

Morton's History of Nebraska

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CHAPTER VII.

First Legislature—Administration of Governor Izard—Location of the Capital—Laws of the First Session—United States Surveys—Claim Clubs—Nebraska's Peculiarity—First Independence Day—Judicial Organization.

In accordance with the proclamation of acting Governor Cuming, the first legislature of Nebraska territory convened at Omaha Tuesday, January 16, 1855, at 10 o'clock in the morning, in the building which had been erected for the purpose by the Council Bluffs & Nebraska Ferry Co. This company was incorporated under the laws of Iowa, and Enos Lowe was its president. This Iowa corporation embodied or represented the Omaha that was to be; for the future metropolis then existed only in the imagination, the hope and the ambition of its Iowa promoters. Iowa men had procured the incorporation of the territory and shaped it to their wishes; and an Iowa man had organized it into political form and arbitrarily located its temporary seat of government contrary to the wishes of its real residents. It was fitting that Iowa capital and enterprise, which were to fix the seat of the government, should also temporarily house it. "This whole arrangement," we are told by the Arrow, printed in Council Bluffs, "is made without a cost of one single dollar to the government."

This first tenement of organized Nebraska government was located on lot 7, in block 124, as platted by A. D. Jones, fronting east on 9th street between Farnam and Douglas. The structure was known as "the brick building at Omaha City," indicating that it was the first building of brick in the town. It was occupied by the legislature for the first two sessions, and was afterwards used as the first general offices of the Union Pacific Railway Co., until, in the fall of 1869, they were transferred to their present quarters.

On the 13th day of October the Arrow tells us that, "But a few short months ago and not a sign of a habitation was visible upon the site where now are constantly in progress and will be completed, within another month, a town numbering some 175 or 200 inhabitants."

The legislature was composed of a council of thirteen and a house of twenty-six members. It can not be said that a single member of this first legislature had a permanent footing in the territory, and many of them had not even "declared their intentions." But the men from Iowa were there in full force. Mr. J. L. Sharp, the president of the council, nominally from Richardson county, lived at Glenwood, Iowa, and never became a resident of Nebraska. Out of the total membership of thirty-nine at least five, namely, Sharp, Nuckolls, Kempton, Latham and Purple never were actual residents of the territory, and many of the rest were mere sojourners—driftwood, temporarily stranded on this farther shore of the westward stream of population, but destined soon to be caught by its constant onward flow and carried off to the boundless country beyond.

The members of the first territorial council were Benjamin R. Folsom of Burt county, Lafayette Nuckolls of Cass county, Munson H. Clark of Dodge county, Taylor G. Goodwill, Alfred D. Jones, Origen D. Richardson, Samuel E. Rogers of Douglas county, Richard Brown of Forney county, Hiram P. Bennet, Henry Bradford, Charles H. Cowles of Pierce county, Joseph L. Sharp of Richardson county, James C. Mitchell of Washington county.

The first territorial house of representatives was composed as follows: Burt county, Hascall C. Purple, John B. Robertson; Cass county, William Kempton, John McNeal Latham, Joseph D. N. Thompson; Dodge county, Ell R. Doyle, J. W. Richardson; Douglas county, William N. Byers, William Clancy, Fleming Davidson, Thomas Davis, Alfred D. Goyer, Andrew J. Hanscom, Andrew J. Poppleton, Robert B. Whitted; Forney county, William A. Finney, Joel M. Wood; Pierce county, Gideon Bennet, James H. Cowles, James H. Decker, William B. Hall, Wilson M. Maddox; Richardson county, David M. N. Johnston, John A. Singleton; Washington county, Anselm Arnold, Andrew J. Smith.

It does not require the full spelling of these Christian names in the record to safely conclude that there were three "Andrew Jacksons" in the house. The circumstance that this representation of strenuous name from the North Platte outnumbered that of the South Platte, two to one, might have had much to do with the success of the first-named section in achieving its heart's desire.

Hiram P. Bennet of Pierce county was chosen temporary president of the council, and it is his recollection that J. C. Mitchell of Florence nominated him for that office and put the question to the council. After temporary organization the council proceeded to the chamber of the house where the governor delivered the first message to the joint assembly. With characteristic imperiousness he first undertook to administer the oath of office to the members. Mr. Bennet thinks that he required as a condition for taking the oath that members should have received certificates of election from him. At any rate

three of the South Platte members, Bennet, Bradford and Nuckolls, refused to take the solemn vow by the governor's sanction, and after the reading of the message both council and house acknowledged the irregularity of the proceeding by going through the ceremony before Judge Ferguson and Judge Harden respectively. This is the Palladium's unfortunately meager account of the first actual skirmish of the irrepressible and endless conflict between the North Platte and South Platte factions:

"The acting governor made an attempt to get control of the council, but was peremptorily denied the privilege by the president (Mr. Bennet), by whom he was told that he had no business to do what he was attempting to do, and that he was not needed, and not wanted there, that he was not set in authority over that body, and that his pretensions could not be recognized by it."

