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Article Summary: Thayer served as U.S. Senator from Nebraska from 1867 to 1871. He deserves credit for Nebraska's early entry into the Union. Although he was not a master at political bargaining, his popularity with voters increased over the years.

Additional sections of Curtis's biography of Thayer appeared in other issues of *Nebraska History*:

for Sections I-II see <http://www.nebraskahistory.org/publish/publicat/history/full-text/NH1947JMThayerI.pdf>

for Sections V-VII see <http://www.nebraskahistory.org/publish/publicat/history/full-text/NH1948JMThayerV.pdf>

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John Milton Thayer (III-IV)

By Earl G. Curtis

III

United States Senator, 1867-71

To have been elected United States Senator in 1866, was to have secured the combined support of at least twenty-six Nebraska Senators and Representatives. The securing of this support, as well as the adoption of the State Constitution, according to several authorities, centered around the Rock Bluff election incident.¹ These authorities state that the House of Representatives stood 17 Republicans to 17 Democrats, including the Rock Bluff members (four in number). The Legislative Journal of 1866 shows no such division,² and while this is not the place for a discussion of the "Rock Bluffs incident," it is doubted that its effect on the election of Nebraska's first United States senators was as direct as is generally asserted.

It has already been stated that General Thayer returned to the East after being discharged from the service.³ On March 22, 1866, the *Omaha Daily Herald* (a Democratic paper) speaks of Thayer's having been brevetted Major General of Volunteers for his gallant services and continues: "He deserves the honor, and we are glad he has got it. Thayer has been a gallant soldier. He will, we presume, soon be with us as a citizen, and the brevet will be little more than an empty honor. The General will return to Nebraska not without ambitions to be recognized in the

¹Rachel Viola Sutherland, "History of Senatorial Elections in Nebraska" (MS. Thesis, University of Nebraska Library), pp. 23, 24; J. Sterling Morton and Albert Watkins, *History of Nebraska* (Lincoln, 1907), I, 531; A. E. Sheldon, *Nebraska, The Land and the People* (Chicago, 1931), I, 346-348.

²*House Journal of the State Legislature of Nebraska, First Session, 1866* (Omaha: St. A. D. Balcombe, 1867).

³Earl G. Curtis, "John Milton Thayer," *Nebraska History*, XXVIII (October-December, 1947), 237.

political arena of Nebraska. Perhaps the magistrates of the Republican Party had better look out for the "coming man."

The General was on the ground by April 14, 1866, and we find the following story in the *Herald* of the above date: "Thayer declined the gubernatorial nomination at Plattsmouth. It was thrown him as bait to put him out of the way of the Inner 'Ring' and their nicely laid plans on the main question, the Senate. It was only one more failure of the autocrats of the Wigwam to carry a point. Thayer was too old a fox to be caught by that kind of Wigwam chaff and promptly declined the honor."

This article would, in part, show that Thayer was not a party to any corrupt bargaining. Had the *Herald* had the least bit of evidence that he was, they would hardly have refrained from printing it.

To deny that Thayer had any part in the election frauds of 1866 is not to say the same did not exist. Yet to portray one group of politicians as having a monopoly on elections frauds is to be biased in one's writing.

The election, for accepting or rejecting the State Constitution, was held June 2, 1866. It was adopted by a bare majority and with its adoption came the legislative meeting of the would-be "state" legislators on July 4th, for the purpose of selecting two United States Senators.

The first days of the session were taken up with discussions and hearings in regard to the contested seats. Another article taken from the *Omaha Daily Herald* of July 10, 1866, should establish Thayer's honesty: "We detest John M. Thayer's politics as we do the devil and his imps, but we have as much respect for his honesty as contempt for the trimming, falsifying, hypocritical, pretensions of his twaddling opponents. He rides one horse and sits the animal boldly."

The vote for senators took place on July 11th with Mr. Welch presiding. T. W. Tipton was elected from the South Platte and Thayer from the North Platte. Both senators were elected by a vote of 29-21 respectively, against J.

Sterling Morton and A. J. Poppleton.

