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## Admission of Nebraska into the Union

Charles Gere

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## ADMISSION OF NEBRASKA INTO THE UNION.

ADDRESS OF HON. CHARLES H. GERE,

*January, 1880.*

To discuss the events of 1866 and 1867 at this time has seemed to me presumptuous. Barely a dozen years have elapsed since Nebraska turned the sharp corner from territorial dependency to state sovereignty, and, as in all sharp historical turns, there was a blaze of excitement, a bitter political contest, accompanied by more than the usual amount of bumptiousness and belligerency, of heart-burnings and jealousy, over which fourteen years may have deposited a thin layer of forgetfulness, through which a foolhardy explorer might break, to the discomfiture of himself and the revival of volcanic memories. But, pressed by your esteemed President for a paper upon the admission of Nebraska to the Union, and unable, from present experience and observation, to go back farther than that period, I have consented to take up this subject, and trust that I may handle it with sufficient discretion to obtain your pardon for the presumption in choosing a topic so nearly connected with the stage and actors of to-day. In 1860 the Nebraska legislature submitted to the people a proposition for holding a convention to adopt a constitution and knock at the doors of congress for admission to the Union. But the movement was premature. The people were too poor, the country was not being rapidly settled and improved, and the taxes were high enough without taking upon the handful of settlers then scattered up and down the Missouri valley the responsibility and expense of statehood, and the proposition for a convention was defeated.

In 1864 congress passed an act to enable the people of Nebraska to form a constitution and state government, and for the admission of such state into the Union on an equal footing with the original states, in which the usual amount of lands were set apart for school purposes, embracing the sixteenth and thirty-sixth sections of each township; also, twenty sections to be appropriated for each of the public buildings for legislative and judicial purposes, fifty sections for the erection of a penitentiary, seventy-two sections for the erection of a state university, twelve salt springs, with six sections to each, adjoining them or contiguous, as may be, "for the use of the state," and five per

centum of the proceeds of all sales of lands within the boundaries of the territory previous to its admission as a state, for a common school fund. By other acts, 90,000 acres of land were granted to the state upon admission, for the endowment of an agricultural college, and 500,000 acres for internal improvements. No action was taken under this act until the meeting of the legislature of 1865 and 1866. During its session, a committee was appointed to draft a constitution for submission to the people. The committee drew up the document. The legislature, by resolution, approved it, and passed an act calling an election to be held on the twenty-first day of June, at which election not only should the question of rejection or adoption of the instrument be voted upon, but candidates for the executive, judicial, and legislative offices authorized by the instrument, should be elected.

The question of adopting the constitution was immediately made a political one. The reasons for its resolving itself into a political issue were sufficiently obvious. Under the administration of President Johnson, a considerable change was likely to be made in the boundary lines between the two great parties. The republican party was more or less divided, and the democrats were affiliating with the Johnson or liberal wing. The president was exercising the power of patronage for the success of the coalition, and the liveliest hope pervaded the ranks of the democracy and the Johnson republicans that another election or two would put congress and the government in their hands. Hence the republicans in Nebraska were exceedingly anxious to forestall such a change and assist in holding the national legislature for that party by the immediate admission of Nebraska, in which they seemed to have a good working majority, and sending two senators and one congressman of their faith to re-enforce the party in the national councils. With equal foresight, the democratic leaders saw that it was against their interests to permit this to be done; that by delaying the matter until their expected accession of strength would give them control of the nation, and eventually of Nebraska—where the majority against them was comparatively small—they would assist their friends in Washington, and at the same time keep the coveted senatorship for themselves, to take possession of as soon as they acquired the expected predominance at the polls. For this reason, the canvass became exceedingly lively, and was, in fact, the most thorough and bitterly contested of any that had thus far occurred. Each party, of course,

