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## RECONSTRUCTION IN NEW MEXICO

LAWRENCE R. MURPHY

A FULL CENTURY after its inauguration, Reconstruction remains one of America's most controversial topics. Many still denounce the excesses of military occupation and political usurpation, while Negroes demand that the hopes aroused after the Civil War finally be brought to fruition. Many historians hold that unparalleled corruption prevailed as Radical Republicans took advantage of victory to reap personal and political spoils. Trampling hallowed institutions and abandoning all moderation, Congress almost irreparably altered the composition of American government.<sup>1</sup> Others dissent. Pointing to the idealism which precipitated emancipation and worked to recast Southern society in less restrictive molds, they emphasize the era's positive accomplishments and bemoan its sudden conclusion in 1877.<sup>2</sup>

The idealism and corruption which pervaded Congressional activities in the South must also have been mirrored in the federally controlled territories. Did the interest in liberating Negroes and forcibly integrating them into Southern society extend to minority groups elsewhere? Were federal officials in other areas as concerned with personal profit as they were in the old Confederacy? Analyzing and evaluating Reconstruction activities in New Mexico as they affected the abolition of Indian slavery and debt peonage<sup>3</sup> may help to interpret the Radical program and clarify the reasons for its ultimate failure.

Demands for the end of involuntary servitude in New Mexico began soon after the outbreak of the Civil War. William F. M.

Arny, a midwestern Radical whom President Abraham Lincoln appointed as Territorial Secretary in the summer of 1862, led a small but vocal band of Republicans. Along with Indian Superintendent Michael Steck, Chief Justice Kirby Benedict, editor Hezekiah Johnson of the *Rio Abajo Weekly Press*, and others, Arny advocated what he called "true Republican" precepts. Presidential patronage, selective distribution of printing contracts, and his own idealistic enthusiasm enabled the Secretary to build up a strong clique of supporters during his term in office. Slowly, abolitionism spread through the Territory.<sup>4</sup>

Arny took advantage of Governor Henry Connelly's illness during late 1862 to present his program to the New Mexico lawmakers. He denounced the "abhorred system of African slavery" and called for the immediate repeal of all legislation protecting slaveholders. In New Mexico, the six hundred or more Indians held in bondage were more significant than the handful of Negroes. These natives had been purchased and held illegally and must be released. Nevertheless, Arny realized that freeing these captives would add to the problem of Indian depredations. He suggested that the legislators propose a means to insure justice for the masters while liberating the Indians. Perhaps the national government would provide compensation.<sup>5</sup>

The Secretary also dealt with the problem of debt peonage, condemning the Territory's Master and Servant Law, which had been enacted in 1851 and twice amended. Although it regularized voluntary service, the act had been so abused that slavery resulted. Generations of Mexican-Americans remained in bondage to repay some forgotten ancestor's debts; men, women, and children were sold like sheep or cattle. No court could act to prevent mistreatment, and few peons could initiate the complex and costly legal proceedings necessary to win their freedom. Referring his audience to Chief Justice Benedict's decision in *Mariana Jaramillo vs. José de la Cruz Romero* for further details, Arny asked the legislature to require that debts from peons be collected "in the ordinary way for any other debtor."<sup>6</sup> In spite of Arny's exhortations, no action was taken.

Federal enactments applying to slavery in New Mexico were similarly ignored. As early as June 19, 1862, Congress passed legislation emancipating slaves in the District of Columbia and the territories. But as one New Mexican later complained, "It neither provided a penalty for its violations nor a remedy for those desiring to secure its benefits."<sup>7</sup> When President Andrew Johnson learned that western Indians and peons were still being held in bondage, he issued a special proclamation in June 1865 to require that all federal employees discontinue and suppress the practice of enslavement.<sup>8</sup> Later that summer a constitutional amendment abolishing slavery was ratified but it received no more attention in the Territory. Even when the New Mexico legislature finally repealed restrictions against free Negroes and amended the peon law, provisions for enforcement were so weak that involuntary servitude continued in many areas.<sup>9</sup>

