The Rocky Road to Statehood: Colorado Statehood and the Contested Election of 1876

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Abstract

This thesis will explore Colorado's path to statehood. It begins with a summary of the election of 1876 to set up the research question: why did Colorado, a Republican-territory, become a state in a critical election year when the Democrats controlled the House of Representatives? Next, it covers the historiography to gain insight into how scholars view Colorado statehood and its relationship to the election of 1876 given that both happened in the same year and that coincidences in politics are rare. A follow up will occur with an explanation of the differences between a state and a territory to demonstrate the importance of statehood alongside a discussion of the unsuccessful attempts to make Colorado a state that came from both within the territory and in Congress. Then, events inside the territory leading up to the successful bid for statehood will be discussed to gain an understanding into the origins of that effort. Afterwards, national events will be covered to narrate a familiar experience for Colorado statehood – that various occurrences at different moments appeared to halt statehood for the time being. Finally, this thesis ends with a discussion of the final statehood bill in Congress to explain how it finally passed. The major argument will be that political developments inside Colorado territory promulgated the successful statehood effort while the inability of the Congressional Democratic leadership to hold the party together in opposition to Colorado statehood allowed it to pass and in time to participate in the election.

1 THE PRESIDENTIAL ELECTION OF 1876

On the morning of Wednesday, November 8, 1876, the day after the last polls closed, the *Chicago Daily News* declared that the Democratic former governor of New York, Samuel Jones Tilden had been elected President by "a very considerable majority of the electoral vote." The nation's press was almost unanimous in its agreement with the *Daily News*[1]. The Republican-affiliated *Indianapolis Journal* agreed that the Republican candidate, Rutherford Birchard Hayes had been defeated. "Tilden is elected. The announcement will carry pain to every loyal heart in the nation, but the inevitable truth may as well be stated," the journal lamented[2].

On the night of Tuesday, November 7, the disappointed manager of the Hayes campaign, William Chandler, was certain of Tilden's victory and retired to bed in low spirits[1]. The candidate himself accepted his loss and planned to draft his concession speech the next morning[2]. However, at 10:00 on Sunday morning, March 4, 1877, the heavily bearded former governor of Ohio, Rutherford Birchard Hayes, was sworn-in as the nineteenth President of the United States in secret[2]. Two days prior, the American public did not know who their next President would be[2].

The controversy that resulted in the election of Hayes, as historian, Keith Ian Polakoff writes, "was potentially as grave as the crisis that ensued after the election of Lincoln in 1860"[1]. The nation was on edge following the first election where the president elect was the loser of the popular vote, a condition made possible by a controversial clause in the Constitution that critics charge limits accountability and the determination of voters of who represents them[1]. As the procedure is laid out, the real power for electing presidents rests with a body of officials called Electors, who may vote however they choose, irrespective of the result of ballots cast in the state they represent. States are assigned a number of Electors derived from the sum of a state's Congressional districts and its two Senators as an effort to balance the electoral influence of highly populated states. Even though Electors nearly always confirm the popular votes of their states, the fact that the number of Electors is smaller than the population of their states allows for the possibility that the winner of a presidential election lost the popular vote[3]. To this point, however, such a condition had never appeared, creating the appearance that the popular vote affected the result of presidential elections. The inconsistency between the Electoral College and the popular vote in the 1876 pres-

idential election brazenly exposed the limitations of the choice of eligible voters in presidential elections, and was the driving force behind the dispute in the election.

Without the Electoral College, Samuel Tilden would have been elected president because the number of votes cast for him by eligible voters outnumbered those cast for Hayes, and there was no uncertainty about it. The nature of the dispute lay in questions of how the Electors voted in 4 undetermined states (Florida, Oregon, South Carolina, and Louisiana) and which returns from those states were legitimate, as conflicting Electoral vote returns had been submitted to Congress from those states. The fact that the loser of the popular vote, Hayes, was still elected president provoked an outcry from Democrats and was a source of their insistence that President Hayes was an illegitimate president - afterall the majority of American voters chose Tilden[1].

After a commission appointed by Congress to settle controversy awarded all twenty of the disputed electoral votes from the four states to Hayes, the former Ohio governor was given a total of 185 electoral votes — one more than his Democratic rival[4]. When Congressional Republicans struck a deal with their Democratic counterparts who were filibustering the count of the Electoral votes after the commission released its decision, the Democrats halted their filibuster, and Hayes' victory was confirmed[2].

2 INTRODUCTION

A variety of factors contributed to making the election of 1876 memorable, but one often overlooked factor ensured that the election would be disputed. When Colorado entered the Union as the thirty-eighth state, known as the Centennial State in reference to the one-hundredth anniversary of the Declaration of Independence, the balance of electoral votes increased from 366 total votes to 369. This meant that the necessary total for election rose from 182 to 185 votes[2;5]. Although three electoral votes may seem trivial, in 1876 it was crucial. While Samuel Tilden had secured 184 votes to Rutherford Birchard Hayes' 162, without Colorado's admission, Tilden would have won with no contest, and the twenty disputed electoral votes would have made no difference in the outcome. However, when Colorado became a state on August 1, 1876, and gave its 3 electoral votes to Hayes, every vote mattered. With 165 votes, should all 20 disputed votes go to Hayes, he would be elected. Unfortunately for Tilden, that is what happened.

Colorado—although a Republican stronghold, like most far-western territories—joined the Union while the Democrats controlled the House of Representatives[6;2]. Moreover, as Keith Ian Polakoff points out in his book, *The Politics of Inertia*, "The election of 1876 was universally expected to be the most closely contested election in more than a generation, even before the candidates had been chosen"[1]. For the first time in twenty years, the Democrats had a real chance of winning the presidential election[1]. This raises an important question: why did Colorado, a Republican-territory, become a state in an important election year while the Democrats controlled at least one house of Congress, especially considering that the last time the Democratic candidate was elected president was a full two decades ago? Further, Colorado statehood was not new; in fact, it had been attempted both from within Colorado and in Congress five times before 1876. This raises an additional question: why did Colorado not become a state earlier?

