

THE CHARGER



CLEVELAND CIVIL WAR ROUNDTABLE

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Join Us For Our Next Meeting

Wednesday, November 11, 2015

Drinks @ 6pm, Dinner @ 6:30

Judson Manor

East 107th St & Chester

Speaker: Dr. Michael Dory

Reconstruction: An Overview & a Different Interpretation

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The Contested Centennial Presidential Election of 1876

By Dennis Keating



As the United States celebrated its Centennial in Philadelphia in July, 1876, President U.S. Grant was nearing the end of his second term in office. Saddled with scandals affecting high officials in his administration, Grant had given up on the possibility of seeking an unprecedented third term. Attention turned to several other Republican politicians as the GOP nominating convention met in Cincinnati in June.

The leading candidate was Representative James G. Blaine of Maine, former Speaker of the House of Representatives. Blaine was leader of the Republican "Half-Breeds", who had opposed a third term for Grant. His bitter political rival was New York Senator Roscoe Conkling, leader of the GOP "Stalwarts", who had supported another term for Grant. Also considered were Indiana's wartime governor and now Senator Oliver P. Morton, a favorite of the Republican Radicals, Benjamin Bristow, Grant's former Secretary of the Treasury (a reformer), John Hartranft, governor of Pennsylvania, and Rutherford B. Hayes, governor of Ohio and its "favorite son".

Civil War hero (wounded four times) Hayes had been elected to Congress in 1864 (serving two terms) and after the war was elected governor twice (1867 and 1869), then turned to law practice in Cincinnati but was persuaded to become governor again in 1875 (defeating the Democratic incumbent).

As balloting began on June 16, Blaine had a substantial lead initially, but after six ballots Blaine had failed to gain the nomination. On the seventh ballot, the supporters of Morton and Bristow and Roscoe Conkling's New York delegation switched most of their votes to Hayes, making him the Republican nominee. Hayes' main opponent would be the Democratic candidate Samuel J. Tilden, governor of New York. A wealthy corporate attorney, Tilden gained recognition as a reformer who played an important role in the prosecution and conviction of corrupt New York City political boss William Tweed. Tilden easily defeated other candidates, who included Union Civil War hero Winfield Scott Hancock. There were also minor candidates like Peter Cooper of the Greenback Party.

Hayes and Tilden were competing for the electoral votes of 38 states (Colorado having been admitted to the Union in the Summer of 1876). Reconstruction still existed, with contingents of Federal troops still stationed in the former Confederate states. President Grant had fought to have them stay as white Southerners, including members of the Ku Klux Klan, sought to deny the freed slaves their voting rights under the Fifteenth Amendment. During the campaign, the Republicans used the "bloody shirt" against Tilden, who had not served in the military during the Civil War. Both major parties mounted attacks against the candidates.

185 electoral votes were needed by the winner. Tilden received 4,286,808 (50.92%) votes to 4,034,142 (47.92%) for Hayes. Hayes won Ohio narrowly (50.2% to 49.1%). Overall, the Republican *New York Times* initially declared that Tilden won 184 electoral votes, just one short of becoming President-elect, to Hayes' 181, with Florida's 4 in doubt. Led by former New York City politician and Civil War general Dan Sickles and *New York Times* editor John Reid, the Republican party decided to challenge the reported results. In determining the outcome, the Republicans controlled the Senate and the Democrats controlled

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1876 Election cont.

the House. Under Article II, Section 1 of the Constitution, counting of the ballots of the Electoral College occurs in Congress. If no candidate has a majority, then the outcome is determined by a vote of states. The Democrats controlled more state delegations in Congress than the Republicans.



