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SLAVERY IN NEBRASKA.

By. Edson P. Rich.

[Read before the Society, January 12, 1886.]

It is curious and somewhat romantic to note, that this territory, which was for several years the battle ground of a constitutional struggle over the question of slavery, was, if we are to accept the theory so eloquently defended by Colonel Savage,* first pointed out to a modern race by one himself a bondsman; and that later, a patriotic slave, in order to save his own country from the ravages of the Spaniards, led them to this territory in search of the "seven cities of Cibola," in the land of Quivera. It had been the dream of the Spaniards to rob these cities of their fabled wealth, and enslave the people. The project, however, was but one of the many romantic schemes of this chivalrous race in his search after the marvelous, a disease of the age, of which the Spaniard was typical, and not confined to any particular nation. Instead of the cities whose steeples shone in the light of the sun resplendent with gold and silver, these adventurers, weary with their long journey, found only a country terrifying in its barrenness and vastness of extent, peopled by a race whose aspect was so unforbidding, and whose nature so fierce and warlike, their only wealth vast herds of untamed buffalo, that after offer-

* In lecture before State Historical Society, April 16th 1880.

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ing up the life of the false slave as some attonement for the hardships they had undergone, they turned their faces wearily towards Mexico.

Three centuries and one decade intervene, and this same vast territory becomes again the scene of an invasion; but now the strangers were armed with far different weapons of warfare from their predecessors; the struggle was now to be between man and nature, and not between man and man. Although this latter race enjoyed the light of three centuries of progress, many among them still clung to that false idea of economics which teaches that the confiscation of the results of the labor of one class contributes to the material prosperity of another class. The instinct of the early Spanish discoverer, which led to the plundering and then the enslaving of the victims of his rapacity, was not more subversive of good morals and good government, than was the economic creed of that body of men who composed the slavocracy of the nineteenth century.

In the many histories that have been written of slavery in the United States, since the settlement of the question, the majority deal too exclusively with political questions purely, leaving out of sight the economic principles underlying and determining the whole matter, and in this connection almost wholly ignoring the influence of the new territory of the west and north-west on the growth and final culmination of the slave power. The most authoritative writer* upon our constitution has said that the true history of the slave movement remains yet to be written, and that when the final word has been said, it will be found to be, that the solution of the whole matter rested upon the respective relations of the north and the south to the new and unsettled portions of the west and the northwest.

In this connection, the struggle over the Kansas-Nebraska bill was especially important, because it was decisive; deciding for all time whether or not the people of the respective territories had the power, under the constitution, to legislate slavery into, or prohibit it from, these territories.

When the struggle between the north and the south first began, it was upon the basis stated by Alexander Stephens, namely: That the whole question rested upon the grounds as to whether, as a system, slavery was immoral or sinful. On such a basis the issue would have remained long uncertain.

* Dr. Von Holst, in a series of lectures delivered at Johns Hopkins University during the winter of 1883.

As the number of slaves increased, a new problem arose; becoming not a question of ethics, but of economics. It was simply as Von Holst puts it, that the "south was crowded out of its position by force."* It was necessary either that the slavocracy be completely triumphant or that it be completely annihilated, for it was imperative, geographically, that the United States, as such, be preserved.

For a time the growth of the south was rapid, but after reaching a certain point, that institution, which at first promised so much in point of material prosperity, was the one which ultimately retarded, in the greatest degree, its growth. The chief product of the south being raw material, it was greatly dependent upon the north for its manufactured staples, and since it could not keep pace with the rapid growth of the north, in order to perpetuate the institution of slavery, it was necessary for it to retain the balance of power in the federal administration, and, to do this, new slave territory must be acquired.

Here, then, the struggle began, first over the northwest territory, ending in the celebrated ordinance of 1787. In the terms of this ordinance slavocracy read more than immediate defeat; it dreaded the effect of this measure as a precedent. The question became one of relative numerical strength between the two sections, and a few statesmen, even at that day, saw that compromise would avail little or nothing, Seward being the first to speak of the "irrepressible conflict."† The weakest element in the economic system of the south became, when attacked, the exact measure of the strength of that system.

