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Article Summary: The Nebraska statehood struggle revealed both the character and significance of national Reconstruction policy on the level of local frontier politics. Nebraska's admission marked the first time that Congress imposed a "condition" upon a new state that impinged upon its acknowledged power to set suffrage qualifications. Nebraska's entry into the Union in 1867 marked the reassertion of congressional authority over federal dependencies.

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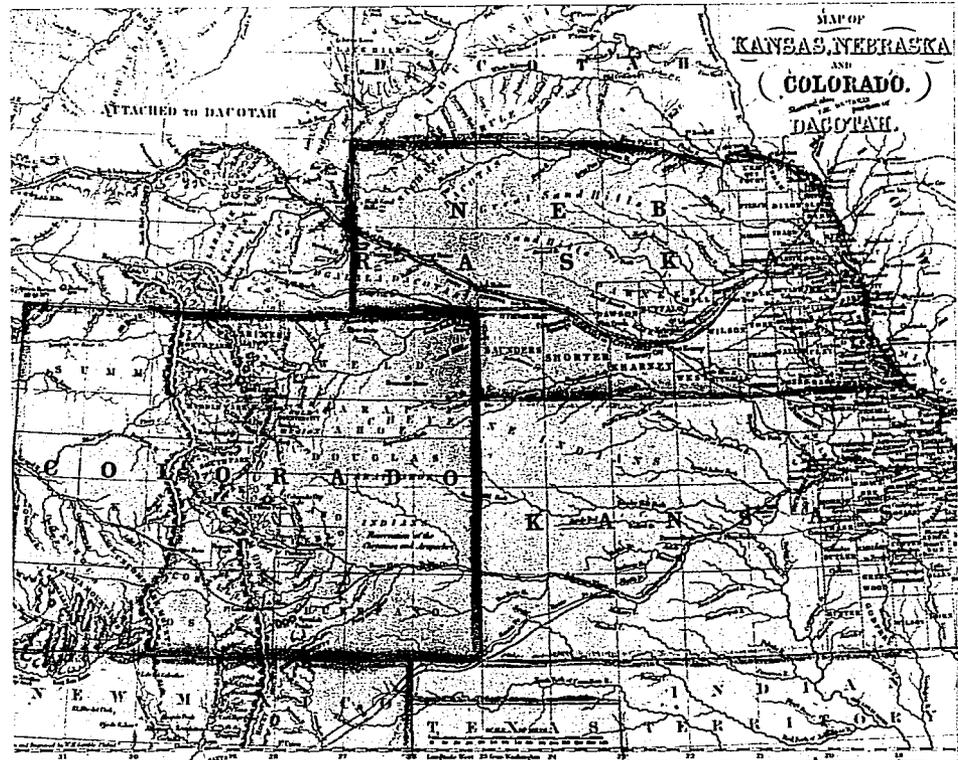
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Photographs / Images: 1867 Map of Nebraska; Drawing by A R Waud of the building of the Union Pacific Railroad; David Butler and Soldiers' Union Ticket; Pro-state petition; Thomas W Tipton; Turner M Marquette; Alvin Saunders; Dr George L Miller; Omaha 1867, northwest from Fifteen and Douglas streets

By 1867 Nebraska comprised only a little more than a fifth of the area it had occupied in 1854. (NSHS-M782-1867-G14m)



# NEBRASKA STATEHOOD AND RECONSTRUCTION

By James B. Potts

Following the decisive military defeat of the Confederacy in the spring of 1865, the North faced the unprecedented problem of restoring the broken Union. But for two years the effort to achieve a peace settlement satisfactory to northern Republicans was thwarted by discord between so-called radical Republicans in Congress and the president — Abraham Lincoln, and then Andrew Johnson — over both the procedure and the terms for reconstructing the former Confederate states. Indeed, congressional opposition to Lincoln's plan for the speedy and lenient readmission of the seceded states in 1863 set off a struggle over who should take the lead in restoring the Union. After Lincoln's assassination, the rift widened during the administra-

tion of Andrew Johnson, and the reconstruction process became a political contest between conservative supporters of presidential restoration and congressional Republicans who favored a more radical re-formation, involving the conditional return of the southern states on a basis of fundamental political and social change. The radical Congress emerged from the contest victorious: It passed over Johnson's veto a series of measures, including the Civil Rights Act in 1866 and the Reconstruction Acts of March 1867, to ensure the civil and voting rights of southern blacks. Almost concurrently, Congress also enfranchised black Americans in the North and West, imposing equal suffrage on the fledgling state of Nebraska and the federal territories in 1867, and on the remaining states of the Union by means of the Fifteenth Amendment in 1870.<sup>1</sup>

In February 1866 when Congress was

preoccupied with the complex issues of Reconstruction, the territorial assembly of Nebraska adopted a statehood resolution, including a constitution which, in line with national practice, restricted the voting franchise to white adult males. A partisan measure, enacted by a predominantly Republican legislature and subsequently approved by the voters over Democratic party opposition, the Nebraska statehood bill encountered significant resistance in Washington from Democrats and Republicans alike. Congressional critics objected that Nebraska's population was too small and that the state-making procedure had differed too much from the methods of admission prescribed by Congress in the Enabling Act of 1864, which authorized the people of Nebraska to form a state government. Mostly, however, the opposition was political and related to national Reconstruction. Quite apart

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from considerations of population and legal requirements, the admission debate turned largely on pressing national concerns involving the place of the Negro in American society, the status of seceded states, and the scope of congressional reconstruction power. In the end, questions raised and decisions made in the Nebraska case would have important local consequences — and ramifications for developing Reconstruction policy as well.<sup>2</sup>

Twice prior to the final statehood drive of 1866, the Nebraska territorial assembly enacted legislation that authorized special elections to determine whether conventions should be called to frame a state constitution. On both occasions (in 1860 and 1864) the voters of Nebraska—moved by Democratic party opposition, sectional and local jealousies, and a general concern that the territory could not afford the added cost of state government — declared against statehood.<sup>3</sup>

Despite the unfavorable popular reaction to statehood, it was clear by 1866 that the territory's admission would not long be delayed. By mid-decade Nebraska had begun to experience important economic and population changes which, coupled to the exigencies of national and local politics, laid the basis for statehood in 1867. The first important change had occurred in 1863 when Congress announced that two branches of the Pacific railroad—one terminating at Omaha and the other at Sioux City, Iowa—would pass through the territory. On December 2, 1863, with the formal groundbreaking ceremony at Omaha, the Union Pacific entered Nebraska and by October 1866, its rails extended beyond Fort Kearny, some 275 miles west of the Missouri. By 1866 the Burlington and Missouri River, the Hannibal and St. Joseph, and other railroads, all attracted by liberal federal land grants, had also begun to project rail extensions into the territory.<sup>4</sup>

The economic and psychological

effects of railroad construction were immediately apparent. Property values in Nebraska soared, especially in the North Platte region where the mere rumor that Omaha had been designated a starting point of the Pacific railroad produced a spectacular increase.<sup>5</sup> Most important, however, to many residents the Pacific railroad ensured the region's future development as an agricultural and commercial center. The iron rails of the Union Pacific would link the territory "with the great Eastern roads and the Gulf of Mexico," local boosters prophesied, and would "render Nebraska the gateway of commerce, not only for our own country, but for the civilized world."<sup>6</sup>