This thesis will seek to explain how and why Colorado became a state in a critical election year. It will begin with a synopsis of the historiography to understand the debate amongst historians over the importance of Colorado statehood to the election, then follow up with a brief explanation of the differences between a territory and a state to demonstrate the significance of Colorado statehood. After that, it will explore Colorado's path to statehood through a summary of previous attempts to make it a state to understand why Colorado did not become a state earlier and what the consistent arguments for and against Colorado's admission were. Next, it will consider events inside Colorado between 1869 and 1876 to gain insight into why the statehood movement was revived in 1873. Afterwards, it will explore the national context between 1872 and 1876 to understand why the national setting was finally favorable to Colorado statehood. Unlike the last two efforts to make Colorado a state (1865 and 1867), this attempt was met with a more supportive president and fractured opposition in Congress coupled with stronger support for statehood amongst the territory's voters. Although the Congressional Democratic leadership did not support Colorado's admission during the territory's final effort to become a state, their ultimate inability to hold the party together in opposition to the admission of the Republican-territory was a decisive factor contributing to Colorado's achievement of statehood in 1876, thus paving the way for the dispute that would define the election. This thesis will argue that the defeat of Colorado statehood in its five unsuccessful attempts were affected partly by internal opposition but mostly by an unconvinced president and weak Congressional support. Contrarily, the reasons for statehood in 1876 were largely internal and unrelated to the election of 1876.

3 HISTORIOGRAPHY

The 1876 electoral controversy was set up after Colorado became a state on August 1—just in time to participate in the election. Most scholars agree that Colorado statehood was a critical factor in the election, but

they disagree on its importance. As far as Colorado statehood and the election of 1876 are concerned, two sets of scholars have emerged.

3.1 Group 1

The first group focuses mostly on the election. These scholars largely agree that Colorado statehood guaranteed that the election would be disputed, but they argue that other factors resulted in the seating of Hayes over Tilden. To them, Colorado statehood is important but not central. Rather, it is relevant background information necessary to complete a narrative discussion of what happened in 1876 while they ultimately argue that there were other reasons for why Hayes won.

This group includes Michael Holt, who dedicates half of chapter two of his 2008 book, *By One Vote: The Disputed Presidential Election of 1876* to a discussion of Colorado statehood. However, he does not consider it a central feature in the election. Holt bluntly writes, "This book is supposed to be about the presidential election of 1876, not what Congress did in the winter of 1874-1875 with regard to Colorado or anything else"[5]. Clearly to Holt, Colorado statehood was important enough to merit half a chapter, but to him it was a separate event that, though important, was not a central factor of the election.

Like Holt, Keith Ian Polakoff, in his 1973 book on the election, *The Politics of Inertia: The Election of 1876 and the End of Reconstruction*, also thinks of Colorado statehood as an important event affecting the election. However, unlike Holt, Polakoff only dedicates two pages and one paragraph to the topic. The author ends his discussion of Colorado after mentioning its electoral votes[1]. It is evident that he considers Colorado statehood relevant but still not directly related to the election. For Polakoff, Colorado statehood had an important consequence for the election, but it was not a central factor.

Unlike Holt and Polakoff, not all scholars writing about the election of 1876 even view Colorado statehood to be noteworthy. These authors include William Rehnquist, the former Chief Justice of the Supreme Court. In his vivid retelling of the election, *Centennial Crisis: The Disputed Election of 1876*, Rehnquist describes the details about national developments surrounding the election. However, all he said about Colorado statehood was that it happened. The only time Rehnquist mentions Colorado statehood in his 248-page account of the election, he writes, "Colorado was admitted to the Union in 1876 as the thirty-eighth state; it would be known as the Centennial State"[2]. The Chief Justice does not even discuss the significance of the new state's electoral votes for the dispute. Clearly, Rehnquist regarded Colorado statehood as no more than background information unconnected to the election.

3.2 Group 2

The second group of scholars, much smaller than the first, largely takes the reverse perspective of Colorado statehood and the election of 1876. These scholars focus on how Colorado became a state, and unlike their counterparts in the first group, they mention the election as relevant background information. They mostly agree that while Colorado statehood was influenced by and in-turn influenced the election, they argue that other factors led to Colorado's successful bid for statehood in 1876 not entirely related to the election. This group includes Eugene Berwanger. Although his 2007 book, *The Rise of the Centennial State: Colorado Territory, 1861-76*, presents an overview of Colorado history from the Pikes Peak Gold Rush to statehood, Berwanger dedicates all of chapter eight of his book to a discussion of national developments around the successful bid for Colorado statehood and the election. Unlike Holt who dismisses Colorado statehood by stating the purpose of his book was not to summarize the actions of Congress in 1874 and 1875, Berwanger makes no such comment about the election. He certainly considers the achievement of Colorado statehood in 1876 as related to the election and the impact that the new state had on the election[6]. Evidently to Berwanger, the election was an integral factor affecting Colorado's successful statehood effort. Nevertheless, his book is about Colorado history—not the connection between statehood and the election.

Unlike Berwanger, Sybil Downing and Robert Smith, in their biography of Thomas Patterson, Colorado's territorial delegate to Congress in the formative years of 1875-76, dedicate only three pages to the election. However, this is not due to the authors' apathy for the election; rather because their book is a biography, it must stay focused on the life-story of its subject[4].

Dissimilar to Berwanger, in his 1943 master's dissertation on Colorado statehood, "Early Colorado Statehood Movements and National Politics," Gerhart John Decker only remarks on the election as an afterthought. He writes, "Colorado lost her first fight for statehood but when she did reach the goal of statehood, she was destined to play a part of far-reaching importance in 1876"[7]. However, this is not because he disregarded the importance of the election for statehood; it is because his paper was about unsuccessful Colorado statehood movements. For sure, the purpose of his research was to understand the origins of the statehood movement through previous failed attempts and to gain insight into why Colorado did not become a state earlier, not the ultimate accomplishment of statehood in 1876.