After the Louisiana purchase in 1803 the struggle was renewed, ending in 1820 in the Missouri compromise. In 1850, the compromise over the admission of California, in consequence, repealed that of 1820, and by so doing imperatively called for a re-adjustment of the principles involved in the whole discussion.

This was in effect the status of the struggle at the time the Kansas-Nebraska controversy arose.

At this time all the region lying west and north-west of Missouri was known as the Platte country, in which white settlers were forbidden to locate, until the extinguishment of the Indian title, which was consummated in the year 1854. Notwithstanding this prohibition on the part of the general government, a large number of settlers ventured to establish trading posts in the territory, comprising what is

* Baltimore lectures.
† Von Holst's Baltimore lectures.

now known as Nebraska; and a much larger number, the more timid, were camped along the banks of the Missouri river, on the Iowa side. Petitions had been presented from trading posts in this Indian country from the people in western Iowa, as early as the year 1851, asking for the erection of the Platte country into a territory, but no action tion was taken until the following session of congress, when Mr. Hall of Missouri presented a bill to the house, providing for the organization of the territory of Platte. This bill was referred to the committee on territories, and from that committee Mr. Richardson of Illinois presented a bill providing for the organization of Nebraska. The bill was opposed by the south and reported from the committee on the whole with a recommendation that it be rejected. It finally, however, passed the house by a vote of 98 to 43, but was defeated in the senate.

During the winter of 1853, a mass convention met at the then village of St. Joseph, Missouri, for the purpose of preparing a memorial to the president and to congress, calling attention to the necessity of opening up the Platte country for settlement. The committee on resolutions spent one whole night in wrangling over a resolution to the effect* "that the emigrants in the territories ought to receive the same protection to property that they enjoyed in the states from which they emigrated." The word property meaning slaves. Charles F. Hally, the chairman of this committee, being one of the earliest slaveholders in Nebraska, at that time living at Nebraska City.

In 1853, meetings were also held at Bellevue, then a trading post and mission, and at old Fort Kearney, now Nebraska City, for the purpose of electing delegates to represent at Washington the interests of the squatters. Mr. Hadley D. Johnson, then living at Council Bluffs, Iowa, was chosen as such delegate, and although he had no seat in congress, yet exerted a great influence in the preparation of the bills introduced, and was especially relied upon by Mr. Douglas in his study of the question.†

In December, 1853, Mr. Dodge, of Iowa, submitted a bill to the senate, "to organize the territory of Nebraska." This bill was reported back from the committee on territories with certain amendments, but none touching the vital point. Douglas, who was chairman of this committee, had hoped by his silence on the slavery question to gain southern influence, but was forced into a new course by

* Trans. and Rep. of the Neb. S. H. S., Vol. I., p. 38.
† Johnson's History of Nebraska, p. 40.

threatened legislation. Profiting by this experience, in introducing a new bill with the same object in view, he made several radical changes: first, he divided the territory named in the first bill into two territories; that portion lying directly west of the Missouri to be called Kansas, the remainder Nebraska. On the question of slavery, he embodied that celebrated principle, which became known as "the stump speech in the belly of the bill."

It is needless to follow this bill through its eventful course in the house and senate, but it is sufficient to say, that its passage was looked upon by the southern members as a victory for the south.

The struggle which immediately took place in Kansas is well known but it did not greatly affect Nebraska, since the trouble was fomented principally by slaveholders in the adjoining state of Missouri, while Nebraska was joined on the east by an anti-slave state.

The government of the new territory was entirely in the hands of the democrats, President Buchanan appointing a number of the officers from the extreme south. On the other hand, a large majority of the settlers were from the north, so that it soon became evident that the question, whether the soil of Nebraska was to be slave or free, would not be decided without a bitter struggle.

A majority of the officers appointed brought with them a few slaves, merely as servants, however, it being recognized by the south as well as the north, that at that time Nebraska offered no remunerative field for slaves in large numbers.