Railroad expansion combined with the lure of free homesteads and the restoration of peace also spurred population growth. Prior to 1860 Nebraska had enjoyed a steady, though modest, increase in population; thereafter the pace of settlement quickened, and the number of residents jumped from 28,841 in 1860 to 122,993 at the decade's end.<sup>7</sup> Governor David Butler estimated that between 1864 and 1866 Nebraska's population had increased more than twofold, from 30,000 to 70,000. "The tide of immigration . . . is . . . pouring in with increased momentum," Butler explained, "and . . . our prairies are being taken up with unexampled rapidity by enterprising settlers; [who] . . . change, as if by magic, the solitary wilderness to the appearance of civilization."<sup>8</sup>

Changing circumstances also diminished the scope of political opposition. Anti-statehood sentiment in populous Douglas County, where residents had voted more than four to one against the proposed constitution of 1860, declined markedly after Omaha became the terminus of the Union Pacific Railroad.<sup>9</sup> Moreover, Kansas and Colorado politicians were pressing Congress to reroute the mainline of the Pacific railroad farther south, from the Platte River Valley to the Smoky Hill branch of the

Republican River.<sup>10</sup> Nebraska business and political leaders—particularly those north of the Platte — believed that statehood was necessary to defeat this effort. "Now more than any other period in our history," wrote the editor of the *Nebraska Republican*, "do we need a good strong representation in Congress, to defend and protect our rights while the Railroad Lines are being established through our territory — more might be gained or lost for our territory by [this] one act than all the additional tax would amount to for the next twenty years to come."<sup>11</sup>

Still, the 1866 statehood movement — like that of 1864 — was essentially a political maneuver, "gotten up" by local Republican leaders "to hold possession of the territory."<sup>12</sup> Of the thirty most prominent pro-state leaders, twenty-seven were Republicans. And though they declared the question to be above politics, most were influenced privately, according to one of their own number, by the consideration that their party sustained a political majority and would control the patronage under the new state organization.<sup>13</sup> Moreover, twenty of the thirty foremost statehood leaders were federally appointed territorial officials, many of whom (like Governor Alvin Saunders) were determined to become senators, representatives, or state officers. The majority of the federal appointees were also supporters of the radicals in Congress—or they were labeled such by the Democratic opposition—and had begun to lose favor with the president. Federal officials, faced with the threat of removal, saw statehood as a means of retaining political influence and thus actively labored to destroy the system that was their prime source of sustenance and power.<sup>14</sup>

Although they promoted statehood as a popular local measure, Nebraska Republicans also acted with considerable outside encouragement from national party leaders. The great motivation for statehood in 1864 had been, at least in part, the national



*Building the Union Pacific Railroad and erecting telegraph lines in Nebraska. From a drawing by A.R. Waud. (NSHS-R152-3)*

Republican organization's desire to secure additional electoral support for Lincoln's re-election campaign.<sup>15</sup> Similarly, the belief that Nebraska would provide added votes to effect radical Reconstruction prompted national party support of the territory's statehood ambitions in 1866-67. Congressional radicals like Senator Jacob Howard of Michigan supported the addition of Nebraska (and Colorado) because, as he bluntly informed his colleagues during the admission debate, "their senators . . . and their representatives . . . would greatly increase the Republican loyal strength in Congress."<sup>16</sup>

Not only were state leaders moved by other than altruistic motives, but their tactics also indicate that they had small faith in the electorate or in the popularity of statehood itself. Although pro-state sentiment was growing, they knew that many residents, particularly Democrats, still opposed the project. Sobered by such knowledge, statehood leaders moved forward with considerable preparation. During 1865 and 1866 the pro-state press conducted an intensive news campaign expounding the many advantages of speedy admission, and

statehood advocates canvassed the territory soliciting support for their cause.<sup>17</sup> The state promoters made a particular effort to persuade Democratic party leaders "to go in for state." "Republicans are almost insane on the subject," wrote George L. Miller. "They are willing to do almost anything to get democratic cooperation."<sup>18</sup>

At the same time, pro-state politicians were laying plans for a new constitution that completely ignored traditional state-making procedures. The bitter experiences with conventions in 1860 and 1864 caused the state men to map out a plan that would prevent a similar occurrence. Their aim was simply to reconvene the 1866 session of the territorial assembly as a constitutional convention. Their method of attack was disingenuous: The pro-state men printed and distributed petitions throughout the territory that requested the legislature to draft a state constitution and thus "avert the expenses incident to the election, assembling, and sitting of a . . . Convention."<sup>19</sup> Governor Saunders responded to this arranged mandate in his annual message by suggesting that the lawmakers for the sake of expediency, might themselves write a constitution

and submit it to the people for approval.<sup>20</sup> Meantime, a "citizens' committee" of statehood leaders met secretly and drafted a "state constitution" which administration supporters pushed through the assembly with virtually no debate. The statehood forces had the situation so well in hand that the document was never printed for use in either house, and no amendments had been permitted.<sup>21</sup> "Not one man in twenty," claimed the Democratic press, "ever read the document."<sup>22</sup>

From the first, the constitution was the center of partisan controversy. The Democrats generally denounced the document — "the bastard of demagogism," the *Omaha Herald* called it — and censured the assembly for its "utter disregard of all precedents in the formation of State Governments." Not only had the legislature acted illegally, charged the *Herald*, but, in the assembly proceedings, the statehood question itself had been buried and "was designed to be so buried out of sight and hearing in a grand scramble for office; nominations and promises of appointment to place being boasted by the Republican magnates as [the] means by which public sentiment was to be bought into voting for the

[Nebraska statehood] measure."<sup>23</sup>

The statehood campaign proceeded apace despite Democratic press attacks. Having set both the ratification date and the election of state officers for June 2, the Republicans met at Plattsmouth on April 12 and nominated David Butler, a Pawnee City merchant, for governor on a platform urging immediate admission into the Union.<sup>24</sup> The Democrats, by contrast, were divided on the issue. The division related mainly to the practicability of electing a state ticket when the voters went to the polls to approve or reject the constitution. One faction, comprised of J. Sterling Morton and others who sought to delay admission until Nebraska was back into the Democratic column, was in favor of refusing to run a ticket. They sought instead to base the Democratic campaign upon opposition to the constitution.<sup>25</sup> But for the majority, particularly those Democrats who held "Omaha's future first," such an all or nothing proposition was unthinkable.<sup>26</sup> Rather, the party should nominate a ticket, remain silent on the statehood question, and attempt to capture control of the new state government. "We had better nominate," Miller urged Morton. "We can carry the legislature in spite of the devil, and I am not sure but we may elect the Rep[resentative] . . . [and] the next del[egate]."<sup>27</sup>

With the majority favoring a state ticket, Democratic party leaders decided to "discountenance faction and go straight ahead."<sup>28</sup> Meeting at Nebraska City on April 19, the party nominated the anti-state Morton for governor and enacted resolutions that related almost entirely to national Reconstruction issues. Shaped primarily to entice presidential cooperation in "a war on [radical] officials," the Democratic platform applauded the public actions of Andrew Johnson, condemned Nebraska Republicans for their failure to support the president in "his legitimate endeavors to restore . . . the American Union," and completely ignored the issue of statehood.<sup>29</sup>