In this thesis, Berwanger's approach of considering Colorado statehood in relation to the election is followed. That said, Berwanger will be departed from, as neither he nor any other scholars have specifically followed Colorado's path to statehood. The purpose of

this thesis is particularly to trace Colorado's advancement to statehood from its inception as a territory to its ultimate achievement of statehood parallel to the election of 1876.

4 TERRITORY VS. STATE

To understand the significance of statehood to newly admitted states and the nation, it is necessary to understand what a state is and how it is different from a territory. The admission of new states marks an important point in American history. It captures great attention from the public and signals a progression in the country's development. This was especially salient in the nineteenth century when at least one new state was added every decade. The nineteenth century was largely a century of expansion for the young republic. Following independence in the late eighteenth century, the country's borders spread westward, increasing the borders of the republic, with each new state signaling the power and potential of the United States and highlighting what many contemporaries asserted was the nation's destiny to greatness, which they understood to be the amount of land controlled by the government and established under Congressional authorization[8]. Sybil Downing and Robert Smith offer perhaps one of the clearest explanations of the differences between a territory and a state.

> A territory was like a poor relative. With no direct voice in Congress (territorial delegates had no vote and could only serve on the Territorial Committee in the House), Colorado was dependent on patronage and friends in high political places to secure aid for its railroads or helpful mining laws[4].

Furthermore, territories do not have representation in the Senate and lack electoral votes[6]. Lastly, in the nineteenth century, top territorial government officials, including the governor, treasurer, secretary of state, chief auditor, and attorney general were appointed by the president, and subject to confirmation by the Senate[6]. Governed by Washington with no direct influence in Congress, Colorado was completely reliant on the Federal government for support with infrastructure, construction of schools, and aid resolving conflicts with Native Americans among other issues[6].

On the other hand, states had everything that territories lacked – direct influence in Congress with two Senators, at least one voting member of the House of Representatives (dependent on a state's population), electoral votes for president, and self-government. Unlike territories, states do not need support from allies in the nation's capital to address internal concerns. Despite the benefits of statehood, though, the citizens of states, who must pay state and federal taxes, face more and higher taxes than do the citizens of territories, who only owe territorial taxes which are smaller[6].

5 UNSUCCESSFUL STATEHOOD ATTEMPTS

Colorado statehood would be attempted five times from both inside and in Congress before it eventually reached the milestone in 1876. The first official effort came in the spring of 1859 when a group of overzealous Pikes Peak gold prospectors organized a meeting to draft a constitution for their proposed State of Jefferson, in reference to the late president, Thomas Jefferson, perhaps as a gesture to Zebulon Pike mission to the region of Pikes Peak in 1806 which had been ordered by President Jefferson. However, when the proposal to create the state government for the region encompassing the Front Range of the Rockies and the surrounding area was presented on the ballot, the voters saw no logical reason to skip the territorial phase and had no desire to pay higher taxes, and so they overwhelmingly rejected it.

Considering the instability of a population founded on gold prospecting and the raging debate over slavery back east, it is unlikely that this proposal would have led to the creation of a state had it passed the referendum. Despite the rejection of the statehood offer, though, the voters approved a subsequent proposal to organize the Territory of Jefferson. They went on to elect a legislature, a governor, a territorial delegate, and other executive officials. Congress never recognized the Territory of Jefferson or its delegate, and so the Territory of Jefferson operated as an extra-legal body presiding over an area that included parts of the Kansas, Nebraska, and even Washington territories. Nevertheless, the referendum on the State of Jefferson and Jefferson Territory formed the basis of the movement that led to the formal establishment of a territory in early 1861[9]. To make the territory, Congress drew lines at the 40th and 42nd parallels from the Nebraska Territory and east of the Continental Divide and the 37th parallel from the New Mexico Territory[6]. However, Congress rejected the name of "Jefferson" for the new territory, as lawmakers balked at naming a territory after an individual. In the end, Congress agreed to name the territory Colorado in reference to the Colorado River which originated within the boundaries of the territory[6].

In early 1864, statehood would be attempted again (despite the national focus on the Civil War in the East—known at the time as the rebellion), when Congressional Republicans, uncertain of President Abraham Lincoln's reelection chances, hustled through enabling acts for three Republican-oriented territories in the far west: Colorado, Nebraska, and Nevada, hoping to give the incumbent wartime president a boost in the Electoral College. New Mexico, not surprisingly,

was not included as it was controlled by the Democrats. Utah, similarly, was excluded because Congressmen bristled at the widespread and legal polygamy practiced there[6]. Ultimately, Congressional Republicans had no reason to worry about Lincoln's reelection as the former Illinois Congressman won in a rout[10].

As for Colorado statehood, when the issue was presented on the ballot in the territory, the voters heavily refused statehood for the same reasons they voted against the State of Jefferson proposal six years before. Added to opposition based on taxation, the widespread apprehension of the territory's voters that statehood would enable them for the Civil War draft convinced many to vote against statehood. This effort for statehood also faced formidable opposition from the rural communities whose voters dismissed statehood as a disingenuous attempt by urban politicians to increase their power and the strongly Democratic southern counties, whose voters resented their removal from the New Mexico territory[7]. In the end, only Nevada achieved statehood in 1864[6].

However, the movement for Colorado statehood would not be silent for long. As the transcontinental railroad began to expand west of Omaha in the summer of 1865, statehood advocates insisted that the direct voice in Congress that would come with statehood would guarantee Colorado a connection to the rail, which they asserted would bring greater prosperity and a higher population more capable to meet the demands of statehood. Denver leaders drew up a new state constitution, and this time, with the Civil War over, the territory's voters approved statehood by a vote of 3,025 to 2,870[6].