Evidently the major reason for the failure of these enactments was persistent opposition by many residents. The political faction led by General James H. Carleton, the *Santa Fe Weekly Gazette's* editor James L. Collins, and Governor Connelly protested vigorously. Peonage, they insisted, had existed in New Mexico for more than two hundred years and could not be ended without seriously injuring not only the masters, but the servants. Evil and degrading as the system might be, it could never be eliminated so long as peons refused to use legal means to secure their rights. Carleton's supporters also argued that enslavement was an effective method of punishing Indians for their depredations, and rewarding the citizens who fought the marauders at their own expense. In time, when Indian raids subsided, the justification for slavery might be removed. Even so, those who already held captives should not be deprived of them. Moreover, the family of New Mexico's Republican Delegate to Congress, J. Francisco Chavez, owned more peons and Indian slaves than anyone in the Territory. Even Secretary Army once had authorized expeditions sent against the Navajo to enslave prisoners.<sup>10</sup>

Political developments during 1865-1866 further complicated efforts to abolish enforced servitude. Like other citizens through-

out the nation, New Mexicans divided their support between the Reconstruction policies of President Johnson and the Senate Radicals. Army and his associates favored the harsher Congressional policy of Thaddeus Stevens and Charles Sumner.<sup>11</sup> The editors of the *Santa Fe New Mexican* regularly applauded these politicians, reprinting their important speeches and legislation.<sup>12</sup> John T. Russell, the *Gazette's* new editor,<sup>13</sup> led the opposition and established a Conservative Party supporting Johnson's more conciliatory programs.<sup>14</sup> With the new Governor, Robert B. Mitchell, they wrote to the Chief Executive in September 1866 endorsing his "truly patriotic efforts to stay the threatening tide of RADICALISM, and produce a reunion of the hearts of the people by a firm adherence to the Federal Constitution."<sup>15</sup>

United States officials took no significant action to liberate Indian slaves and peons in the Southwest until after the Civil Rights Bill of 1866. Designed to insure the participation of Negroes in the nation's political and social affairs, as well as to perpetuate Republican control of Congress, it bestowed citizenship upon all Negroes and guaranteed equal civil rights to Americans regardless of "race, religion, or previous condition of servitude." Moreover, the act provided for the appointment of federal commissioners to inform citizens of their rights and to initiate court proceedings where necessary. Military officers could also enforce its regulations.<sup>16</sup> Whether the act applied to New Mexico became a controversial question. One section specifically excluded "Indians not taxed" from citizenship; another guaranteed civil rights to "any inhabitant of any State or Territory."<sup>17</sup>

Legal action to enforce long-ignored federal legislation began in January 1867. The case involved Tomás Heredia, who had contracted his services to José María García to repay a debt. After the peon fled and was arrested, a Doña Ana County Justice of the Peace ruled that the written peonage contract was valid and returned Heredia to García's custody. The case was appealed to the Territorial Supreme Court. According to Chief Justice John P. Slough, a Civil War general who had participated in the Battle of Glorieta Pass, the issue was whether peonage constituted involun-

tary servitude as defined in the 1862 act ending slavery in the territories and in the Thirteenth Amendment. In a unanimous decision, the court ruled that New Mexico's Master and Slave Law itself demonstrated that peonage was involuntary.<sup>18</sup> "It is a service which is fled from," they wrote, "and requires and has compulsory statutes and enactments to recover the fugitive and enforce the service." Because the law resembled a southern slave code, peonage must be as restrictive and as illegal as Negro slavery. By freeing Heredia and invalidating the statute, the court took the first step toward complete abolition of peonage.<sup>19</sup>

At the same session Stephen B. Elkins appeared to plead for further action ending peonage and Indian slavery. A native of Ohio, raised in Missouri, Elkins had arrived at Mesilla, New Mexico, in 1864. Still in his twenties, with an attractive personality, a dry wit, and amazing vitality, he quickly rose in political circles, and won election to the Territorial House of Representatives and an appointment as acting District Attorney.<sup>20</sup>

Elkins based his demands on the Civil Rights Act of 1866. Reminding the judges that this legislation assured civil rights to ex-slaves, he explained that it also afforded "ample relief for all now held as peons and Indian slaves." Federal Commissioners, he insisted, must be appointed under the provisions of section four to uncover any evidence of involuntary servitude in New Mexico. Only then could offenders be prosecuted and assurance guaranteed that no others would be enslaved like Tomás Heredia in violation of national law and the Constitution.<sup>21</sup>