Having been elected United States Senators, it now became the paramount duty of these two men to maneuver the state of Nebraska into the Union. With this in mind and a copy of the State Constitution in his pocket, Thayer soon left for Washington. His first call was on the "Old History Senator," Ben Wade, of Ohio. Thayer relates a pleasant interview with Wade—the Senator being very anxious to secure two additional Republican members. (This was before the fall election). The General called on a number of the influential senators and finally, his courage having mounted sufficiently, he visited Senator Sumner. Sumner sent word down, after Thayer had presented his card, to "Show him up." The meeting was not cordial but the General held his ground and by the close of the interview Sumner seemed quite pleased.⁴

To Thayer goes a share of the credit for Nebraska's early advent into the Union. It was, in part, through his efforts that the President was instructed to proclaim Nebraska a state as soon as the word "white" was taken from her constitution.

The 40th Congress, of which Thayer became a member on March 4, 1867, had its beginning at noon of the same date. The session was not called by proclamation of the President as one might think, but rather by an act passed by the 39th Congress on January 22, 1867. This session adjourned March 30, 1867, not *sine die*, but to meet in special session on April 1, 1867. The special session adjourned April 20th, to meet again for a second time on July 3rd, which adjourned July 20th; a third meeting was provided for November 21st, which lasted until December 2nd, the time provided for the second regular session. There were three meetings of the second session, December 2, 1867 to July 27, 1868, including the trial of President Johnson; September 21, 1868 to October 16; and a meeting and an ad-

⁴For General Thayer's version of this interview, see, Nebraska State Historical Society, *Proceedings and Collections* XV (1907), 48-49.

jourment under date of November 10th. The third session met December 7, 1868 and adjourned March 3, 1869.

The 40th Congress is known for its stormy sessions—it convened seven different times of its own accord plus a special session at the call of President Johnson. It was in this turbulent setting that the new senators from Nebraska found themselves.

Thayer was escorted to the desk, when he took the oath, by Mr. Sumner.⁵ Some of Thayer's associates in this 40th Congress were—Pomeroy (Kansas); Hayes (Ohio); Schurz (Missouri); Davis (Kentucky); Hendricks (Indiana); Conkling (New York); Wade and Sherman (Ohio); and the "Bishop of Biblical quotations," Nye (Nevada). These men were schooled in legislative procedure and one's batting average would not be too high during the first innings. Thayer was assigned seat number 56, and had for his neighbors Conkling, seat number 54; and Davis, seat number 55.

As soon as the senators were all sworn in and the seats all assigned, the new senators drew lots for their terms of office—Thayer drew number two, which entitled him to four years as his first term.

The Standing Committees were announced on March 7th, Thayer being placed on three—Military Affairs and Militia; Indian Affairs; and Patents and Patent Office. He was the last named on each of the above, which were seven, seven, and five members respectively.

On March 8th, Senator Thayer made his first contribution, in the form of a Memorial sent him by the Nebraska Legislature.⁶ He introduced his first resolution, S. R. No. 28 on March 13th, the subject of which was, "To Reduce Military Reservations at Fort Sanders, Dakota and Bridger."⁷ This activity smacks a little of his earlier territorial legislative maneuvers, but the road was to become more difficult.

⁵*Congressional Globe*, 40th Congress, First Session, p. 1.

⁶*Ibid.*, p. 27.

⁷*Ibid.*, p. 77.

On March 25th, Mr. Conness (California), secured the passage of a resolution requiring the Secretary of Interior to investigate the cause or causes for the suspension of work by the Union Pacific Railroad Company. His attitude seemed none too friendly towards the Union Pacific and Senator Thayer felt disposed to answer him:

I would not trouble the Senate with any remarks on this question except for the fact that this road runs through the entire state which I have the honor to represent on this floor, and in justice to the company who have had the building of this road I feel it my duty to give utterance to a few words. I was surprised yesterday when the resolution was introduced by the honorable Senator from California—not that he intended any injustice to the Union Pacific Railroad Company. [This type of semi-apology to his fellow Senators is very typical of Thayer throughout his senatorial career.] But from my knowledge of the facts, I am compelled to say that even instituting an inquiry on the subject, implying that there is a neglect does them greater injustice; for I stand here to say that no improvement, in ancient or modern times was ever prosecuted with such untiring energy, with such tireless force, and with means such as that company has used.⁸

The resolution was tabled, and the Senator's maiden speech had had its effect.

