

ABELARD GUTHRIE.

[To accompany bill H. R. No. 381.]

Mr. LOOMIS, from the Committee of Elections, made the following

REPORT.

APRIL 3, 1862.—Ordered to be printed.

The Committee of Elections, to whom was referred the memorial of Abelard Guthrie, praying to be allowed mileage and per diem as delegate from Nebraska to the thirty-second Congress, have had the same under consideration and respectfully report:

On the second Tuesday of October, A. D. 1852, the people of Nebraska, (then an unorganized Territory,) desiring to secure a territorial government, elected the memorialist as their delegate to the thirty-second Congress.

In pursuance of this election he came to Washington, and on the 17th day of December, 1852, presented his memorial to the House of Representatives, asking to be admitted as a delegate. This memorial was duly referred, and a report was made thereon and ordered to be printed, but no further action was had upon it. But a bill was immediately introduced for the organization of a government for that Territory, which passed the House of Representatives on the 18th day of February, 1853, by a vote 98 yeas to 43 nays. The bill was sent to the Senate, and there received the approval of the Committee on Territories, but as the session terminated on the 4th of March following it failed to become a law, and the memorialist was never admitted as a delegate, nor was any compensation ever allowed him for coming and remaining here for the purposes aforesaid.

The memorial now under consideration asks for the usual per diem and mileage, as before allowed in similar cases. This claim has long been pending before Congress.

On the 19th of July, 1856, the Hon. Israel Washburn, as chairman of the Committee of Elections, made a report in favor of the claim, accompanied with a bill granting the memorialist mileage not to exceed two thousand dollars, and his per diem of five dollars per day from the time of presenting his memorial at the 2d session, 32d Congress, to the close thereof, but no further action was had thereon.

Your committee find that several claims similar to the one now under consideration have received the sanction of both houses of Congress.

In 1850 Hugh N. Smith petitioned the House to admit him as delegate from New Mexico, and A. W. Bobbitt made application to be admitted as delegate from Utah. To these applications it was objected, among other things, that the Territories which they claimed to represent were unorganized, and that their boundaries had never been defined; and, further, that those gentlemen were appointed by delegates to territorial conventions or assemblies, and not chosen by the people in their primary meetings. The decision of the House was adverse to the claimants, but Congress passed an act to pay them mileage and per diem.

These cases are similar in principle to that of the memorialist, or, if there be any difference, it is in favor of the latter, as he was designated or elected by the people themselves in their primary assemblies.

Your committee believe that it was important to have an organized government for Nebraska at the time the people of that Territory sent the memorialist here as their delegate.

In the years 1849 and 1850 it is estimated that more than one hundred thousand emigrants passed through that Territory on their way to California, Utah, New Mexico, and Oregon.

The memorialist came here in good faith and with good reason to believe that the Territory would be organized, and he admitted as a delegate. The vote of the House before mentioned recognized in a most emphatic manner the propriety of its organization, and must have made the memorialist feel confident that he would be admitted to his seat as a delegate before the close of the session.

Your committee, therefore, recommend the passage of the accompanying bill.

A.

To the House of Representatives of the United States now in session:

GENTLEMEN: Your memorialist begs leave to represent to your honorable body that he was elected by the people of Nebraska Territory as their delegate to the second session of the 32d Congress; that he accepted the trust, came to Washington, presented his credentials, and exerted his best abilities to serve his constituents, but was not admitted to a seat in the House, for the reason that there had been no Territorial government for Nebraska established, and therefore the election was unauthorized by law. A bill, however, was immediately introduced into the House for the organization of a government for Nebraska, and passed the House of Representatives, but was lost in the Senate.

It was confidently believed by the friends of the measure that the bill would pass the Senate, and that I would then be immediately

admitted to a seat in the House as delegate, and this confidence continued up to the last day of the session, when it was too late, amidst the general press of business, to take the necessary steps to obtain an appropriation for my per diem and mileage; and since that time a long and painful illness has made it impossible for me to bring the matter to your notice. I am fully aware that there is no law authorizing payment in such cases, and therefore I throw myself upon the generosity of Congress, as did the delegates from Utah and New Mexico, who came here under similar circumstances, before governments were organized for those Territories, and were paid. And I respectfully ask to be treated with the same liberality.

