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Chapter One

“An Eclipse of the Sun”

The Nebraska-Kansas Act
in Historical Perspective

JOHN R. WUNDER & JOANN M. ROSS

On the floor of the U.S. Senate in 1854, Ohio senator Benjamin Wade foresaw doom from the passage of the Nebraska bill. The future Radical Republican proved prophetic. “Tomorrow, I believe, there is to be an eclipse of the sun, and I think that the sun in the heavens and the glory of this republic should both go into obscurity and darkness together. Let the bill then pass. It is a proper occasion for so dark and damning a deed.”¹

Franklin Pierce might well have contacted a seer at this time to interpret this eclipse. He had the misfortune to serve as president of the United States a few years prior to the Civil War. Elected in 1852 as a decisive and strong-willed Democrat who wanted to work with both the North and the South to solve the vexing problems of the day and to stop the nation’s drift toward sectional nationalism, Pierce instead accelerated the process. In particular, he signed into law a statute—An Act to Organize the Territories of Nebraska and Kansas—that is often cited as a leading cause of the Civil War.

President Pierce soon knew he had made a profound miscalculation, and he regretted it. Part of his sadness was personal; the sudden death of his young son and the burdens of his office weighed heavily upon him. Shortly after his presidency concluded in 1857, he reflected that “this Kansas [and Nebraska]

matter had given him more harassing anxiety than anything that had happened since the loss of his son; that it haunted him day and night, and was the great overshadowing trouble of his administration.”² Pierce had many political reasons for regret. Not only was the violence and bloodshed in Kansas escalating on his watch and the unpopularity of what would later be termed the Kansas-Nebraska Act causing political earthquakes throughout the North and South, but Pierce became the only incumbent president ever to be denied renomination by his own party—the only president ever to be so humiliated. When he later spoke out against the Civil War shortly after it started, he was accused of treason by members of the Lincoln administration.³ The wrong man at the wrong time, Pierce presided over the passage and implementation of a law that has been generally regarded by most historians over the years as infamous.

Over 150 years ago, an act of Congress signed into law by President Pierce officially created Nebraska and Kansas. Termed “An Act to Organize the Territories of Nebraska and Kansas,” this statute represented a new kind of territorial organic act.⁴ It not only drew the borders and authorized governments for two new territories in the Louisiana Purchase lands for the first time, that of Nebraska and its southern counterpart, Kansas. It also allowed the citizens of these territories to determine for themselves whether they might allow or ban slavery within their boundaries. In effect it abolished the Missouri Compromise, which had prohibited slavery in the region since 1820. This bow to local control, known then and now as “popular sovereignty,” caused a great deal of anguish and some vicious confrontations.

Two misperceptions have lingered surrounding this controversial law. First, its actual name has been inverted. Officially the “Act to Organize the Territories of Nebraska and Kansas,” it should have been termed the “Nebraska-Kansas Act.” In Congress, the would-be law during debate was almost always referred to as “the Nebraska bill.” But historically a different label stuck, primarily because of “bleeding” Kansas, an adjective which in itself is somewhat metaphorically and historically suspect. This volume will

succumb to the traditional, though officially inaccurate, moniker of Kansas-Nebraska Act for the rest of the historical narrative. With the volume's title, the point is already well taken. Second, the association of popular sovereignty with the Kansas-Nebraska Act is accurate, but it is inaccurate to assert that this was the first time such a law had been passed. In fact, in the Compromise of 1850, the territories of Utah and New Mexico had been given the option of implementing popular sovereignty. Different issues arose in each of these territories that never reached the clamor of Kansas, and thus neither territory divided over a slavery position. What is "first" here is that this new kind of measurement of slavery interest on the part of Westerners was being tried on Louisiana Purchase lands, the very lands that had been the subject of national division a generation earlier which the Missouri Compromise supposedly assuaged.

Who might have anticipated seven years after the passage of the Kansas-Nebraska Act that the United States would shatter in 1861 and that the Confederate States and the Union would struggle through a vicious four-year civil war to the death? Unionism prevailed, but the historical importance of the Kansas-Nebraska Act of 1854 would not be lessened. Most historians agree that the law along with Kansas's subsequent mini civil war, John Brown's assault on Harpers Ferry, the popular lauding in the North and trashing in the South of Harriet Beecher Stowe's novel *Uncle Tom's Cabin*, and *Dred Scott v. Sandford*, the 1857 U.S. Supreme Court decision, all accentuated the nation's cultural divide over slavery and hastened the day when American shot American.