The Republicans, under the Union party label, in 1866 nominated a ticket headed by David Butler (above) of Pawnee City. (NSHS-B985-2; NSHS-RG2)

Lively controversy attended the ratification campaign. The Republicans took up the cudgels in favor of admission and, although they claimed to be neutral on the state question, the Democrats "worked as hard to defeat . . . [the constitution] as they did to secure votes for their own candidates for governor, or judge, or members of the legislature."<sup>30</sup> James Woolworth observed that "every influence, every device [and] every false argument" was pressed into service by both sides.<sup>31</sup>

Aside from statehood, the campaign revolved around national party issues and personalities. The Republicans, for their part, waved the Civil War bloody shirt and reminded Nebraskans of alleged Democratic opposition to the Union cause. Morton, a peace Democrat during the war, bore the brunt of Republican assaults. His imputed disloyalty was paraded before the electorate by GOP editors and party orators. Morton, "the golden circle champion of the North," charged the *Nebraska Republican*, "persistently opposed coercion of the rebel states. He discouraged recruiting and opposed war on any footing; and fully espoused the doctrine of [Clement L.] Vallandigham . . . advocating peace on such terms as the rebels should dictate."<sup>32</sup>

The Democrats were scarcely less violent in their attacks on Republicans. Democratic spokesmen, taking advantage of the Republican discord in Washington and anti-Negro sentiment in the territory, directed their guns on radical Reconstruction — and aimed especially at the suffrage issue. The radicals, they claimed, planned to convert Nebraska into "a negro colony to which plantation negroes may be imported to vote down white men."<sup>33</sup> "Every vote for Butler is a vote in favor of negro suffrage in Nebraska . . . a vote against the Democratic ticket is a vote in favor of negro-suffrage and for equality."<sup>34</sup>

The advantage, however, was with the administration and the election, while close, resulted in a virtual

*Douglas County*  
**Soldiers' Union Ticket.**

For Governor,  
DAVID BUTLER.

For Secretary of State,  
T. F. KENNARD.

For State Auditor,  
JOHN GILLESPIE.

For State Treasurer,  
AUGUSTUS KOUNTZE.

For Chief Justice,  
O. F. MASON.

For Associate Justices,  
L. CHOUNSE,  
GEO. B. LAKE.

For Congress,  
T. M. MARQUETTE.

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For State Senators,  
*Augustus Ross*  
*Edith Smith*

For Representatives,  
*Henry Gray*  
*Dan O. Parkes* & *Jonas Lewis*  
*James B. Williams* & *George H. Peck*

FOR THE CONSTITUTION.

Republican sweep. Nebraska voters approved the constitution by a slim 100-vote majority and elected the entire GOP ticket with the exception of the candidate for chief justice. Democrats contested the results, charging irregularities and fraud in the counting of the votes.<sup>35</sup> The Republicans, of course, denied Democratic allegations and pushed instead to complete the apparatus of state. Controlling the first "state" legislature, which met in Omaha in July 1866, they elected two Republican senators (John Thayer and Thomas W. Tipton) and called another election for October 9 to choose a delegate to Congress and a territorial legislature, should Nebraska not be admitted to the Union, and a congressman and a state legislature, in case statehood should be achieved.<sup>36</sup>

Even though they had won the statehood fight at the local level, Republican leaders were discouraged by prospects in Washington, where Nebraska's admission encountered opposition in the summer of 1866. Especially worrisome was the hostility of Andrew Johnson, who was at odds with Republicans in Congress over the question of Reconstruction, and was unwilling to admit another state that might be controlled by the radicals. Moreover, the territorial Democrats actively encouraged the president in his opposition to Nebraska statehood. Some weeks after the election, anti-state leaders journeyed to Washington "to prove that state was defeated by a great majority and that a great fraud was perpetrated in canvassing the votes for the purpose of making the legislature radical."<sup>37</sup> Nevertheless, the admission bill passed Congress in July 1866, over the scattered opposition of Democrats and a small bloc of radicals who opposed the "white suffrage" provision in the constitution. President Johnson, however, allowed the bill to lapse by pocket veto.<sup>38</sup>

Johnson's denial of Nebraska statehood had important local repercussions. Prior to the veto, Republican officials in Nebraska (despite Demo-

**Memorial**  
**To the Honorable the Legislative Assembly of the Territory of Nebraska:**

**The Undersigned**, Citizens of the Territory of Nebraska, without distinction of party, believing that the interests of the people would be materially advanced and promoted by the adoption of a State Constitution and Government, under proper limitations and restrictions, and desiring to avoid and avert the expenses incident to the election, assembling and sitting of a Constitutional Convention, respectfully request that your honorable body will, at the coming session of the Legislative Assembly, frame a Constitution for the State of Nebraska, with a view to an early admission into the Union as a State. We desire that said Constitution shall provide:

- For Biennial Sessions of the Legislative Assembly, with such number of members, in the two branches, as your judgment shall dictate, in view of a wise economy and a proper regard for the welfare of the State.
- For a limitation of the power of the Legislature to create a State Debt without an affirmative vote of the people.
- For reasonable salaries for all public officers, executive, legislative and judicial—keeping in view, in the determination of such salaries, the procurement of the services of competent men, with such other and further provisions as, in your judgment, will be promotive of the general welfare.
- That the Constitution, when so framed, be submitted to a vote of the people of Nebraska, at some early day, to be fixed by the legislative assembly.
- In view of the recent action of the people of Colorado, in forming a state government, and the fact that the varied interests of our people require a proper representation in both branches of congress, and for many other reasons which will be apparent to your honorable body, we respectfully but urgently request that the action above indicated, be had at an early day of the approaching session.

<p><i>J. W. Summers</i>  <i>Christopher Stricker</i>  <i>Henry Fisher</i>  <i>Henry W. Miller</i>  <i>James Steiner</i>  <i>Charles Heigel</i>  <i>George Langel</i>  <i>Haris Stewart</i>  <i>Max J. Farrell</i>  <i>Chas F. Watter</i>  <i>V. Smith</i>  <i>Chas. W. Walker</i>  <i>Lucy Pige</i>  <i>W. J. Dwyer</i></p>	<p><i>Miss John Ambrus</i>  <i>Arthur Rosenblatt</i>  <i>Henry Eckstein</i>  <i>Arthur Luitman</i>  <i>William Solomon</i>  <i>J. Day</i>  <i>H. W. Hunt</i>  <i>G. Woods</i>  <i>Ernest Wilbur</i>  <i>Samuel A. Pugh</i>  <i>William E. Kelly</i>  <i>Henry D. Kelly</i>  <i>Friedrich W. Packer</i></p>
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Pro-state politicians circulated petitions requesting the Nebraska territorial legislature to draft a state constitution. (NSHS-RG2)

cratic charges to the contrary) had generally declined involvement in the national Reconstruction debacle, and with good reason. Republican leaders were chiefly determined to attain statehood, an achievement that required the approval of both the national legislature and executive. Still a territory, Nebraska was also dependent on the president and the Congress for patronage and appropriations. Under these circumstances, Nebraska officials were understandably reluctant to take sides in the Johnson-radical dispute.<sup>39</sup> But after the veto, statehood partisans, including Governor Saunders and a majority of the federal officers, irked by Johnson's obstructionism and perhaps sensing that the president's influence was on the decline, turned increasingly to the Republican Congress for support. Anti-state Republicans, led by William P. Kellogg, William Lockwood, and Herman H. Heath, all of whom were candidates for Alvin Saunders's job, adopted the Johnson label as a vehicle to power.<sup>40</sup>