In early 1866, though, Colorado statehood met defeat in the Senate, by a vote of 21 to 14 with 15 Senators absent[7]. As Congressmen were distracted with the considerable task of Reconstruction following the conclusion of the Civil War, statehood for a far-western territory with a sparse population of mostly miners and former gold-prospectors was not of critical necessity to the nation. Along with that, the fact that the proposed state's constitution denied Black men the right to vote exasperated Radical Republicans (Colorado women would not have access to the ballot until 1893). Most of all, the fact that the territory had such a small population composed mostly of miners convinced many Senators that Colorado was not able to be a state as mining was far less stable and permanent than agriculture or industry, and it was widely expected that miners would move as soon as the circumstances proved propitious. The small turnout of Colorado voters in the referendum for statehood likely demonstrated that the citizens of the territory were not ready to support a state government. Lastly, the fact that the vote in Colorado was not done under legal protection against fraudulent voting with no organized opposition persuaded opponents in the Senate that it was not clear if the citizens of Colorado really did desire statehood[7;9].

Nonetheless, on Wednesday, April 25, Henry Wilson, a Radical Republican Senator from Massachusetts would reintroduce the bill. Wilson convinced his colleagues that Colorado held staggering natural wealth that would be realized much easier with statehood and that with so many Senators absent during the vote, the issue did not get an accurate assessment. The bill then quickly passed both houses of Congress[7]. However, when it reached President Andrew Johnson's desk on Tuesday May 15, the Tennessee Democrat was not impressed, and he vetoed the bill. This was the closest Colorado had come to becoming a state before it eventually did in 1876. All it needed was the president's signature, but for now it was not to be[7].

To Johnson, all former Confederate States had to be reintegrated to the Union before the admission any new states could be considered, and Colorado was no exception. As far as Johnson was concerned, Colorado was doing just fine as a territory, and did not need statehood to be prosperous. For him, a mining population was unstable - there was no certainty, he insisted, that such a population would exist long enough to justify statehood for an area that could realistically be completely void of American citizens in the not too distant future. Additionally, for the president, the prosperity of the region existed in its natural wealth and the ability of the population to access it, and thus needed no formal authorization to realize its potential. Most vehement were Johnson's objections based on the small size of the population (and not just what he argued was a non-permanent one) and the legality of the bill presented before him. For Johnson, it made no sense to give a population roughly four times less than the minimum population to determine Congressional districts, an at-large district and two Senators. As far as the president was concerned, a territorial delegate was adequate for the representation of the population of miners and former prospectors in the region of Pikes Peak and the eastern slope of the Rocky Mountains[7].

Because the voters of Colorado rejected statehood after Congress authorized an enabling act in 1864, Johnson was determined that the act had expired. For Johnson, Congress had the power to grant a territory admission if its citizens desired it, but Congress could not make states. For Johnson to be satisfied on that end, Congress would need to draft a new enabling act for Colorado for 1865. Because that did not happen, Johnson insisted that the Colorado bill of 1865 was illegal, and therefore, he could not sign it. Even if a new enabling act had been drafted and the citizens approved statehood on the ballot, to Johnson, 30,000 of mostly miners and former prospectors was a nomadic population that was far too small to require a state and too unstable to believe that there would consistently be enough citizens in it to justify a state government.

Lastly, it is hard to imagine why Johnson, as a Democrat, would be eager to assist a Republican-oriented territory into the Union[7].

Ultimately, Congress failed to act to override the president's veto, and yet again, Colorado statehood was done for the time being. Once again, it would not be tabled for long[7]. The next year, in defiance of the president, Congress shoved the Colorado bill right back at him. As was probably expected, Johnson was not of a different mind than he was the previous spring and vetoed the bill for a second time on Monday, January 28, 1867. On Friday, March 1, Congress attempted to override the veto, but fell short of the necessary two-thirds in the Senate by 3 votes (the total vote count in the override attempt was 29-19)[7].

Colorado statehood was one of several areas Johnson and Congress would clash over, and the next year the president would survive an impeachment trial by one vote over an incident unrelated to Colorado after Johnson discharged Secretary of War, Edwin Stanton in contempt of a new bill passed in Congress that required the Senate's approval for the president's dismissal of Cabinet officers[11]. As far as the territory was concerned, this time, the question of statehood was finally buried for the time being. The advocates for statehood inside the territory and in Congress finally accepted the fact that with Johnson in the White House and no urgent need for the territory or the nation to rush Colorado's admission, continuing their efforts was futile. Ultimately, the defeat of statehood meant that it would come up later, and the next time Colorado statehood would pop up, the nation would be in crisis, just as it had when Colorado became a territory in early 1861.

6 STATEHOOD RESURRECTED

6.1 Controversy in Colorado

With the election of the Republican, Ulysses S Grant in 1868, the chances for Colorado statehood might have seemed better. On Wednesday, March 3, the day before Grant took the oath of office as the eighteenth president of the United States, *The Boulder County Pioneer* rejoiced, "...(T)omorrow brings the inauguration of President Grant and the retirement of AJ. Let us have peace"[12]. However, the forty-seven-year-old former General of the Union Army did more harm to the territory than good at the beginning of his tenure in office. Within his first four months as president, Grant capriciously removed Colorado's territorial governor, Alexander Cameron Hunt, an appointee of Andrew Johnson, who was generally well liked, and by all accounts, performing competently in his office and without scandals[6]. In 1873, the suffragette and writer, Sara Jane Lippincott, known by her pen name, Grace Greenwood, wrote, "the general favorite (among the governors) in Colorado is Governor Hunt"[6].

In a gross display of patronage, the president replaced Hunt with Grant's Civil War comrade, Edward Moody McCook, who, despite having lived in the region that would become Colorado Territory from 1859 to 1861 and having served on the Jefferson Territory legislature in 1860, was at this moment, a resident of Ohio[6;13]. There was great resentment amongst the residents of territories to outsiders being appointed to high offices of the territorial government, and Colorado was no exception[6]. "Eastern men..." the *Colorado Tribune* huffed, "who have no claim to govern us, are given preferences over their own citizens, as though we had no rights which the Administration was bound to respect"[6]. Worse yet, Hunt's successor quickly developed a reputation for corruption, dishonesty, poor integrity, and plain incompetence.