Very respectfully,

ABELARD GUTHRIE.

WASHINGTON CITY, D. C., June 14, 1854.

B.

Personally appeared before me, Thomas J. Williams, a justice of the peace for the District of Columbia and county of Washington, Abelard Guthrie, who, being duly sworn, depose and say that, in pursuance of public notice, an election was held in the Territory of Nebraska on the second Tuesday of October, 1852, for a delegate to represent the said Territory in the Congress of the United States, and that at the said election he received a majority of all the votes given, and was declared duly elected. That the evidences of his election, consisting of the poll-books and tally-lists of each precinct, or certified copies thereof, were handed, together with a memorial setting forth the facts of said election and praying to be allowed a seat in Congress, to the Hon. Mr. Phelps, of Missouri, to be presented to the House; and that Mr. Phelps afterwards told him that he had presented them, which he believes to be the fact, for in subsequent conversations with the Hon. Mr. Asha, then chairman of the Committee on Elections, he alluded to them as being before his committee. The deponent further states that he has caused search to be made for these papers in the office of the Clerk of the House of Representatives, and they cannot be found.

Given under my hand and seal this 2d day of July, 1854.

THOS. J. WILLIAMS, [L. S.]

Justice of the Peace.

C.

WASHINGTON CITY, D. C., June 20, 1854.

SIR: I called upon Mr. Buck, who made a search for my papers, but they can nowhere be found. The following is an extract from the Journal of the House of Representatives, second session of the thirty-second Congress:

"FRIDAY, December 17, 1852.

"By Mr. Phelps: The petition of Abelard Guthrie, praying to be admitted to a seat in this House as a delegate from the Territory of Nebraska; which was referred to the Committee of Elections."

This record does not state, as it should have done, that my credentials were with the memorial. The committee to whom they were referred did not, I believe, make a report, for the reason, as I stated in my former letter, that I desired it kept back until the bill organizing the Territory should have passed both houses.

I was in Washington a short time during the latter part of the winter of 1854, when I memorialized Congress for my pay and per diem, but left soon after, and no action was had upon my application. In the journal of the House of Representatives, first session thirty-third Congress, is the following entry:

"THURSDAY, February 23, 1854.

(P. 408.) "By Mr. Edgerton: The memorial of Abelard Guthrie, to be allowed mileage and per diem as delegate from Nebraska Territory. Ordered that said petitions, letter, and memorial be referred to the Committee on the Judiciary."

I think it quite probable that among these "said petitions, letter, and memorial" were the original evidences of my election presented by Mr. Phelps on the 17th December, 1853. They were, however, referred to the wrong committee. I was told when I started home that they would, if opportunity offered, be reported back to the House and be referred to the Committee of Elections. This was probably never done, and yet they are not on file with the papers of the Judiciary Committee.

There was evidently culpable neglect in some quarter, but I do not know who was to blame. But I do not think it reasonable or right that I should lose any claim from this cause. The records of the House present facts enough, I think, to justify the hope that you will grant the relief I ask.

My credentials consisted of one of the poll-books and tally-list from each precinct, so certified copies thereof. I am not certain now which. These, under the circumstances, were thought to be the best evidences of election that I could present. They, and my memorial accompanying them, were, I believe, all the papers submitted to the House on the occasion of my asking a seat as delegate from Nebraska.

I am, sir, very respectfully, yours,

ABELARD GUTHRIE.

HON ISRAEL WASHBURN,
Chairman Committee of Elections.

P. S.—Enclosed herewith is an affidavit setting forth the facts of my election.

D.

WASHINGTON CITY, D. C., June 26, 1856.

SIR: I desire to say a few words explanatory of the circumstances connected with my application for mileage and per diem as delegate to Congress from Nebraska Territory, showing the necessity of sending a delegate to Congress at the time I was elected, in doing which I will quote from a speech delivered in the House of Representatives on the 16th May, 1854, (see Appendix to Congressional Globe, p. 715,) by the Hon. S. Mayall, of Maine. Mr. Mayall says:

"In accordance with the recommendations of the Secretary of War, Mr. Douglas, of the House Committee on Territories, gave notice on the 11th December, 1844, of a bill, and on the 11th of the same month introduced the same, (H. R. 444,) to establish the Territory of Nebraska, and it was referred to the Committee on Territories. Mr. Aaron V. Brown, on the 1th of January, 1845, reported back an amendatory bill, and it was referred to the Committee of the Whole on the state of the Union, and no further action was had thereon.