The division of the Republicans and the announced intention of President Johnson "to remove all radicals in office and to appoint . . . friends in their place" heartened Nebraska Democrats, who also expected to use the executive patronage to gain control of the territory.<sup>41</sup> In the summer of 1866 they joined with the "Johnsonized" Republicans in a concerted drive to eliminate their enemies. Throughout the summer and fall Johnson men hurled accusations against Saunders and other federal officers — "the principal men in the nefarious plottings to steal victory from the supporters of the President" — and petitioned the administration to remove the "rampant, raving radicals" from office and replace them with "honest capable Union men."<sup>42</sup> The conservatives might yet control the territory, Democrats informed the president, "if you will immediately cut off the heads officially of Alvin Saunders . . . [the] Superintendent of Indian Affairs, and



Thomas W. Tipton. (NSHS-P853)

the Indian agents generally."<sup>43</sup>

Certain factors, however, operated against the success of the Johnson movement in Nebraska. The first was that Johnson's strength in the Senate, which had to ratify his appointments, was on the wane. Thus, while a few federal officials lost their jobs, most (including the governor) escaped unscathed. Moreover, the president's flirtation with Nebraska Democrats coupled with the threat of dismissal drove the federal officers farther into the radical camp and strengthened their determination to secure statehood.<sup>44</sup>

Meanwhile, the conservative—Democratic coalition was itself badly divided. Much of the trouble was simply that of factional rivalry between ambitious leaders vying for political control. For aside from political principles, party leaders were equally concerned with the future division of the federal patronage and political power. Opportunistic Democrats, like Morton, who actively sought the superintendency of Indian affairs at Omaha, used the movement as a vehicle to control

federal appointments in the territory, while Republican members manipulated the organization for their own political advantage.<sup>45</sup> Indeed, the intriguing that underscored the brief history of the Johnson coalition caused one hostile editor to remark that "the whole crowd of 'outs' can be summed up for their desire to be 'ins'."<sup>46</sup>

The conservatives' difficulties came into the open in the summer of 1866 over the selection of territorial delegates to the National Union party convention, called by supporters of Andrew Johnson for August 14 in Philadelphia. No less than three sets of delegates were chosen. On July 19, prior to the adjournment of the first state assembly, the Democratic members of the legislature caucused in Omaha and selected Morton and Andrew J. Poppleton as delegates.<sup>47</sup> Shortly thereafter, another faction, engineered by George Francis Train and Judge William Kellogg, met under the guise of the "Omaha Johnson Club" and, after excluding from participation all who had opposed Lincoln in 1864, selected William F. Lockwood and Train as their emissaries to Philadelphia.<sup>48</sup> A third faction, led by Herman H. Heath, a political adventurer who claimed to represent the authority of the National Union party organization, met at Plattsmouth on July 31 and selected James R. Porter, Lockwood, and Heath as Nebraska's "official" Union party delegation.<sup>49</sup>

Party dissension receded enough to enable the various factions to nominate a common ticket for the fall election. On September 11 the Democrats and the Johnson Republicans met at Plattsmouth and nominated the Democrat Morton for delegate and the territorial secretary, Algernon S. Paddock, a Republican, for congressman. The regular Republicans, meeting at Omaha, countered by selecting John Taffe, a lawyer who later served as secretary of Colorado Territory, and Turner M. Marquette, respectively for the posts of congressman and delegate.<sup>50</sup> A third candidate, George Francis Train,

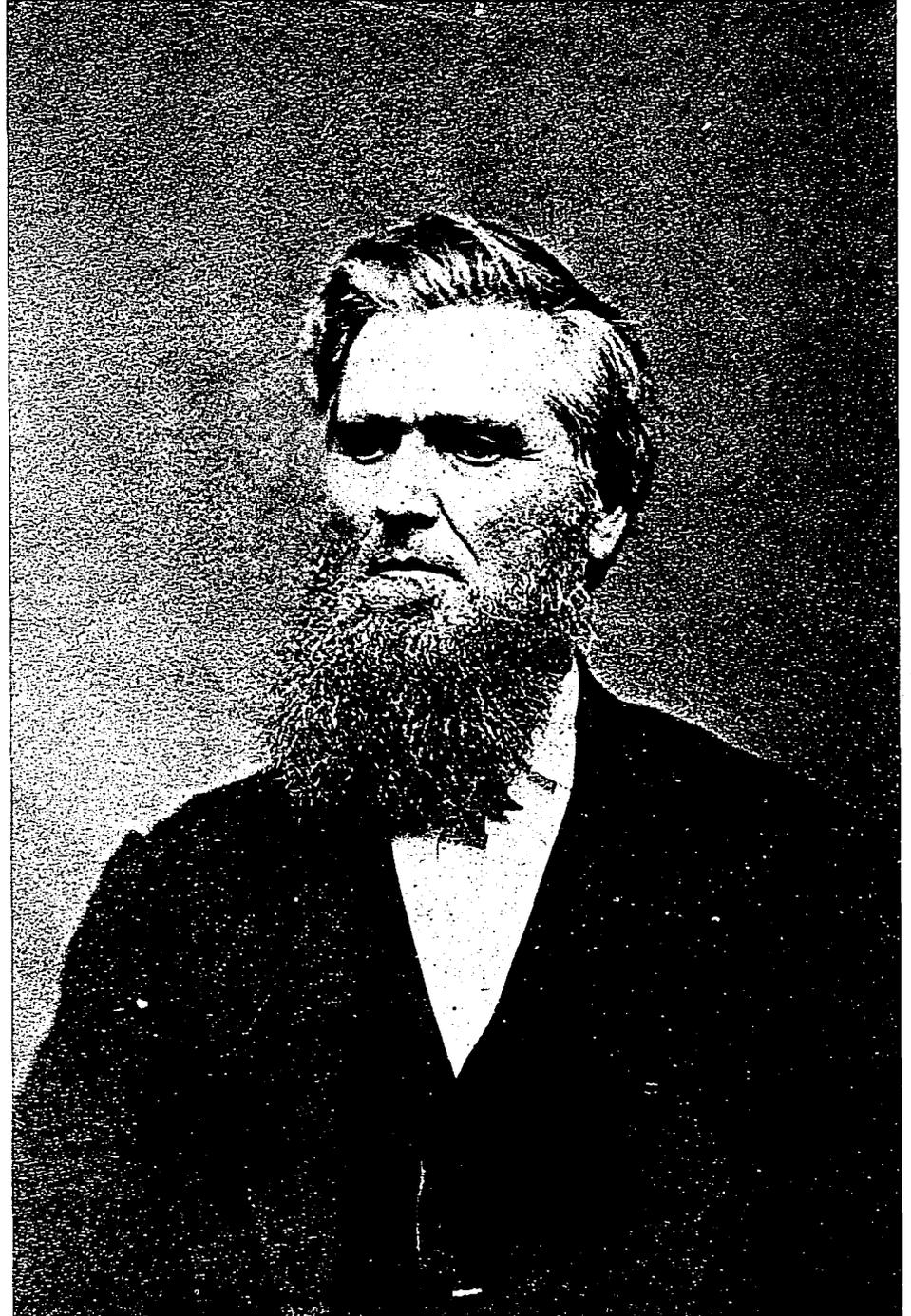


*Turner M. Marquette. (NSHS-P853)*

a North Platte land promoter connected with the Union Pacific Railroad, entered the race as an independent candidate for Congress. Train, a close friend of Thomas Durant and other Union Pacific officials, apparently sought to carry the northern counties and win the election with the aid of Omaha and the railroad. His failure to secure significant Union Pacific or Omaha backing, coupled with the urgings of local Johnsonites, caused him to eventually withdraw, but not before he had placed greater strains on the conservative alliance.<sup>51</sup>

