



With Grinnell in North Park

EDITED BY H. D. HAMPTON

When George Bird Grinnell—naturalist, writer, and hunter—visited North Park in late August and early September 1879, the isolated mountain valley was relatively unknown and unsettled. Indian hunters were familiar with it; beaver trappers, who called it the “Bull Pen” or “New Park,” had visited it as early as 1820. Frémont crossed it in 1844, and United States Geologist F. V. Hayden entered it in 1868. He described the park as “a vast depression which might once have formed the bed of a lake.”¹ He thought that the treeless, mountain-ringed basin would make “an excellent grazing region” and reported seeing “myriads of antelope” that were “quietly feeding . . . like flocks of sheep.”

After a brief flurry of scattered mining activity, cattlemen entered the high mountain valley, bringing in their herds in the spring and trailing them out when the snows came in the fall. In 1879 a few hardy souls, convinced that cattle could be held in the park throughout the winter, filed homestead claims, cut the native hay in the summer, used it for feed in the winter, and

¹ F. V. Hayden, *Preliminary Report of the United States Geological Survey of Wyoming and Contiguous Territory, 1870* (Washington: Government Printing Office, 1871), p. 127.



initiated what is still the major industry in North Park. At precisely this time Grinnell, a young Easterner imbued with an interest in natural history and the West, journeyed into the area and described what he saw in the following narrative.

Only twenty-nine years old when he made the trip into North Park, he already had considerable experience in the West. Following his graduation from Yale University in 1870, he accompanied Professor O. C. Marsh on a fossil-collecting expedition to Utah; the next two summers found him in the West again, and in 1874 he was appointed naturalist for George Armstrong Custer's Black Hills Expedition of that year. In 1875 he performed the same duties for Captain William Ludlow's exploration of the newly formed Yellowstone National Park. While studying under Professor Marsh at Yale, he accepted a position as assistant in osteology at the Peabody Museum and consequently was unable to join Custer on his last and fateful expedition to the Little Big Horn in 1876. Graduate work, museum duties, and a new position as natural history editor for *Forest and Stream* did not keep him out of the West, and almost every summer found him on the Plains or in the mountains. In 1878, while hunting in southern Wyoming, he heard of North Park lying to the south and determined to visit it the following year. Accompanied by two young nephews, Grinnell traveled from New York to Laramie by train and there hired a cook, a teamster, wagon, and horses for the three-week trip into the park. Eight articles describing the journey appeared in *Forest and Stream* between the dates September 4, 1879, and October 23, 1879. They are reproduced here in abbreviated form.

This was Grinnell's only trip into Colorado. In 1880 he be-

came editor and owner of *Forest and Stream* and directed his attention toward the Plains Indians and toward the preservation of the western scenery he knew so well. During the 1880s and 90s, when the fallacy of inexhaustible resources was most rampant and exploitation was identified as the American way of life, Grinnell worked for protection of the Yellowstone and the establishment of Glacier National Park. He established the Audubon Society and with Theodore Roosevelt formed the Boone and Crockett Club as an association dedicated to preservation of game animals; later he was instrumental in founding the American Game Protective Association. He wrote twenty-six books, edited many more, and contributed numerous articles to scholarly journals. He is best described as having been a naturalist, sportsman, conservationist, cowboy, explorer, geographer, zoologist, ornithologist, mountain climber, editor, publisher, and author. Even though his primary interests were directed to the history and habits of the Plains Indians, he never lost his love of exploration. For more than forty years he made annual trips to the northern plains and the mountains of Montana. He died on April 11, 1938, at the age of eighty-eight.²

Our party which left Laramie about three o'clock on a bright, pleasant Wednesday afternoon, consisted of five individuals. Two of the number, A. and W., had never before been west of the Missouri River, and so everything would be new to them. Fuller, our teamster, and William, the cook, with the writer, made up the company. A stout team drew the Studebaker wagon, which carried our provisions, bedding and ammunition, and three excellent saddle horses were provided for the accommodation of those who preferred riding to a seat in the wagon. . . .

