

but they obviously could have been split into two amendments. One provision created the final western boundary as the 32nd meridian west of Washington D.C.; i.e., just west of the 109th meridian. The second provision made it clear that the southern boundary would be the 37th parallel; i.e., the notch was to go to Colorado. All of the amendments passed and the bill passed upon the third reading, all by voice vote without the yeas and nays, a “recorded” vote of the senators.⁴

In presenting his final version, Senator Green acknowledged that the delegate from New Mexico (Otero) had made the argument to the committee that residents of the notch were “homogeneous” with and should stay a part of New Mexico. Green argued that that result would be only a “temporary accommodation” and that Congress should act for “the permanent good of the [Colorado] Territory.” Then, on Feb. 6, 1861, the senator from Illinois, Stephen A. Douglas, returned to the stage (cue the Wagnerian music) to argue that the passage of S. 366 should be reconsidered and the notch restored to New Mexico! Douglas agreed with Otero’s position, adding that it was consistent with the Treaty of Guadalupe Hidalgo, but then added that keeping the notch in New Mexico avoided “raising the slavery question.” Historians have argued for some time about whether or not Douglas was racist and favored slavery. The debate over the New Mexico notch probably adds fuel to that debate for one cannot be certain of Douglas’ intent from just reading the *Congressional Globe* for that day. Only 40 senators were present for the vote, and the motion to reconsider failed, 30 to 10.

The action then shifted to the House on Feb. 18, 1861, where Representative G. A. Grow of Pennsylvania, who would become speaker in the next Congress, carried the Senate bill. As a nonvoting delegate, Otero had the right to participate in the debate and made an impassioned speech elaborating on the cultural themes and the intent of the Treaty of Guadalupe Hidalgo, if also exaggerating by declaring that 7,000 New Mexican lived in the notch. Grow, also a lawyer, disputed the population figure and pointed out that under the treaty it was the responsibility of the United States to ensure the rights of persons who chose to stay after the jurisdiction of Mexico had ended, not the territories or states. With the exception of an amendment striking out a provision providing for court jurisdiction in a dispute over title to slaves, the bill passed without amendments and was returned to the Senate which concurred in the slavery amendment on Feb. 26. The bill was signed by President James Buchanan on Feb. 28, 1861, and the Territory of Colorado came into existence.

Miguel Otero’s speech on the floor of the House of Representatives on Feb. 18, 1861, was not only his “swan (lame duck?) song,” but it probably contributed to the end of his political career. In arguing for retention of the notch in New Mexico, Otero uttered what he may have considered a “throw-away line” by indicating that “if this Union remains,” the people of the notch would be back in the next session of Congress seeking to return to New Mexico. Only three days before, on Feb. 15, 1861, Otero had apparently written a letter

suggesting that the people of New Mexico would favor the rebellion by the slave states.⁵ Although he never acted on any supposed affinity for the seceding states, his February words had consequences. On July 8, 1861, President Lincoln nominated Otero to be secretary of the territory, with a Sept. 1 effective date. On July 19, 1861, the Senate, by a vote of 23 against and 14 in favor, refused to confirm his appointment. On July 22 Lincoln nominated James H. Holmes and Holmes was confirmed as New Mexico secretary on July 26, 1861.⁶ Although he made a losing attempt at a political comeback in 1880, Don Miguel’s political career had ended.

Don’t weep for Otero, New Mexico; he had the strength of character to move on from the law and politics to 20 years as a successful businessman. He began a mercantile business that followed the development of the railroad from Kansas to Las Vegas, New Mexico, and upon settling there was a founder of the San Miguel County National Bank. He is credited with founding Otero, later named La Junta, Colorado, and the county in which it is located was eventually named Otero, the only county in that state named for a New Mexican. La Junta is just south of the 38th parallel and west of the 103rd meridian, within the New Mexico notch!

Endnotes

¹ I have written about these developments in essays “printed” on the website of the New Mexico State Historian under the titles “Lafayette Head: The Politician Who Bridged the 37th Parallel,” and “The State of Texas, 1845-1850.” See also the excellent essays on the boundary history by surveyor Fred Roeder of Tularosa, New Mexico, found on the American Surveyor website, www.amerisurv.com.

² It may be tempting to call this “The San Luis Valley,” but it also includes the area east of the Sangre de Cristo Mountains, including Trinidad and Walsenburg as well as the headwaters of the Rio Grande in the San Juan Mountains. It should also be noted that in 1860, the New Mexico territorial legislature put everything east of the Sangre de Christos in Mora County. It does not appear that Mora had exercised much control over the area by Feb. 28, 1861.

³ The name “Jefferson” was used by a group of Denver area residents who, in blatant ignorance or violation of U.S. law, declared themselves “Jefferson Territory.” Most often during debates, the legislators in Congress used the term “Pike’s Peak” to identify the general area under consideration.

⁴ The actual votes are easier to follow in the *Senate Journal*, Feb. 4, 1861, but to get the “flavor” of the debate, one must look at the *Congressional Globe*, beginning at p. 728 of the volume for the *Third Session of the 36th Congress*.

⁵ Ralph Emerson Twitchell, *The Leading Facts of New Mexican History* (Santa Fe: The Sunstone Press, 2007 facsimile edition of the 1912 edition), Vol. II, p. 357, n. 281.

⁶ It is unclear from Lincoln’s nomination message of July 8, but the president apparently made a recess appointment of Otero as territory secretary before that date and his name does appear in the official *New Mexico Blue Book*, 1882, as secretary of the territory in 1861.

