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1887

### E. H. Rogers

Samuel Maxwell

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Maxwell, Samuel, "E. H. Rogers" (1887). *Transactions and Reports, Nebraska State Historical Society*. 22.  
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## HON. E. H. ROGERS.\*

BY JUDGE SAMUEL MAXWELL.

Among the pioneers of this state entitled to honorable recognition, who assisted in the formation of its laws and the founding of its institutions, was E. H. Rogers. The subject of this sketch was the second son of a Methodist minister, and was born at Litchfield, Herkimer county, New York, January 12, 1830.

We have but few incidents of his early life. The meagre compensation accorded to ministers generally seems to have taught him the necessity of care in the expenditure of money, and also that true happiness does not depend upon the possession of wealth. It is worthy of note that the most successful business men, and those who feel most keenly the misfortunes of others, and extend a helping hand, are those who themselves, in boyhood or youth, have felt the pinchings of poverty. In the year 1851 Mr. Rogers married Miss Lucy Goff, and soon thereafter removed to Wisconsin. In 1856 he moved to this state, and settled at Fremont. No person who has not himself suffered the inconveniences and privations of pioneer life in a new state can fully appreciate its hardships. The open houses through which the wintry winds penetrate; the want of adequate facilities for heating, and consequent inability to render them comfortable; the want of variety in food, and in some cases, the insufficient supply; the coarse and rude furniture and utensils of those accustomed to better things, would discourage any but the bravest. Even those with sufficient means to purchase articles deemed to be necessary, suffer; while the very poor are frequently compelled to submit to the most severe hardships.

Mr. Rogers sustained his full share of the discouragements of pioneer life. In 1858 he was admitted to the bar of the then third judicial district before Judge Wakely, now of Omaha. In 1859 he was elected from Dodge county a member of the lower house in the terri-

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\*We omitted in the first volume of the *Transactions* to credit Hon. James M. Woolworth, Omaha, as the author of the biography of Mrs Caroline Joy Morton. Believing it no more than simple justice, and as being legitimate history, to present as a portion of our work short biographical sketches of those who were prominent and active participants in the first decade of our territorial existence, we continue what we began in the first volume.—[EDITOR.]

torial legislature. The house of representatives during that session contained a number of persons who have since occupied prominent positions in the state, among whom may be mentioned T. M. Marquett, then of Plattsmouth, now of Lincoln, the first member of Congress after the admission of the state; John Taffe, then of Dakota county, the second member from this state, and who held the office three terms; George B. Lake, of Omaha, afterwards judge of the highest court of the state for seventeen years; S. F. Nuckolls, of Nebraska City, the founder of that city, an enterprising, liberal man; John S. Bowen, of Washington county, who would honor that county by any office in its gift; A. H. Hanscom, of Omaha, always on the alert, and ready to meet either friend or opponent; W. R. Davis, then of Cass county, now of Seward, a valuable member, etc.

In the council were Dr. Miller, late the editor of the *Omaha Herald*; Judge Dundy, afterwards territorial judge of the second judicial district, and for nearly twenty years last past judge of the U. S. district court of Nebraska; and Robert W. Furnas, governor of the state from 1873 to 1875. During this session a bill to prohibit slavery in the territory passed both houses. It received the earnest support of Mr. Rogers. The bill was vetoed by Governor Black and failed to become a law. The necessity for such a measure arose from the fact that it was generally reported and believed that there were a few slaves in the south-eastern portion of the territory, and while it was evident that this would not become a slave state, still there was a strong determination not to permit slavery to obtain a foothold, and to keep this fair state for homes for free men. The territory at that time greatly needed intelligent, enterprising settlers and these could only be secured upon the assurance that this would be and remain free.

D. D. Belden, then of Douglas county, introduced a bill prescribing and regulating the procedure before justices of the peace. It was passed without much opposition, and has remained without material change until the present time—a deserved tribute to the fairness of the author of the bill. A bill was also passed providing for a stay of executions, which has not been materially changed, except to shorten the time for which a stay may be taken; also a bill to provide for homestead and exemptions, bills to regulate partition enclosures, to authorize a suit to be brought on a written instrument in the name (initials) by which it was executed, to prevent overdrawing public funds

in counties, to protect game, to regulate the rate of interest on money, etc. Most of these acts remain on our statute books without material change and attest the practical character of the legislature. During the session one R. W. Steele, a former resident of Omaha, who had removed to Denver, Colorado, and been elected by the settlers provisional governor, in a communication to the house set forth the advantages of that territory, and the necessity for a separate organization and protested against the creation of new counties on the eastern slope of the Rocky mountains. The territory of Nebraska at that time extended from the Missouri river along the fortieth parallel to the east boundary of the territory of Utah, thence northward on the summit of the Rocky mountains to the forty-ninth parallel, thence east to Minnesota, thence southward to the Missouri river, thence down said river to the place of beginning.

