

Morton's History of Nebraska

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CHAPTER VII CONTINUED (26)

"Mr. Cuming says he expects to be removed from the office of secretary—winks wisely, as all such birds do, when they have feathered their individual nests—intimates that he doesn't care a d—n for the president and all the removals he may, can or will, might, could, would or should make."

Unfortunately there seems to be no other contemporary account of the closing scenes of the capital struggle or squabble than that of the not impartial Palladium:

"Action was had upon the bill from the house. Mr. Mitchell moved to insert after Douglas county, two and one-half miles north of Omaha." This extraordinary movement was received with great surprise, except by the knowing ones. But they were relieved by Mr. Mitchell's statement that he had met the Omaha people in a spirit of compromise, and in consideration of his going for the capitol at this point he was to be appointed sole commissioner to locate the capitol.

"Mr. Richardson of Michigan offered a resolution to appoint Mitchell said commissioner. Whereupon a fierce discussion arose upon the question.

"Mr. Sharp of Iowa made a long speech against the location of the capitol at that point, giving a lengthy description of the geography of the territory, from whence he inferred that that point was not central, or convenient.

"Mr. Mitchell replied to Sharp: said he, Mitchell, had been for any place except Omaha; that the recruits from Cass, in the lower house, and the demagogue Sharp in the upper, had by their own corruption and baseness, lost to themselves the capitol; that they might have had it had they not been such superlative rascals.

"Judge Bennet followed Mitchell, endorsed all he said, revised, improved and intensified upon the eminent and unapproachable course of scoundrelism which had been pursued by Sharp, clearly exposed how often he had lied, and how fluently he had expressed himself and with what effect.

"The bill has passed. Mitchell has the promise of the commissionership from Cuming & Co., which very much reminds us of an offer of the whole world once made by a sulphurous gentleman from below who didn't own it.

"We rejoice in the downfall of traitors and are happy in the reflection that Sharp, Latham, Thompson and other vipers have gnawed a flea."

The Palladium did not fail after the work had been done to credit Mr. Poppleton with efficiently following up Cuming's primary work.

"No evidence of political corruption can be more unmistakable in a legislator than was displayed in the successful effort of Andrew Jackson Poppleton to obtain the passage of a rule by which all evidence of a right to a seat in the house should be excluded—except the governor's certificate.

"There were those present prepared to prove that the governor had given certificates of election to those who had less votes than others from whom they were withheld—prepared to prove that he had been partial towards his friends in the bestowment of certificates—that another rule had been adopted beside the organic law—but alas! they could not be heard."

It would be difficult to withhold expression of regret that the faithful optimism of the Palladium, however short-sighted, should have received so rude a shock. After Governor Cuming had designated Omaha as the meeting place of the legislature it insisted that the location of the capital was yet to be made, and expected and awaited vindication for Bellevue:

"The people are to control its location, and they are going to locate it where it suits them best, as they have an undoubted right to do. As we have repeatedly said, the capital is not located and cannot be located by the governor any more than by a private citizen."

Nevertheless the governor had located the capital virtually and was to be a very great factor in locating it actually.

And thus it befell that Thomas B. Cuming was the founder of Omaha. And even after the decisive victory had been won by Omaha the faith of the Palladium remains unconquered. On the 28th of March, but two weeks before its own final breath is to be drawn, it utters this confident, defiant prophecy:

"The vile speculators that undertook to locate the capital of Nebraska tried to buy this site for the purpose of locating it here. They were unwilling to pay the price set upon it, and the capitol was taken to a place having no historic interest, and comparatively no natural charms or advantages—simply because they could make a better bargain with the speculators in that place than they could here.

"Bellevue, although defeated now, will win the prize in the end. Her natural advantages cannot be lied down or legislated away. The God of nature has placed it near the Great Platte and Missouri rivers—guaranteed her the convenience they afford, and set the great signet of beauty and grandeur upon her brow."

Quite true, excepting the prophecy. The Bellevue of today, in size and condition, suffices only to illustrate the truth that mere righteousness and beauty are not in the reckoning against western hustle with all that it implies.