nominated a full state and legislative ticket. The republican orators labored for the adoption of the constitution, and the democratic stumpers worked as hard to defeat that instrument as they did to secure votes for their own candidates for governor, or judge, or member of the legislature. But, as is not seldom the case in these disputes of statesmen, the real motives of the patriots on each side were not publicly proclaimed, and the debates were ingeniously engineered so as to make it appear that purely economic and financial principles were at stake. The republicans drew rose-colored pictures of the future of the embryo state. They dotted the lone prairies of the Platte, the Salt, the Blue, the Republican, the Elkhorn, the Loup, and the Niobrara valleys with cities and towns, and drew a complex web of railroad lines on the school-house maps, and said: "All these shall we have in the next ten or fifteen years, and a population of hundreds of thousands, if we show to the people of the East and Europe our capacity of self-government, and secure the privilege of chartering and encouraging railroads." They pointed to the Rocky mountains and said: "Here is the great mining region—at our back door is a great market that we need railroads to Colorado, to New Mexico, to Montana, and Idaho to develop, and when these are built we can sell a great portion of our surplus corn, wheat, pork, and beef, at a price that will rival the markets of Illinois and Ohio." They pointed to Galveston and said: "There, only 700 miles from our border, is a seaport, and if we attain our sovereignty we shall have a line to the Gulf of Mexico, and need no longer ship our grain to Europe, to Chicago, and New York at rates of transportation that eat up all the profit." Some of the most fervent of these orators—among whom was, notably, a comparatively new man in politics, though an old settler, David Butler, of Pawnee, the republican candidate for governor—were so carried away with these prophetic views of the future that they would cut the prairies in every direction with their paper railroads, and in their highest flights of oratory predicted a line to every county seat on the map.

The democratic orators shook their heads and threw cold water upon these ardent prophecies. They took the chalk and figured upon the blackboard the enormous cost of railroad building, and called upon the honest farmers and mechanics to pause before they cast a ballot that would impose upon the new and sparsely settled community a

horde of office-holders, with unlimited power to vote taxes upon the people for their own aggrandizement. The republicans pointed to the low salaries fixed by the proposed constitution for executive and judicial officers, and the limitations by which the legislative power to bleed the people were hedged and confined. The democrats contended that these were delusions and traps, that the irresistible inclinations of the radicals for the loaves and fishes of office, and their well-known ability as public plunderers, would make these constitutional limitations mere ropes of sand, and figured up the expenses of a state till they amounted to sums far above those set by the republicans as the utmost limit of expenditure.

The event has shown that both sides had really a strong case. Even the sanguine soul of that red-hot optimist, Butler, fell short in its conception of the immense strides of the first decade of Nebraska's statehood in the building of railroads, the development of the wealth and resources of the country, and the influx of immigration ; and the sarcastic tongue of the eloquent pessimist, J. Sterling Morton, his opponent in the race for the gubernatorial chair, failed to state quite high enough the figures of the annual appropriations of the state legislature for the carrying on of the machinery of the new commonwealth. Because neither of the contestants dreamed of the mighty impulse of humanity that was about to beat across the western banks of the Missouri, the one could not mark high enough the future tide of wealth and improvements, and the other failed to estimate the necessities of large expenditures of money to meet the rapid growth and development of Nebraska.

It was a stoutly fought campaign and an exceedingly close election. The majority for the adoption of the constitution was barely two hundred, and Butler was elected governor by a vote of 4,093 to 3,948 for Morton. So close was the election that the majority of Judge Crouse, one of the republican candidates for the supreme court, was only six, while William A. Little, one of the democratic candidates for chief justice, was elected.

But the battle at the polls was merely a preliminary skirmish. The advocates of state had captured the outworks, but the citadel was yet to be stormed. The republicans had secured a majority of certificates of membership in each house, but there was a large number of contested seats. Cass county had given a large majority against the

constitution, and, though the republican candidates for the senate and house from that county were declared elected, a bitter contest for their seats was opened up by their opponents, and it was considered doubtful if some republican delegates, if an issue was made squarely for or against an application to congress for admission, would not vote with the acknowledged sentiment of a majority of their constituents, against statehood.

