



The Territories: Seedbeds of Democracy

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Article Summary: American democracy has derived its strength from the fact that in the territorial era citizens needed to practice over and over again the art of creating their own government. The new atomic age calls for maintenance and adaptive ingenuity as we refit our governmental structure to new realities.

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THE TERRITORIES: SEEDBEDS OF DEMOCRACY

BY ROY F. NICHOLS

THE organization of the territories of Nebraska and Kansas a century ago was one of the most significant developments in the evolution of American democratic behavior. The device of creating and operating frontier communities or "territories" as a preparatory step toward their later admission as states has been one of the most inspired inventions of the American political genius. It has been one of the important instruments which have maintained our sense of liberty and capacity for self-government in the midst of the nation's spectacular expansion in wealth and power.

The territorial process has done much to make the American democracy a unique form of social control, a system different from any other type of self-government. For no other has to any like degree been conditioned from the beginning by such a quality of frequent self-renewal which the territorial process represents. Since the sixteenth century, there has been a constant creation of new self-governing units within the present bounds of the United States which in one way or another have ultimately been integrated into the federal union. This has meant that a series of experimental opportunities has been available and that established political combinations in the federal system

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have had to adjust periodically to the introduction of new units. This process of constant experiment, adjustment, and rearrangement within the framework of democratic procedure has meant that there has been a recurring opportunity for freshening and renewal which has done much to keep the republic flexible and vital.

Unfortunately, historians have been too little concerned with the study and analysis of the territorial process, and this time of anniversary should be used as a reminder of their neglect. American democracy had its origin and most of its development in colonies, territories, and states. Twenty-nine of the forty-eight states were at one time territories, and these segments of the great democracy were formed in that pattern. The federal government has, in reality, contributed little to the development of democratic behavior patterns. These have been drawn in the scattered communities, not in Washington.

If the vital story of the evolution of our knack for self-government is to be really known and understood, much more work must be done in the field of territorial history and in the political history of the states as well. The strength of democracy comes from these sources, and we must know them. State historical societies do well to publish journals, maintain museums, mark sites, and hold meetings, but it is particularly important that they develop plans for writing adequate history, by supporting research, and by having on their staffs those whose main concern is research and writing. It is more and more apparent that adequate history must be planned for; it cannot safely be left to chance.

The process by which Nebraska and Kansas were established was one which had been literally centuries in developing. It may be said to have begun in 1584 when Sir Walter Raleigh was granted a charter empowering him to go to America and create there a self-governing, English municipal corporation. This corporation did not succeed, but others were more successful, and eventually thirteen colonies were spread out along the Atlantic seaboard.

The possibility of new communities sponsored by older ones in the more distant lands beyond the seaboard began to

motivate the colonists in the very early years. A Massachusetts group went over into the Connecticut Valley as early as 1636. A hundred years later Virginia organized a county beyond the mountains, and some of her citizens established a development company to operate in the Ohio country. By 1754, the vast expanse of land beyond the mountains had become so attractive that imperial enterprise faced the problem of creating new communities which were to be related to the old. An intercolonial conference was authorized by the British government to be held at Albany to consider arrangements with the Indians which would permit peaceable expansion. The plan which they drafted contained the first proposed mechanism for organizing new self-governing units to be fitted into the colonial imperial federation which the conferees envisaged.

The Revolution spurred on interest. Its military strategy secured the region beyond the mountains. More land companies were formed to develop the newly-won ranges, and at the conclusion of the war, veterans saw in the vast expanse possible compensation for the danger, hardship, and loss of fortune which they had experienced in their patriotic effort.

This growing pressure of land speculators and settlers plus the desire of the poverty-stricken Congress to raise revenue called forth a plan which in many ways was of equal importance with the Constitution, likewise in the process of creation. The drafting of this plan involved a momentous decision, a decision which had it been otherwise, might have severely limited the democratic potential of the new republic.

This decision was to establish a continuing process of organizing, not colonies to be ruled by the newly constituted federation of thirteen states, but communities which would create self-government and eventually enter the Union as states on an equality with the original units. This procedure meant that there would be a constant reviewing of the process of making self-governing communities and a frequently recurring admission of new units which must readjust the combinations operating the existing system.