Reaffirming its earlier decision that federal regulations prohibiting involuntary servitude applied to both peonage and Indian slavery, the court appointed two commissioners. Samuel Ellison, an active Radical, was to administer half the Territory. A Kentuckian by birth, he came to New Mexico in 1848 and occupied numerous governmental posts including interpreter, librarian, and legislator during the next forty years.<sup>22</sup> He also took an active part in Republican politics.<sup>23</sup> The other appointee, E. D. Thompson, apparently has left no record of his activities in the Southwest.<sup>24</sup>

The two men traveled to various parts of the Territory in

search of slaves—motivated by zeal to free those held in bondage or to earn the \$10 fee promised for each liberation.<sup>25</sup> When he arrived in a town, the Commissioner determined whether there were peons or Indian slaves. He investigated any reports, then informed all the servants of their legal rights and urged those who wished to leave their masters to do so. Charges might be filed against offending slaveholders, and they were held over to the next court session for trial. Probably because of intense local opposition<sup>26</sup> and difficulties in proving that a peon or Indian slave was being held against his will, the commissioners were only partially successful. Ellison filed claims for having freed a total of twenty-one persons; Thompson reported only five.<sup>27</sup>

Officials in Washington, apparently unaware of developments in New Mexico, proceeded to strengthen abolition programs for the Territory. On January 3, 1867, Senator Charles Sumner introduced a resolution that the Judiciary Committee “consider if any further legislation is needed to prevent the enslavement of Indians in New Mexico or any system of peonage there. . . .” He had often requested that President Lincoln abolish that particular brand of slavery in New Mexico, but in spite of everything Congress and the President had done, it persisted. As evidence, the fiery Radical read from the Annual Report on Indian Affairs, which documented the existence of involuntary servitude and described the difficulties in overcoming the system. Worst of all, federal officials, including the Superintendent of Indian Affairs, themselves kept Indian slaves or peons. Officers of the United States Army had been authorized by their superiors to recapture fugitives.<sup>28</sup> Certain that New Mexicans would not willingly abolish such a diabolical system, the Massachusetts Senator favored Special Agent J. K. Graves’ recommendation that a Radical federal officer be sent west to supervise abolition. Sumner’s motion easily passed, but after some discussion the proposal went to the Military Affairs Committee.<sup>29</sup>

On January 26, 1867, Senator Henry Wilson of Massachusetts introduced a bill “to abolish and forever prohibit the system of

peonage in the Territory of New Mexico and other parts of the United States.”<sup>30</sup> As submitted by the committee, it contained three major provisions. First, peonage was abolished and all legislation supporting it invalidated. Second, persons holding a peon, arresting or returning anyone to such a condition would be fined \$1,000 to \$5,000 and imprisoned from one to five years. Finally, New Mexico’s civil and military officials were obligated to enforce the act. Any military officer who refused might be court martialled and prohibited from holding further governmental positions.<sup>31</sup> An additional section would have voided any “debts, obligations, loans or advances” for which peonage had been contracted, but Wilson moved to exclude the provision even before debates began, apparently fearful that the act would be declared unconstitutional for invalidating contracts.<sup>32</sup>

It became evident during the discussions that the lawmakers were unaware of the real problems. When Senator Garrett Davis of Kentucky requested a “clear, succinct, comprehensible” definition of peonage, Wilson could only describe it as “a condition of modified servitude, which we have inherited from Mexico.” Indiana’s Henry S. Lane added that the system exchanged debts for labor. Davis sarcastically retorted that he had been in that “same state of slavery” himself for many years and proposed that such a silly bill be postponed until after the new Congress met on March 4. Wilson insisted that the matter was urgent and serious. Wisconsin Senator James R. Doolittle, who had recently returned from a visit to the Southwest, seconded the plea for speed. Courts might eventually eliminate peonage, but if the Senate approved this bill, the whole system would “fall to the ground at once.” The bill passed by a voice vote, won easy approval in the lower house, and was signed into law by President Andrew Johnson on March 2, 1867.<sup>33</sup>