McCook, who sported a receding hairline, distinguishable by his bushy, protruding mustache that drooped over his lips, set the tone for his governance after he immediately appointed his brother-in-law, James B Thompson, as his private secretary, auditor of public accounts, and special agent to the Ute Nation at the same time. Although patronage and nepotism were common in nineteenth-century American politics, Thompson's many simultaneous offices gave him seemingly significant influence over the governor and territorial affairs[6]. Before these questionable appointments, McCook split public opinion right away after allying himself with Henry Teller, the long-time opponent of statehood and leader of the mountain communities which challenged Denver for the location of the site for the capital and infrastructure projects[6].

McCook went on to engage in a series of scandals wherein he embezzled approximately $30,000 dollars (in 1869 value—adjusted value of $615,000 in 2022 currency) from the territorial and Federal governments[4]. McCook's debauchery did not end there. As governor, he was mandated by law to adhere to the terms of treaties with indigenous tribes and to preside over negotiations between the territorial government and Colorado's indigenous nations. The governor quickly discovered that he could serve this function and profit significantly from it[6].

In one instance, McCook requested $5,000 from the Federal government to cover the cost of supplies to satisfy the terms of an 1868 treaty between the Ute Nation and the territory. Upon receipt of the funds, though, instead of paying the distributor, the governor deposited $3,000 of the loan in his personal account while claiming that the Federal government had only supplied him with $2,000. Another condition of the treaty stated that the tribe were to receive occasional shipments of superior American cattle and sheep. To fulfill this condition of the treaty, McCook placed an order for 750 head of cattle, but instead of the high-quality animals

the treaty promised the Utes, McCook purchased unhealthy and emaciated animals which he bought for $7.50 each—more than four times less than the price of the healthy animals. Afterwards, in yet another attempt to enrich himself, the governor requested payments from Washington for the price of the healthy cows the treaty promised ($45.75 per head of cattle). The animals that McCook presented to the Native Americans were in such poor condition that the Utes refused to accept them.

Along with his criminal activity as governor, McCook displayed shocking incompetence. In a moment of appalling carelessness, the governor failed to sign a divorce decree between a couple until seven months after receiving the request, as divorce decrees by-law required the governor's signature within 10 days of receipt to be completed. Because the husband married another woman while the divorce decree sat untouched on the governor's desk, the man was legally married to two women at the same time, making him a polygamist, which was illegal under Colorado law. When the governor finally did sign the decree, in an additional blunder, he placed the wrong date on the form[6].

6.2 The Final Push for Statehood Inside the Territory

By December 1872, Denver Republicans, led by Colorado Territorial Delegate to Congress, Jerome Chaffee—a close friend of Grant's, wrote a series of telegrams and letters to the president beseeching him to remove the unpopular, corrupt, and inept governor from office. As more and more reports of McCook's crimes were released and the allegations and investigations against him piled up, Grant discharged the embattled governor on Monday, January 27, 1873, and replaced him with the longtime resident of the territory and Chaffee ally, the long-bearded Samuel Hitt Elbert, who had previously served as Territorial Secretary before being elected to the Territorial General Assembly in 1868[6;14]. The *Golden Weekly Globe* praised the president's decision to fire McCook and outlined the common wish of Coloradans that no corrupt carpetbaggers would rule their territory again:

> . . . (I)ndications are that Hon S. H. Elbert, of Denver, is to be his (McCook's) successor. Mr. Elbert is an old Coloradan, and his hearty acceptance by the people is predicted by our exchanges. The folly of sending a man to the territory to act as chief executive, without knowing what our wants and necessities are, and no practical knowledge of the country, is becoming evident to others besides ourselves, and if Mr. Elbert is a man of right principles, we bespeak for him a successful jurisdiction[15].

Meanwhile, in Washington, Chaffee, determined to keep another unscrupulous and clumsy carpetbagger from ruling the citizens of Colorado again, introduced a new enabling act for the territory in December 1873, almost a year after McCook lost his post as Territorial Governor[5]. For Chaffee, the only way out of the McCook mess would be for Colorado to choose its own top officials, which it could only do as a state. On Thursday, May 28, 1874, Chaffee submitted the following report from the House Committee on the Territories:

> Population alone is not the proper or sole test for the admission of new States. The character of the people and the prospects for immediate growth and development of the proposed State should be controlling factors. There can be no doubt of the future growth and prosperity of Colorado. Few states had the population when admitted or possessed the wealth Colorado now has. The Committee can see no sound reason why a new or different rule should be applied to the territories now or hereafter seeking admission[16].

The new governor shared Chaffee's perspective that it was time for Colorado to become a state, but rather than arguing against objections based on a small population, Elbert claimed Colorado had a population of roughly 125,000, in sharp contrast to the 1870 census report, which credited the territory with a population of around 40,000[17;18]. In the State of the Territory address, on Tuesday, January 6, 1874, the governor made the following remarks on the prospect of statehood for Colorado:

> Self-government is the highest aspiration of a free and intelligent people. It is the surest guaranty of inestimable rights, the most trustworthy guardian of material interests. The time has come when, under the spirit of our institutions and the practice of our government, we can properly apply for admission as a State into the Federal Union. . .
>
> While I see in State government an additional burden, I also see represented in these facts and figures the strength that will support it. That Colorado has all the elements of a great and prosperous State, is not the language of exaggeration, but the clear and distinct utterance of statistics; the unequivocal testimony of achieved results. . . [18]

For Elbert, the objections to Colorado statehood based on the territory's population were no longer relevant. The construction of the railroad through Denver in 1868 and the expansion of rail lines throughout the territory in the following years meant that more people

could move to Colorado more easily[9]. Although it is hard to predict what the population of Colorado was in 1874, it was probably growing at a higher rate than it was when Andrew Johnson vetoed the last Colorado statehood bill in 1867. Like Chaffee, the governor insisted that the wealth of the territory demonstrated that Colorado was able to sustain a state government.

6.3 The Final Straw

Along with Chaffee's new bill and the governor's support for admission, new developments would convince many in the territory that statehood was imperative and that now was the time. After reports of various scandals involving Elbert's subordinates, the governor's rivals began petitioning the president to take action, and McCook began to demand his job back[6].