The ride over the open prairie was most delightful. It was a pleasure and an excitement to breathe the light, exhilarating

² Although Grinnell wrote several books on hunting, conservation, and general western history, he is best remembered for his monumental works describing the Plains Indians. *Pawnee Hero Stories and Folk-Tales, with Notes on the Origin, Customs and Character of the Pawnee People* (New York: Forest and Stream Publishing Co.) came first in 1889, followed by *Blackfoot Lodge Tales: The Story of a Prairie People* (New York: Charles Scribner's Sons, 1892). Perhaps his most important ethnological contribution came in the form of three books: *The Fighting Cheyenne* (New York: Charles Scribner's Sons, 1915), *The Cheyenne Indians* (2 vols.; New Haven: Yale University Press, 1923), and *By Cheyenne Campfires* (New Haven: Yale University Press, 1926). Ten years before his death he published *Two Great Scouts and their Pawnee Battalion* (Cleveland: The Arthur H. Clark Company, 1928). Dee Brown has provided a short biographical sketch in his introduction to *Pawnee, Blackfoot and Cheyenne: History and Folklore of the Plains from the Writings of George Bird Grinnell* (New York: Charles Scribner's Sons, 1961). Albert Kenrick Fisher wrote movingly of Grinnell after his death in "In Memoriam: George Bird Grinnell," *The Auk: A Quarterly Journal of Ornithology* 56 (January 1939):1-12.

air of the mountains. The scent of the sagebrush, bringing to mind a thousand similar rides through this and other regions, called up a host of pleasant memories and kindly thoughts for the friends with whom I had campaigned in former years. I recognized with a satisfaction, which seems, even to myself, almost absurd, all the different flowers on the prairie and of each well known bird or animal that appears I have some story to tell. The shore larks flutter along the road with their soft melancholy twitter just as they do almost everywhere in the west. Maccown's bunting easily recognizable to the limit of gun shot, brings back to my mind Central Dakota where they breed so abundantly, and at the sight of the mountain plover my thoughts turn to Hopley's Hole in the Judith Basin, where I saw first this graceful species.

The sun was setting when we reached Leroy's, and by the time our tents were up and the animals fed it was quite dark. An early start was made next morning, as the march which we proposed to make was over thirty miles. . . . Soon after leaving the river the road commences to ascend, and the dark mountains which have hitherto seemed vague and indistinct in outline, begin to appear more clearly cut. . . . As we approached our third and last crossing of the Big Laramie the country becomes more rough and broken, and the team travels so slowly that we on horseback find ourselves several miles in advance of it. Occasionally, we see a few antelope on the distant hillsides, but they are very wild and take to flight as soon as they see us. We see as we ride along many typical western birds which are new to all but me, and I point out the Ferruginous and Swainson's buzzards, the Lanner falcon, magpie, Say's flycatcher, Brewer's blackbird, the greentailed finch, western white crowned sparrow, and a number of others to my interested companions. Here, too, we see our first sage grouse, and from the sloughs in the river bottom start a number of mallard ducks and a brace or two of teal.

Having crossed the river and ascended one long hill we find ourselves in the mountains at last. I have longed for them for a year, and now I am among them once more. I see with some anxiety, however, that there is a great deal of travel over the road which we are following, and I fear that unless we can get away from the freight road, I shall be disappointed with regard to game. The trail is a pleasant one to march over; there is so much variety about it. It is hilly, as might be expected, and off either hand the mountains, usually timber covered, rise above us. At short intervals we plunge into the sombre silent

pine forests, soon to emerge again and pass through beautiful little parks, each watered by a crystal streamlet. While passing through the pine timber I noticed the three-toed woodpecker, the common cross-bill, and the Western Canada jay, the bird fauna thus indicating that we had attained a considerable altitude.

Toward evening we reach Beaver Creek, a tributary of the Laramie, and after following it up for a few miles camped for the night. . . . The rapidity with which our western country is settling up, impresses me more and more each year. Just as soon as any section becomes safe, the Indians having been driven off, the cattlemen begin to drive their herds into it, and before long, one hears complaints that there are too many cattle there. The older settlers complain that the newer comers are "crowding them," and soon the most energetic commence to move off in search of "fresh fields and pastures new." I am told that horned cattle have never yet wintered in North Park, and it used to be said that the snow laid on the ground there all winter to a depth of ten feet and more. Nevertheless, there are at present about six thousand head of beef steers on this range, a large part of which will pass the winter here. Last season the winter was an unusually open one, and the hunters that remained in the Park reported this spring, that there was but little snow on the ground at any time. Besides these cattle, there are a considerable number of horses here, most of which, however, will be kept up, and fed hay. The experiment which is thus being tried, will be watched with interest by stockmen, and, if it should prove successful, I shall expect to see many thousand cattle in the Park next year. It is not very probable that farming, as applied to the production of cereal crops, will ever be carried on to any considerable extent in this region. The elevation is so great that there are few nights in the year when there is not a frost. . . .