The original missionary's residence and the building which was occupied by the Indian agency are still standing, the first on the edge of the plateau immediately overlooking the river. The walls are a concrete of mortar and small stones, and the house is rectangular in shape, two stories in height with a veranda extending between the two stories along the entire eastern, or river front, thus commanding a magnificent view of the river valley and of the distant bluffs and groves on the Iowa side. A hall extends from east to west across the middle of the house. The mission house itself was long since removed. The first church (Presbyterian) and the residences of Chief Justice Fenner Ferguson and Augustus Hall are still standing and in use. The natural town site of Bellevue comprises a level plateau of about three thousand acres in the angle between the Missouri river and Papillion creek. It rises on the north to a high hill which seems to have been especially designed by nature for the capitol of the commonwealth; but though selfish and short-sighted man has disposed where God so magnificently proposed, still the eminence is fittingly crowned by the main building of Bellevue college.

The journal of the council tells us that "Mr. Richardson (of Douglas county) nominated Mr. Sharp of Richardson county for president of the council, whereupon, on motion of Mr. Mitchell, Mr. Sharp was declared duly elected." This is suggestive that both sides in the capital contest depended upon Sharp, and that he was ready to disappoint either. Surviving contemporaries of these men and times insist that Sharp agreed for a valuable consideration to support Omaha in the capital struggle, and that, mistaking him, the consideration was recovered through strategy by an emissary of Omaha (A. J. Hanscom). Though Sharp appears to have favored Omaha interests in the appointment of committees of the council, he for some reason lost interest in the cause of Omaha, and afterward voted against locating the capital in that place.

On the 5th of February, after the capital campaign had ended in triumph for Omaha, friends and beneficiaries in the council moved resolutions vouching for the uprightness and purity of motive, and commending the efficiency of the Napoleonic leader in so rapidly organizing the territory—the first doubtless because it was felt that he needed it, and the second because he really deserved it. A resolution declaring the right of the council to inquire into the acts of public officers, and another declaring explicitly that the several acts of Acting Governor Cuming in the organization of the territory were proper subjects of investigation by a committee had been rejected January 24. Mr. Bennet now insisted that the vote of confidence could not be properly awarded in the face of the denial of the investigation; but after a fierce fight the resolution was carried by a vote of 8 to 5. Those voting nay were Bennet, Bradford and Cowles of Pierce, Mitchell of Washington and Nuckolls of Cass. We find Mitchell's enmity or conviction unabated by his capital commissionership, and the Palladium's perfidious Sharp, in this instance, in the enemy's camp.

Council file No. 1 was a joint resolution by Richardson providing that the style of the laws should be as follows: "Be it enacted by the council and house of representatives of the territory of Nebraska." Mr. Rogers would have amended it into this more democratic fashion: "Be it enacted by the people of the territory of Nebraska in general assembly convened," but his amendment failed and both houses passed Richardson's resolution.

The enactments of the 1st legislature were classified in eight parts. The first part was intended as a complete civil code, and was appropriated from the code of Iowa. The second comprised laws of a general nature prepared by the legislature itself. The third was the criminal code, also appropriated from the Iowa code. The fourth located and established territorial roads. The fifth defined the boundaries and located, or provided for the location of county seats. The sixth incorporated industrial companies and towns, or cities rather. The seventh incorporated bridge and ferry companies, and authorized the keeping of ferries and the erection of bridges. The eighth consisted of joint resolutions adopted at the session.

The first enactment, in part second, as arranged in the statute, provided for taking another census to be completed by October 11, 1855, for a new apportionment of members of the house of representatives, and the time when annual elections should be held and the legislature should convene. The second prohibited the manufacture or sale of intoxicating liquors in the territory. H. P. Downs of Nebraska City took the first step in a prohibition movement in Nebraska when he obtained eighty signatures, besides his own, of people of the town named, to a petition for a "prohibitory liquor law," and lodged it in the council. The petition was presented by Mr. Bradford on the 6th of February, and was referred to the judiciary committee. On the 9th of February Mr. Rogers of that committee made the following unique report:

"Your committee, to whom was referred the petition of H. P. Downs and eighty others, praying for a prohibitory law against traffic in intoxicating drinks, and against licensing dram shops and other drinking houses, report:

"That in their opinion, where the people are prepared and public sentiment sufficiently in favor of a prohibitory law to fully sustain and enforce it, such a law would be productive of the best results to the community.

"That in the opinion of this committee, the traffic in intoxicating drinks is a crime, and they would be unwilling to legalize this crime by the solemn sanction of a law granting license for its commission. They are unwilling to elevate to respectability by legal sanction any trade or traffic that tends to demoralize the community, retard the progress of education, impoverish the people, and impose on the sober and industrious part of the community, without their consent, a tax which must necessarily be incurred to take care of paupers and criminals manufactured by the traffic.