At the afternoon session Mr. Bennet, having become convinced that Mr. Sharp had been playing both sides, and had agreed to transfer his support to the North Platte, refused to act as temporary president, and Benjamin R. Folsom of Burt county was elected in his place.

Messrs. J. L. Sharp and Hiram P. Bennet of the council were advertised as lawyers of Glenwood in the Palladium, during and after the legislative session, and that faithful chronicler of the doubtful deeds of all whom it classed among the wicked says that immediately after final adjournment the president of the council "led off for Glenwood, Iowa, at about 2:40 on the first quarter." The ordinary restraints to the game of grab for the capital, which was organized at Council Bluffs soon after if not before the passage of the organic act, were lacking. These restraints are a settled interest in the community or state which the non-resident does not have, and the pride and fear of reputation which are invoked in public representatives only by the knowledge and fear that the eye of a real and responsible citizenship, with moral standards by which it will reach moral judgments, is upon them. It was to be expected, therefore, that the preparation for, and the first step in law-making should do violence to moral law.

Omaha promoters intended to make that place the capital, and with well-founded confidence they relied upon the Napoleonic Cuming to carry out their intention. The citizens of Bellevue had insisted that their settlement should constitute a separate legislative district. It far exceeded in numbers any other settlement excepting Omaha and Nebraska City. "There were two points in the county though lying side by side were actually heaven-wide apart in interest and feeling. No union existed between them any more than if an ocean rolled between. If there were any points in the territory needing a district representation these were the ones."

Mr. Decatur, in arguing his case as contestant for the seat of Mr. Poppleton in the house, January 31, is quoted as saying that "in the original organization of Omaha county, now recognized as Douglas county, there were two separate and distinct districts." The inference from this is that during the negotiations, or cross-bidding between Bellevue and Omaha, conducted by Governor Cuming, he had at first intimated or agreed that in the first organization Omaha City and Bellevue should be kept apart in distinct districts, and the county was to be named Omaha instead of Douglas. And so Mr. Decatur charges that, while the Nebraska bill makes it obligatory upon the acting governor to so district the county that each neighborhood should be represented, Bellevue is unrepresented.

By the governor's tactics, however, Bellevue was thrown into the Omaha district where her hostile vote was safely swallowed. But Bellevue voted for a distinct set of legislative candidates, and the tabulated vote is an interesting page of history.

Bellevue, determined to emphasize to the utmost her distance from her northern rival, threw most of her vote for delegate to Congress to a resident of the far South, Savannah, Missouri—Napoleon B. Giddines—while Omaha voted for Hadley D. Johnson, actually of Council Bluffs but constructively of Omaha.

The Bellevue candidates contested, or rather attempted to contest the seats of the Omaha candidates—who had of course received certificates of election from Governor Cuming. In the council they made a test of A. W. Hollister's claims. On the second day of the session, by the close vote of 7 to 6, Dr. Geo. L. Miller of Omaha was chosen chief clerk over Mr. Isaac R. Alden, the temporary clerk, who, being from Washington county and Florence, presumably was not sound on the capital question; O. F. Lake was chosen assistant clerk, S. A. Lewis, sergeant-at-arms, and N. R. Folsom, doorkeeper. Then Mr. Mitchell offered a resolution "that a committee of three be appointed to investigate the claims of A. W. Hollister of Douglas county to a seat in this body," which on motion of Richardson of Douglas was tabled. A similar resolution on behalf of B. Y. Shelley of Burt county who, according to the returns, had received 25 votes against 32 for Folsom, the sitting member, met with similar treatment. An at-

tempt of the anti-Omaha forces to take up these resolutions on the following day was unsuccessful. On the 24th a resolution by Mr. Folsom to inquire into the right of Mr. Mitchell to a seat on the ground "that he is not now and never has been a citizen of Nebraska, but that he is a citizen of Iowa," was met by another from the other side making similar charges of non-residence against Folsom, Richardson, and Sharp, the president; and then came a resolution by Mitchell that Goodwill of Douglas was ineligible because he was a resident of New York, and another by Goodwill charging that Nuckolls of Cass was a minor. These resolutions were all referred to the committee on elections from which they were never reported, probably on the ground that it was not worth while, since the reasons for the investigation were admitted on all hands and could not be denied. Resolutions calling on the governor to furnish the council with the original census returns and his instructions to census takers were referred with safety to the same committee, since two of its three members were from Douglas county.