In consequence of this critical condition of affairs, when the legislature met at Omaha in the old capitol, on the fourth day of July, 1866, excitement was exceedingly high. The party leaders were marshaled on both sides in full array, much bad blood was manifested, and it was even predicted that the session might be enlivened, after the old style, by a row, in which physical force should be more potent than oratory for the settlement of disputed points of parliamentary practice.

The scenes and incidents of that session of the first state legislature of Nebraska were impressed upon the mind and memory of at least one of the participants in its councils with a boldness of light and shade, and a vigor of coloring, that no subsequent political contests have ever erased or caused to fade. In and around it was all the energy of a young commonwealth that had just begun to feel the emotions of early manhood. There was an intensity of life, an exaggeration of earnestness, an impatience of the ordinary obstacles in parliamentary progress, that betokened the profuse vitality of Nebraska politics. The democrats had a phalanx of experienced leaders in each house, and the lobby was most ably commanded by men accustomed to rule, and conversant with all the ins and outs of parliamentary maneuvering. In the house were Robertson, of Sarpy, and Joe Paddock, of Douglas, as good a pair to draw to in a parliamentary game of poker as could be found, perhaps, in a dozen states. Able, vigilant, patient, and shrewd, they made their points with promptness, and were never caught tripping by their plucky but less experienced opponents on the floor. Otoe county contributed two veteran stalwarts—Col. Tuxbury and Capt. Anderson—who had grown gray in the service, and were staunch and true representatives of old-fashioned democracy, while the younger and more supple "Jim" Thorn made a good skirmisher around the legal rallying points in the battle, and contributed no little to the liveliness of the occasion. The somewhat sparsely settled district composed of Platte, Merrick,

Hall, and Buffalo counties, sent up that solid gentleman and conscientious, honest democrat, James E. Boyd, now one of the leading business men of the state, who made few speeches but was always in the fight. The republicans were mostly young men, though Speaker Pollock, of Nemaha, and Maxwell and Chapin, of Cass, had seen service, and were duly armed and equipped for parliamentary business. Pollock, in personal appearance and natural temperament answering well the description of Martin I. Townsend, of New York—thrown off in the heat of debate by a southern member, perhaps Ben Hill—"a snow-capped volcano"; Maxwell, slow but sure, already developing the bud of dignity that should blossom into the future Chief Justice; and Chapin, wary, watchful, and conversant with the field tactics of legislative debate. There were Hathaway, of Cass, Fairbrother, of Nemaha, Blakely, of Gage, Hoile, of Richardson, and Arnold, of Platte—young in years, and beginners in political life, but firm in the confidence that they were competent to see the thing through and hold the fort for republicanism and reconstruction. The recentness of the close of the civil war was attested by the presence of Col. Tom Majors, of Nemaha—hardly out of his teens, just from the front, with his regimentals on, awaiting his final discharge from the volunteer service—as temporary clerk. In the senate, the whole-souled and courteous Frank Welch, our late lamented congressman, presided, and on the floor the republicans marshaled Cadman, the wily veteran of Lancaster, whose mysterious whisper has long been a familiar sound to thousands of Nebraska ears; Hanna, of Cass, the solid merchant and banker, who was the unhappiest fish out of water in a political gathering that it has been the lot of any of us to encounter; Williams, of Platte, plethoric and short-winded, and carrying upon his shoulders, unaided, the political fortunes of the ponderous Judge Kellogg, and thus counting him in as a candidate for the United States senate; while the rising generation of politicians was represented by Stewart, of Pawnee, Porter, of Dixon, Rich, of Nemaha, and Tisdale, of Richardson.

The democrats were led by Megeath, of Douglas, able, experienced, and of indomitable will; Calhoun, of Otoe, a sound lawyer, an accomplished gentleman, and most radical of democrats of the modern school. Leach, of Dodge, Wilber, of Douglas, and Stevenson, of Otoe, completed the list.