The communication of Steele will be found in the house journal of that session, page 287. This seems to have induced Mr. Rogers to emigrate to that territory, which he did in the spring of 1860. Soon after removing there, he was elected judge of the miners' court of Russell district, and held that position until his return to this state in the autumn of 1861. He was then elected clerk of Dodge county, and held the office two terms. At the election held in June, 1866, Mr. Rogers was elected senator from Dodge county under the new constitution, and at the meeting of the senate on July 4 of that year was chosen its presiding officer. The only purpose of the first state legislature was to elect senators, who, in conjunction with the member of congress elect would apply for the admission of the state into the Union. If the state was not admitted, all the proceedings of the legislature would be void. The members paid their own expenses, the prospect for receiving remuneration therefor being somewhat remote. Grave doubts existed in the minds of many as to the expediency of adopting a state government, and a constitutional convention which had assembled in Omaha two years before in pursuance of the provisions of an enabling act had, after organizing by the election of officers, adjourned *sine die* without a dissenting vote. The building of the Union Pacific railroad, however, and the near approach of the C. and W. railroad to Omaha had the effect to encourage immigration and create a sentiment in favor of organizing a state government. The continual and rapid advancement of the state in population and

wealth has sufficiently attested the benefits flowing from state organization. A territorial form of government at best is but temporary and provisional, and intended to continue only until the territory contains sufficient population to bear the burdens of supporting a state government. There are many drawbacks to a territorial form of government, among which are the inability to derive any benefit from the school lands, or to make available the university and capitol building lands, and lands set apart for the erection of a penitentiary. Many of the most desirable immigrants, finding the educational system of a territory entirely undeveloped and surrounded by uncertainty, turn aside to some state where they are able to educate their children, hence are lost to the territory. In October, 1866, Mr. Rogers was elected a member of the territorial council, and also of the state senate, and was chosen the presiding officer of both bodies. The state was admitted into the Union on the 8th day of February, 1867, upon condition "that there shall be no abridgement or denial of the exercise of the elective franchise, or any other right to any person by reason of race or color, excepting Indians not taxed;" and upon the further condition that the legislature of said state assent to this condition. The governor at once convened the legislature and the condition was by it "ratified, adopted, and accepted," and so declared by the president of the United States, March 2, 1867. Governor Butler called an extra session of the legislature to meet in Omaha in June, 1867. Among the important acts passed at that session were the removal of the capital from Omaha to Lincoln, and to provide for the appraisement and sale of the school lands of the state. The constitution at that time fixed the minimum price of such lands at \$5.00 per acre. The legislature, however, fixed the minimum price at \$7.00 per acre, and that provision was incorporated into the constitution of 1875. The effect has been to preserve to the state a permanent school fund which, when the lands are all sold, probably will not be less than \$50,000,000, and may considerably exceed that sum, and the income from which, at the present time, is more than \$200,000. In 1875 he was president of the republican state convention, and in 1872 and 1876 a lay delegate to the general conference of the M. E. Church. In 1867 he organized the private bank of E. H. Rogers & Co., and continued as chief manager of such bank until 1872, when it was converted into the First National Bank of Fremont,

with Theron Nye as president, and E. H. Rogers as cashier. He retained this position until the autumn of 1880. For some years prior to 1880 he had been troubled with a bronchial affection, so slight as to cause no alarm to his friends; as a precaution, however, he spent the winter of 1877-8 in Florida, returning home in the spring much improved in health. The indolent habits of the Florida people, and the want of some congenial employment to engage his attention rendered his stay in Florida quite irksome: hence, in the fall of 1879, relying upon certain representations as to the healthfulness of New Mexico, he was induced to spend the winter there. Prior to his departure a large number of his neighbors, as a token of their esteem, presented him with an elegant gold watch and chain. The presentation address was made by the Hon. E. H. Barnard, of Fremont, who himself had borne the burden of pioneer life, and spoke as a friend to a friend. Upon the return of Mr. Rogers to Fremont, it was apparent that his stay in New Mexico had been unfavorable, and an effort was at once made by his friends to procure his appointment as consul at some port where the climate was mild and equable; after the inauguration of Garfield, he was appointed and confirmed consul at Vera Cruz. He was at that time residing in Florida, but accepted the appointment. He sailed from New York about the 1st of July, 1881, in one of the steamers that skirt the southern shores of the Gulf of Mexico, and reached Vera Cruz about the 15th of that month and assumed the duties of his office. The soft breezes of the gulf revived his spirits, and he seemed endowed with new life, but after his arrival at Vera Cruz a reaction set in, and he died August 1 of that year. The surviving members of his family are his widow and two daughters, one the wife of Mr. L. M. Moe, and the other the wife of Mr. Yager, who reside in Fremont.

From boyhood he had been a consistent member of the M. E. church, and was one of its most liberal supporters and contributors. His benefactions, however, were not limited to his own denomination, but so far as his means permitted were freely made whenever an opportunity was presented to better the condition of mankind or relieve suffering. The lessons of his early years were deeply impressed on his heart, and he regarded himself as a steward in the use of the means with which he was blessed. In every relation of life he was an upright, honorable, reliable man, and true to every trust.