The fall campaign centered primarily on national party issues. The Democrats denounced radical Reconstruction while the Republicans urged voters to "vote for the old flag" and against the party of treason. On election day the majority voted "the way our brave soldiers shot," and the Republicans elected the delegate and the congressman and a majority of the members of the legislature.<sup>52</sup>

The Nebraska question came before the Congress again on December 5, 1866, when Ohio Senator Benjamin Wade introduced a bill for the admission of the territory on the basis of the



*Alvin Saunders, territorial governor of Nebraska, 1861-67. (NSHS-S257)*

1866 constitution. His proposal encountered opposition from both conservative and radical factions. Democrats and conservative Republicans, motivated by the consideration that the addition of Nebraska would strengthen the radicals, opposed admission on the grounds that the territory still had too small a population and that the constitutional proceedings had differed too much from those methods spelled out in the 1864 enabling act.<sup>53</sup>

Though a Republican sponsored measure, Nebraska admission also met with much opposition within the GOP ranks. Charles Sumner, B. Gratz Brown, and others foremost in the crusade for black rights, while they generally shared the party's desire to admit another Republican state, opposed the admission of Nebraska because the constitution contained the word "white" in its qualifications for voting. Humanitarian idealism certainly accounted for the hostility of Sumner, who pronounced the admission bill "one of the most disastrous measures that has been introduced into Congress" because it would "impair the moral efficiency of Congress" and "injure its influence."<sup>54</sup>

More important to radicals like Sumner, however, the admission of Nebraska with its restrictive constitution would prove "something like a bar against the adoption of just measures for the rebel states."<sup>55</sup> Sumner, unlike the more moderate Republicans, denied that the southern states ever seceded; instead he argued that by their acts of rebellion they had committed suicide and had thus reverted to the status of territories. As such they were subject to whatever rules and regulations Congress might impose and could not regain their statehood except on such conditions prescribed by Congress. But since congressional authority to control the franchise in states after admission had never been clearly established by precedent, the right of Congress to impose equal suffrage on Nebraska became, in the words of Sumner, "of transcendent



*Dr. George L. Miller. (NSHS-P853)*

importance when we consider its bearing upon our duty to the rebel states." Clearly, if Congress established such authority in the Nebraska case, the way would be open to extend federal control over voting rights as a basis of reconstructing the southern states.<sup>56</sup>

Whereas doctrinaire radicals like Sumner insisted on racial equality and impartial suffrage, moderates and practical radicals like Benjamin Wade (who labeled the Nebraska bill "an independent proposition . . . detached and different from the question of Reconstruction") were prepared to compromise such issues for immediate political gain.<sup>57</sup> Wade and other Republican senators determined to wrest control of Reconstruction from the president, were quite willing to accept Nebraska's admission even with suffrage restrictions because, as Wade told the Senate, additional members from Nebraska promised to strengthen the anti-Johnson forces in the Congress.<sup>58</sup>

The Nebraska debate also disclosed important divisions among Republicans (and among radicals) over the finality of the Fourteenth Amendment as the basis for Reconstruction. In 1866 Congress had legislated the amendment which, among its other provisions, gave the Congress the power to reduce the representation of any state unlawfully restricting the right of suffrage. Many Republicans, moderates and radicals alike, inclined toward the position that southern states would be restored when they ratified the amendment — as had been the case of Tennessee in 1866.<sup>59</sup> Even Wade admitted during the Nebraska debates that he felt obligated to restore rebel states that complied with the Fourteenth Amendment. Doctrinaire radicals, however, refused to accept the amendment as the final step. Sumner, rather, insisted that every southern state "before its representatives were received in Congress, should confer equal suffrage, without distinction of color."<sup>60</sup>

The Nebraska admission debate eventually resulted in the interposition of a new principle into the standard admission procedure. On January 9, 1867, the Senate attached the so-called "Edmunds Amendment" to the statehood bill that provided that the act "shall take effect with the fundamental and perpetual condition that within the said state of Nebraska there shall be no abridgement or denial of . . . the elective franchise, or of any other right, to any person by reason of race or color, excepting Indians not taxed."<sup>61</sup> Conservatives objected that Congress had no right to interfere with suffrage requirements set by a sovereign state, but to no avail. On January 9, 1867, the Senate passed the measure as amended. One week later, the admission bill, further amended to direct the Nebraska legislature to declare assent "to the said fundamental condition," carried the House by a vote of 103 to 55.<sup>62</sup>

President Johnson opposed the bill on constitutional grounds. In his veto

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message, delivered on January 29, 1867, Johnson denied Congress the right to regulate the elective franchise "of any State." "This condition," he declared, "is not mentioned in the original enabling act; was not contemplated at the time of its passage; was not sought by the people themselves; has not heretofore been applied to the inhabitants of any state asking admission . . . [it] is in direct conflict with the constitution adopted by the people" and "is in clear violation of the Federal Constitution." Despite presidential objections, however, the Congress, by a straight party vote, passed the bill over his veto on February 9, 1867.<sup>63</sup>

The "fundamental condition" attached to the statehood bill drew harsh criticism in the territory. "Let the State Legislature assemble and accept the conditions precedent imposed by Congress, if it dare," warned the *Omaha Herald*, "but remember that before the people of Nebraska, every . . .