The third house, however, as is usual in a political emergency

involving the election of United States senator, was the largest and most important body. The long-headed and cautious Dundy was the acknowledged tactician of the republican phalanx, while the prolific brain and heavy executive hand of Butler was everywhere efficiently employed. General Thayer, the embodiment of Nebraska's military glory; Governor Saunders, the favorite of the solid men of Omaha, conservative and peace compelling; Irish, of Otoe, rotund and plausible, with each joint in his corporeal, moral, and mental system lubricated to run like a noiseless machine; Paddock, the secretary and ex-acting governor, jolly, hospitable, and popular with the boys; E. B. Taylor, of the Indian office, shrewd and fertile of expedients; Marquett, of Cass, earnest, far-seeing, and confidence-inspiring; John I. Redick, of Omaha, the irrepressible commander of the Freedmen's Bureau, who kept his eye on Judge Kellogg; Tipton, the chaplain of the old Nebraska First, who had concluded to betake himself to his old love and abandon the pulpit for a seat in the senate; Furnas, the future agricultural magnate, and second in the gubernatorial succession; Kennard, the secretary, whose voice had not yet resounded for railroad bonds and a new capitol; and a host of others of lesser note, backed the republican boys in the legislature.

Leading the democrats was J. Sterling Morton, most congenial of companions and bitterest of foes; Dr. Miller, a veteran of scarcely less political experience, whose caustic pen was always ready for a bout with the rascally radicals; Poppleton, the ramrod of the legal profession, who didn't like politics, but whose patriotism compelled him to take a hand against the usurpers; Woolworth, the suave "chancellor," renowned in equity, his steel always sheathed in velvet, and whose familiars called him "Jim" only behind his back; Hanscomb, of fiery soul and corrugated tongue, who had been accustomed to adjourn legislatures by processes more noted for their promptness than their resemblance to parliamentary precedents; Dr. Graff and the Patricks, who made it a first duty to be in good odor with the statesmen of both sides; with a following of the square-toed and copper-clad of Douglas and adjoining counties, that made them formidable as well in numbers as in political strategy.

In law, possession is nine points; in a legislature, experience has never yet demonstrated that there are any other points, and the contested seats were a foregone conclusion when it was ocularly demonstrated that the



Republicans had the organization in both houses and could not keep it without counting in the Cass delegation, Rock Bluffs or no Rock Bluffs to the contrary notwithstanding. But the democrats had an arrow in their quiver that seemed likely to do fatal execution. It was an adjournment *sine die* immediately upon the organization of the legislature, which would leave the new state suspended between the heavens and the earth, like Mahomet's coffin, and overthrow the labor of months in the time it should take to call the roll of the two houses. The Cass county delegation was believed to be ready to unite with them in this expedient, and that would give them one majority in the senate and two in the house. The Cass county delegates had a secret meeting late at night on the evening of the 5th, the organization of the two houses having been completed, and, it was understood, agreed to be bound by a vote thus taken, which resulted in the adoption of a motion to adjourn *sine die*.

In the senate the next morning, a motion was made immediately after roll-call that the senate do adjourn *sine die*, and it was carried by a majority of one. The news spread like wildfire, and in the midst of the reading of the journal in the house, Paddock arose, and, amid much turmoil, moved to dispense with its further reading. This was declared out of order by the speaker, and the journal was finished. Mr. Paddock immediately moved that the house do now adjourn *sine die*, and declared that no further business could be done in any event, since the senate had formally ended its existence. The speaker properly ruled the motion out of order, because an adjournment *sine die*, according to legislative law, could only be had by a joint resolution. His decision was immediately appealed from, and was reversed by a vote of twenty-one to fifteen. The motion was then put, and in the midst of the most intense excitement and activity of party leaders running to and fro, the ayes and nays were slowly called. The votes, when the list had been completed, were nineteen for adjournment to eighteen against. The speaker took the tally of the clerk and paused, as if to collect his thoughts. Maxwell, of the Cass delegation, who was not in sympathy with the adjournment, had voted "no." The speaker paused just long enough for Hathaway, of the same delegation, whose sympathies were in the same direction, to conclude that, as the delegation was not a unit, as he had supposed, he would vote to suit himself, and he changed his aye to no. The vote was announced, and the anti-state arrow missed the bull's-eye by a hair's breadth.