Even New Mexico’s opponents to abolition were forced to admit that the act legally prohibited involuntary servitude. Governor Mitchell, unenthusiastic about the whole matter, issued a proclamation reprinting the legislation and officially freeing all who had been held to service or labor. He also warned that offend-

ers would be dealt with severely and ordered the Territorial District Attorney to prosecute anyone who persisted in holding peons.<sup>34</sup> The *Gazette* accepted the inevitable: "Whatever may be the views of those who hold peons with regard to the law," editor John Russell wrote, "it now becomes their duty to obey and respect it, as it is the duty of the officers of the government to enforce it."<sup>35</sup>

Contrary to predictions in Washington, the peon law failed to eliminate slavery in the Southwest. The act lacked provisions for appointing federal commissioners to be paid according to the number of persons freed, and there was no humanitarian movement in favor of enforcement. Moreover, in remote and inaccessible parts of the Territory, peons and even free men were still so reluctant to testify that it was nearly impossible to convict offenders.<sup>36</sup> Although Governor Mitchell reported in December 1867 that peonage had been "entirely broken up,"<sup>37</sup> hundreds, perhaps thousands, of New Mexicans remained in bondage.

The appointment of William W. Griffin as an additional Commissioner, early in 1868, had more effect than the passage of the peon law. Griffin was a convinced Radical. An engineer and surveyor by profession, he had come to New Mexico in 1860 from his native western Virginia. After serving in minor clerical posts with the Army, he became New Mexico deputy to collect income taxes imposed during the Civil War.<sup>38</sup> In later years he was to gain notoriety and wealth, surveyed large land grants, and for several years managed the First National Bank of Santa Fe.<sup>39</sup>

Now, enticed by the dual desire to liberate men and earn fees, he set out for Taos County in search of slaves. With the aid of United States Marshal John Pratt and his deputies, he collected reports, carried out investigations, and issued arrest warrants in two hundred and ninety cases.<sup>40</sup> Many of the county's leading citizens were involved: Maria Means and Benigna Lee each held five servants; Elija Branch, Ramón Medina, and Juan Durán had fewer.<sup>41</sup> Griffin also informed the captives of their rights under the law, urging them to "*live where and work for whom they desired.*" He promised Army transportation for any who wished to move elsewhere or return to the Navajo country.<sup>42</sup> The Commissioner

freed an additional one hundred and forty-six persons in Rio Arriba and Santa Fe counties.<sup>43</sup>

When Griffin was completing his first round of investigations, Secretary and Acting Governor Herman H. Heath issued a new anti-peonage proclamation. Strongly denouncing slavery of "every manner and nature," the Radical official demanded an end to the system "at variance with the principles of a Republican government and repugnant to the moral, social and political advancement of the victims. . . ." Even after peonage had been abolished by both the Territorial Legislature and the United States Congress, he said, New Mexicans still maintained the system. All slaves must be given immediate release. To be certain of compliance, he ordered every civilian official in the Territory to do his utmost in "utterly destroying" the institution.<sup>44</sup>

Armed with this new weapon, Griffin reached Santa Fe and began to prepare almost four hundred cases for presentation to the Grand Jury in July. In spite of his enthusiasm, the Commissioner proved exceedingly inept at presenting his cases for indictment. For example, when quizzed about the evidence against Juan Santisteban, he could not remember whether the accused had one or two Indians or if he had admitted to having purchased them. No testimony had been taken from the Indians involved, so the prosecution could not prove that servitude had been involuntary. "I proceeded upon the ground that Indians being found in the possession of parties was sufficient for issuing warrants," he replied, adding that "where upon investigation the party did not deny holding," he had bound him over to await trial.<sup>45</sup>

As a result, the Grand Jury struck a paralyzing, if expected, blow against the Government's attempt to end involuntary servitude. Although it admitted that peonage had been used to keep generations of men in "gross ignorance," the jury sympathized with the accused because the system was a traditional one which had prevailed in the Southwest for hundreds of years. Slavery was illegal, however, and anyone who held servants against their will must be punished. Since, in the cases presented for hearing, there was no evidence that servants had been either "forcibly restrained

or ill-treated," no indictments could be issued.<sup>46</sup> Griffin had failed even to have his cases brought to trial, but he was certain that the servants he had freed would not be re-enslaved.<sup>47</sup>