At the close, March 30th, of this first meeting of the 40th Congress, Thayer secured the consideration and enactment of S. No. 86, which provides, law of July 2, 1862, 30,000 acres per representative in Congress for Nebraska.

Thayer was interested in the Indian problem of the West and his word in regard to Indian affairs carried a great deal of weight in the senate. It became his duty to correct the misapprehensions of his fellow senators in regard to the West and the Indians and to challenge statements of eastern newspapers in regard to his constituents. The Senator was not without his wit in answering jests which were sometimes offered during speeches.

On one occasion while Thayer was depicting the dread of an Indian War, he stated that even the gamblers and thieves which eastern cities had failed to hang were afraid of these wars. At this point Mr. Conkling quietly remarked that they didn't come from New York, to which our Senator replied that if they didn't, it was because the New York-

⁸*Ibid.*, pp. 344-345.

ers treated them so kindly and because they voted the right way.

Before the end of this session Thayer had succeeded in securing the removal of the Indian tribes on to reservations.⁹

His outstanding work during the second session of this Congress was in regard to Omaha land titles and a provision for a Nebraska Land District. A large number of Omaha land titles (a number of which had been taken under the afore-mentioned Omaha Claim Club)¹⁰ were confirmed by S. No. 481 which became a law July 25, 1868.

It is not surprising to find Thayer calling for information in regard to the Andersonville prison deaths, as he was always very attentive to military interests. This is not to say that the Senator was a militarist—he was not. He was often upon the floor of the senate asking that officer commissions be reduced, that needless forts be abolished and that there be a more careful accounting for war supplies.

On March 12, 1868, the senate was having a somewhat heated debate over the granting of a pension to a woman whose husband had been killed while attempting the arrest of deserters. The man had been called upon for assistance by "competent" authority, but, as some suggested, had not been mustered into the service. Thayer put a very common sense question to the senate—the pension was granted—which shows his desire for justice—"The question with me is this: Was not this man's life sacrificed in the discharge of his duty? If so, this is enough for me. What matter it whether he had been mustered in or had not been, if he was in the public service."¹¹

Thayer had little to say during the trial of President Johnson. He did, however, defend Ben Wade, President Pro Tempore, in his right to sit as a member of the impeachment court. Someone had declared Wade an interested party because of his position in the Senate. On the vote for

⁹*Ibid.*, pp. 374, 461.

¹⁰Curtis, *op. cit.*, p. 238.

¹¹*Congressional Globe*, 40th Congress, Second Session, p. 1846.

conviction, Thayer voted guilty on all three measures.

Thayer secured an important amendment to a bill dealing with representation in the electoral college for the year 1868. It read, "None of the states lately in rebellion and not now represented in Congress shall be entitled to representation in the electoral college."¹²

During the third session of the 40th Congress (December 7, 1868-March 3, 1869) Thayer secured the passage of a supplement to the former act which had confirmed the Omaha land titles—this was to classify more of the squatter titles. A very worth while piece of legislation was suggested to the senate by Mr. Thayer during this closing session—it was an amendment to the homestead laws which would require the planting of trees on homestead preemption lands. The measure was never passed although he always remembered to suggest it.

That Thayer was a legislator of no mean ability is evidenced in the fact that he succeeded in getting an amendment for the purchase, enclosure and preservation of a parcel of ground at Omaha, for a site and for the erection of a building, for the use of Federal Courts, Post Office and other federal offices, tacked on to the Appropriation Bill of March 2, 1869.

It was a stormy session, but he had gained some worth while Indian legislation; he had secured a Federal land district for Nebraska and had succeeded in getting numerous Nebraska land titles confirmed; he had stood with the Republican leaders, but had not been led blindly by them. These were the accomplishments with which he became a member of the 41st Congress.