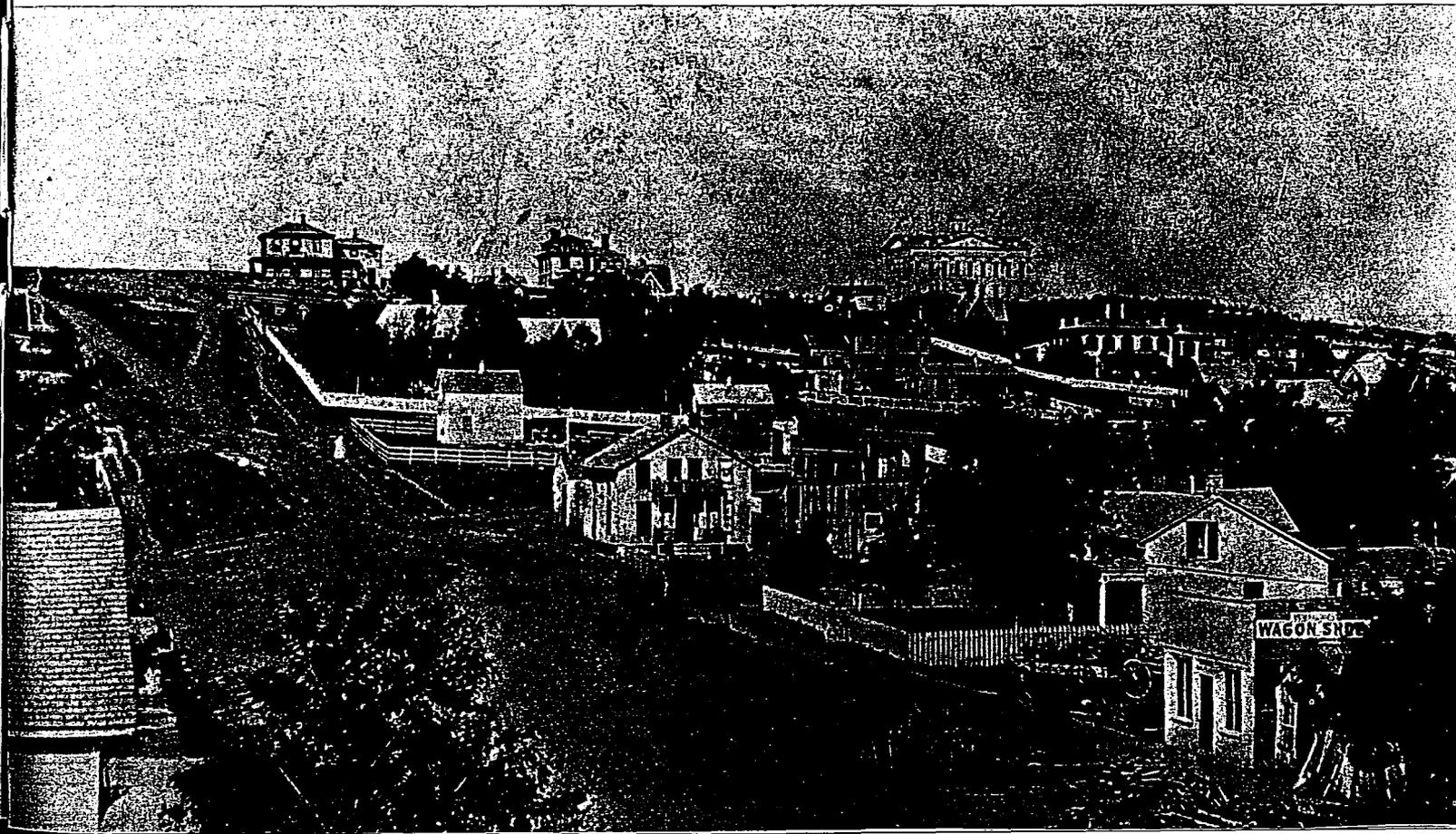
member . . . must answer for having declared that Congress, and not the people of Nebraska, has supreme power in determining the qualifications of the electors in their state."<sup>64</sup> Nevertheless, the Nebraska legislature accepted the "fundamental condition" on February 20, 1867. Nine days later, on March 1, President Johnson proclaimed Nebraska a state.<sup>65</sup>

The Nebraska statehood struggle revealed both the character and significance of national Reconstruction policy on the level of local frontier politics. In terms of national Reconstruction politics, Nebraska served as something of a prototype for later reconstructed states. Nebraska's admission marked the first time that Congress imposed, in any essential respect, a "condition" upon a new state that impinged upon its acknowledged power to set suffrage qualifications. And it served notice that, in the future, states seeking admission or readmis-

sion to the Union would no longer be allowed to adopt suffrage restrictions based on race.<sup>66</sup> From a view of developing territorial policy, the admission of Nebraska takes on another significance. Nebraska's entry into the Union in 1867 marked, in dramatic fashion, the reassertion of congressional authority over federal dependencies.

The concept of popular sovereignty written into the Nebraska Organic Act of 1854, which implied that frontier regions were ready for self-government immediately upon settlement, had represented an important concession towards territorial home rule, and had undermined the theory of the Northwest Ordinance that new regions were unfit for self-government until they passed through specific stages of development. After 1861, however, American territorial policy entered a new phase in which the territories generally were made to serve as

*Omaha in 1867, northwest from Fifteenth and Douglas streets. The two-story structure in the background is the territorial capitol. (NSHS-054-11)*



"instruments to forward the nationalist policies of the Republican Party."<sup>67</sup> A major consequence of this shift in federal-territorial relations was enlarged congressional control. This policy shift was clearly reflected in the Nebraska debates of 1866-67. In a speech before the Senate on December 20, 1866, George F. Edmunds of Vermont declared it to be "plain and beyond contradiction that it is within the clear constitutional power of Congress to prescribe the terms and qualifications and the time and the fitness upon which any new state shall be created out of any of its territories." Moreover, he added:

It is a right which cannot be questioned at all; and it is a right which, independent of the Constitution, flows logically and necessarily from the supreme legislative dominion which we have over the territories. . . . We having exclusive and complete jurisdiction over these territories, and [complete discretionary power] . . . may never dispose of its public lands there; [and] when organized it [Congress] may keep it in the perpetual condition of a territory if it pleased.<sup>68</sup>

Edmunds's assertion that federal rule was paramount in the territories clearly demonstrated the rejection of the doctrine of popular sovereignty and home rule for the territories and indicated the Republican intent to return in principle to the territorial policy outlined by the framers of the Ordinance of 1787.

## NOTES

<sup>1</sup>The impact of reconstruction policy on the western states and territories is fully treated in Eugene H. Berwanger, *The West and Reconstruction* (Urbana, Illinois, 1981), 3-4, 129-84.

<sup>2</sup>The Nebraska statehood issue was paralleled in the Congress by a nearly identical debate over Colorado. A Republican territory like Nebraska, Colorado applied for admission in 1866 with a state constitution that also restricted the suffrage to whites. Predictably, the Colorado statehood measure encountered the same opposition, raised the same questions and, in the end, would have much the same influence on national policies as the Nebraska bill.

<sup>3</sup>James C. Olson, *History of Nebraska* (Lincoln, 1966), 124-25. Wallace Brown, "George L. Miller and the Struggle Over Nebraska Statehood," *Nebraska History*, 41 (December, 1960), 301-4; and Albert Watkins, "How Nebraska Was Brought Into the Union," *Nebraska State Historical Society Publications*, 18(1917), 391.

<sup>4</sup>Robert Athearn, *Union Pacific Country* (Chicago, 1971), 53; Olson, *Nebraska*, 177-79;

WPA. *Messages and Proclamations of the Governors of Nebraska, 1854-1941*, 1(Lincoln, 1941), 196-97.

<sup>5</sup>Stanley P. Hirshon, *Grenville M. Dodge: Soldier, Politician, and Railroad Pioneer* (Bloomington, Ind., 1967), 161-62; *Council Bluffs Nonpareil*, November 21, 1863.

<sup>6</sup>*Messages and Proclamations*, 197, 263; Athearn, *Union Pacific Country*, 42.

<sup>7</sup>Mary Ann Jaki, "The Immigration and Population of Nebraska to 1870" (M.A. Thesis, University of Nebraska-Lincoln, 1936), 54-55.