Soon after leaving our camp on the Beaver, we reached what is termed the Neck of the Park, and passing over the divide, followed down a valley, at first narrow, but gradually becoming wider, which led us over a good though somewhat hilly road, toward a more open country. Two or three hours of riding brought us to Pinkham's Rancho,³ where the Park begins. The road forks here, the left-hand branch leading along the east side of the Park down to the Owl Creek Mines and the various

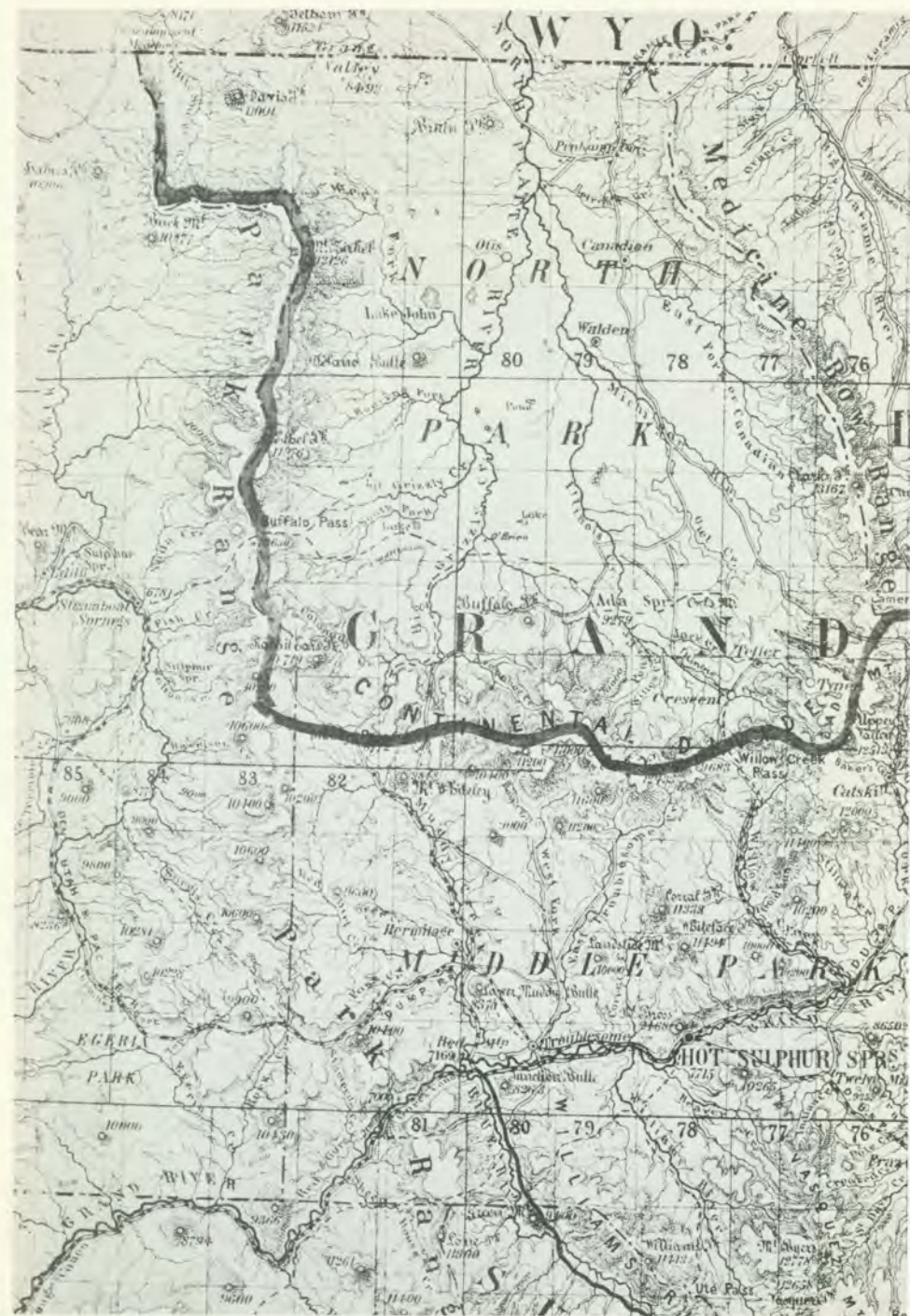
³ Pinkham was a French-Canadian hunter and reportedly the first white man to settle permanently in the park. His home, a log fort-like structure, became the first post office in the park and was henceforth known as Pinkhampton.

passes across the Range into Middle Park, while the right-hand road goes to the Han's Peak Mines.⁴ We followed the latter for some distance, as it was our intention to go around Independence Mountain, and then strike back east to the road that leads to the Arapaho pass.