On October 28, 1868, Mr. Majors offered the following resolution to the special session of the Nebraska Legislature held at Omaha for the purpose of appointing Presidential electors, "The Senate and House concurring, we respectfully, but earnestly, urge upon the next President of the United States, General U. S. Grant, the appointment

¹²*Ibid.*, p. 3924.

of the Honorable John M. Thayer in his cabinet; who will, by his long residence on the frontier, and his acquaintance with the resources and development of the west, be an asset to the administration." We have no record showing the consideration given this request by Grant. There were probably too many others who had to be satisfied before it would come Thayer's turn.

In the 41st session of Congress, Thayer introduced the first senate bill, S. No. 1,¹³ which would repeal the Tenure of Office Act. The General made several good speeches in favor of repeal and the bill was passed in modified form, March 31, 1869.

During this Congress Thayer remained on the Standing Committees dealing with Military Affairs, and Indian Affairs. He also became Chairman of the Committee on Enrollment of Bills, a three-member committee.

In the *Globe* for March 20th of this session, we find a little of Thayer's philosophy: "There are two parties in this country, and God forefend the day when there will be only one. That party which does rise to power by the votes of the American people is entitled to the disposition of the patronage of the Government" ¹⁴ The Senator was in favor of the party in power rewarding its friends, the requisite always being competency and honesty.

On January 17 and 18, 1870, Thayer denounced the attempt at hasty legislation in favor of admitting Virginia.¹⁵ A like attitude is evidenced later in regard to admitting Georgia to representation in Congress. He believed that Congress had the right to review the acts of Georgia and that ratification of the 14th and 15th Amendments was one of the first prerequisites for admission of the southern states.¹⁶

A speech on the senate floor, December 13th, 1870, by McCreery of Kentucky, brought forth an expression of

¹³*Ibid.*, 41st Congress, First Session, p. 8.

¹⁴*Ibid.*, p. 183.

¹⁵*Ibid.*, 41st Congress, Second Session, pp., 266, 267.

¹⁶*Ibid.*, p. 671.

the General's feelings toward the Southern general, Robert E. Lee. McCreery had offered a resolution for adjusting a claim to the Arlington Cemetery grounds, which had belonged to General Lee, for the aid of Lee's widow. After listening to the resolutions and remarks of his fellow senator from Kentucky, Thayer arose and said:

A stranger in this chamber, for the last hour, would hardly have supposed he was in the American Senate. He would rather have imagined that he was in the Confederate Congress at Richmond six years ago, when the eulogies were pronounced upon Stonewall Jackson. I had predicted during the last three or four years that the time would come, if the policy of Congress was not rigidly carried out and adhered to in the southern states, when the leaders of rebellion would sit in these seats, and encomiums would be pronounced upon their acts. In one respect the day has come sooner than I had anticipated. I listened to him carefully, and not one word did I hear falling from his lips in condemnation of treason.¹⁷

McCreery had said: "The melancholy tidings of the death of General Thomas, and the accents of sorrow with which his surviving friends poured forth the national grief at his irreparable loss, are still fresh in our recollections when we learned that yet another of the great actors in the drama through which we have passed had breathed his last."¹⁸

It was here that McCreery had erred—Thayer need not think of a speech, he must have felt it:

The linking together of the names of Thomas and Lee was unfortunate. It is true they were associates together in early life. Both were educated by the United States to be its protectors when assailed, both took a solemn oath, written down by the angel, that they would forever be its defenders against foreign or domestic foes. The one—Thomas—nobly, sacredly, grandly kept his oath. He fought for the flag of the Union and was faithful to the end. He has passed away. His name is inscribed on the rolls of immortal renown. The other was faithless to his solemn vow. With perjury in his soul he raised the black standard of treason and through all the scenes and vicissitudes, the dangers and trials and battles of four years, he fought with his best energies and his best efforts to destroy the Union whose flag he had sworn to defend forever.¹⁹

Thayer spoke at length in condemning the measure and when the vote was taken only four voted for it.²⁰

The Senator was not given to poetic or Biblical expres-

¹⁷*Ibid.*, 41st Congress, Third Session, p. 77.

¹⁸*Ibid.*, p. 73.

¹⁹*Ibid.*, p. 77.

²⁰*Ibid.*, p. 82.

sions, nor did he use metaphors; he did, however, have an abundant supply of descriptive adjectives.