Following a spat between Grant and Chaffee in January 1874, supposedly over a poker game, the president finally responded to the calls for Elbert's dismissal. The president recalled Elbert along with all of Chaffee's friends in top places in the territorial government, including territorial marshal, Frank Hall, who would later publish a multi-volume history of Colorado, and WS Lessig, the surveyor general, among others[6]. In a final blow to Chaffee, Grant nominated Elbert's controversial predecessor, Edward McCook, who Chaffee had worked so hard to get rid of ten months earlier. On Friday, June 19, 1874, McCook was confirmed by one vote in the Senate, and the divisive former governor was back[6].

Disheartened by McCook's return, Chaffee declined his nomination from the territorial Republican Party to run for reelection as territorial delegate. In Chaffee's place, H.P.H Bromwell took the nomination[4].

The return of McCook to Colorado was met with such outrage in the territory that his reinstatement caught national attention. The *New York Times* concluded that Colorado politics were among the most corrupt in the country[6]. As a result of their large anger about McCook's reinstallation, many citizens of the territory began more than ever before to demand self-determination[6]. This time, public indignation over the McCook affair outweighed previous resistance to the higher taxes that statehood would bring. On Wednesday, August 19, 1874, the *Fort Collins Standard* published the following excerpt from the *Denver News*, highlighting the widespread discontent amongst the Colorado public with McCook's reinstatement as governor:

> One mission of the Republican party has been to purify the public service and to expose and punish fraud whenever found. The so-called republican convention which met in this city seems to have taken a widely different view of things, and to have thought that all charges of fraud should be hushed up, and all corruption buried beneath the mantle of party welfare...(that) it ought to be overlooked...McCook did swindle the government...It is just this moral cowardice, exhibited by the convention, that is destined to cause... Bromell's defeat by the largest majority ever given against any candidate for congress in this territory. A defeat upon a bold, square, honest enunciation of principles would have been honorable, and given strength and vigor to the party; but defeat, caused by such a platform as was adopted by the administration convention, can be construed only as a rebuke to the managers, who were willing to barter principle, reputation, honesty, everything, for a delusive harmony[19].

The common outrage over McCook's reinstatement as governor prompted Grant to remove him from this post once and for all after eight months. McCook then left public life never to return. The former governor would never be prosecuted for his misdeeds as governor and he would eventually leave Colorado for good[20]. However, the damage had been done, and as *The Fort Collins Standard* had predicted, Bromwell lost to his Democratic challenger, the 35-year-old Irish born lawyer, Thomas MacDonald Patterson, who would be the only Democrat Colorado would ever elect as territorial delegate. The president replaced McCook with yet another non-resident of the territory, John Routt, who hailed from Kentucky[6]. The widespread revulsion to McCook's corruption described in this editorial and a fervent desire to prevent another scandalous carpetbagger like McCook from leading the territory again fomented strong support for statehood throughout the territory. *The Rocky Mountain News*, the mouthpiece of the pro-statehood faction asserted:

> It seems that the people of Colorado Springs, or at least a portion of them, are opposed to the admission of Colorado as a state...We learn from a private source that the under current reasons for the opposition at Colorado Springs are purely local and personal...The News fails to see how admission can benefit Denver more than other portions of the territory...We believe that (statehood) would greatly promote and hasten the settlement and development of all parts of Colorado[21].

For the editors of the *News*, statehood was in the best interest of all counties of Colorado, and they predicted a weak and disjointed opposition inside the territory. The *Trinidad Enterprise*, speaking for the southern counties, however, disagreed:

> In Southern Colorado, that question (state-

> hood) will be treated as only as an immaterial issue. Statehood would be not particularly desirable to us, as our present condition is not such as to create a wish for a change[22].

Despite large opposition to statehood from the southern counties and the mountain communities, support for statehood at this point was stronger, more widespread, and more united than it had been in previous attempts.

Not seeming to sense that Chaffee's statehood bill was a rebuke to his appointees or his leadership, Grant, unlike Johnson before him, backed the effort to make Colorado a state[6]. The president's interest in the issue reportedly predated his presidency, going back at least as far as 1868, and Grant remained firm in his commitment to Colorado statehood, despite his recent falling-out with its territorial delegate. In a letter to Chaffee dated March 13, 1875, the president wrote:

> From the date of my first visit to Colorado to the present I have believed that Territory had the Mineral and Agricultural resources to make it a populous and prosperous state, and an intelligent and energetic population calculated to develop these resources and to maintain republican government. I sincerely hope that all strife in the embryo state may cease, and I confidently believe it will[23].

Grant's reasoning was similar to that of Colorado statehood advocates in the past—that Colorado's natural wealth justified its admission. The president shared Samuel Elbert's belief that the wealth of the territory meant that Colorado was capable of supporting a state government, and on that subject alone, it did not need to remain a territory. Despite the president's support for statehood, though, national events appeared to spell doom for this effort to make Colorado a state as it had previous attempts.

7 A NATION IN CRISIS

Before Chaffee drafted his bill, throughout 1872 a series of reports were released documenting several scandals involving Republican members of Congress and the Grant administration[2]. On Thursday, September 18, 1873, a final blow would be dealt to the Republicans who controlled both houses of the legislative branch when one of the nation's largest banks, Jay Cooke & Company announced that it had gone bankrupt. The announcement spread panic throughout the country and sent shockwaves throughout the world. The ensuing depression would be the nation's worst before 1929, and it would last for over two decades[24]. Not surprisingly, as the ruling party, the Republicans took the blame for the bad economy. Frustrated by economic hardship and disenchanted with Republican corruption, the nation's voters turned on the party.

The Congressional midterms of 1874 would be a nightmare for the Republicans. The Democrats flipped a 100-member Republican majority in the House to a two-thirds Democratic majority while nearly flipping the Senate[2]. This would be the first time the Democrats controlled the House since the middle of the 1850s. The party went on to win a series of key gubernatorial races throughout the country and switch a number of state legislatures[5]. The huge success for the Democrats in 1874 came just two years after the Republicans dominated the 1872 midterms. The Democrats' turnaround in 1874 marked, "one of the most stunning reversals in American political history," and their great triumph convinced many members of the Democratic establishment that anything was now possible for the party[5]. The new split Congress might have marked the end of the most recent attempt to make Colorado a state. However, like in the past when the issue appeared to be a dead letter, Colorado statehood would not be stopped.