Historian Kermit L. Hall has ruminated about understanding laws and history. While it may be important to know what rules a law outlines, any legal history of a statute, especially one that has been so often publicly discussed, requires knowing "what consequences its contents have had for the society it is meant to serve." Crucial to statutory legal analysis then is asking "what significance [the law] had for the larger external world it aimed to serve." According to Hall, historians must consider a variety of causal relationships. In other words, "We want to know the law by what it

has done, or by what has been done to it, rather than simply by what it was.”⁵

Throughout American legal and political history, a variety of watershed moments have occurred. Many include the adoption of specific laws, and these statutes had national range even though they may have been meant to resolve local or regional issues. Certain laws helped precipitate the American Revolution; others helped reshape American society after the Great Depression. And one, the Nebraska-Kansas Act, proved sufficiently controversial so as to increase the likelihood of national division.

It was in 1854 when this significant law creating Nebraska and Kansas territories took its place among those federal statutes that have made up the American nation’s political and legal history, and it is perhaps time to reclaim (and perhaps even reorder) the title and legacy of the Act—or to express it historically in another substantive way, to put the “Nebraska” back in the Kansas-Nebraska Act. Significant scholarly ink has been devoted to explaining the general and specific nuances of the Act nationally as well as regionally in Kansas. The place of Nebraska in that ink has been rare. That a Nebraska-centric book-length treatment of the Kansas-Nebraska Act does not exist motivated and informed this particular volume.

The sesquicentennial of the Kansas-Nebraska Act has brought forth significant new scholarship. Much of it has concentrated on events in Kansas. Much of this history has evolved from James A. Rawley’s *Race & Politics: “Bleeding Kansas” and the Coming of the Civil War*, first published in 1969. The best of the new is *Bleeding Kansas: Contested Liberty in the Civil War Era* by Nicole Etcheson. This thorough and creative volume takes as its theme how exercising the extremities of liberty pulled the nation apart. The setting for this exercise proved to be the new Territory of Kansas. Ironically, according to the dust jacket for Etcheson’s book, “Many free-state Kansans seemed to care little about slaves, and more proslavery Kansans owned not a single slave.” The raw principles of democracy, and not solely race, then were unleashed by the

Kansas-Nebraska Act, leading to violent instability on the American frontier.

The Kansas State Historical Society offered its contributions in the form of a special double issue of *Kansas History* published during the summer of 2004 and the creation of a Web site in collaboration with the University of Kansas. Topics are multiple and varied in both *Kansas History* and the Web site. Their publication begins with a brief introduction by *Kansas History* editor Virgil W. Dean and the special issue's coeditor, Jonathan H. Earle. In short order, Kansas historian Craig Miner contributes "Historic Ground: The Ongoing Enterprise of Kansas Territorial History," Etcheson revisits "The Great Principle of Self-Government: Popular Sovereignty and Bleeding Kansas," and University of Kansas historian Rita G. Napier takes a close look at local Kansas politics in "The Hidden History of Bleeding Kansas: Leavenworth and the Formation of the Free-State Movement." Six more articles grace this issue, ranging from "Lawrence in 1854: Recollections of Joseph Savage" and "An 'Idea of Things in Kansas': John Brown's 1857 New England Speech" to the modern meaning of Kansas's creation in Rusty Monhollon and Kristen Tegtmeier Oertel's "From Brown to *Brown*: A Century of Struggle for Equality in Kansas." The Web site, "Territorial Kansas Online, 1854–1861," was reviewed in March 2005 in the *Journal of American History*, which noted that it held a "vast array of primary sources" which provides a "wonderful resource for teachers and professors as well as for researchers."