An ardent northern partisanship was deeply imbedded in Thayer's nature. He lacked that imaginative philosophical quality of mind which would try to understand why his opponents did not agree with him and see that they too were human, were honorable and virtuous with only a different point of view.

IV

The "Off" Years

Before the adoption of the seventeenth amendment, the election of a United States Senator was one of the important duties of our state legislators. In Nebraska, the senatorial election of 1871 assumed no great importance because of the more exciting impeachment proceedings against the Governor.

The Republican Party in Nebraska was split in the fall elections of 1870. One group, composed of the "Old Guard" was solid for Senator Thayer; another group was made up of Johnson sympathizers. This last group would naturally be against Mr. Thayer since he had voted for the conviction of President Johnson. This split, not to mention the presence of a small group of independents, was enough to endanger the return of a Republican senator to Congress.

The *Omaha Tribune* owed its growth, if not its origin, to P. W. Hitchcock; the *Omaha Argus* was a Thayer organ; and the *Nebraska Advertiser* claimed not to take sides. The *Nebraska Herald*, of Plattsmouth, was a Democratic paper but not too hostile towards Thayer. Senator Thayer was in the state on an extensive speaking tour from about September 17th until October 12th, his itinerary appearing in a number of the state papers. There were many stories in regard to Hitchcock's purchase of stock in the *Omaha Tribune*—Savage and Bell in their *History of Omaha* state that he purchased \$20,000 worth of stock in the above paper after his election.²¹ The truth of such statements does not con-

²¹James W. Savage and John T. Bell, *History of the City of Omaha* (New York, 1894), p. 169.

cern this story here, but does remind one of the major part played by the newspapers in the early, as well as the present day, elections:

On October 13th, the *Nebraska Advertiser* stated that the Thayer legislative ticket had been elected by a majority of three hundred votes and that this would insure the Senator's return to Congress.

As late as January, 1871 the *Blue Valley Record* predicted Thayer's election and said the state, as a whole, was back of him. It seems the fight was against the reelection of Senator Thayer rather than for any particular candidate.

As a result of the Republican split, there was no party caucus and both Thayer and Hitchcock were nominated by the Republicans. On a test vote in the House, Tuesday, January 17, Thayer polled 14 votes; Hitchcock, 14; Saunders, 10; and Rogers, 1.²² In the Senate on the same day the vote on the first ballot was Thayer 3, Hitchcock 6, Saunders 2, and Rogers 2; and on the second ballot Thayer 3, Hitchcock 8, Saunders 1, and Rogers 1.²³ Since this was only a test vote there was no need for the second ballot. It would, undoubtedly, have a psychological effect on the later voting. The two houses met in joint session on Wednesday the 18th and proceeded to the election of the United States Senator. On the first poll the vote was Hitchcock 23, Thayer 17, Saunders 9, and Rogers 2, with no one having a majority. The second ballot gave Hitchcock 26, Thayer 17, Saunders 7, and Rogers 1.²⁴ These three additional votes, which gave Hitchcock the required majority, were changed during the roll call. When or how they were secured makes little difference, the fact was, P. W. Hitchcock would be Nebraska's "Demo-Republican" senator after March 4th and Thayer would become a private citizen.

The senatorial election of 1875 was little different from the one in 1871. Thayer was accused of having accepted \$5000 worth of Credit Mobilier stock while a United

²²*House Journal of the General Assembly of the State of Nebraska*, Eighth Session (Des Moines, 1871), p. 99.

²³*Ibid.*, pp. 52, 53.

²⁴*Ibid.*, p. 102.

States senator and of receiving \$250 for senatorial services. These statements were denounced as false and the former Senator offered to prove the person making such utterances a liar.

The balloting in the state legislative session was more prolonged if not more exciting. The first ballot was taken on January 20, with the final election coming on the fifth ballot, January 22.²⁵

	Thayer	Dundy	Paddock	Mason
January 20th				
First Ballot	18	14	8	6
Second Ballot	17	14	8	6
Third Ballot	14	15	9	6
January 21st				
Fourth Ballot	(lacked 6) 21 (votes of) (majority)	19	6	3
January 22nd				
Fifth Ballot	11		38	

Thayer had been defeated again, but he was soon to be taken care of by the National Administration. After his defeat for the United States senatorship, he was appointed by President Grant as Governor of the Wyoming Territory, which post he held from 1875-1879.