"They are unwilling to make a traffic creditable the evil effects of which do not stop by besotting and bankrupting the heads of families, but which cause hunger, shame, distress and poverty to be imposed with tenfold severity upon the innocent wife and children of their families. As much, however, as we may be in favor of a prohibitory law until the community by petition or otherwise may fully manifest their determination to sustain such a law—S. E. Rogers."

The legislator or the politician of today would scarcely be found to advocate the legalizing of a crime. He would call the traffic by a more convenient if not a truer name. It, moreover, excites the special wonder of the Nebraskan of today that prohibition should have been born in Nebraska City, and afterward legitimized by the vote in the legislature of all but one of the members from that place and of all the members from Omaha. The original bill was introduced into the council by Goodwill of Douglas county, and it passed that body with only two members, Mitchell and Nuckolls, voting against it. In the house it passed by a vote of 18 to 2—Hall of Pierce county and Smith of Washington being the opposing members. This law stood until the fifth session in 1858, when it was repealed by the enactment of a license law by a vote of 15 to 6 in the house and 6 to 3 in the council. Men still living, who were familiarly acquainted with the public affairs of the territory at that time, are unable to explain why a law, almost grotesquely out of place on the western frontier, should then have been passed; and so it seems necessary to attribute the adoption of this incongruous measure to the new and ardent prohibition sentiment which was then prevalent in the far eastern states, and whose influence had touched the fancy or emotion of some of the Nebraska immigrants from that section. It hardly need be said that none of these old inhabitants has any recollection of attempted enforcement of the law.

The revenue law required the auditor to distribute the territorial expense authorized to be paid out of the territorial treasury according to the assessment rolls which were to be transmitted to him by the judges of probate of the several counties. This territorial tax was to be paid in specie or territorial warrants. The probate judges levied the county taxes, and the sheriffs were at once assessors and tax collectors in their respective counties. In addition to the ordinary duties of such officers the sheriff also acted as coroner of his county. A register of deeds was provided for, with the ordinary duties of such officers.

The organic act provided that the judicial power should be vested in a supreme court, district courts, probate courts, and justices of the peace. The supreme court consisted of a chief justice and two associate justices, who were to hold a term annually at the seat of government. In accordance with the organic act the legislature divided the territory into three districts, and fixed the times and places for holding the courts therein. A judge of the supreme court presided over each of these district courts. The judges were appointed by the president, and the salary of each, \$2,000 a year, was paid from the federal treasury. The district judges acted in a federal capacity also, having "the same jurisdiction in all cases arising under the constitution and laws of the United States as is vested in the circuit and district courts of the United States." A marshal for the territory was also appointed by the president. He executed the processes of the district courts when exercising their jurisdiction as circuit and district courts of the United States; in addition his duties were the same as those of the district court of the United States for Utah, and he received the same fees as that officer and an annual salary of \$200. Each of the courts appointed its own clerk, who was paid by fees.

TO BE CONTINUED.

Mars.

"It has been said," writes Waldemar Kaempfert in his article, "What We Know About Mars," in McClure's "that when our Earth has so far wasted away that its inhabitants will depend for their water supply upon the melting ice and snow of the Arctic and Antarctic oceans, a gigantic effort will be made to devise some means of conducting the polar spring and summer floods to the parched equatorial and temperate zones. To Mars the unlocking of polar seas is of as much moment as the annual inundation of Egypt by the Nile. Assuming that Mars is inhabited by beings as intelligent as ourselves, it is reasonable to infer that they would dig huge trenches to guide the freshets of the poles to those regions where water is most sadly needed. If we would find signs of Martian intelligence, we must accordingly look for trenches and sluices. In the hands of Schiaparelli, Lowell, Pickering, and a few others, the telescope has revealed to us long, dark stripes which Schiaparelli called canals, and the discovery of which may well be numbered among the most noteworthy astronomical achievements of modern times. They are in truth the life lines of the planet. Their existence was doubted for years because no astronomer, with the exception of Schiaparelli, who saw them first, had been able to catch even a glimpse of them. Long after, a few painstaking observers at last succeeded in discerning them (for they appear only in flashes, as it were, by reason of the currents of our atmosphere), their reality was doubted. Some of the very men who had seen them refused to believe their own eyes, arguing that the stripes were merely optical illusions induced by eyestrain. Two years ago, Mr. Lampland, of Professor Lowell's staff, performed the very remarkable feat of photographing them, thereby forever disposing of the assumption of their illusory character."

The City Versus 'the Country.