Just after leaving Pinkham's we passed a ranche near which is a small spring, from which bubbles up a constant supply of cool water abundantly charged with carbonate of soda. It was fresh and delicious to the taste, and, could it be bottled and sent to a market, would no doubt compete for public favor with some of the famous mineral waters now so popular.⁵ On the marshy spots near the spring were numbers of plover feeding, and W., with his shotgun had good sport among them during the half hour which we occupied in tasting and testing the waters.

The country at this point had been burned over, and was black and extremely desolate in appearance. I inquired the cause of the fire, and learned from the owner of the ranche that the burn had been made to clear off the sagebrush, which takes up so much room that might be occupied by grass. "And then," said my informant, "the cattle won't graze where the sagebrush is thick, they can't; the branches stick into their eyes and 'most blind 'em." When the sage has been burned off, it is usually followed the next season by a crop of grass, and the field is thus very materially improved. The sage is a plant of slow growth, and requires many years to gain any great size or stoutness. . . .

Soon after leaving the Soda Water Fountain we crossed a high and steep ridge, and then commenced a gradual descent toward the North Platte River, on which we intended to camp. The scenery through which we were passing was rugged and grand, the weathered pillars of granite standing out bare and grim among the ancient junipers on the hillside. The mountains, though not high, had a weird and spectral look, which came perhaps from their being absolutely bare of vegetation, except where an occasional cedar . . . maintained an insecure foothold among the piles of rounded rocks. The weathering of the granite was finely exemplified here, and this hardest of rocks was worked into a thousand fantastic forms, each differing from its fellow, yet all presenting points of resemblance to one another. . . . The rocks are all rounded and smoothed, and have no sharp angles. Many of them, indeed, resemble the *roches*

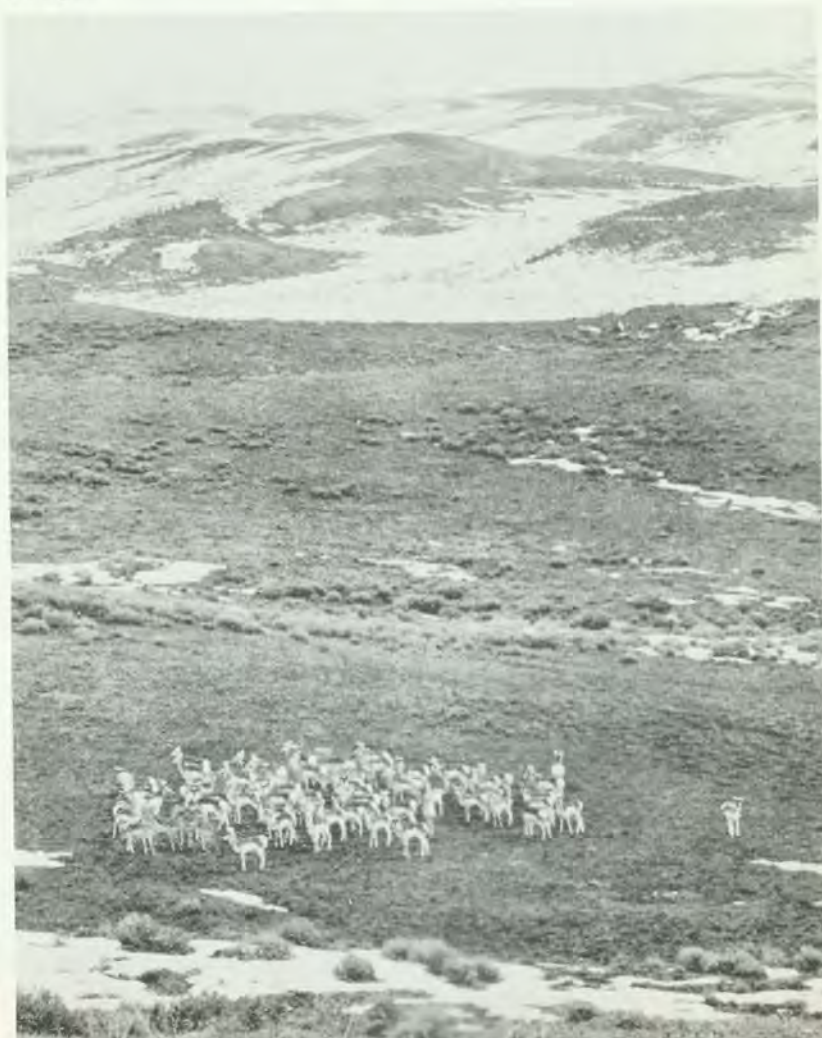


⁴ Actually Hahn's Peak Mines, named for Joseph Hahn and located in the Elk River country.