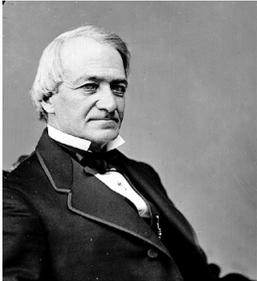
Controversy over the voting centered on four states: Florida, Louisiana, Oregon, and South Carolina. The three Southern states had Republican governors under Reconstruction. Republicans claimed that Democrats in the three Southern states prevented Republicans from voting, especially the former slaves, thus preventing higher Republican vote counts. Democrats accused the Republicans of discounting Tilden votes in their reporting of the results. In Florida, Tilden had apparently won by an 80-some vote margin. The State Canvassing Board controlled by Republicans instead certified that Hayes had actually won by a 45-vote margin. Democratic “electors”, backed by a newly-elected Democratic governor, nevertheless, informed Congress that Tilden had won. The battle went to the Florida Supreme Court, which ruled that the Board had acted improperly in disregarding returns that it considered fraudulent. In Louisiana, a similar state board reversed an apparent Tilden victory and Democrats sent their own results favoring Tilden to Congress. Democrats claimed that the head of the Republican board had been bribed to throw out Tilden votes. In South Carolina, which elected former Confederate general Wade Hampton governor (in another disputed election), the state board certified a victory for Hayes. The state Supreme Court then found them in contempt, fined them, and imprisoned them before they were released on writs of habeas corpus by a federal judge. To overcome Tilden’s ostensible lead, Hayes had to win all of the 20 disputed electoral votes of the four contested states. In Oregon, the Democratic governor in a dispute about the legitimacy of the electors declared that Hayes would only receive two of its three electoral votes, which would have elected Tilden by a single vote.

Both parties sent representatives to the states whose votes were in question to support their side. For example, Ohio politicians James Garfield and John Sherman went to New Orleans to support the Republican-controlled Returning Board. Both the House and Senate appointed special committees to investigate the vote counts in the contested states. The majority of both committees declared the victory of their favored candidates, with minorities finding the opposite results.

The House and Senate then appointed 7-member committees to recommend how to determine the disputed election results. Both candidates opposed the creation of a special commission, with Republicans favoring the counting to be done by the Senate President (a Republican). After rejection of other proposals, Congress decided to create an Electoral Commission comprised of five Senators, five Congressmen, and five Justices of the U.S. Supreme Court. One of the five Senators was Democrat Allen Thurman of Ohio. Two of the five House Representative were from Ohio: Republican James Garfield and Democrat Henry Payne. Garfield kept a diary about the proceedings.

Involving the members of the U.S. Supreme Court in such an inflamed political atmosphere was controversial, but there was precedent for their serving the executive branch. The first Chief Justice John Jay had served as President Washington’s special envoy in settling disputes with Great Britain related to the Revolutionary War. With the ten politicians evenly divided by party affiliation, the spotlight was on the appointment of the judges. A consensus emerged that four justices were appointed with two each believed to be sympathetic to the candidates of the opposing parties by reason of which party’s president had appointed them to the Supreme Court. The four would then choose the fifth justice.

1876 Election cont.



After Chief Justice Morrison Waite (appointed by Grant) declined to be considered, the unanimous first choice was David Davis. An Illinois lawyer who became a state legislator and then judge, Davis managed Lincoln's 1860 presidential campaign. In 1862, Lincoln put Davis on the Supreme Court by recess appointment. Davis became known for his controversial decision in *Ex Parte Milligan* (1866), declaring military trials of civilians during the Civil War unconstitutional. Davis was believed to be an independent.

As the Congressional Electoral Commission legislation was being passed, the Democratic Illinois legislature elected Davis to fill the U.S. Senate seat previously held by "Black Jack" Logan, the War

Democrat general. However, instead of remaining on the Court and serving on the Commission, Davis said that he would resign his seat on the Court. He would serve in the Senate (including as President *Pro Tem*) until 1883 and would be succeeded by John Marshall Harlan. With the remaining justices all Republicans, Joseph Bradley was chosen as the fifth justice. Bradley has been appointed by Grant in 1870 and would serve on the Court until his death in 1892.