8 THE FINAL PUSH

8.1 Initial Passage in the House

When Chaffee's bill reached the floor of the House of Representatives in June 1874, it faced a ferociously hostile eastern press who largely scorned far western territories as backward, and, not surprisingly, great antagonism from the mountain communities and the southern counties of the territory whose voters held the same attitudes towards statehood as they did in 1864 and the other previous efforts to make Colorado a state[6]. With the Congressional midterms that would flip the House still around 4 months away, the Republicans still controlled the House. However, the bill was presented under a rule that required a two-thirds vote in the affirmative to pass. The Republicans, lacking a two-thirds majority, needed some help from the Democrats for Colorado statehood to progress to the Senate. Surprisingly, no Democrats raised any objections to statehood for the Republican territory that had far fewer American citizens in it than the minimum population to determine Congressional districts[5]. Although the Democratic leadership did not support the bill, no fewer than 32 Democrats joined 139 Republicans in the yes column. Twenty-three Republicans and 69 Democrats voted against it. Had the 32 Democrats who voted yes stayed in line with the party leadership or abstained from the vote, they could have killed the bill[5]. Regardless, the 32 Democratic votes gave the bill a two-thirds majority, and Chaffee's bill passed the House on Monday, June 8[5].

No Democrats spoke in favor of Colorado statehood, so it is not clear why 32 Democrats voted for it[25]. In-

terestingly, the House Democrats who voted for initial passage of Colorado statehood came from all regions of the country, so the bill was not passed simply because of regional biases by far-western Democrats[26]. Interviews with politicians were less common in the 19th century than they are now, so the reasons for why those Democrats supported the passage of the enabling act for the Republican-oriented territory to become a state are difficult to determine. Surely, even had those Democrats spoken in favor of Colorado statehood, it is hard to imagine that they would have discussed partisan motives. With the presidential election still more than two years away and Thomas Patterson's election as Colorado's territorial delegate still 4 months away, the possibility that the 32 Democratic votes were motivated by the upcoming presidential election and their expectations for how Colorado might vote seems unlikely.

8.2 The Senate Battle

When the Senate took up the bill in February 1875, the partisan implications for Colorado statehood were evident[5]. The Democrats had stunned the nation in the Congressional midterms in the fall while Colorado had elected Thomas Patterson as its territorial delegate to Congress. Patterson supported statehood, and he tried to convince his fellow partisans in Congress to vote for it, claiming that his election was part of a national shift towards his party and that his victory signaled a partisan realignment in Colorado from the Republicans towards the Democrats[4]. With the upcoming presidential election in mind, Patterson all but promised that if admitted, Colorado would vote Democratic in 1876[6]. Amidst Patterson's pledges to the Democrats, Jerome Chaffee stayed in Washington to reassure his Republican colleagues that Colorado would be a Republican state if admitted and reminded them of the likely conditions for Patterson's election – that the Irishman had been elected probably because of widespread anger over the McCook affair and not because of any change in the voters' partisan interests[4]. In a September 2, 1874 editorial, The *Fort Collins Standard* confirmed Chaffee's beliefs that Patterson's election was the product of public frustration over the McCook episode and not a partisan realignment in Colorado:

> ...(I)t becomes clearer every day that Mr. Bromwell is a McCook carpet-bag candidate, and by his election the people will endorse the President's action in the removal of all the old officials of the territory and substituting carpetbaggers in their stead[27].

By rejecting Bromwell and electing the Democrat, Patterson, Colorado voters sent a powerful message of their disapproval of the president's meddling in their affairs.

Irony abounded when George Edmunds, a Vermont Republican, known by his Senate colleagues for having a cantankerous and crotchety disposition, did not trust Chaffee's reassurances and sought to delay statehood by offering an amendment stating that Colorado could not hold a popular referendum on statehood until July 1876[5]. Consternated by Edmunds' unexpected and possibly hostile amendment, Patterson confided in a letter to his wife Katherine, "If the state bill should fail, it will be from the treachery of its professed friends in the Republican party"[4]. When Edmunds' fellow Republican, Phineas Hitchcock of Nebraska, who served as the bill manager, suggested in the Senate debate that Edmunds was trying to stall Colorado statehood, Edmunds tersely retorted, "The Senator is right"[28].

The Vermont Senator maintained that he still supported Colorado statehood but insisted that the citizens of the territory should have proper time to consider the issue before having the question suddenly thrust upon them—just as Andrew Johnson had reasoned in his statement following his first veto of Colorado statehood back in 1866 that the lack of an organized opposition rendered the true interests of the citizens of Colorado uncertain[5]. Ultimately, Edmunds' amendment passed[5]. The bill then went on to pass the Senate with just two Democrats, both from states west of the Mississippi River (James Kelly of Oregon and Lewis Bogy of Missouri) joining 26 Republicans in the affirmative. Eight Republicans, including Edmunds, and 14 Democrats voted against the bill[5;28].

The fact that any Senate amendments would require approval in the Democratic House for it to progress to Grant's desk and Edmunds' vote on the bill contradicted the Senator's pledges of support for statehood. Edmunds knew that if the House failed to accept amendments added in the Senate, the bill would fail. With the possible implications for the upcoming presidential election clear, Edmunds could have expected that the Democratic House would reject the amendments or fail to put the bill on the agenda to let it die on the Speaker's desk when the Congressional session ended. Either way would obviate the risk to Republicans that a new Democratic state would be admitted in a critical election year should Patterson's professions prove true. By voting no on Colorado statehood after adding an amendment to delay the popular vote, it demonstrates that Edmunds had likely sought to kill the bill.