This territorial process was based on two ordinances

of the Congress of the Confederation, the Land Ordinance of 1785 and the Northwest Ordinance of 1787. The first provided for a gigantic rectangular survey of all land north of the Ohio and west of Pennsylvania and prescribed that this vast territory be sold off in sections, one mile square regardless of terrain or location. The second ordinance directed that this area should be organized eventually in as many as five states, but in the meantime as territories. The original plan of Jefferson drafted in 1784 would have allowed the settlers to begin governing themselves immediately, but the real estate and veterans organizations that finally secured the legislation of 1787 were more interested in the security of land titles and the laws necessary to insure them. Provision was therefore made that the first governors, secretaries, and judges be appointed by Congress and given authority to make the laws and execute them until at least five thousand people had settled under their jurisdiction. Thereafter, the inhabitants would have legislatures of their own choice. It was under this general plan projected across the Mississippi into the Louisiana Purchase by the legislation of 1803-1804 that Kansas and Nebraska were eventually to be organized and settled. The general procedure became standard after 1836, and as far as basic policy went, the act of 1854 made no deviation from accepted practice.

Theoretically, under the law of 1787, the governor, secretary, and judges, appointed from Washington were to administer and interpret the law and, in the initial stages, to make it. The laws made by these officials or by the territorial legislatures were to be subject to the approval of Congress. In other words, the final power was in Washington through appointment and approval. The territorial governor was subject to instruction by the Federal Executive, and Congressional appropriations cared for a considerable portion of the expenses of the communities. Also, the theory was that settlement and land acquisition depended upon the surveys of the Federal Land Office and the negotiations of the Federal Indian Office.

As is so often the case, however, there developed a variance between statute law and actuality. Quite a differ-

ent situation evolved in the territories than that contemplated by the federal authorities. The territories were situated on the rim of organized settlement, far distant from the Capitol, in a day when slow communication made distances even greater. Then, within the several territories the spaces were frequently vast, the population sparse and heterogeneous, the settlements small and isolated. So often territorial officials found themselves lost and isolated in some log capital village with little means of communication with the far-flung, scattered population they were presumed to govern or with the home government from whom they were to receive orders and to whom they were to report.

The population whom they were to govern was of a specialized type. These distant marches attracted the adventurous, the individualistic, the ambitious, the visionary, the restless, often the ne'er-do-well and the unfit. All saw great opportunity in a new start in a new land. Not infrequently this combination of qualities brought into play an unscrupulous disregard for law and order and seemed to encourage violence and to stimulate erratic behavior.

The stakes were frequently high. There was good land in abundance often mixed in with less desirable tracts. The requirement that holdings must be acquired in squares regardless of contours and physiographic conditions meant that the best acres must be sought early. But frequently those who prospected could not immediately occupy or register their claims in some land office. So there was a premium placed upon claim jumping which caused many a battle.

The opening of each territory and its lesser units likewise meant that there were valuable franchises, charters, and licenses at the disposal of the early lawmakers, and those who controlled the first councils and legislatures were in a position to apportion valuable favors. These favors were often worth a struggle and various forms of sharp practice. The unscrupulous and demanding could and did use methods of persuasion which might be demoralizing.

Another striking element in the territorial situation was the fact that each was a potential state which eventually would have not only state officers but Senators and Repre-

sentatives in Congress and delegates in national nominating conventions. If the politically ambitious could establish leadership in these distant enclaves they would secure constituencies which would give them power in national councils. Many politically ambitious, therefore, sought preference by getting in on the ground floor, so to speak. This was complicated by the fact that many second-raters who had failed in other communities came out, desperate and even more determined not to fail again.

All these characteristics could produce situations in which there was super-pressure on the part of many, determined to improve their status by assuming roles of importance in the new community. A great force of impotency was thereby created which was difficult to manage and which made it most unlikely that the ordinary rules of political conduct current in the older communities could be enforced.