Mr. Thayer was Governor of Wyoming at the time the United States government was negotiating a treaty with the Black Hills tribes for their Black Hills country. Thayer was in Washington during the spring of 1875 in the interest of these Indian tribes,²⁶ and, although in favor of the Indians giving up the country, he felt they should be treated fairly. In the fall of 1876, Thayer protested against an order from the Commissioner of Indian Affairs, forbidding the sale of arms and ammunition to the Ute Indians.²⁷

In 1877, Thayer carried his Territorial Congress with him in opposing the formation of a new territory, and subsequently a state, out of territory belonging to the Black Hills country—Montana, Wyoming, and South Dakota.

²⁵*Ibid.*, Eleventh Session, 1875.

²⁶*Nebraska Advertiser* (Brownville), April 22, 1875.

²⁷Earl G. Curtis, "Biography of John Milton Thayer" (MS Thesis, University of Nebraska, 1933), Appendix X.

Little or no factual information is available in regard to his territorial governorship, but it undoubtedly embraced many Indian struggles and conferences. Mr. Thayer had been successful in his dealing with the Nebraska territorial Indian and it is reasonable to assume that he enjoyed a measure of the same success in Wyoming.

Before we say more in regard to Thayer's political career let us note the naming of one of the Nebraska counties in his honor. Thayer County had existed as either Jefferson County, or a part of Jefferson County until the State Legislature of 1871 defined its present boundaries and specifically named it Thayer County. The bill was drawn in the House—H. R. 84—passed the Senate, and was approved and signed by the Governor on March 1, 1871.²⁸

When Thayer returned from Wyoming he made his home in Grand Island. He was a welcome resident at Grand Island and drew much support from that city in his fourth senatorial race. The legislative contest began January 17, 1883, and lasted, with one or two ballots per day, until January 30.²⁹

January	17	18	18	19	20	22	22	23	24	24	25	25	26	27	29	30	30 ³⁰
Thayer	11	15	15	16	15	15	16	14	16	16	15	15	15	15	22	21	....
Saunders	14	13	13	12	13	13	13	13	15	15	14	15	14	16	13	15	....
Manderson	6	....	8	8	8	7	8	8	....	....	....	....	....	....	....	....	75
Morton	16	18	17	13	5	5	4	4	....	....	....	....	....	....	....	....	....
Millard	13	13	13	16	15	15	16	16	16	15	22	22	19	14	16	18	....
Cowin	10	10	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
Boyd	....	....	....	....	....	....	19	32	34	34	33	31	33	23	19	19	....
Stickel	....	....	....	....	....	22	19	....	....	....	....	....	....	....	....	....	....

The four strong candidates were Thayer, Saunders, Millard and Boyd, with the legislature finally compromising on Manderson.

This was Mr. Thayer's last attempt for national honors, but he was not ready to desert politics for the quiet life of a citizen.

²⁸*House Journal of the General Assembly of the State of Nebraska*, Eighth Session, p. 321.

²⁹*House Journal of the Legislature of the State of Nebraska*, Eighteenth Session (Omaha, 1883), pp. 246-453.

³⁰All minor votes have not been recorded.

In a letter to Will Owen Jones, Editor of the *Nebraska State Journal*, in 1885, Thayer suggests a candidate for University Regent and continues, "every citizen in Nebraska must enjoy a degree of satisfaction upon noting its ever increasing commanding position under the able and efficient management of Chancellor Andrews."³¹

There can be no doubt of Thayer's popularity in Nebraska—each senatorial attempt brought out more and more of his friends. It was stated earlier in these pages that Thayer "rode one horse and sat the animal well." Such was his characteristic through these years. Thayer was not a master at political bargaining and was beaten here-to-fore by political unions or a compromise candidate. By 1886 he was ready for an attempt at the goal of his political career—the governorship of his chosen state.

[To be concluded]

³¹Ltr., John M. Thayer to Will Owen Jones, August 12, 1885. MS., Nebraska State Historical Society.