When he had completed work in Taos County, Griffin submitted accounts to the Treasury Department totaling \$2,895. He expected to be paid as quickly as Ellison and Thompson had been. Then, with funds available, he could continue his work.<sup>48</sup> He was shocked when R. W. Taylor, First Comptroller of the Treasury, refused payment. According to the Washington official, the \$10 fee applied only to cases brought under the Civil Rights Act of 1866. Since Griffin had freed New Mexicans in accordance with the provisions of the 1867 peon law, he was not eligible for compensation.<sup>49</sup>

For the next three years the two men argued over payment of Griffin's accounts. In reply to allegations that "Indians not taxed" were excluded from the Civil Rights Act, District Attorney Elkins, ex-Secretary Army, and even Delegate J. Francisco Chavez joined Griffin in pointing out that a New Mexico court had ruled that the law did apply. Griffin learned that no copy of the Heredia decision was available.<sup>50</sup> He had to send to Washington in its place a letter from Joab Houghton, the only participating judge in the Territory.<sup>51</sup> In spite of every argument—even the legal technicality of whether the remedial section of a law had precedence over its declaratory segments<sup>52</sup>—Taylor refused to pay a cent.<sup>53</sup>

Griffin now turned to Congressional leaders. Ex-Secretary Army personally carried correspondence to Senator Sumner. A petition describing the case in detail was sent to both houses of Congress. Griffin moved from legal to humanitarian arguments. Thousands of peons and Indian slaves were being harshly treated, even murdered, he reported, often detailing particular cases. A whole file of "informations" in his office described cases crying for action, but, without funds to pay expenses, no commissioner would undertake such a project.

Can you not in your high position take some effective steps in support of those who have given their time and means to enforcing

the laws against slavery in this territory? Cannot something be done toward requiring the Comptroller to settle these accounts under the law and not leave the question of the enforcement of the law to the caprice of that officer? Otherwise slavery and peonage will exist here in the future as it has done for more than two hundred years. . . .<sup>54</sup>

Finally, in May 1872, after requesting Griffin's file from the Comptroller's office,<sup>55</sup> the House Judiciary Committee considered the evidence, and on the 15th sponsored a special bill ordering treasury officials to pay Griffin \$4,350 for services rendered as United States Commissioner. The measure passed the lower house without opposition.<sup>56</sup> In the Senate a debate arose as to whether it was important enough to be given precedence over several other matters. Senator Carpenter finally pleaded that the "small measure" was "all right and ought to pass," whereupon his colleagues gave their unanimous consent.<sup>57</sup> Signed by President Grant, the Griffin bill became law June 12.<sup>58</sup> Griffin soon received payment, but made no further efforts at liberation.

While Griffin was busy fighting Washington bureaucrats, Congress had taken new action. Territorial Delegate Charles P. Clever sparked renewed interest with a resolution requesting the Judiciary Committee to inquire whether more legislation was necessary.<sup>59</sup> On July 25, 1868, Representative Benjamin F. Butler, a leading Massachusetts Radical, introduced House Resolution 362. Because of the civilian government's failure to act, the bill requested that Lieutenant General William T. Sherman "use the most efficient means his judgment will approve" to eliminate peonage among Navajo women and children. It was approved in the House without debate, quickly passed by the Senate, and signed by the President on July 27, 1868.<sup>60</sup>

Contrary to expectations, the new resolve created more confusion and bewilderment. When Sherman received the communication, he wrote Brevet Major General George W. Getty, Commanding the District of New Mexico, who in turn promulgated General Order Number 27, which was circulated throughout the Territory and reprinted in the *Weekly Gazette*.<sup>61</sup> The civilians charged with eliminating peonage wondered how this would affect

them. Pointing out that some progress had already been made, Marshal Pratt asked whether he should alter his methods now that the military were involved.<sup>62</sup> District Attorney Elkins wrote Getty about the matter, and his letter was forwarded to Sherman.

Although the Army had been assigned the major role in southern Reconstruction, it too refused to accept responsibility in New Mexico. The Commanding General offered full cooperation with the civil authorities and promised never to interfere with such investigations. He would provide transportation or any other assistance when needed. The "chief object of the military," however, was to aid Navajo at Fort Sumner to recover their children.<sup>63</sup> Thus the force which might have been able to do most to end peonage and Indian slavery refused to act. Abolition efforts came to an end. Gradually, with economic and social change, involuntary servitude in New Mexico disappeared.