Those in power were more or less affected by the struggle in Kansas for the reason that so long as the soil of that territory remained free it offered an asylum for fugitive slaves, many of whom came to Nebraska. This state of affairs had its effect upon the slaves within the territory, and to prevent this for the future the democrats determined upon the initiative in legislation concerning this question. The matter was made still more urgent from the fact that about this time John Brown made his appearance upon the scene, and in the autumn of 1855 made his preliminary survey of what afterwards became his famous "underground railway" through Nebraska.* Falls City was the first station in this territory, Nemaha City the second, and Nebraska City the third. At this point the fugitive slaves were crossed over the Missouri river into Iowa. This was a part of the route

*A. R. Keim in the Richardson County *Leader*, December 24, 1885.

from Missouri to Canada, for which point the fugitives were bound, but many of them remained in Nebraska, where they were practically free. During the session of 1857, a bill (see Appendix "A") was introduced in the senate to prevent free negroes from settling in the territory.* The Journals fail to record the fate of this bill, but do record † the tabling of a bill from the house of the same import. This bill provided that any negro or mulatto settling in the territory "with the intention of making it his residence," upon conviction should be fined ten dollars, and imprisoned until he consented to leave the territory.

In June, 1858, occurred the first formal organization of the democratic party in the territory. The party was divided about equally on the Lecompton constitution, being made up of Douglas and Buchanan democrats.‡ The dividing line between the republicans and democrats was not clearly defined; in fact a majority of the Douglas democrats afterwards voted with the republicans. In April, 1858, the democracy of Dakota county, in convention assembled, resolved:

"That we cherish an abiding faith and confidence in the great doctrine of popular sovereignty, as set forth in the Kansas-Nebraska act, and that we regard it as a vital element of democracy, and as embracing the fundamental principle of all free governments." To such democratic doctrine the republicans heartily gave their assent, while the Buchanan democrats denied this power as resting in the people, according to the terms of that act. After a glance at the composition of the legislature of the winter of 1858, it is a matter of great wonder that united action could be had upon any measure affecting the slave power. The house and council together consisted of fifty-two members, making the following showing as to political creeds: §

Douglas democrats 9, independents 7, democrats 22, republicans 13, whigs 1.

Although greatly in the minority, the republicans had determined upon constant agitation of the one absorbing question, yet not blind to the fact that it could have no immediate result. On November 1, 1858, on leave, Mr. Daily introduced "a bill for an act to abolish slavery in the territory of Nebraska." On failure of a motion by a facetious member ‖ to postpone further consideration of the bill until

* Council Journal, Third Session, p. 127.
† Council Journal, Third Session, p. 160.
‡ Omaha *Nebraskian* April 21, 1856.
§ Omaha *Nebraskian*, Oct. 13, 1858.
‖ Mr. Rankin.

the ensuing fourth of July, it was referred to a special committee of five.* The committee were divided in their opinion concerning the bill, and on the following day Mr. Daily brought in a majority report favoring its adoption, citing an organic act of the territory as conferring power upon the legislature to pass an act of this kind, and denying the assertion contained in President Buchanan's message, that Nebraska was as much a slave territory as South Carolina or Georgia.

The minority report presented by Mr. Rankin denied that slavery existed in the territory in "any practical form," and could not so exist without "affirmative legislation;" that it was deemed not only unnecessary but extremely unwise and unpatriotic, in the present state of the public mind, "to hurl this fire-brand of strife into our peaceful territory," hoping and trusting that the word slavery would never disgrace the fair pages of the statute book. This report recommended the indefinite postponement of the bill. Both the minority and majority reports were laid upon the table by a vote of fourteen to twelve, and further attempts to legislate upon this question were abandoned for the session.