The injurious effect of city life consists not merely in over crowding or the increased development of infectious diseases but especially in the outrageous and abominable overworking of the laboring classes. Overwork and underfeeding have been recognized for half a century as the chief causes of the large death rate of the laboring classes as compared with the well-to-do. Even with all the improvements that have been effected in the condition of the laboring classes, the last United States census (1900) still shows the highest death rate among them of any "earning" class—20.2 per thousand. Farmers came next with 17.6, as compared with mercantile and trading classes at 15.1 per thousand and clerical and official at 13.5. Thus laborers have a death-rate sixty-six per cent higher than that of business men, and farmers forty-five per cent higher. Overwork and overcrowding are alike responsible for the frightful tribute paid by these same classes to the Great White Plague. The improvement that occurs in most of our hospitals in patients of the laboring classes, who are not suffering from some injury or acute disease, simply from being put at rest in a well-ventilated room and given a moderate amount of nourishing food, is really astonishing. It is an open secret that in most of the chronic diseases brought to our hospitals in the large cities, it makes little or no difference what medicine is given during the first week or ten days the patient will improve on any medicine or on none at all.—Woods Hutchinson, M. D., in Harper's.

He Coached Kipling.

Rudyard Kipling spent a winter in Washington some years ago. One day he was found peering around in the corridors of the state, war and navy building.

"What is it, Mr. Kipling?" a man who knew him, asked.

"I want to find the person here who knows the most about steam engineering."

They referred him to Chief Engineer Melville, the great steam expert.

"What is it?" asked Melville after Kipling had been introduced.

"I want to find the man who knows most about steam engineering."

"Jim Perry's your man," said Melville, and he gave Kipling a card to Perry. Kipling went down to see Perry, talked with him for half a day, and then wrote his story, "Between the Devil and the Deep Sea."—Saturday Evening Post.



Gown of Veiling.

The illustration shows a street frock of dark blue veiling, trimmed with bias folds of satin-finish taffeta of the same shade. The skirt had a plaited panel in the middle of the front and back, the fullness at the sides being laid in small gathers. A group of tucks finished the bottom. The corsage was trimmed with shaped bands of the silk, a piece of embroidered veiling connecting the rounded ends of two of these straps in the middle of the front. Narrow dark blue velvet ribbon also runs in vertical lines between some of the straps in the front and back. The yoke was a chantly lace, the undersleeves being of net, shirred to bands of lace matching the yoke.

Hunting the Florida Sea-Cow.

One morning just after we had started on our daily cruise, a series of swirls in the water near us, the language of which was then unfamiliar, seemed to tell of a frightened crocodile and that the hunt was on. We followed the zigzagging trail of muddy water as fast as we could scull and pole, getting occasional glimpses of a fleeing something, until the full view of it under the bow of the skiff gave me the chance I was seeking. As the harpoon struck a broad back, which was not that of a crocodile, the creature rose above the surface, and a big beaverlike tail deluged me with half a barrel of water as it struck and nearly swamped the skiff, and told me that I had at last found the manatee which I had vainly hunted during many years. For hours we chased the creature, keeping a light strain on the harpoon line, frightening him as he came up to breathe, until, exhausted, he rose more and more frequently, and I made a score of unsuccessful casts of a lasso at the specimen of the wild cattle of the sea. Finally the manatee came to the surface to breathe so near the skiff that I put my left arm around his neck as far as it would go and tried to slip the noose over his head with my right. The sudden lifting of his head threw me upon his back, while a twist of his big tail sent me sprawling. We were swamped four times while working the manatee into shallow water, where we got overboard, fastened a line around him and soon had him under control, although when the captain got astride of the creature he promptly made a back somersault. Docile as our captive had become, he was yet eleven feet long, of massive proportions, and a weight which was difficult to handle. We tore the seats out of the skiff, sank it, and succeeded in getting the creature over it. Then, having baited out the water we paddled the overloaded craft out in the bay when a cataclysm left us swimming side by side, while a submerged skiff was being towed Gulfward by a rejoicing manatee. We soon recaptured and persuaded him into shallow water, where I herded him while the captain went to the big boat for an anchor and cable, with which we made our captive fast, giving him two hundred feet of rope in an excellent sea-cow pasture.—A. W. Dimock, in Harper's.

The kaiser seldom appears now without the Red Eagle and the Hohenzollern house order, and in addition an Austrian, an Italian and a Russian decoration. Although he is the possessor of four British orders he seldom "sports" them except when in the presence of English royalties or when on a visit to England.

About half of a popular man's time is devoted to funerals.