The reasons for the ineffectiveness of Reconstruction legislation in New Mexico are complex. Men like Arny and Elkins seem to have been moved by the highest motives. Only Griffin benefited financially from abolition legislation. Poor communication between officials in Washington and those in the Southwest frequently hampered activity on both sides. Congress passed legislation which did not apply to western conditions. Territorial officials often had to guess at what laws meant; and, when they acted erroneously, a Washington bureaucrat brought the whole program to a halt. The men charged with carrying out the law were poorly chosen and inadequately instructed. Even Griffin, had he known what sort of evidence was needed and how to collect it, might have successfully prosecuted the hundreds of cases dismissed by the Grand Jury. Finally, there was intense local opposition; trials before local peon-holding citizens would never end peonage.

## NOTES

1. See, for example, Claude G. Bowers, *The Tragic Era: The Revolution after Lincoln* (Cambridge, Mass., 1929).

2. Leading the revisionist movement is Kenneth M. Stampp, *The Era of Reconstruction, 1865-1877* (New York, 1966), especially pp. 3-23.

3. Although he does not discuss the effect of the Civil Rights Act in New Mexico, Lynn R. Bailey, *Indian Slave Trade in the Southwest* (Los Angeles, 1966), pp. 20-37, is an excellent survey emphasizing Navajo enslavement.

4. For a detailed account of Army's role, see Howard R. Lamar, *The Far Southwest, 1846-1912: A Territorial History* (New Haven, 1966), pp. 126-32; Lawrence R. Murphy, "William F. M. Army: Secretary of New Mexico Territory, 1862-1867," *Arizona and the West*, vol. 8 (1966), pp. 323-28; and Herbert T. Hoover, "History of the Republican Party in New Mexico, 1867-1952" (Unpublished doctoral dissertation, University of Oklahoma, 1966), pp. 46-53.

5. *Executive Message of His Excellency William F. M. Army, Acting Governor of New Mexico, to the Legislative Assembly of the Territory Delivered the 2d Day of December, 1862* (Santa Fe, 1862), pp. 4, 11-13. A copy of this rare imprint is in the Western History Collection, Denver Public Library, and in the microfilmed Territorial Papers of the State Department, New Mexico, National Archives, Record Group 59 (hereinafter referred to as NA-RG). See also W. F. M. Army to S. A. Clark, March 28, 1866, Army Letterbook, pp. 202-04, William G. Ritch Collection, Huntington Library, San Marino, California.

6. *Executive Message . . . 1862*, pp. 13-14. For further details on Benedict's decisions, see Arie W. Poldervaart, *Black-Robed Justice* (Albuquerque, 1948), pp. 50-51, and Aurora Hunt, *Kirby Benedict, Frontier Federal Judge* (Glendale, 1961), pp. 107-11.

7. U.S. Commissioner William W. Griffin to F. W. Jones, Columbia Law College, July 21, 1868, in microfilmed Territorial Papers of the United States Senate, New Mexico, NA-RG 46 (hereinafter cited as Terr. Papers, USS).

8. Unaddressed order signed by Andrew Johnson, June 9, 1865, in the microfilmed Letters Received, New Mexico Indian Superintendency, NA-RG 75. Another copy, together with an implementing order from Interior Secretary James Harlan to Indian Commissioner William P. Dole,

June 12, 1865, is in Terr. Papers, USS. The order itself is reprinted in Bailey, *Indian Slave Trade*, p. 184.

9. Arny to Clark, March 28, 1866, Army Letterbook, pp. 202-04, Ritch Collection, and Arny to Benjamin F. Wade, Feb. 3, 1866, Terr. Papers, USS. For detailed descriptions of Indian slavery and peonage during this era, see the testimony in the Appendix to *Senate Report 156*, "Condition of the Indian Tribes," 39th Cong., 2d Sess., and Bailey, *Indian Slave Trade*, pp. 112-23, and *The Long Walk* (Los Angeles, 1964).

10. See "Support of the President's Policy—Dog in the Manger," *Santa Fe Weekly Gazette*, Dec. 16, 1865, p. 2, and the open letter to Senator Charles Sumner in the same journal, Feb. 2, 1867, p. 2.