Therefore, over the years of territorial experience prior to 1854, there had emerged a pattern which was frequently chaotic and from the Washington point of view, almost impossible in terms of federal supervision. Governors were sent out who could exercise no control. Legal processes were established through courts which could not enforce jurisdiction. Juries were difficult to assemble, criminals hard to apprehend and almost impossible to incarcerate. Elections were irregular and returns tampered with. Citizens were frequently too scattered to find fulfilling their civic responsibilities convenient. Under circumstances such as these, settlers on many occasions lived either without government or took the law into their own hands. They formed protective associations to prevent land speculators from defrauding them; they executed summary justice; they protected themselves against Indians. In effect, they organized themselves and made and enforced their own rules.

From the very beginning, the territorial settlers showed adeptness at self-government. As early as 1772, a group of transmontane adventurers thought they were locating under authorization from Virginia. But they found themselves outside of that jurisdiction in a region

over which North Carolina had the most shadowy authority. Nothing daunted, then, they joined together in the Watauga Compact, as had their Mayflower ancestors more than a century and a half before, and gave themselves their own sanction. Here was the germ of Tennessee planted. Likewise in Kentucky and Vermont in that same decade, and on the banks of the Muskingum in 1782 in what was to be Ohio, similar associations of settlers made agreements among themselves to order their own governance.

This tradition of self-government, regardless of statutory authority, was carried on in later years. In the Northwest Territory, the famous Ordinance of 1787 had forbidden slavery, but in some parts of the region slavery was an accepted institution and, regardless of the ordinance, was continued and was only eliminated at length in Illinois in the 1820's by the narrow margin of a few votes. Likewise in the trans-Mississippi domain, the act which gave the first political framework to the great region from which Kansas and Nebraska were to be carved, proved utterly inadequate. This Act of 1804 attached all the region north of the present state of Louisiana to the territory of Indiana and placed the authority in the hands of a governor in far-off Vincennes. Such an impossible situation the residents of St. Louis and the surrounding parishes met by public meetings, resolutions, delegations to Washington, and a calm continuance in their own ways until Congress supplied a more adequate statute. In 1848-1850, when the California cession was secured, and people poured into that Golconda, lured by the glitter of gold, self-governing activities were soon prominent, ranging all the way from miners' courts to a constitutional convention and the organization of a full-fledged state government within a year and a half.

The territorial experience prior to 1854 demonstrated the fact that it was not the national statutes, nor the Washington-instructed officials who had been the guides of territorial development, so much as a natural principle of self-government which was given belated recognition by Cass, Dickinson, Douglas, and the others who in the decade after the Mexican War began to talk of Popular and Squatter Sovereignty.

When the question of the organization of Nebraska and Kansas began to be debated, there was a series of new conditions developing which impressed upon the legislators a keener sense of the realities of the situation. The United States had now reached the Pacific. The Nebraska area instead of being a dead end on the frontier was in the midst of a great potential center of development. It was also on the most likely route for a transcontinental line of communication. It was on the California road.

This situation complicated immensely the territorial problem posed by Kansas and Nebraska. The California road to fortune was blocked by a series of Indian tribes who had been established there by solemn treaties pledging them security as long as the waters ran. Would these sacred pledges be permitted to stop the onward sweep of the tide of humanity? Somehow an Indian barrier created when it was thought the aborigines were pocketed in a dead end must be removed now that it was found to block a great highway.

Likewise the needs of the masses of western migrants passing through to California as well as the local settlers must be met and would bring profit. There would be much business for transportation facilities such as turnpikes, bridges, ferries, taverns, and, above all, railroads must be provided and serviced. Real estate operations, supply depots, and banks would be needed. Truly here was to be a paradise for those gifted with enterprise. Therefore, the question of who was to control the first government was unusually important, for these officials and legislators would have the opportunity to direct real estate operations, grant charters and franchises, and otherwise guide the sources of profit to the "right people".