Both Kansas and, to a much lesser extent, Nebraska claim John Brown, the crusading antislavery terrorist. Note the latest biography's subtitle. David S. Reynolds has written *John Brown, Abolitionist: The Man Who Killed Slavery, Sparked the Civil War, and Seeded Civil Rights*. Brown is synopsized as "a Puritan warrior who gripped slavery by the throat and triggered the Civil War." These excesses continue throughout the narrative to the very end, where Reynolds sees modern parallels to "bleeding" Kansas and Brown's role: "When Thoreau said that Brown's words were more powerful than his rifles or when Emerson ranked his court speech with

the Gettysburg Address, they were highlighting the power of his language.” Perhaps, but then Reynolds moves on to speculate on modern applications of Brown’s ideology by Ted Kaczynski and Timothy McVeigh, “Shakespeares when compared with other modern terrorists.”⁶ John Brown remains a man for all kinds of seasoning.

The political history of the 1850s is also the subject of recent significant revision. Michael F. Holt has argued in *The Fate of Their Country* that the Civil War was caused by extreme partisan politics. Moreover, Holt stipulates that repeal of the Missouri Compromise in the Kansas-Nebraska Act as demanded by Southern political leaders in Congress “was arguably the single most important turning point on the road to disunion and civil war.”⁷ The political prelude to the Nebraska bill is described in Jonathan H. Earle’s 2004 *Jacksonian Antislavery and the Politics of Free Soil, 1824–1854*. He revises the previous understanding of Free Soil advocates. In his intellectual history, Free Soilers base their political evolution from the fundamental notion of availing property equally to all individuals—rich or poor, white or black. That in turn meant hostility to slavery had to underscore this important political movement. It was so strong that it turned Northern Democrats, such as David Wilmot and Martin Van Buren, into antislavery politicians.

Whigs were also not immune to these political whirlwinds at play. Abraham Lincoln emerged in the 1850s as a politician reinvented. His intellectual strengths allowed him to move smoothly from defeated Whig congressman to successful Republican presidential candidate. Lincoln, like many others, was profoundly affected by the Kansas-Nebraska Act. Mark E. Neely Jr. explains in *The Last Best Hope of Earth* that the Kansas-Nebraska Act’s approval—“perhaps the most explosive piece of legislation ever passed by a U.S. Congress”—caused Lincoln to change parties and try for national office.⁸ In his 2004 historical survey, *The Shattering of the Union: America in the 1850s*, Eric H. Walther aptly uses an unattributed quotation as the title for his chapter on the Kansas-Nebraska Act: “It Will Raise a Hell of a Storm.” It did.

Recent Nebraska literature on this topic is characterized by

paucity. No modern book-length monograph exists on either the Kansas-Nebraska Act in Nebraska or a social and economic history of Nebraska Territory. Three issues of *Nebraska History* have treated the Kansas-Nebraska Act. In the fall 1992 issue, James B. Potts wrote about several political efforts to merge land south of the Platte River with Kansas Territory. The title of his article offers some insight: "North of 'Bleeding Kansas': The 1850s Political Crisis in Nebraska Territory." A southeastern territorial secessionist movement, encouraged by young pro-slavery Democrats such as J. Sterling Morton, fizzled; Kansans had no interest. In the winter 2003 issue, James E. Potter offered "*Nebraska History* on Nebraska Territory: A Reader's Guide." This historiographical essay considered twenty-nine articles from *Nebraska History* and aside from two essays by James B. Potts, no work written since 1986 is included. A handy list of territorial governors and other bibliographical materials follows the Potter survey. And in the summer 2004 issue, *Nebraska History* reproduced the J. H. Colton Company map, "Nebraska & Kansas," printed in New York in 1854, to commemorate the sesquicentennial of the Kansas-Nebraska Act.

The sesquicentennial was not overlooked in Nebraska. A lecture series, sponsored by the Nebraska Humanities Council and the University of Nebraska–Lincoln Department of History, met four times in the Nebraska State Capitol between September 20 and November 8, 2004. The subsequent essays in this volume are derived from this event. The Kansas-Nebraska Act was physically denoted with the remarking and resurveying of the First Guide Meridian East on the state line between Kansas and Nebraska in 2005. This marker, originally placed in 1855 by two teams of eight surveyors, became the basis for delineating homesteads, towns, and townships in Nebraska.

The seven original essays that follow come from both nationally renowned and new scholars. They feature topics that accentuate the political, social, and personal contexts of the Kansas-Nebraska Act. Some specific attention is devoted to Nebraska in this volume.

Contributors

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