11. Arny to B. F. Wade, Dec. 16, 1866, Army Letterbook, pp. 343-44, and to Charles Sumner, Feb. 2, 1867, *ibid.*, p. 392, Ritch Collection. Also see Arny to Wade, Feb. 3, 1866, Terr. Papers, USS. Hoover (pp. 49-53) traces important developments in the Republican party during these years.

12. *Santa Fe New Mexican*, June 3, 1865, p. 2; Oct. 6, 1865, p. 2; and Nov. 24, 1865, p. 2.

13. Although he helped publish the paper for some time, Russell took over full responsibility in the fall of 1866. See Collins' notice of withdrawal, *Santa Fe Weekly Gazette*, Sept. 22, 1866, p. 2.

14. Typical editorials appeared in the *Santa Fe Weekly Gazette*, Feb. 24, 1866, p. 2; March 10, 1866, p. 2; and March 17, 1866, p. 2.

15. Robert B. Mitchell and nine other territorial officials to Andrew Johnson, Sept. 27, 1866, printed broadside in Terr. Papers, USS.

16. For a discussion of the controversial bill, later found unconstitutional by the Supreme Court, see Bowers, pp. 108-12, and Stamp, pp. 135-40.

17. The most comprehensive argument for the bill's application to New Mexican "slaves" is Griffin to Jones, July 21, 1866, Terr. Papers, USS. For the opposing view, see First Comptroller of the Treasury R. W. Taylor to Griffin, June 13, 1868, *ibid.* Hunt (p. 111) erroneously states that "Peonage was not affected by the Emancipation Proclamation as it was not then considered slavery." Bailey (*Indian Slave Trade*, p. 178) repeats this view. In fact, both federal and territorial officials considered peonage involuntary servitude or slavery.

18. Although no names appear on the decision as printed, Slough was appointed Chief Justice in March 1866, serving until he was assassinated by William L. Rynerson, Dec. 15, 1867. Poldervaart, pp. 69-71.

19. *Tomás Heredia vs. José María García*, Habeas Corpus appeal in the Supreme Court for the Territory of New Mexico, printed in the *Santa Fe Weekly Gazette*, Feb. 2, 1867, p. 2.

20. Although he devotes little attention to Elkins' activities in New Mexico, Oscar D. Lambert, *Stephen Benton Elkins* (Pittsburgh, 1955) is the best available study. See also Lamar, pp. 137-38.

21. Sworn statement of Elkins, July 25, 1868, in Terr. Papers, USS; Lambert, pp. 35-37.

22. J. Manuel Espinosa, ed., "Memoir of a Kentuckian in New Mexico," NMHR, vol. 13 (1938), pp. 5-6; H. H. Bancroft, *History of Arizona and New Mexico* (San Francisco, 1889; reprint, Albuquerque, 1962), p. 791; and Loomis M. Ganaway, "New Mexico and the Sectional Controversy, 1846-1861," NMHR, vol. 17 (1943), p. 125.

23. Poldervaart, pp. 70-71.

24. For a discussion of the appointments of and work done by these men, see "Memorial of W. W. Griffin to the Senate and House of Representatives of the United States, Feb. 17, 1872," and W. W. Griffin to R. W. Taylor, July 26, 1868, both in Terr. Papers, USS.

25. Espinosa, p. 5; U.S. Marshal John Pratt to S. B. Elkins, Sept. 26, 1868, Terr. Papers, USS. Lambert (p. 138) erroneously indicates that the fee was \$25.

26. See the *Santa Fe Weekly Gazette*, Feb. 2, 1867, p. 2. Frequent editorials and letters in the local papers opposed the commissioners and their work.

27. Griffin to Taylor, July 26, 1868, Terr. Papers, USS.

28. Sumner was quoting from *Senate Executive Document 1*, "Report of the Commissioner of Indian Affairs," 39th Cong., 2d Sess., pp. 33-34. Lamar (p. 131) states that it was Carleton who called the attention of Washington officials to the existence of peonage and Indian slavery in New Mexico. Existing evidence indicates that Sumner's interest derived from the Indian Report and from correspondence sent by Army and other New Mexico Radicals.

29. *Congressional Globe*, vol. 37 (1867), pp. 239-41.

30. *Ibid.*, p. 764.