Two new fields of territorial activity which were largely unprecedented were to complicate this process further. The proposed territory was physiographically of a new type. Here ended the wooded and semi-wooded region, and here began the vast expanse of grasslands with which Americans had so far hardly been called upon to cope. Furthermore, the age of machinery had begun, the railroad and the reaper were now available, and this mechanization was changing

man's concept of the need of work, the necessity of capital, and his augmented powers of coping with nature.¹

Finally, there was a great political reorganization due. The Democratic party had been generally in power for more than a quarter of a century, and the cumulated internal factionalism and external opposition such as beset a party long in power were about to claim their due. The Democratic party, dominated in large part by southern members, had undertaken to dam up the force of enterprise seeking western development. It had said "no" too often; it had thwarted too many plans for federal aid and action. It was only a matter of time and the discovery of potent political ammunition before there would be a political realignment of some sort in which the dominant southern influence would be the object of attack. All this was "in the air," so to speak, when the confused question of organizing Nebraska entered politics.

The result of this complex series of circumstances was that the Kansas-Nebraska region became the scene of the most spectacular act in the drama of territorial history. Unfortunately, we do not know enough about it. We have focused our attention largely upon the struggle for liberty, and in the eyes of many there is little else but warfare between New England abolitionists and Missouri border ruffians.

But there was much more to it than that. There were competing groups of speculators, some of them with imaginations that dealt in terms of empires. There was a real estate war aggravated by the fact that federal surveyors were slow in opening up the region and Indian tribes stood in the way. There were rival townsite developers. There were competing transportation interests. Most important, there was a grand new federal political combination forming, and the presidential campaign of 1856 was in the offing. The organizers of the new political combination needed campaign material which would unite sentiment in the free labor states for an all-out effort to

¹I am much indebted to James C. Malin for his highly significant and suggestive work.

destroy the political dominance which southern interests exercised through the Democratic party.

These complicated moral, economic, social, and political factors united in producing a conflict over organization more intense and also more widely publicized than any other in the territorial history. More outside interest and influence was focused on the Kansas-Nebraska territorial experience than probably upon any other with the possible exception of Utah. But the fact of paramount interest is that the people of Kansas and Nebraska solved all their own problems, quieted the disturbances, and made their decisions at the polls. After brief periods of violence, spectacular in Kansas and much less noteworthy in Nebraska, even in these confused societies the great lesson of compromise, of give and take was learned. In Kansas, the anti-slavery and pro-slavery factions agreed to live together as majority and minority. The result of the election of 1858 was accepted as final. In Nebraska, North Platte men and South Platte men soon came to resolve their differences over the location of the capital, over the chartering of banks, and over sundry other questions which at one crucial instance caused the legislature to be disrupted.

Once again and under most demoralizing circumstances, the American capacity to compromise or to accept the will of the majority had triumphed. Out of the chaos, despite the impossible system of federal control, came the usual order and strength of government such as has been shown by Kansas and Nebraska ever since.

The experience of these commonwealths demonstrates what we Americans should understand more clearly and see more vividly and what only an adequate study of the territorial experience can show. This great lesson is that American democracy derives its strength from the fact that it is the product of the people practicing over and over again the art of creating their own government. It was not done just once in the years prior to 1776, then crystallized into a system which gradually changed from dynamic to static condition. It has been constantly renewed as the nation has advanced.

From the days of the Revolution down to the present, the process has been constantly repeated, first in the land just beyond the Appalachians, then in the heart of the Mississippi Valley, then here where rolls the great Missouri, and out on the grasslands and the high plateaus. Simultaneously, in part, it operated on the shores of the mighty Pacific and is now coming to its conclusion on the isles of that great ocean and up under the Arctic Circle.

Over a century and three-quarters, thirty-one times have Americans created for themselves, often despite federal supervision, stable and satisfactory self-government. And if Hawaii and Alaska are admitted, thirty-one times have fresh, self-created, self-reliant units been admitted to the Union. Their leaders have brought new personalities and interests to the House and Senate and to the national nominating conventions. Old combinations and political power aggregates have had to readjust to the newcomers. Situations growing static have been spurred to a new dynamism by the admission of the new units. This process has done much to keep the spirit of the Federal Republic experimental and fresh.

American democracy, therefore, is a grass roots operation. It was never foisted on anybody from above. Washington's efforts have generally been futile, even ludicrous. The people of these far-flung, far-off communities have done it themselves. They worked in an atmosphere of as near absolute liberty as it is probably possible to find. The fact that it was often chaotic, as witness the early experiences of Kansas and to a lesser extent Nebraska, seems only to have stirred the citizens to greater creative interest and to greater achievement.