On the 6th of February this committee reported that it was "inexpedient" to further investigate the subject of contested seats, a word fitly chosen, considering the peculiar character of the objections raised to the claimants of seats and the impartiality of their application. As Mr. Shelley had at least a plausible case against Mr. Folsom, based upon the number of votes he received and not upon the delicate one of non-residence, he was allowed the pay of a member up to February 6.

In the house, on Mr. Poppleton's motion, Mr. Latham of Cass was chosen temporary presiding officer, and Joseph W. Paddock was appointed temporary chief clerk, George S. Eayre, assistant clerk, Samuel A. Lewis, sergeant-at-arms, and Benjamin B. Thompson, doorkeeper. As in the council, those members were recognized who held certificates of election from the governor. In the joint session, Doyle of Dodge and Decker and Maddox of Pierce refused to receive the official oath from Governor Cuming.

On the second day Andrew J. Hanscom of Douglas was elected speaker by a vote of 18 against 7 cast for John B. Robertson, of Burt; Joseph W. Paddock of Douglas was elected chief clerk over Mastin W. Riden by a like vote; George S. Eayre, assistant clerk, over Mastin W. Riden by a vote of 19 to 7, and Isaac L. Gibbs doorkeeper without opposition. Rev. Joel M. Wood, member from Forney county, seems to have acted as chaplain of the house for the first week of the session, although Rev. W. D. Gage of Nebraska City had been formally elected to this office. The council took no action for the selection of a chaplain until the fifth day of the session when, by resolution, the president was authorized to invite Rev. William Hamilton, of the Otoe and Omaha mission, to act in that office. It does not appear, however, that "Father" Hamilton ever served as chaplain, but the record shows that Mr. Gage actually served a part of the time in the council and also in the house.

A determined fight was at once begun by the anti-Omaha members in favor of contestants against those who had received certificates of election from the governor. Archie Handley of Forney county contested the seat of Wood, Benjamin Winchester of Washington contested against Arnold, and J. Sterling Morton and Stephen Decatur of Bellevue against A. J. Poppleton and William Clancy of Omaha.

On the 17th, Decker of Pierce offered a resolution for the appointment of a committee of three "to examine the certificates of members of the house, and to investigate the claims of those contesting seats," which was rejected. On the 24th Mr. Poppleton moved to amend rule 53, which was similar to Decker's resolution, so as to restrict the duty of the committee on privileges and elections "to examine and report upon the certificates of election of the members returned to serve in this house." The opposition exhausted all their parliamentary resources against the passage of the rule, but it was finally adopted by a vote of 13 to 12. This was an approximate division of the Omaha and anti-Omaha forces on the capital question. It is interesting to note that this violent measure was supported by the same members, who, with the addition of Robertson of Burt, two days later, passed the bill locating the capital at Omaha. The Palladium sounds this note of disgust and despair:

"Governor Cuming's appointees having the majority and being reluctant to have their claims investigated, yesterday they made it a rule of the house that Cuming's certificates were the only evidence which had a right to come before the house in the matter. And this in Nebraska, and enacted by the very men who are so loud in their praises of popular sovereignty! Oh! Shame! where is thy blush?"

TO BE CONTINUED

(No. 23)



But He Didn't Bite.

First Chauffeur—Gimme a chew, Bill.

Second Chauffeur—Sure. Take one out o' my spark-plug.

The Secret of Roosevelt's Power.

Theodore Roosevelt is no braver than many another man, who has fallen in struggle against Mammon, but he has the moral vision. It is often more difficult to know the right than to do it. A broader education than any man has brought to the White House since Jefferson's day, a life unstained by vice of any kind, a clean mind and a boyish heart, simple, confiding, and just, have combined to keep Theodore Roosevelt's faith in God and his belief in the common honesty of the common man unseared. And when a man has these two convictions welded into his soul, he plays no tricks, lays no ambushes, relies on no strategy, but, seeing his duty, goes to it joyously, bravely, and with wide direction and simplicity. Roosevelt is not leading a double life, as his enemies secretly believe. He will not be found out; because there is nothing to find out. He is merely primitive. He has the gaiety and optimism that belong to youth, and youth is not a mere physical adolescence; it is that state of soul which men keep so long as they have not smudged their ideals and trifled with their consciences. One may be a boy at eighty, or a man at fifteen. But whoever has youth, has faith, and given wisdom with faith, strength and courage are but the other side of the shield. Perhaps that is the meaning of the prophecy: "And a little child shall lead them."—McClure's.