⁵ The spring still bubbles. It is located a few hundred yards to the left of state highway 125 two miles west of the junction with state highway 127.

moutonnees, or sheepbacks, which are so often seen along the track of a glacier.

The valley of the North Platte, where we pitched camp, was perhaps a mile and a half wide, a superb level meadow, covered with fine grass, on which, in the morning and evening, from two to five hundred antelope were in sight at one time. Sage and dusky grouse, ducks and jack rabbits abounded here also. . . . It is only necessary to get back from the road to find both deer and elk. There are places, of course, where game is tamer, more abundant and more easily killed, but there is enough here for anyone who does not care to slaughter recklessly.



It is a curious fact, and one that I have never yet heard satisfactorily explained, that there are no trout to be found in the streams tributary to the North Platte River, while those which flow into the Grand, and the feeders of the Green, abound in small though most excellent fish. There is nothing that I know of in the character of the water or bordering country which should prevent these fish from doing well in the numerous streams that flow into the Platte, but the fact remains that they are not there. Some enterprising individuals have even tried the experiment of transferring trout from the heads of streams flowing into the Snake and Bear Rivers to springs which pour their waters into North Park, but I have heard no reports as to the success or failure of these attempts to stock these streams. . . .

Toward evening of the day on which we left our camp on the Platte, we reached the point where we had decided to leave the Hans Peak road and pass behind Independence Mountain. . . . Half a mile beyond this we camped in a narrow valley, and Fuller and I set off on foot to explore for a road behind the mountain. We found a very good one, leading through a broad valley on which the grass in some places stood waist high. All this pasture, for more than a mile before us, was dotted with antelope; there must have been two or three hundred within half a mile from where we stood. They were feeding, perfectly unsuspecting of our proximity, and the nearest of them within easy rifle range. . . . The next morning . . . we found the road a good one, and traveled along a valley abounding in antelope until toward night, when camp was made at the foot of a high, bare Hogback, which runs north and south, a spur of the main range to the north. Near us were half a dozen large alkali lakes, on the waters of which floated great number of ducks and geese; while along the shore were numerous flocks of busy shore birds. Prominent among these were the beautiful avocets, striking objects from the contrasting black and white of their plumage; the noisy tattlers, the long-billed curlews, and the restless Baird's sandpipers. Many other species, which I have not space here to enumerate, were noticed. . . .

In the afternoon I climbed the Hogback in order to ascertain what the prospects were for reaching the snowy range which lay some ten or fifteen miles to the west; but on reaching the summit, after a very hard pull, I discovered that the whole range was on fire. Of course it was useless to look for game there. I was well repaid for my scramble up the hill, however, for in the valley at my feet, stretching away to the west for

seven or eight miles, and to the north and south for fifteen, lay the largest beaver meadow that I have ever seen. I presume that there were 500 dams in sight, most of them kept in good repair. The water set back by these dams flowed through a thousand little canals and ditches, and the whole from the height looked like a silver net spread over an enormous carpet of emerald velvet. . . . Beyond this meadow was a narrow strip of brown prairie, and then the green pine timber began, and with it the foothills of the Snowy Range. Deep dark gorges run up the mountain sides, and seemed to promise an easy ascent; but the columns and masses of thick white smoke, which moved steadily along from the south toward where I sat looking, told me too surely that in a day or two at furthest the fire would be sweeping over the whole range. Above the smoke I could see again the green timber, and above them the grim, grey rocks, bare of vegetation, and whitened a little higher up by patches of snow, pure and shining, when touched by the rays of the now sinking sun, but seeming grey and soiled when shaded by clouds. Turning to the eastward and looking out over the broad valley through which we had just come, the view was scarcely less impressive. From my eyrie I could count no less than twenty-two lakes of various sizes. . . . Beyond the valley rose Independence Mountain, wooded to its summit, two-thirds of its height cold and hard in the shadow, but the summit still touched by the brilliant rays of the setting sun. A few moments and the light was gone. I turned for a last look at the snow capped mountains, and how changed was the scene! The hillsides were now indistinct and blurred; but in the south, where an hour ago I had seen the white smoke, rose tongues of flame that seemed almost to lick the heavens, and beneath them the mountain-side was a red furnace that caused the sky to glow, and illuminated the nearest snowpeaks with a roseate hue. . . . I was recalled to myself by a furious storm of rain which began to fall, and picking up my rifle I slowly descended the mountain-side.