"The next movement in favor of Nebraska was made by Mr. Douglas, in the Senate, by the introduction of a bill, (No. 176,) which, on the 20th April, 1848, was made the order of the day for Monday, the 24th of the same month, but no further action was had thereon.

"In the Senate, December 4, 1848, Mr. Douglas gave notice of another Nebraska bill, and also a bill for Minnesota and New Mexico; and on the 28th of the same month the Minnesota and Nebraska bills were referred to the Committee on Territories of that body, when another episode was administered to Nebraska. Four years of dead silence on the part of Congress in relation to Nebraska now ensued.

"In October, 1852, the people of Nebraska elected a delegate, (Mr. Guthrie,) who came to this capital, and, as all know who were members of the last Congress, urged with great zeal the organization of a government for that Territory. A bill was reported, and on the 15th of February, 1853, it passed the House of Representatives, by a vote of 98 to 43. It went to the Senate, received the sanction of the Committee on Territories, but was never brought to a vote, but on the morning of the 4th of March was consigned to its grave."

Thus it will be seen that four years had elapsed since the last abortive attempt to organize a government for Nebraska, and the people of that Territory had but little reason to believe their interests would be attended to until they sent a delegate to urge them upon the consideration of Congress. They had observed that this course had been pursued by the people of Oregon, of Utah, of New Mexico, and of Minnesota, with success.

Under these circumstances, and with these examples before them, the people of Nebraska held an election, and I was chosen delegate. At Fort Leavenworth, however, (where the largest body of citizens resided,) the officer in command of the post forbade an election. Subsequently, however, certain persons proposed holding another elec-

tion, to overturn the first. This election was held at Fort Leavenworth, (the commanding officer having abandoned his opposition,) and resulted in a large majority for me—I think 54 to 16.

This second election I gave no attention to, knowing that it was contrary to all law and usage regulating popular elections; but my friends at the fort, (not soldiers,) having been prevented from voting at the first election, determined to remove all shadow of a right of my opponent to contest my claim to a seat in Congress, by giving me a very decided majority at this election also. But the judges never sent me the returns; nor would I have presented them had they done so, for the reasons already given. I was now universally admitted to be the rightfully elected delegate, and met with no further opposition.

The number of votes given at my election was not large, for the reason I have already stated. Besides, the citizen population of the Territory was very small, and could not increase under the restrictions of the law of 1834, "regulating trade and intercourse among the Indians," which, you will remember, formed the ground of opposition to the passage of the Nebraska bill, on the 18th of February, 1853, but which was satisfactorily answered by the friends of the bill on that occasion.

In addition to what I stated in my memorial, I will add, that, anxious to get my mileage and per diem, I went to Judge Douglas on the last night of the session, when the "civil and diplomatic bill" was before that body, and asked him if the appropriation could not be put on that bill. To which he replied, that if the House Territorial committee would recommend it, he would try to get it on, adding some reasons why it should come from the House. I immediately went to the chairman of that committee, Colonel Richardson, and stated the facts to him, and he and all the other members of the committee then in the House, (a majority of the whole,) signed the recommendation, and I took it to Judge Douglas, who showed it to the members of the Senate committee; but some of these objecting, on the ground that the appropriation should be made in the House, the judge thought it better to let it drop for the present; and nothing more was said about it.

I have spent much money in obtaining a government for Nebraska, and that, too, from the best motives, and though evil has grown out of it, both for myself and the country, it was not my desire it should be so; and I think I am entitled to the same remuneration that other informed delegates received, and I ask nothing more, but would respectfully urge that, should your committee favor my application, the most speedy course will be pursued to enable me to get the money.

I am, sir, with great respect, yours,

ABELARD GUTHRIE.

HON. ISHRAEL WASHBURN,
Chairman Committee of Elections.

E.

WASHINGTON CITY, D. C., July 20, 1861.