Previous to this period in the history of the territory, the only evidence of the existence of a republican party consisted in a scattering opposition to the democracy on the part of a few men, holding a variety of political tenets. In the Omaha *Republican* of October 27, 1858, appeared a call for a meeting of the republican executive committee of Nebraska, indicating that there had been a previous organization of this party. Such however was not the fact. In March of 1859, the Douglas county democracy gave the opposition a friendly invitation to select candidates to be voted for at the next general election, for the purpose of testing the numerical strength of the respective parties. This invitation resulted in the first effort at republican territorial organization, which took place in the convention assembled at Bellevue, August 24, 1859. The assembling of the heterogeneous body caused great merriment in the ranks of the democracy. It was asserted that no two men of the convention held similar opinions upon any question except that of the territorial government, and that was for the reason that none but democrats were office holders. The Omaha *Nebraskian*,† in commenting upon what it was pleased to call "The Republican Fandango," said:

* Messrs. Daily, Rankin, Taffe, Stewart, and Fleming.
† Issue of August 27, 1859.

"That convention, which in courtesy is styled republican, was composed of a motley crew; embracing abolitionists, northern and southern know-nothings, men who preach squatter sovereignty in one breath and rail against it in the next, men who favor congressional intervention to keep slavery out of the territories, and those who desire it as a means of getting slavery into the territories."

Although coming as this stricture did from the opposition, there was much of truth in it. In movements of any kind, and especially in those of a political nature, men are influenced more by the personality of the leaders than by the principles they profess to teach; so that in a body of men such as made up this convention, drawn from almost every state in the union, and but lately come to know each other, it would be but natural that each one should bring with him the effects of his home training.

This assembly would not have been a political convention, had not some of the counties been represented by several different delegations. The convention, however, observed no fixed rule in admitting them. Of the two delegations from Cass county, the one claiming no other creed than eternal opposition to the democracy, was the one admitted; while the contest from Otoe county was compromised by admitting an equal number of both delegations, one of which was composed of representatives of the "people's party," the other of uncompromising "black republicans."

The point of interest concerning this whole matter was the platform adopted, proclaiming in the new territory for the first time, as the doctrine of a party:

"That the citizens of the United States emigrating to this territory bring with them their inherent rights to legislate for their protection and welfare, subject only, under the constitution, to the regulations of congress. That the people of this territory should be allowed to elect their own officers and regulate their own domestic institutions, and that it is the duty of the territorial legislature, in exercise of its power, to prohibit slavery in the territory."* Here for the first time were the party lines drawn distinctly, and the unanimity of action on the part of the men composing the convention left no doubt as to their intentions for the future. A resolution had been offered that the Philadelphia platform of 1856 be adopted, but was soon disposed of, since that platform recognized the power to prohibit slavery from or

* Territorial republican platform of 1859.

legislate slavery into the territories as vesting only in congress and not in the territorial legislatures, nor even in the people of the territories in constitutional convention assembled.*

In the campaign of the fall of 1859 the question of slavery was not made a practical issue, although in reality its influence was most potent. Orators pronounced as the issue of the campaign, whether Nebraska should be a free or slave territory,† and yet at the same time the discussions were not carried on with that bitterness and harshness which characterized the campaigns in many of the states. The wrangle over the public printing tended to overshadow the slave problem and to give the local coloring to the canvass. The question was referred to incidentally rather than directly; for instance, in the charges made by the democratic papers that the republican candidates were in favor of negro equality and of admitting negro testimony in the courts; also in the denunciations of this party as "black republicans" and "nigger worshippers."

Apropos of the term "black republican," Mr. Marquett relates an amusing incident which occurred during the term of Governor Black. At that time, although the republicans were rich in principle, they were poor in pocket. In fact it has been asserted that in January 1858, counting rich democrats and all, there was not an average of $2.50 to each inhabitant of the territory.‡ This being the state of affairs, and the greater part of this little stock of wealth in the hands of the democrats, that party gave all the champagne suppers, and in fact all the good things of the land fell to the lot of the party in power—a sort of Dives and Lazarus state of society. The republican party was eventually made to rejoice by the accession to its ranks of a man who claimed to have a bank account somewhere in the east, and who proposed to give a banquet to his party at his own expense. During this banquet, which as a matter of fact did come to pass, Governor Black and his secretary entered, and being invited to take part in this the first feast of the republicans, the secretary thought to create some amusement at the expense of this party by proposing a toast to Governor Black without the republicans. One of that party immediately arose and proposed a toast to the republicans without the Black; to this toast the Governor heartily assented.

