte. The governor suggested that the legislature in its memorial should "urgently if not principally ask" for a preliminary provision for telegraphic and letter mail communication with the Pacific, and that for its protection parties of twenty dragoons should be stationed at stockades twenty or thirty miles apart. Councilman Clark's committee report in favor of a Pacific railway and by the Platte route was an elaboration of the governor's recommendation. The legislature was reminded that in the enactment of a code of laws and the establishment of public institutions it had the benefit of an ample fund of experience treasured by neighboring states. The recommendation of the enactment of general incorporation laws was wise but unheeded. The governor also recommended that volunteer military companies be organized for protection against the Sioux, Ponca and other Indians.

Mr. Izard, United States marshal, who had been in Washington, may believe with an eye to promotion to the governorship, returned to Omaha on the 20th of February, and his arrival was formally announced to the two houses of the legislature by Secretary Cuming on that day, and on the same day the secretary presented him to a joint meeting of the houses, when he delivered a passable speech, as governor's speeches go, and which might be excused for its lack of much else by its plethora of reference to "sovereigns," "the principles of popular sovereignty" and "the sovereignty of the people."

TO BE CONTINUED

John Hay's Philosophy.

A quarter of a century ago, says Mark Twain, in North American Review, I was visiting John Hay at Whitelaw Reid's house in New York, while Hay was absent on a holiday in Europe. Temporarily also, Hay was editing Reid's paper, the New York Tribune. I remember two incidents of that Sunday visit particularly well.

In trading remarks concerning our ages I confessed to forty-two and Hay to forty. Then he asked if I had begun to write my autobiography, and I said I hadn't. He said that I ought to begin at once, and that I had already lost two years. Then he said in substance this:

"At forty a man reaches the top of the hill of life and starts down on the sunset side. The ordinary man, the average man, not to particularize too closely and say the commonplace man, has at that age succeeded or failed; in either case he has lived all of his life that is likely to be worth recording; also in either case the life lived is worth setting down, and cannot fail to be interesting if he comes as near to telling the truth about himself as he can. And he will tell the truth in spite of himself for his facts and his fictions will work together for the protection of the reader; each fact and each fiction will be a dab of paint, each will fall in its right place, and together they will paint his portrait not as the portrait he thinks they are painting, but his real portrait, the inside of him, the soul of him, his character. Without intending to lie he will lie all the time; not bluntly, consciously, not dully unconsciously, but half consciously—consciousness in twilight; a soft and gentle and merciful twilight which makes his general form comely, with his virtuous prominences and projections discernable and his ungracious ones in shadow. His truths will be recognizable as truths, his modifications of facts which would tell against him will go for nothing, the reader will see the fact through the film and know his man.

"There is a subtle devilish something or other about autobiographical composition that defeats all the writer's attempts to paint his portrait his way."

Hay meant that he and I were ordinary average commonplace people, and I did not resent my share of the verdict, but nursed my wound in silence. His idea that we had finished our work in life, passed the summit and were westward bound down hill, and me two years ahead of him and neither of us with anything further to do as benefactors to mankind, was all a mistake. I had written four books then, possibly five. I have been drowning the world in literary wisdom ever since, volume after volume; since that day's sun went down he has been the historian of Mr. Lincoln, and his book will never perish; he has been ambassador, brilliant orator, competent and admirable Secretary of State.—From Mark Twain's Autobiography in the North American Review.

The Faith of the Boy.

The 4-year-old son of a certain western senator had a very high opinion of the importance of his father. The latter tells how, on one occasion in their western home, the lad came across a magazine in which, by some chance, there were engraved, side by side, portraits of the President and the senator mentioned.

"When the lad caught sight of his father's features he broke into a broad smile. 'That's a good picture of you, daddy,' said he.

"Very good, my son."

"Who's the man next to you, daddy?" asked the youngster.

"Why, my son!" exclaimed the senator, "don't you know? That is one of the greatest men in the world, a man more admirable and more powerful than any king. That, my son, is President Roosevelt."

The lad again looked at the picture of the President. Then, after a thoughtful pause, he observed:

"Say, daddy, the people in the east will be awful proud when they see the President's picture next to yours, won't they?"—American Spectator.

The only foreign country represented at the New Zealand International Exhibition, opened in November, is the outlying possession of the United States—Hawaii—whose exhibits are placed in the Fijian court. The Hawaiian exhibit is of very great interest to those interested in Maori lore, so closely connected seem the natives of Hawaii and those of New Zealand.



George Jackson
Too Cold.

First Goat—You seemed to be suffering, indigestion?
Second Goat—Yes; I thought those railroad spikes were pig iron and they turned out to be cold steel.



Not Modestly.
He—But we can live very modestly.
She—But I should want to wear my opera gown in winter and my bathing suit in summer.



She—What will be the probable outcome of that contest over your uncle's will?
He—I'm only interested in the income.



What He Feared.
The Tiger (in the jungle)—So you're the king of beasts, eh?
The Lion—Sh! Not so loud, or my wife will hear you.

Profane.
During a golf match between Rev. Dr. Sterrett and Justice Harlan of the United States supreme court, at the Chevy Chase Golf club, near Washington, the doctor discovered his ball teed up in tempting style for a fine brassie shot. With the utmost deliberation he went through the preliminary "waggles" and with a supreme effort, missed the ball.

For fully a minute he gazed at the tantalizing sphere without uttering a word. At length Justice Harlan remarked solemnly:

"Doctor, that was the most profane silence I ever listened to."

Vulgarity is more profane than profanity.