<sup>8</sup>*Messages and Proclamations*, 261-62. In a speech before the U.S. Senate, Benjamin Wade declared that the Bureau of Statistics estimated Nebraska's population at 88,530 as of April 1, 1866. *Congressional Globe*, 39 Congress, 2nd Session, 125.

<sup>9</sup>Forty-eight percent of Douglas County voters favored ratification of the 1866 constitution compared to only eighteen percent who had supported the 1860 statehood proposition. In fact, pro-state support increased significantly in nearly every North Platte county between 1860 and 1866, particularly in those counties that straddled the projected routes of the Pacific Railroad. For comparison of the results of the 1860 and 1866 elections see James B. Potts, "Nebraska Territory, 1854-1867; A Study of Frontier Politics" (unpublished Ph.D. dissertation, University of Nebraska-Lincoln, 1973), 208-9, 292-93; also Morton and Watkins, *Nebraska*, vol. 1, 423-534.

<sup>10</sup>Athearn, *Union Pacific Country*, 46-48; Howard Roberts Lamar, *The Far Southwest, 1846-1912: A Territorial History* (New York, 1970), 252-53.

<sup>11</sup>*Nebraska Daily Republican*, December 26, 1865.

<sup>12</sup>H.D. Hathaway to Samuel Maxwell, January 22, 1866, Samuel Maxwell Papers, Nebraska State Historical Society, Lincoln.

<sup>13</sup>Thomas W. Tipton, "Forty Years of Nebraska at Home and in Congress," *Nebraska State Historical Society Proceedings and Collections*, second series, 5 (1902), 23.

<sup>14</sup>Charles Gere, a prominent Nebraska Republican, noted that while debates over statehood were "ingeniously engineered so to make it appear that purely economic and financial principles were at stake," the real motives (on both sides) were never proclaimed publicly. Many Democrats, for example, were not opposed to statehood on its own merits, but rather resisted immediate admission because of the political status of the territory. Nebraska Democrats, especially after the Johnson-radical break in 1865-66, sought merely to delay admission until the party was strong enough to control state government. As one prominent Democrat, George L. Miller, admitted privately; "I shall be a 'state' whenever I think it is clear that we can elect two Democrats to the Senate." Brown, "George L. Miller," 305; Charles H. Gere, "Admission of Nebraska," *Transactions and Reports of the Nebraska State Historical Society*, 1(1885), 163-64.

<sup>15</sup>Olson, *Nebraska*, 123.

<sup>16</sup>Quote taken from J.L. Webster, "Controversy in the U.S. Senate Over the Admission of Nebraska," *Nebraska State Historical Society Publications*, 18(1917), 370.

<sup>17</sup>*Nebraska Daily Republican*, November 18, 1865; January 19, 1866; January 20, 1866; February 5, 1866. The pro-state press argued that

statehood would attract eastern capital and increase population; it would secure for Nebraska federal land allocations which territories could not receive; and, most important, it would protect Nebraska railroad interests. As to the added cost of statehood, the new government would cost but \$25,000,000 a year, a figure which could be easily met by the expected revenues from state land sales. Advocates also maintained that statehood was needed to protect Nebraska's agricultural interests, for without representatives in Congress to oppose industrial tariffs, the region would soon become "the burthened taxpayers to eastern neighbors."

<sup>18</sup>J. Sterling Morton Diary, July 13, 1865; George L. Miller to J. Sterling Morton, August 29, 1865, J. Sterling Morton Papers, Nebraska State Historical Society, Lincoln.

<sup>19</sup>James W. Woolworth, "The Admission of Nebraska," *Transactions and Reports of the Nebraska State Historical Society*, 5(1893), 84; "Memorial to the Eleventh Legislative Assembly," Records of the Secretary of State-Nebraska, 1855-1920, Lincoln, Nebraska.

<sup>20</sup>*Messages and Proclamations*, vol. 1, 198-99.

<sup>21</sup>Olson, *Nebraska*, 129-30; James W. Woolworth, "Admission of Nebraska as a State," *Nebraska State Historical Society Publications*, 5(1893), 183-85; J.H. Broady, "O.P. Mason," *Transactions and Reports of the Nebraska State Historical Society*, 4(1892), 53; and James C. Olson, *J. Sterling Morton* (Lincoln, 1942), 138-39.

<sup>22</sup>Quoted in J. Sterling Morton and Albert Watkins, *History of Nebraska*, 1(Lincoln, 1918), 352.

<sup>23</sup>*Omaha Weekly Herald, Special Supplement*, February 23, 1866.

<sup>24</sup>Turner M. Marquette, "Nebraska's Silver Anniversary," *Transactions and Reports of the Nebraska State Historical Society*, 5(1893), 115; also see Olson, *J. Sterling Morton*, 140; *Nebraska Herald*, May 23, 1866.

<sup>25</sup>Olson, *J. Sterling Morton*, 140; Olson, *Nebraska*, 130.

<sup>26</sup>Brown, "George L. Miller," 303-4.

<sup>27</sup>James Woolworth to Morton, September 16, 1865, George L. Miller to Morton, March 12, 1866, J. Sterling Morton Diary, April 15, 16, 1866, Morton Papers. That the federal crisis in Washington affected local Democratic politics is obvious. During 1866 a shift in national party lines seemed likely to occur, and many Nebraska Democrats, including Morton, were anxious to forestall statehood until the government was in their hands. Morton believed that Democratic control could more easily be effected under territorial administration, particularly should President Johnson be persuaded to remove the "radical" officials of Nebraska and turn the government over to his Democratic friends. But it might well be that the Democratic decision to run a state ticket in 1866 was also determined by Johnson's maneuverings. As early as September 1865, James Woolworth wrote Morton: "It certainly appears as if Johnson is going to take democratic ground . . . as if he were about to turn the government over to our party . . . These are possibilities . . . we should act with an eye to what may happen. Should these possibilities be realized we may in the course of a few months see reasons for coming in as a state which are not now apparent. We ought not to foreclose our future . . . by positive action now." James Woolworth to Morton, September 19, 1865, Morton Papers.

## Statehood and Reconstruction

<sup>28</sup>Miller to Morton, March 12, 1866, Morton Papers.

<sup>29</sup>*Nebraska Party Platforms*, 26-27; Olson, *J. Sterling Morton*, 141; and Berwanger, *The West and Reconstruction*, 95.

<sup>30</sup>Gere, "Admission of Nebraska," 163-64.

<sup>31</sup>Woolworth, "Nebraska's Admission," 85.

<sup>32</sup>*Nebraska Daily Republican*, June 1, 1866. A Congressman from Ohio and an outspoken critic of the Lincoln administration, who was also a friend and correspondent of J. Sterling Morton, Clement C. Vallandigham was arrested by federal authorities in the spring of 1863 for sympathizing with the enemy. Tried and convicted by a military tribunal, Vallandigham was imprisoned and subsequently banished to exile in the Confederacy. For a thorough discussion of the Vallandigham case, and of "Copperheads" in general, see Frank L. Klement, *The Copperheads in the Middle West* (Gloucester, Massachusetts, 1972).

<sup>33</sup>*Omaha Weekly Herald*, June 1, 1866.

<sup>34</sup>*Nebraska City News*, May 26, 1866.