In the fall elections the showing made by the republicans was a

* Cooper's "American Politics," p. 39.
† Speech of John M. Thayer at Omaha, Aug. 23, 1859. Omaha *Nebraskian*, Sept. 3, 1859.
‡ Address of J. S. Morton, Council Journal, Sixth Session, page 174.

matter of surprise to the democrats, who were considerably angered from the fact that Falls City, with the aid of Jim Lane abolition voters run over from Kansas and Missouri, returned one hundred and forty-three votes out of the total one hundred and seventy-two cast; yet notwithstanding this abolition aid, the republicans were generally defeated throughout the territory, and the democratic papers* hastened to proclaim in bold headlines the "joyful tidings," "Abolitionism in Nebraska wiped out." Abolitionism, however, had taken firm root in the new territory, and on the assembling of the legislature in December, bills providing for the prohibition of slavery in Nebraska were introduced into both the council and house of representatives. The bill introduced into the council was prepared by Messrs. Marquett and Taylor, and introduced by the latter. (Appendices "B and C.") The bill provided for a fine in case of any person holding slaves in the territory, including white persons and Indians in its provisions as well as negroes and mulattoes.

On the second reading it was referred to a select committee of three.† This committee, after due deliberation, seemed to have mutually resolved that each and every member thereof should present a report after his own mind, which was accordingly done.

Mr. Taylor, the chairman of the committee, favored the passage of the bill for the reason that slavery did exist in the territory, and for the further reason, that the territorial legislature had the power to pass such an act, citing in support of his first reason the fact that various democratic office holders, as well as members of the legislature were the owners of slaves at that time.

Dr. George L. Miller, in his report, questioned the power of the legislature to pass such an act, and further denied that practical slavery existed in the territory. He affirmed that the bondage of the few so-called slaves was voluntary, and that one of them at least was a burden to his master, by reason of his being subject to fits, leaving to the "candid and careful consideration" of the council to consider what could "be done to lighten the burden of the master and remedy the terrible malady of the slave." Furthermore, that "under the operation of incidental causes, aided by the stealing propensities of an unprincipled set of abolitionists, the number has been reduced to the insignificant figure of four and one-half slaves all told," and that

* Omaha *Nebraskian*, October 15, 1859.
† Messrs. Taylor, Miller, and Doane.

this fact furnished "abundant proof of the entire uselessness of the legislation" for which the bill called.* Mr. Doane would not admit for an instant that slavery existed in Nebraska, but questioned the propriety of "confiscating" property providing it was held. He was of the opinion that the territorial legislature had the power to pass an act of this kind but thought the introduction of the bill untimely. (See Appendix D.) At this point the bill was dropped and one from the house on the same subject taken up. This bill had been introduced in the house by Mr. Marquett, then of Cass county, and after a spirited contest of several days had passed by a vote of twenty-one to seven teen. In the council a joint resolution, taking the place of the bill, was offered by Mr. Porter and adopted. Here for the first time the Douglas democrats joined with the republicans, this giving them a clear majority.

In the house these resolutions were referred to a committee of three.† A majority report of this committee, signed by Messrs. Marquett and Lake, earnestly recommended the passage of the resolutions, with certain amendments. The minority report of Reynolds denied the necessity of the intended legislation, as slavery did not exist in the territory. The resolutions having been amended,‡ passed the house in the form of a bill, and on January 3, 1860, the council concurred in the amendments of the house.

On the ninth, the bill was returned unsigned by the Governor. The message accompanying the bill first set forth that the passage of such an act would be a direct violation of the treaty made at the time of the Louisiana purchase. The third article of this treaty provided that "the inhabitants of the ceded territory shall be incorporated in the United States, and admitted as soon as possible, according to the provisions of the federal constitution, to the enjoyment of all the rights, privileges, and immunities of citizens of the United States; and in the mean time, they shall be protected in the free enjoyment of their liberty, property, and the religion which they profess."