Very regretfully we turned our backs upon the Snowy Range and marched southeasterly toward the Platte River. The long stretch of rolling sage plain looked grey and gloomy under the heavy fog which hung low over the land, and which sometimes changed for a little while into a pouring rain, or again lighted up as though the sun were really trying his best to make things cheerful. . . .

Before noon the willowy bottom of the Platte was in sight, and an hour's ride brought me to it, the wagon being far behind.

The valley was plentifully dotted with feeding antelope. . . . We camped at this point, and occupied the afternoon in collecting some natural history specimens. In company with W., I started out, equipped with insect net and poison bottles, to collect some flies, while my companion, who was armed with a shot gun, was looking for ornithological specimens. . . . While sauntering along the bluffs overlooking the river bottom, we came upon a little slough, in and about which were several species of water birds, and among others a female greenwing teal and eight tiny young. . . .

The next morning we crossed the Platte, and taking an easterly course, reached the crossing of the Michigan about two o'clock. . . . From the crossing of the Michigan we took a hunter's road into the mountains, which led us through dense pine forests alternating with pretty park-like openings, about fifteen miles nearer to the main range, where we camped on some little springs which flowed into the Canadian. Antelope were extraordinarily abundant here and quite tame, so that had we been disposed to indulge in reckless killing, we might have done so. Of other game we saw but little; although a few deer were found in the timber. Dusky grouse and the pine, or "snowshoe" rabbit (*Lepus campestris*—var. *bairdi*—Hayden), were also very plentiful in the timber. The day after our arrival at this camp, three of us rode over to the Michigan to see a trapper who was camped on that stream in order to make inquiries as to the best trail to be followed in going up to the top of the range. . . .

The timber on the Michigan was burning in several places, but the fires had been partially extinguished by the rains of the last few days, so that at present only a few smoldering logs sent up their pillars of smoke. . . . Just before riding down the bluffs into the brush we saw a large wild-cat, or bay lynx, run out from the bushes and eye us with looks of suspicion; but before any of us had time to catch sight on the creature it bounded back into the willows and was not seen again.

The bottom of the Michigan, where it debouches from the mountain is wide and level, and is full of old beaver ponds and ditches. It is therefore extremely difficult to cross, and we spent two hours and a half in trying to reach the opposite bank, distant about half a mile. The willows grow everywhere so thickly that it is with the greatest difficulty that a horse can be forced through them; and every few steps one meets with mud holes, the remains of old beaver ponds, which it is necessary to head. . . . Having safely crossed the meadow, we rode

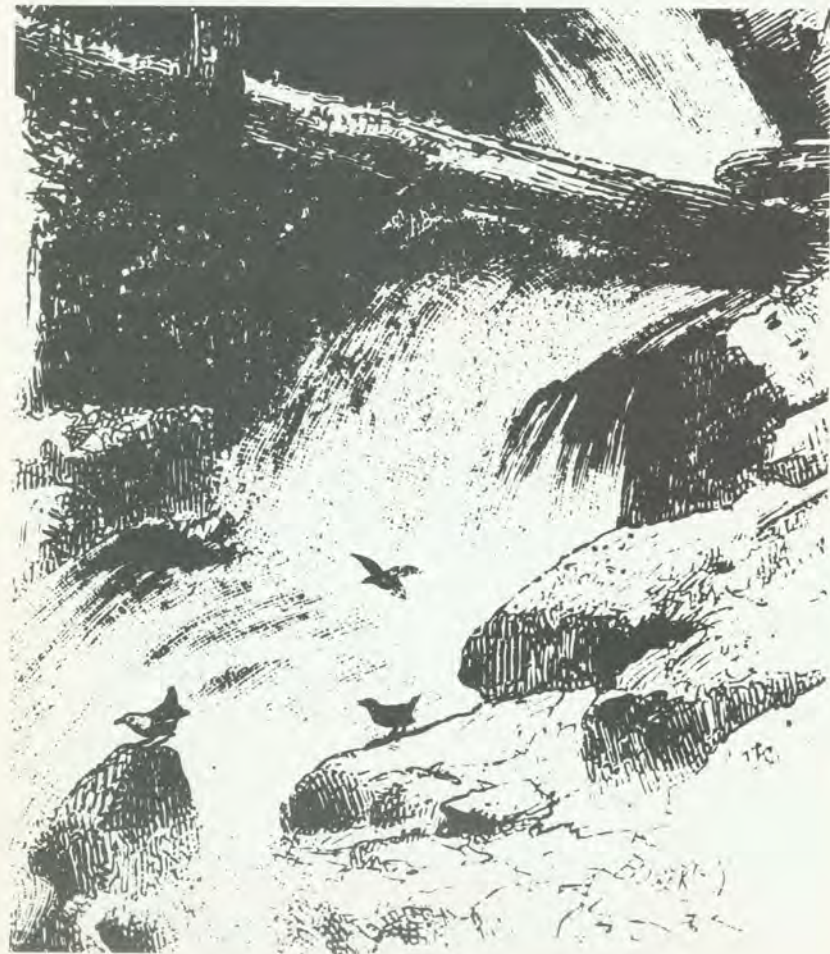
briskly along toward the mountains and about noon reached a little grove of pines in which we found the trapper's camp. This was rather picturesque in its appointments and surroundings, and extremely dirty. A light spring wagon containing most of the owner's baggage stood between two trees, and over the wheels hung saddles, bridles, ropes, and saddle blankets; near by was a smoking heap of ashes surmounted by a black and greasy pot; and not far from the fire sat Kosier, skinning a beaver, while his partner was pegging out a fresh antelope. We were hospitably received, and our inquiries answered very cheerfully, and the visit resulted in our engaging Kosier to go with us for fifteen days. He informed us that the best trail to the top of the Range followed up the Michigan, and we decided to bring the wagon across from our camp near the Canadian, and leave it at Kosier's, whence we would start with pack animals for our climb into the hills. Following the direction of our new friend, we spent less time in the creek bottom than we had earlier in the day . . . and reached camp sometime before dark. We still had time to prepare our antelope heads, skin some birds, and collect a few insects.