MR. CHAIRMAN: Understanding your committee have doubts of the propriety and necessity of a government for Nebraska, (now Kansas,) at the time I came here as its delegate, I desire to say a few words on the subject. I need not remind you that this Territory lies immediately west and south of the State of Missouri, but it may be well to call your attention to the fact that the vast emigration to California, Oregon, Utah, and New Mexico had to pass through its whole length. At that time the usual landing for emigrants starting from the States by water was at Kansas City, about one mile from the northeast corner of Nebraska, (Kansas,) and, although many went across the States by land, they all directed their course to this point or neighborhood. Here the overland journey commenced, and the sudden change from the comforts of civilized life to the exposures of such a journey produced much sickness which, from the fatigues of travel and the want of care, generally ended in death, for the country was uninhabited, except very sparsely, by Indians, and the journey of more than two thousand miles, to be performed by ox teams before the fall of the early mountain snows, admonished the emigrants of the dangers of delay, even to nurse their sick. This great thoroughfare was strewn with their graves. Only those familiar with the hardships and dangers of such a journey can form a just conception of the embarrassments and fatal consequences of this condition of things. By the organization of this Territory it was opened to settlement, and soon the hospitable door of the pioneer was opened along the route for a distance of two hundred miles, where the invalid could enter and be cared for. Had the Territory been organized several years earlier, as it should have been, I think I may safely say thousands of human lives would have been saved and a vast amount of human suffering prevented. For you will remember that during the years 1849 and 1850 more than one hundred thousand emigrants crossed this Territory on their way to California, Utah, Oregon, and New Mexico, and yet not one word was said in Congress about establishing a government for it or even opening it to settlement. Was not this silence significant? Under such circumstances, is it reasonable to urge that it was not time to move in this matter? Has there, in the history of this country, been a more urgent case of the kind? Congress was evidently impressed with its importance; for in the House the bill for the organization, after a violent but brief struggle, passed by a vote of nearly two to one, and even in the Senate there was an accumulated majority in its favor. It may not be improper here to state, that of the southern members who voted for the measure, I think less than half a dozen were returned to Congress.

Allow me also, if you please, to submit the following propositions:

If your committee have any sufficient evidence, or can obtain any, that it was the intention of the party then in power, or any other

party, to organize this Territory within any reasonable or definite period, I will abandon my claim.

If the committee have any sufficient evidence, or can procure any, that there was any other course as likely to succeed in securing an organization as that of sending to Congress a man acquainted with the condition, wants, soil, climate, and resources of the Territory, I will give up my claim.

If the committee have any sufficient evidence, or can get any, that it was not the design of the slave power to secure this Territory, by quiet and stealthy legislation and colonization, for the benefit of its favorite institution, I will abandon my claim. But here I wish you to examine the law of 30th June, 1834, annexing this Territory to the State of Missouri for judicial purposes; and the law of 1836, annexing to the same State forever and for all purposes the very large and fertile portion of this Territory lying between the Iowa State line and the Missouri river, cutting us off entirely from contiguous free Territory, the effects of which were disastrously felt during our civil troubles, and to the present day; and also to the several abortive attempts of the late Mr. Douglas to organize this Territory.

If the committee have any sufficient evidence, or can obtain any, that this Territory would not eventually have been received into the Union as a slave State under the skilful management and well matured plans of southern statesmen and their northern friends, I will abandon my claim.

If the committee have any evidence, or can get any, that my movement for a government for Nebraska did not frustrate this design, I will abandon my claim.

If your committee have any sufficient evidence, or can obtain any, that the republican party would have been in existence but for this very act of mine in forcing upon the consideration of Congress the policy of erecting a territorial government over this magnificent region, (which the slave power had already practically grasped, and was guarding with jealous care,) I will abandon all claim to *per diem* and mileage.

In this connexion it is proper I should state that I am not a candidate for any office whatever, as my senators and representative will bear me witness. But when I get the money I ask at your hands, and to which I think myself justly, though not legally, entitled, I will return to the cultivation of my grapes and gooseberries.

I will only add that I am fully aware of the apparent extravagance of the pretensions I have here put forth, but I am also fully persuaded of their entire justice, and that the humbleness of the instrument employed is the weightiest objection that can be urged against them.

ABELARD GUTHRIE.

Hon. HENRY L. DAWES,

Chairman Committee of Elections, U. S. House of Representatives.