Nebraska being a portion of that territory and not yet admitted as a state, the people were still subject to the provisions of the cession treaty, and according to the tenor of this document, slaves were property.

In the second place the message denied the power and authority

* Council Journal, sixth session, p. 46.
† Messrs. Marquett, Lake, and Reynolds.
‡ House Journal, sixth session, page 189.

of the territorial legislature to pass such an act, since this body did not constitute the "people," as contemplated in the organic act, but interpreted the word people to mean the people of the territory in convention assembled.

The action of the Governor was not unexpected, as he was known to be an ardent pro-slavery man, one of Buchanan's pets, appointed from Pennsylvania. On the breaking out of the war, however, he returned to Pittsburg, entered the service as colonel of a Union regiment, and was killed in the seven days' fight about Richmond.

Several days after the veto,* upon motion of Mr. Furnas, the whole matter was indefinitely postponed and received no further attention at that session.

The real object in introducing the bills at this session had been to see just where certain men stood; to determine the actual attitude of the Douglas democrats, as well as a body of men known as independents, who were opposed to the democracy, but did not go to the extreme of black republicanism. The action of the legislature had also been urged by New England abolitionists, that the position of the new territory might be determined as speedily as possible. Letters were also received from Charles Sumner and Colfax, thanking the republicans of Nebraska for what they had done and urging upon them the necessity of persistent agitation.

During this session the contest had been of a nature both offensive and defensive, the democrats again bringing forward their free negro bill, which was introduced in the house by Mr. Nuckolls, of Richardson county. At that time many of the free states had laws prohibiting negroes and mulattoes from settling within their borders, Indiana, the native state of Mr. Nuckolls, being one of these.

After a first and second reading the bill was referred to a special committee of three, consisting of Messrs. Nuckolls, Johnson, and Marquett. In the minority report presented by the latter gentleman, he exposed the whole intent of the bill, when he said that it was simply intended as "political buncombe." In fact, this bill, as well as the resolutions offered by Mr. Donelan, was intended as an off-set to the republican bills. The Nuckolls bill provided that negroes or mulattoes remaining in the territory for a period longer than sixty days were guilty of a misdemeanor. By a vote of twenty-one to fifteen the enacting clause was stricken out, thus killing the bill.†

* Friday, January 13, 1860.
† House Journal, sixth session, page 129.

The Buchanan democrats were furious at the desertion of the Douglas democrats, but laid all the blame upon the black republicans. One of the democratic papers, in commenting upon the legislature said: "The black republican party is founded upon the great element nigger; it is fed upon nigger; its motive power is nigger. The African party are clothed in garments of sable, and their faces are of ebony and they masticate charcoal."

Nowithstanding the frequent assertions of the democrats that slavery did not exist in Nebraska, several incidents occurred in the interval between the closing of the session in January 1860 and the following session in December of that same year, which went very far to prove the contrary. During the summer of 1860, a colored woman Eliza, a slave belonging to Nuckolls of Nebraska City, escaped, (an unfavorable comment on her "voluntary bondage,") and was captured in Chicago, but taken away from her captors by a mob of negroes and whites, the whole matter terminating in a lawsuit which became widely known as the "Chicago rescue case." The *Times* and *Herald* of that city raised a great outcry over the affair and declared the nation lost.

During this year there were also several suits in the Iowa courts growing out of the disputes arising from the attempt of slaves held in the territory to escape. In one case a citizen of Iowa recovered a judgment of several thousand dollars against a citizen of Nebraska City, who had broken into the house of the former while in pursuit of a fugitive slave. The evil effect of the system began to be felt in Nebraska, since, by reason of disputes arising over the ownership of certain slaves, the trade of a good part of the country adjacent to Nebraska City was transferred to other towns.