As soon as this break in the programme was made, the senators opposed to adjournment collected again in the hall, and, on motion of Cadman, took a recess till three o'clock P.M. At that hour a quorum presented itself, and quietly and unostentatiously proceeded to business as if nothing had happened, and the secretary as unobtrusively scored out with his ready pen all record of the matutinal hari-kari.

The next day Governor Butler read his message to the joint convention, and the machinery of the *quasi* state was fairly under motion. In accordance with the maxim, probably, "Old heads for council, young men for war," the most youthful member in each house had been made chairman of their republican committees on privileges and elections. They were both from Pawnee county, the center of Doctor Miller's once famous "hell-scorched district"—Stewart in the senate, and the writer of these memoirs in the house. For the next three or four days, these unfortunate youths were the storm centers of the virgin commonwealth. Their reports on the contested seats were ingenious, if not ingenuous, and were adopted under the spur of the previous question. All the republicans held their seats. In the meantime, the senatorial candidates had been waging their individual warfare, and there were more of them ostensibly in the field than have been since noticed on a similar occasion. The military won the fight, Maj. Gen. Thayer and Chaplain Tipton, who both won their spurs in the First Nebraska, came out ahead, and the records of the joint convention that cast the ballot show that Tipton was elected "the senator from the South Platte," and Thayer "the senator from the North Platte,"—a proceeding somewhat extraordinary, the state of Nebraska being nominally nowhere in the bond.

The seat of war was now transferred to Washington. Senators Thayer and Tipton, armed with proper credentials, as the representatives of the state organization, departed for the capital, and Hon. T. M. Marquett, who had been elected by the people as their first congressman, knocked at the door of the house. On the 18th of July, one week after the adjournment of the legislature, on the eve of the close of the long session, a bill was passed admitting Nebraska to the Union. President Johnson put it in his pocket, and congress adjourned, leaving the embryo state out in the cold. Upon the re-assembling of congress in December, our representatives were on hand pressing their claims and urging the national legislature to perform

its part of the implied contract in the enabling act of 1864. But the republicans had, in the progress of their political struggles, re-assured themselves of their solidity with the people, and were no longer anxious for accessions to their strength on the floor of the senate. There was also a growth of the stalwart feeling in favor of a franchise unlimited by a color line. The fifteenth amendment had not yet been proposed to the federal constitution, but strong efforts were being made to accomplish its object through the action of the states in severalty. The conservative gentlemen who had framed the constitution of Nebraska, had inserted the word "white." This the republican congress now objected to. The representatives of the old states were now more solicitous of preserving their sectional and individual weight in congress against the swift encroachments of the growing Northwest than in reaching out after party accessions. It was exceedingly plain that no majority less than two-thirds in each house would avail, as the president was bitterly hostile to the proposition. A bill was introduced in the senate, however, and passed that body, admitting the state in accordance with the provisions of the act of 1864, upon the following conditions :

SECTION 3. *And be it further enacted,* That this act shall not take effect except under the fundamental conditions; that within the state of Nebraska there shall be no denial of the elective franchise, or of any other right to any other person, by reason of race or color, excepting Indians not taxed, and upon the further fundamental condition, that the legislature of said state, by a solemn public act, shall declare the assent of said state to these fundamental conditions, and shall transmit to the president of the United States an authentic copy of said act, upon receipt whereof the president, by proclamation, shall forthwith announce the fact, whereupon said fundamental conditions shall be held as part of the organic law of the state, and thereupon and without any further proceeding on the part of congress, the admission of said state into the Union shall be considered as complete.

In the house for a time the fate of the bill seemed uncertain. Mr. Marquett enlisted the assistance of his old law instructor, Shellabarger, of Ohio, one of the most prominent gentlemen and eloquent speakers on the floor of the representative chamber, and he took the lead in championing the bill, and made a speech in its favor of great force and brilliancy, which was probably decisive. The bill passed the house on February 8, 1867, was vetoed by the president next day, and immediately passed over his head by the constitutional majority in both houses.