The next morning we were off in good time and . . . reached Kosier's shortly after noon. As we had but two pack animals, every luxury was left in camp, and nothing but the necessary provisions and bedding were to be taken. My short double-barrel I wrapped in my blankets, with a few cartridges, as there seemed to be a likelihood that we would see, on the summit, some white-tailed ptarmigan. Rifle ammunition, toilet conveniences, and so on, were wrapped in blankets or stowed away in saddlebags or pockets.

The trail, which in many places was so faintly marked as to be easily lost, leads the rider along the northern bank of the Michigan, and for almost the entire distance from the plain to timber line winds through the heavy pine forests. . . . The eternal—I had almost written infernal—chattering of the red or pine squirrel is a sound that salutes the ear of him who journeys through the forests of these mountains. These animals here feed entirely on the seeds of the pine, and one frequently comes on great heaps of the green cones, collected at the foot of some tall tree, from which every seed has been removed. The resinous sap with which the cones are filled collects on the fur of the squirrels' faces in considerable masses, and must cause them no little inconvenience. Another curious voice of the mountain, and one which always puzzles those new to the country, is the cry of the mountain woodchuck (*Arctomys*

flaviventer). . . . Dusky grouse are quite abundant in the timber bordering the valley of the stream which we are following, and several broods were started from the ground, all of which flew at once into the trees, the old hens clucking loudly, like a startled domestic fowl.

We camped the first night in a beautiful opening, surrounded by giant spruces and firs, where the rich grass stood waist high, and the steep sides of the mountains rose almost vertically from the narrow valley. I took a jaunt up the hillside in search of game, but found none. . . . On the way back to camp I saw in the stream bed one of those curious little birds known as dippers



(*Cinclus mexicanus*). They are odd little slate-colored birds, somewhat less in size than the robin—to which, by the way, they are allied, and pass their lives on the mountain streams, from the bottoms of which they derive their food. They are most active little creatures, continually in motion, and when not flying here and there or diving in the water, are always either walking briskly about on the rocks or else making the peculiar dipping movement, from which perhaps their name, dipper, has been given them. This movement is not at all like the bow of the sand-piper, nor, according to my observation, does it resemble the tail-jerking of the wrens, to which it has been compared by some writers. It is more like a sudden and very quick crouching down, followed by an equally rapid recovery. The legs are bent both at the knee and the tibio-tarsal joint. The dippers are tame, confiding little birds, and one may approach them quite closely without alarming them. It is very curious to see them walk deliberately down a sloping stone into the water, until they disappear beneath its surface, and then to see them emerge some feet down the stream, and flying back, dive from the wing again. Such of my readers as are interested in the habits of this odd little thrush should read the charming account of the European dipper, given in "Audubon" by Mr. William MacGillivray. It is a gem. . . .⁶

The early sun peeping over the snowy tops of the neighboring mountains, and sending his long slanting rays in and out among the pine trees in our little valley, may have smiled to himself as he looked upon the shivering half-dozen wretches who were clustered together as close to the fire as possible. . . . As Kosier and I were the only members of the party that had ever packed before, the labor of loading the mules, adjusting ropes and so on, naturally fell to us, and, as we had only two animals to pack, we got along very well. . . .