But now we are faced with an arresting and thought-provoking situation. When Hawaii and Alaska are admitted, there will be no more territories. In fact, as far as practical operation has been concerned, the territorial process within our continental boundaries stopped with the admission of Arizona in 1912. For over forty years we have been without much practice in either the creation of new units or the readjustment of the Union to their admission. Within this period much has happened to us as a nation. We have par-

ticipated in two hot wars and a cold one. We have had a disastrous economic depression. What is worse, we have seen the growth of a spirit of insecurity and fear. We have seen our international position deteriorate, and we have come to fear foes within our own household. We have seemed less confident in the strength and capacity of the individual and the local community and more dependent upon central government for aid and reassurance.

There is certainly some correlation between the completion of our organization and these psychological changes which we deplore. There was something very significant in the inefficient and irrational territorial experience. It was a fluid state in which liberty could thrive. And liberty is the atmosphere which gives life to democracy. In the territorial days there was freedom of movement, endless opportunity to pick up and go. There was always a place for a new start, new ground on which to try democratic reformulation.

But the territorial opportunity is gone. Has this circumscribed our liberty in any significant way? Is something of the fear and bitterness, the search for security, the intellectual panic ascribable to the fact that we have no freedom to go forth and try again? The territories were chaotic, but it was a blessed chaos, a purging healing tumult that made for new opportunity and greater success, for greater challenge and more effective response.

The fact that this experience is over makes it imperative that we keep alive the story of our territories and of the political development of our states. For in this story is found the real truth about the strength, courage, virtue, and individual enterprise out of which our democracy arose. The need for wide dissemination of this story calls for increased support for all forms of local historical endeavors. Kansas and Nebraska have state organizations in which all should take great pride. But here and in other states greater support is needed. Things are happening so swiftly, records are accumulating so fast, that the work of research and writing is falling behind. Larger staffs and greater resources are needed. For if this message is not given to the people, it can hardly do its work of inspiration.

We need to have the history of our great democratic creation constantly in the minds of our fellow citizens. If we cannot have more territorial practice in creating self-government, we can at least tell the story and tell it in many ways. It can be broadcast in books, magazines, even in colored books for the children, in motion pictures, pageants, television presentations, public meetings, travelling exhibits. Celebrations like this are of vital importance. On these occasions, we can take leaves from the great book of religious experience. For centuries, one of the great teaching, faith-renewing agencies of the churches has been the celebration of commemoration feasts. Religious holidays are significant parts of the customs of all lands. On these occasions, great spiritual moments in the religious life of mankind are re-enacted in order to rekindle inspiration and renew faith.

Those who have the historical interest of the nation at heart have the great responsibility of keeping historical celebrations constant and vivid. For by so doing they keep before us all the knowledge of our strength. The territorial experience demonstrates so clearly our power and vitality. When it was a reality, democracy was constantly renewed. Now that the experience is over, we can still participate in it vicariously by its renewal in celebrations like this which make it possible to relive it and again catch its spirit. Those who hold the welfare of American democracy uppermost owe generous support to the historical workers and organizations which are the agents best fitted to contribute this great strength to our American way. This power must never be allowed to waste because we are so careless as to permit an iron curtain to drop between us and our faith-building past.

The times in which we live call for all the strength and faith which we may command. The territorial days are over, the structure of American democracy seems to have been completed, but our days of planning and building are not over. A new and distressing and largely uncomprehended need is upon us which has brought dangerous confusion. We have been used to building in an atmosphere charged with the spirit of liberty, with the joy of adventure, with great

hope based upon infinite confidence in our inexhaustible resources. Now we must continue to construct but under different conditions. Our building operations are now more in the nature of maintenance work and adaptive ingenuity, for this is an atomic age. We must keep our great structure in repair, free from decay, with a sharp eye for any developing weakness, alert to supply any needed replacement or adjustment. We have been conditioned by a long experience in creative and ingenuous enterprise—based upon a great faith in the blessings of liberty. As long as we are inspired by faith in this essential, we cannot fail to exercise that eternal vigilance which is the sure safeguard of our freedom.