A new state legislature had been chosen by the people of the territory at the territorial election in October previous, consisting for the most part of the same gentlemen elected to the territorial council and house. On the 14th of February, Gov. Saunders issued his proclamation calling the members of the legislature to meet at the capital on the 20th inst., to take action upon the conditions proposed by congress. The legislature assembled and passed the bill accepting the fundamental conditions on February 21. In the senate, those voting in favor of the bill were Jesse T. Davis, of Washington; James E. Doom, of Cass; Isaac S. Hascall, of Douglas; Thomas J. Majors, of Nemaha; R. B. Presson, of Johnson, and E. H. Rogers, of Dodge. The "noes" were responded by F. K. Freeman, of Kearney; Mills S. Reeves and W. W. Wardell, of Otoe. Here we must pause to notice another escape of the ship of "state" from wreck, not only in sight of port, but just as she was about to cast off her line at the landing. Through the absence of a senator, detained by sickness, the republicans had but six senators, and seven was the constitutional majority. In this crisis they received an accession in the person of Hascall, of Douglas, a long-time democrat, who abandoned his fellows at the critical period. Among the pilgrims who used to go to Washington during the terms of our first senators, and claim some reward for having "saved the state," Mr. Hascall never appeared, to the knowledge of the writer, but if anybody was legally entitled to salvage, he, as being the last rescuer of the vessel and imperiled cargo, had a first mortgage on the proceeds. The air was blue with democratic expletives at the time, but if the genius of that venerable organization haunted the chamber of the offender at the solemn midnight hour, and, fixing him with his glittering eye, said, like Othello to Cassio, "No more be officer of mine," ten to one the tough and wiry Isaac hung out no signal of distress, and the ghost retired abashed.

The bill passed the house by the votes of J. R. Butler, of Pawnee; E. L. Clark, of Seward; D. Cole, W. T. Chapin, and Isaac Wiles of Cass; T. J. Collins and J. T. Hoile, of Richardson; George Crowe, C. J. Haywood, and Louis Walldter, of Nemaha; E. H. Hardenburgh, of Lancaster; J. E. Kelly, of Platte; J. T. Griffin, George W. Frost, and Dan. Parmalee, of Douglas; Austin Rockwell, of Burt; D. Slader and J. A. Unthank, of Washington. The noes were George N. Crawford and A. W. Trumble, of Sarpy; Martin

Dunham, of Douglas ; J. G. Graves, A. F. Harvey, and D. P. Rolfe, of Otoe. A few moments later, Secretary of State T. P. Kennard appeared upon the floor of the senate and informed that body that His Excellency Gov. Butler had signed the bill, and the legislature met in joint convention to confer with the governor as to the topics for legislation that should be mentioned in his call for an extra session, after which it adjourned *sine die* on the second day of its existence.

On the 1st of March, the president issued his proclamation announcing the admission of Nebraska into the Union, and on the 2d inst. Hon. T. M. Marquett presented his credentials in the house of representatives and consummated the bond. Mr. Marquett's promptness was not imitated by the two senators. The thirty-eighth congress was about to expire two days later, and by waiting that length of time, the commencement of their terms of office would be dated a couple of years later, it being the custom to fix the 4th of March, upon which congress commenced its official life, as the initial point of senatorial terms. By waiting two days, our first congressman's actual term of service would have been multiplied by 365, but he said he was tired of Washington, and as John Taffe had been elected his successor, though at a time unauthorized by the enabling act, he preferred to cast his lot with the expiring congress and return to private life. He sat two days and nights, cast the decisive vote against the appropriation of \$50,000 to fix up the White House according to the taste of the president, recorded his "aye" on the famous reconstruction act, and was honorably mustered out of service.

On the 4th of April, Gov. Butler issued his call for an extra session, and on the 18th of May the legislators came together and set in motion the machinery of the state.