About this time an advertisement of sheriff's sale appeared in the democratic paper published at Nebraska City, which announced that Sheriff Birchfield, by virtue of an execution in favor of William B. Hall against Charles F. Holly, would, on the fifth day of December, offer at public sale to the highest bidder, the "following described property, to-wit: One Negro man and one Negro woman, known as Hercules and Martha." The republican paper* published at Nebraska City, commenting at length upon the affair, called upon the legislature to settle the matter at once, for all time, and in the fall elections, the question was made a direct issue. There were several

* Nebraska City *Press*.

incidents connected with this sale which still further aroused the republicans.

The democrats themselves held that the act of bringing a slave into the territory virtually gave him his freedom, since it was necessary to positively legislate slavery into the territory before it could legally exist; yet at the same time execution was issued out of a proslavery court upon a negro as property, whom in the same breath it declared to be free. The republicans instituted proceedings against the judgment creditor, Hall, as a kidnapper, but nothing came of the affair further than the effect produced by the incident upon the succeding legislature.*

One is forced to the conclusion, that at the beginning of this contest both parties were agitating the question for political capital, but at this time the matter had become a question of real seriousness to all parties concerned. The democrats realized that slavery could never flourish in Nebraska, and that an attempt to force the matter but rendered the "irrepressible conflict" the more imminent. The proslavery men had never made a united effort to legislate slavery into the territory, since it was expected that the result of the conflict in Kansas would virtually settle the matter for Nebraska as well.†

The year 1860 had been a prosperous one for Nebraska. The population had been greatly increased by settlers, the majority of whom were republicans. In the fall elections, this party swept the territory, so that out of thirteen members elected to the council, eight were republicans, while out of thirty-eight members elected to the lower house the democrats could claim but eleven.‡ The democratic papers‡ made great sport of the promised reforms by the "kinky haired" republicans, and before the close of the session one of them became so abusive that its editor was excluded from the floor of the House.§

On the assembling of the legislature there were not wanting signs of the intention of the republican majority. William Taylor, better known as "Handbill Taylor," so called from his fondness for posting men who refused to give him such personal satisfaction as was demanded by the code of honor, and known as one of the most violent anti-slavery men in the territory, was chosen president of the council.

* See speech of Downes, of Otoe County, in House of Representatives, December 12, 1860.
† Private conversations with Mr. Marquett. Brownville *Advertiser*, January 3, 1861.
‡ Omaha *Republican*, November 29, 1860.
‡ Omaha *Nebraskian*, December 1, 1860.
§ Brownville *Advertiser*, Dec. 29, 1860.

On the 4th of December, Governor Black read what was to be his last message to a Nebraska legislature. He appeared oppressed with the thought of impending danger to the nation, and was fearful lest the republican majority, in the exercise of its newly acquired power, should do something to hasten that event, which he so dreaded, namely, the dissolution of the union. He urged upon them the distinction between legislation which might abstractly be right, and legislation which would be both right and beneficial in its results. He called especial attention to the fact that the proposed measure would injure their commercial relations, since no steamboat, with a "hired slave" on board, could with safety touch the shores of Nebraska. He believed that slavery, like every human institution, would have its day, that it had in fact passed its culminating point; but that if the union should perish the evil would then become irreparable. Finally, if it was not in the power of the legislature "to do something towards bringing back the days of other years, when peace prevailed," at least to do nothing "towards making the present gloomy, and the future hopeless." *

Men of the opposite party respected the spirit of patriotism and love which dictated words of such moderation, in a time so exciting, but they had pledged themselves in their platform to do all in their power to secure the passage of a bill prohibiting slavery in the territory, let come what might, believing that disunion without slavery was preferable to slavery and union. Early in the session bills to this effect were introduced in both houses,† and although the opposition was confined to fewer men than in the former sessions, yet the debates were more spirited and the enthusiasm more genuine than at any previous time. The democrats acknowledged the power of a territorial legislature, but denied their moral right, in view of the threatened disunion, to pass a bill of this character. The bills passed rapidly to a third reading, in the council there being three and in the house but two dissenting votes on the final passage.