31. A printed copy of the initial draft, identified as "39th Congress, 2d Session, S. 534," in Terr. Papers, USS, contains comments regarding amendments proposed and progress made, apparently written in by the House Clerk.

32. *Congressional Globe*, vol. 37 (1867), p. 1571.

33. *Ibid.*, pp. 1572, 789, 1988, 2004. For a copy of the bill as it was finally passed, see *United States Statutes at Large*, vol. 14, 1865-1867 (Boston, 1868), p. 546.

34. Proclamation of Robert B. Mitchell, April 14, 1867, reprinted in the *Santa Fe Weekly Gazette*, April 20, 1867, p. 2.

35. *Ibid.*
36. Bailey, *Indian Slave Trade*, pp. 183-85.
37. *The First Annual Message of Governor Robert B. Mitchell Delivered Before the Legislative Assembly of the Territory of New Mexico, December 1867* (Santa Fe, 1867), p. 29.
38. Ralph Emerson Twitchell, *Old Santa Fe: The Story of New Mexico's Ancient Capital* (Santa Fe, 1925), p. 468. Griffin's certificate of appointment, signed by Judges Joab Houghton and Perry E. Brocchus, March 16, 1868, is in Terr. Papers, USS.
39. Paul A. F. Walter, "New Mexico's Pioneer Bank and Bankers," NMHR, vol. 21 (1946), pp. 210, 215-16; see also Jim B. Pearson, *The Maxwell Land Grant* (Norman, 1961), pp. 61-62.
40. Griffin to Charles Sumner, March 18, 1869, Griffin Memorial, Feb. 17, 1872, both in Terr. Papers, USS.
41. Testimony from the Grand Jury proceedings, labeled "Additional Evidence, W. W. Griffin, U.S. Commissioner," Terr. Papers, USS.
42. Griffin to Elkins, Sept. 28, 1868, Terr. Papers, USS.
43. Griffin Memorial, Feb. 18, 1872, Terr. Papers, USS.
44. "Proclamation" of Herman H. Heath, June 10, 1868, printed broadside in Terr. Papers, USS.
45. Transcript of the District Court Records, certified Oct. 20, 1869, by William Breeden, Clerk, in Terr. Papers, USS. For another account of the hearings, see Samuel Ellison's testimony, April 28, 1870, *ibid.*
46. Extract from the Grand Jury's report, certified by William Breeden, Oct. 20, 1869, Terr. Papers, USS.
47. Griffin Memorial, Feb. 18, 1872, and Ellison testimony, April 28, 1870, both in Terr. Papers, USS.
48. Griffin Memorial, Feb. 18, 1872, *ibid.*
49. Taylor to Griffin, July 8, 1868, *ibid.*
50. Griffin to Taylor, July 26, 1868; also see Elkins to Taylor, April 29, 1870; Army to Taylor, April 27, 1870, and Chavez' annotation on the latter, May 12, 1870, all in Terr. Papers, USS.
51. Houghton's certificate, July 25, 1868, and Griffin to Taylor, July 26, 1868, Terr. Papers, USS.
52. Griffin to Jones, July 21, 1868, *ibid.*
53. Taylor to Griffin, June 13, July 8, Aug. 22, 1868, *ibid.*
54. Griffin to Sumner, March 18, 1869, *ibid.*
55. William E. Jones, Acting Comptroller, to George W. Johnson, Clerk of the Judiciary Committee, May 4, 1872, *ibid.*
56. *Congressional Globe*, vol. 45 (1872), p. 3463.
57. *Ibid.*, p. 4417.

58. *United States Statutes at Large*, vol. 17, 1871-1873 (Boston, 1873), p. 705, reprints the resolution as passed.

59. *Congressional Globe*, vol. 39 (1868), p. 936.

60. *Ibid.*, pp. 4469, 4453, 4462, 4495-4500. For the text of the final resolution, see *United States Statutes at Large*, vol. 15, 1867-1869 (Boston, 1869), p. 264.

61. John Pratt to S. B. Elkins, Sept. 26, 1868, Terr. Papers, USS; *Santa Fe Weekly Gazette*, Sept. 26, 1868, p. 2.

62. Pratt to Elkins, Sept. 26, 1868, Terr. Papers, USS.

63. Sherman to Getty, Oct. 14, 1868, *ibid.*