The Commission held its first meeting on January 31, 1877 with the inauguration on March 4 just over two months ahead. Congress met the next day to count the Electoral College votes and with the conflicts over the disputed votes, the outcome was referred to the Commission. Its decision could only be overruled by agreement by both houses of Congress. After conducting hearings, the Commission voted on Florida first, confirming Hayes' victory by an 8-7 vote with Bradley in the majority. The Commission then also by 8-7 votes decided to accept Hayes' victory in the other three contested states, with the Democratic House fruitlessly rejecting all four decisions. Some outraged Congressional Democrats threatened to filibuster

Some Democrats had also charged that Bradley had been prepared to vote for Tilden in the Florida dispute but had been unduly influenced by visits the night before by Republican visitors. In a letter published on September 2, 1877, Bradley denied such visits and denied that he had changed his vote to favor Hayes.

However, at the end of February some Hayes supporters, including Garfield and Sherman, met with Southern supporters of Tilden and what became known as the "1877 Compromise" emerged. An unspoken agreement to remove the remaining Federal troops from the South would become the responsibility of President Hayes, although President Grant had already begun this process. For this, Hayes was criticized, including by former Ohio Senator Ben Wade. In addition, during the campaign Hayes had announced that he would only serve for a single term. Democratic opposition to the Commission's decisions giving the presidency to Hayes by a margin of 185-184 was dropped, and Hayes was declared the winner on March 2 in a joint Congressional session whose members were in a confrontational state:

"Roaring members leaped onto their desktops, some clutching pistols...Spectators cheered as though they were at a boxing match. Texas Congressman James W. Throckmorton and New York Congressman David Dudley Field, both Democrats, almost came to blows at one point...When a West Virginia Congressman similarly sought to confront Mississippi Congressman Lucius Q. Lamar, he suddenly found himself looking down the barrel of Lamar's drawn derringer". (Morris, 235-236)

The next day the Democratic House passed a resolution declaring Tilden to be the duly elected President of the United States.

With the inauguration delayed until Monday, March 5, Hayes took the oath privately on March 4. Thus ended the closest controversial outcome of a presidential campaign until perhaps either John Kennedy's victory over Richard Nixon in 1960 or George W. Bush's victory over Al Gore in 2000, once again involving disputed vote counts in Florida and a decisive role by a divided U.S. Supreme Court

1876 Election cont.

Epilogue

President Hayes was called by many Democrats “Rutherfraud” and “His Fraudulency”.

Hayes did remove the Federal army from the South and, as promised, served only one term. In a conflict with Roscoe Conkling over civil service reform Hayes fired Conkling’s crony Chester Arthur as customs collector of the port of New York (a patronage post), who would become U.S. President following President Garfield’s death at the hand of an assassin. Ironically, President Arthur would sign the Pendleton Act reforming the Federal civil service.

Samuel Tilden suffered poor health, preventing his considering another campaign for the presidency, and died in 1886, leaving part of his large fortune to help fund the creation of the New York City Public Library. His tombstone reads: “I Still Trust the People”.

1876 Election cont.

James G. Blaine was the Republican nominee in 1884 but lost to Grover Cleveland, the first Democratic President since before the Civil War.

Winfield Scott Hancock was the Democratic nominee in 1880 but lost to James Garfield, the dark horse Republican candidate. Garfield had come to the convention as the manager for fellow Ohioan John Sherman but was picked on the 36th ballot after Grant and Blaine failed to secure a majority.

Roscoe Conkling also battled President Garfield over proposed civil service reforms. President Chester Arthur appointed Conkling to the U.S. Supreme Court but after his Senate confirmation he changed his mind and returned to his law practice until his death.

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EDITORIAL REQUEST

***The Charger* needs your contributions! Articles, book reviews, notes, comments and stories that relate to our favorite Civil War subject are needed. We would appreciate your help in keeping *The Charger* intellectually stimulating.**

Send submissions to:

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