The governor again vetoed the bill, and in his message went over about the same ground as in his former one, characterizing the passage of the bill as "most ill-timed and unpropitious." The reading of the message in the House caused great excitement, one member, not particularly noted for the exactness of his knowledge, spoke of it as

* Governor's message, Council Journal, 7, session, page 126.
† In the House, December 6, 1860; in the Council on the following day.

the "extraordinary dictum of king James *vicegerient*," and branded Governor Black as "Judas *I-Scariot*."*

The bill was soon after† passed over the veto, the vote standing the same as on its final passage, and declared to be a law by the secretary of state. ‡

The statute prohibited slavery or involuntary servitude in the territory, but provided no penalty for its infringement.

In 1862 a similar law in Kansas was declared unconstitutional, and for a time in this territory it was feared that this law might be disposed of likewise, but no occasion occurred for testing is validity.

The bill had passed in January, 1861; in April, the same year, began that struggle, which for a time was to make the future seem "at best but hopeless." In the time of peril, Nebraska gallantly responded to the call for aid; her war record needs no eulogy.

APPENDIX.

A.

COUNCIL BILL 58.

JOINT RESOLUTION for the Prohibition of Slavery.

WHEREAS, Some of our citizens seem to fear that slavery or involuntary servitude may be a fruitful source of discord and disunion in the territory, and in order that we may not have any further agitation upon this unpleasant subject, and that the same may be forever settled, therefore,

Be it enacted by the Council and House of Representatives of the Territory of Nebraska: That slavery or involuntary servitude, except for the punishment of crime, be and the same is forever prohibited in this territory.

Amendments adopted in the house:

Strike out the words "joint resolution" in the title and insert in lieu thereof "a bill."

Add as Section 2:

This act shall take effect and be in force from and after the first day of July, A.D. 1860.

B.

COUNCIL BILL 130.

AN ACT to prevent free negroes from settling in the territory of Nebraska.

Read first time February 9, 1857.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Terri-*

* Omaha *Nebraskian*, Jan. 5, 1861.
† In the Council Jan. 3, and in the House Jan. 5, 1861.
‡ Hon. J. Sterling Morton.

tory of Nebraska: That hereafter no free negro or mulatto shall be permitted to emigrate to, or to take up his abode in this territory.

SEC. 2. Any negro or mulatto, who shall, after the passage of this act, come into this territory with the intent of making it his residence, shall be fined in the sum of $10 on conviction before any justice of the peace, and shall be imprisoned until he assents to leave the territory.

SEC. 3. This act shall take effect from its passage.

C.

COUNCIL BILL 2.

A BILL for an act to abolish and prohibit slavery or involuntary servitude.

Read 1st time December 7, 1859; read 2d time December 8, 1859.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Nebraska:* That slavery or involuntary servitude in this territory is forever abolished and prohibited, except for crime.

SEC. 2. If any person or persons whomsoever shall violate the foregoing provision by holding in slavery any negro, mulatto, Indian, colored or white person against his, her, or their consent, the person so offending shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court of competent jurisdiction, be punished by fine not exceeding three thousand dollars nor less than five hundred dollars.

SEC. 3. This act shall take effect and be in force from and after the first day of May, A.D. 1860.

D.

COUNCIL BILL —.

JOINT RESOLUTION relative to slavery.

Introduced by Doane, December 21, 1859.

WHEREAS, Slavery does not exist in this territory, and there is no danger of its introduction therein,

Resolved, That being opposed to the introduction of slavery in this territory, and asserting the exclusive power of territorial legislatures over the whole subject of slavery in the territories by right of inherent sovereignty in the people to regulate their domestic institutions in their own way, and by virtue of the provisions of the Kansas-Nebraska bill, this legislature is prepared in any proper and practical way to take whatever action may be necessary to prohibit or exclude slavery from this territory at any time when such legislation may become necessary.

Resolved further, That, believing the agitation of this question at this time, by the attempt to legislate upon the subject of slavery in this territory, to be ill-timed, pernicious, and damaging to the fair name of our territory, the members of this legislature will oppose all such attempts.