Ultimately, Edmunds' motivations are hard to discern. The Vermont Republican did not speak against Colorado statehood in the Senate debate, nor could any record be found wherein Edmunds presented a reason for his opposition to Colorado's final attempt to become a state. It is possible that he was motivated by

concerns about the upcoming presidential election and an apprehension that the attitude of Colorado voters was shifting from the Republicans to the Democrats following Patterson's election—at least for 1876 following the huge success of the party in the 1874 midterms and their unexpected triumph in state and gubernatorial races across the country.

8.3 Statehood At Last

Regardless of Edmunds' intentions, the Democratic House Speaker, Michael Kerr of Indiana, allowed the bill to have a vote to consider the amended version passed in the Senate, and the House adopted the Senate's amendments, though with diminished support from the Democrats. This time around, only 15 Democrats voted for the bill as opposed to the 32 in June 1874[5]. Whether those 15 Democrats were influenced by Patterson's pledges is hard to know. What can be known is had those few Democrats abstained or voted in the negative, as in 1874, Colorado statehood would have lost. Colorado voters approved statehood on Saturday, July 1, 1876, and President Grant signed it into law on Tuesday, August 1. In the end, Edmunds' amendment only delayed the entrance of Colorado's Senators and its Representative until March the next year[5;4].

In a classic moment of Gilded Age corruption, pro-statehood voters reportedly voted several times over in the July 1 referendum. However, the vote was never formally challenged, and Colorado entered the Union as the 38th state[4]. After Republicans swept the new state's elections on Tuesday, October 3, the new legislature added a provision to the state constitution that provided that the legislature would choose the state's electors in its first presidential election year, and afterwards the voters would. Not surprisingly, the Republican legislature chose Republican electors who inevitably voted for the Republican presidential nominee, Rutherford B. Hayes. Colorado's votes were not challenged in Congress, and when the electoral dispute was settled, Hayes was counted in as the nineteenth president of the United States[1]. Whether Patterson's promises to his party were correct cannot be known—in 1876 there was no popular vote for president in Colorado. Considering the outcome in the election for the state legislators, though, it seems unlikely that the popular vote would have confirmed Patterson's claims. What can be known, though, is that the new Republican legislature was not willing to take any chances. With the electoral votes of four states undetermined and the balance of votes required for election thrown off, the stage was set for conflict.

9 CONCLUSION

In summary, few states have faced as much resistance to admission as Colorado did. It could have become a state any time before 1876, with its best opportunities coming in 1866 and again the next year. All it needed was the president's signature. Had Johnson signed the bill, Colorado probably still would have voted Republican in the critical election year of 1876. The McCook affair would not have happened and probably neither would Patterson be elected to represent Colorado in Congress. Nonetheless, Johnson vetoed it twice, setting the stage for Colorado statehood to reappear at some time in the future. Indeed, it was widely understood that all of the Western territories would eventually become states. The fact that Colorado became a state in a crucial election year might make it appear that there was a link between Colorado statehood and the election. However, that link is debatable. The final effort to make Colorado a state was the product of events inside the territory, particularly public opprobrium over the McCook affair.

When the bill first passed the House, with the Congressional midterms that led to the Democratic flip of the House and the election of Thomas Patterson as Colorado's territorial delegate still months away and the presidential election more than two years away, it is not likely that the bill's success in the House was tied to the election. Rather, it appears that the Democratic leadership did not consider blocking the admission of the Republican territory a priority, and the 32 Democrats who voted for it probably voted for it for reasons unrelated to the election. However, the battle in the Senate was strongly related to the election as some Republicans, like Vermont's George Edmunds, worried that Colorado was shifting to the Democrats. When the bill reached the House for final approval of Senate amendments, it is possible that House Democrats were influenced by Thomas Patterson's vows that Colorado would vote Democratic. However, that is hard to know. The Democratic leadership did not support the bill this time around just as they did not support it in 1874. However, the Democratic House Speaker, Michael Kerr of Indiana, considering the possibility that Patterson's statements might have been true, put the bill on agenda and allowed it to have a vote.

The reasons why 15 House Democrats voted for it in 1876 could have been the belief of those Democrats that Patterson's promises were true—that Colorado was indeed becoming Democratic. However, that is hard to know. No written record of the discussions between Thomas Patterson and his fellow Democrats could be found. Moreover, more than fifty percent fewer Democrats voted for the bill in 1876 than initially in 1874. Therefore, to connect the achievement of statehood for Colorado to Thomas Patterson's election and

his dialogue with Congressional Democrats seems inaccurate. Even had those House Democrats based their votes on their belief of Patterson's claims, the fact is hard to prove. What is certain, though, is had the Democratic leadership been more effective at holding the party together or if Kerr had not granted the bill a vote, Colorado statehood would not have happened in time for the election, and the electoral dispute would not have taken place.

Ultimately, the weak control of the Democratic leadership over the party would be a recurring theme in the election and subsequent dispute. Had the Democrats rejected every Republican proposal to determine which candidate had won the electoral votes of four states in question and had they not come up with their own proposals, no candidate would have secured a majority in the Electoral College, and as stipulated in Article II, Section I, Clause IV of the Constitution, the House would determine the next president[3]. The House, controlled by the Democrats, would inevitably choose Samuel Tilden. However, because the Democratic leadership was unable to hold the party together and because Democrats in Colorado did not consider statehood a significant enough defeat to appeal the result and Democrats in the nation's capital did not regard Colorado as worthy of review by the electoral commission, Colorado became a state, the election became disputed, and against all odds, Hayes was elected.

Surely, Colorado statehood would have taken a much different path had Grant never removed Alexander Hunt as territorial governor and installed Edward McCook. Had Grant left the territory alone, Colorado statehood may very well not have come up in the years leading up to the election, and it might have happened in later years. The history of the state and the nation would have taken a much different path in the Gilded Age, and Samuel Tilden would have been president. Perhaps then, the election of 1876 would not be so memorable, and it would have disappeared from public memory just as many nineteenth century elections have. Because Colorado became a state in 1876 and in time to participate in the presidential election, the election of 1876 has not been forgotten and the specter of 1876 lives on.

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11 EDITOR'S NOTES

This article was peer-reviewed.

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