Loss of Memory.

"Now, Mr. Jones," said the lawyer to the defendant in one of the Standard Oil investigation cases, "you say you were the president of the Skylight Oil Company?"
"Yes, sir."
"Who was back of the company?"
"I cannot remember."
"To whom did you make reports?"
"It has slipped my mind."
"Didn't you know all the time that it was a branch of the Standard?"
"I can't remember whether I did or not."
"Didn't you ever receive instructions from the Standard?"
"I can't recall."
"But did you regard the Skylight as an independent company?"
"If I did or din or it has slipped my mind."



"You have a very slippery mind, haven't you?"
"I can't remember whether I have or not."
"Mr. Blank," continued the lawyer, "do you remember whether you had a father and mother or not?"
"It seems as if I had, but I wouldn't want to be positive on that point."
"Well, here's another: 'Are you a half fool or were you bribed to forget things?'"
"I can't say, sir. I can never remember anything unless I write it down. Sorry, sir, I'd like to remember everything that's happened in the last hundred years, but I was born with a weak memory. I had an umbrella when I came into court, but I have forgotten what I did with it and shall never see it again."
Joe Kerr.

Cultivate the herbs of character and uproot the weeds.

Wanted, a Jap.
"Do you supply Japanese servant girls here?" anxiously inquired the old lady at the intelligence office.
"No, madam," was the reply. "There are no Japanese servant girls to be had."
"Then could I get a Japanese man to do general housework?"
"I have none on the books. Wouldn't a German or Norwegian girl suit you?"
"No-o."
"I have several Scotch and Irish girls."
"But I wanted a Japanese."
"Sorry, ma'am. You might come in a few days from now."
Three or four days passed and the old lady made her appearance again to say:



"I hope you have got a real nice Japanese man servant for me."
"Sorry to say, I haven't," was the answer. "Perhaps I could get you a Chinaman."
"No, he wouldn't do."
"You seem very particular, ma'am."
"Yes, I suppose I do, but, you see, the matter is just like this: I have been reading the newspapers."
"Well?"
"And they say we are going to have war with Japan."
"I hope not."
"So do I. You see, I have a summer residence on the Pacific Coast. If I had a Jap in my employ and war broke out I'd ask him to please ask his government not to bombard my summer house and knock the copola off and break all the windows, and I guess they'd be kind enough not to do it!"
Joe Kerr.

New Kind of Eraser.

The late Dr. Henry Martyn Field some years ago related at a Williams alumni dinner a rather amusing incident of his freshman days at college. Being only 12 years old when he entered, he had not reached the point where the natural friction between the big boy and the small boy ceases, and he was at particular feud with one of his fellows, a stalwart country youth from the farm. One day young Field went early to the classroom and put upon the blackboard a very exasperating caricature of his enemy, with his name beneath. When the aggrieved party saw what had been done he said not a word, but catching up his youthful tormentor he used him as an eraser, and after rubbing out the offensive picture quietly took his seat.

Intolerable

As every one knows, the great Von Moltke never wasted words and despised anything that approached garrulity in others. German army officers are fond of telling an anecdote illustrative of this peculiarity:

Von Moltke was leaving Berlin on a railway journey. Just before the train pulled out of the station a captain of hussars entered the general's compartment and recognizing him, saluted with, "Guten Morgen, Excellenz!"

Two hours later the train slowed up at a way station. The captain rose, saluted, and with another "Guten Morgen, Excellenz," left the train.

Turning to one of his companions, Von Moltke said, with an expression of the greatest disgust, "Intolerable gas-bag!"—Harper's Weekly.

Hurts Trade.

"It is a fact that that fool expression about handing people a lemon is hurting the lemon trade," said a grocer. "People who really want to buy lemons are afraid to ask for them. There was a woman in here this morning who hung around for quite a while after making her purchases as if she wanted something else, but she finally went away without buying anything. By and by her little boy came in and bought a lemon. He said his mother had intended to get it, but she was ashamed to ask for it. There are plenty of other people in the same fix. It will be a good thing for trade when that idiotic saying becomes a back number."