<sup>35</sup>Olson, *J. Sterling Morton*, 142-43; Morton and Watkins, *Nebraska*, vol. 1, 534; James F. Pedersen and Kenneth D. Wald, *Shall the People Rule? A History of the Democratic Party in Nebraska Politics* (Lincoln, 1977), 36-38. Democrats charged that the Republican controlled territorial board of canvassers illegally counted the vote of the First Regiment of Nebraska Volunteers stationed at Fort Kearny, which was allegedly composed of non-residents. The Republican canvassers also set aside the returns from Rock Bluff precinct in Cass County, which had voted solidly for Morton and against the constitution on a technicality, while ignoring similar irregularities in GOP strongholds. The official returns thus recorded showed the constitution ratified by a vote of 3,938 to 3,838 and Butler elected, 4,093 to 3,984. Moreover, the rejection of the Rock Bluff vote also ensured the election of five additional Republican legislators from Cass County and gave Republican lawmakers the votes necessary to elect John Thayer and Thomas Tipton to the United States Senate.

<sup>36</sup>Woolworth, "Admission of Nebraska," 86-89; Olson, *J. Sterling Morton*, 142-44.

<sup>37</sup>T.T. Dwight to Morton, June 18, 1866, Morton Papers.

<sup>38</sup>Olson, *J. Sterling Morton*, 146.

<sup>39</sup>Berwanger, *The West and Reconstruction*, 65-66, 94.

<sup>40</sup>William F. Lockwood to Morton, November 8, 1866, Morton Papers; Herman H. Heath to Andrew Johnson, August 6, 1866; Augustus C. Dodge to William Seward, September 23, 1866; U.S. Department of State, Territorial Papers, Nebraska Appointments (hereafter, Nebraska Appointments).

<sup>41</sup>W.A. Richardson to Morton, June 1, 1866, Morton Papers.

<sup>42</sup>*Nebraska City News*, July 21, 1866; Morton, Miller, et al, to Andrew Johnson, August 17, 1866, Interior Department Appointments, Nebraska file; also H.H. Heath to Johnson, May 12, 1866, Nebraska Appointments; Heath to Morton, June 4, 1866, Morton Papers.

<sup>43</sup>George L. Miller to Andrew Johnson, September 22, 1866; William A. Richardson to Johnson, September 8, 1866, Nebraska Appointments.

<sup>44</sup>Miller to Morton, November 4, 1866, Morton Papers. Johnson made no patronage moves in Nebraska until after the October election, much to the chagrin of the conservatives, who had counted on the "cordial cooperation of officials there." Moreover, most of Johnson's nominees for Nebraska offices were eventually rejected by the Senate. Consequently, the only noteworthy change occurred in the northern superintendency of Indian affairs at Omaha where the superintendent, E.B. Taylor, and other "radical" Indian agency employees were dismissed. Berwanger, *The West and Reconstruction*, 98-99.

<sup>45</sup>Augustus C. Dodge to Louis Bogg, November 1, 1866, Morton Papers; T.T. Dwight to Morton, July 2, 1866; James Woolworth to Morton, undated, 1866; James G. Megeath to Charles Mason, September 29, 1866; Henry Dodge, A.C. Dodge and C. Mason to Andrew Johnson, October 13, 1866; Morton to Johnson, November 16, 1866; Joseph Paddock to Morton, November 6, 1866; Joseph Paddock to Johnson, September 24, 1866; Nebraska Appointments.

<sup>46</sup>*Nebraska Herald*, August 1, 1866.

<sup>47</sup>Olson, *J. Sterling Morton*, 144.

<sup>48</sup>*Nebraska Daily Republican*, August 2, 1866; *Omaha Weekly Herald*, July 20, 1866.

<sup>49</sup>Olson, *J. Sterling Morton*, 144; *Omaha Weekly Herald*, August 10, 1866; *Nebraska Daily Republican*, August 7, 21, 1866; S. Howard Calhoun to Morton, August 4, 1866, Morton Papers.

<sup>50</sup>Olson, *J. Sterling Morton*, 145-46.

<sup>51</sup>*Nebraska Daily Republican*, October 9, 1866; *Nebraska City News*, October 13, 1866.

<sup>52</sup>*Nebraska Daily Republican*, October 8, 1866; Olson, *J. Sterling Morton*, 147.

<sup>53</sup>*Congressional Globe*, 39 Congress, 2nd Session, 121-29, 162-70, 184, 199, 216-39, 354-58, 448-56.

<sup>54</sup>*Congressional Globe*, 39 Congress, 2nd Session, 124.

<sup>55</sup>*Ibid.*

<sup>56</sup>*Congressional Globe*, 39 Congress, 2nd Session, 124; also Kenneth Stampf, *The Era of Reconstruction, 1865-1877* (New York, 1965), 86-87.

<sup>57</sup>*Congressional Globe*, 39 Congress, 2nd Session, 199.

<sup>58</sup>*Ibid.*, 127, 335.

<sup>59</sup>*Ibid.*, 124, 128.

<sup>60</sup>*Ibid.*, 260.

<sup>61</sup>*Ibid.*, 360.

<sup>62</sup>*Ibid.*, 480-81.

<sup>63</sup>James D. Richardson, ed., *A Compilation of the Messages and Papers of the Presidents, 1789-1897*, vol. 8 of 10 (Washington, 1897), 3688-89.

<sup>64</sup>*Omaha Weekly Herald*, February 16, 1867.

<sup>65</sup>Olson, *J. Sterling Morton*, 147. Actually, Nebraska lawmakers had little choice since Congress had recently enacted the Territorial Suffrage Act, enfranchising blacks in all federal territories. Thus if Nebraska had rejected the "fundamental condition," she would have remained a territory and blacks would still have been enfranchised under federal law. As Eugene Berwanger has noted, the suffrage issue was effectively neutralized by "the realization that black Nebraskans would vote whether or not the legislature accepted the condition." Berwanger, *The West and Reconstruction*, 149.

<sup>66</sup>There is little doubt that several radicals, including Senators Sumner, Brown, and Edmunds and Congressmen Dawes, Banks, Boutwell, and Wilson believed that it was necessary to establish, in the case of Nebraska, the authority to set conditions "upon which a state shall be admitted to the Union or restored to political power." Nathaniel Banks told the House during the Nebraska debate that "the time has come when conditions upon which a state shall be admitted to the Union or restored to political power, must be made in express terms in the act of admission or restoration by the law-making power . . . Reorganization of this government can never be safely effected except it be upon conditions irrevocable by the states . . . and expressed in the act of admission or restoration . . . if hereafter this question shall arise in regard to the restoration and readmission of the insurgent states, and they shall be able to affirm that the Congress has no right to impose conditions, or in imposing conditions it has no power to enforce them, from the moment that doctrine is accepted the Government of the Union is at an end. It is in the hands of its enemies and will be destroyed." *Congressional Globe*, 39 Congress, 2nd Session, 456.

<sup>67</sup>For a brief resume of American territorial policy changes see Howard Roberts Lamar, *Dakota Territory, 1861-1889: A Study in Frontier Politics* (New Haven, 1966), 14ff.

<sup>68</sup>*Congressional Globe*, 39 Congress, 2nd Session, 215.