From our camp we pushed out as early as possible, traveling in single file, Kosier in the lead and the packs near the head of the line. The valley became rapidly narrower and rougher, and the impetuous force of the stream, which was now only a brooklet, increased. Sometimes it fell down in a sheer cascade for ten or fifteen feet, and at such points the trail would leave the stream and wind about in the timber until this ascent was overcome, when it would return to near the water's edge. Some of the slopes were very steep, and there were not a few rather

⁶ More gem-like is John Muir's biography of the water ouzel, "The Humming-Bird of the California Water-falls," *Scribner's Monthly* 15 (February 1878), pp. 545-54. It has been reprinted many times.

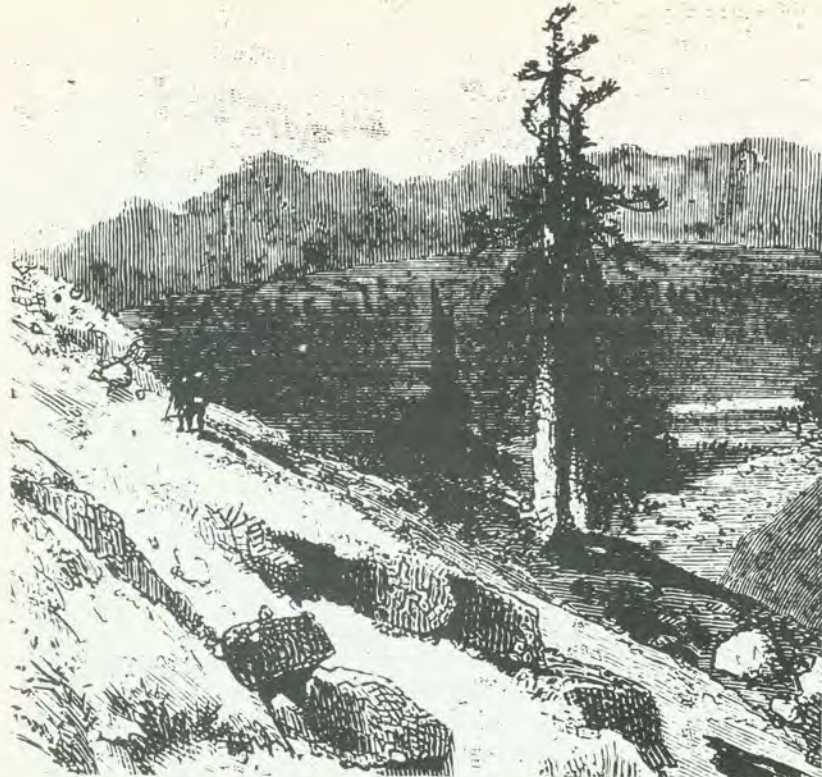
dangerous places where a misstep on the part of one's horse would have thrown the rider down forty or fifty feet sheer into the streams bed below. . . . The timber, from our camp up to where it ceased to grow, was very fine and large, many of the trees being apparently tall and stout enough for the spars of the largest ship. There was considerable down timber, which delayed us. . . . At last, however, the valley through which we were traveling became a mere gorge, and after climbing a few hundred feet up a very steep slope we found ourselves at the edge of the timber. Only the forest ended here, however; a few stunted spruces flourished in the little ravines and sheltered nooks for 500 feet more of the ascent before finally giving up and acknowledging themselves vanquished by the Arctic climate. . . . Before us lay spread out a wide amphitheatre, surrounded on all sides by the towering and rugged summits of the great Continental Divide. . . . To the northwest the heights above rose vertically for several thousand feet to the rounded summit of the range, the bare rocks being streaked with alternate vertical lines of red and yellow; nearly to the south was the pass which we were attempting to reach, and here was a deep sag, two or three thousand feet below the general level of the hill, up to which the amphitheatre which we were entering sloped to a gradual ascent. On the south and west of the pass the mountains rose by successive steps to a great height, terminating in a confused mass of gigantic fragments, from which towered towards the skies three slender pinnacles. . . . Beyond the pinnacles to the west lies an endless confusion of rocks. . . .

The mountain vale which we now enter is carpeted with the softest and greenest of grass, and with an astonishing profusion of flowers, which, for beauty and variety, I think I have never seen equalled. Up to the edge of the pine forest the crimson *Epilobium*, not differing materially from one of our Eastern species, grew in profusion, and in the open spots just beyond were yellow *Ranunculacea* and a deep purple larkspur, which attains a height of two feet. Asters and other composite flowers of all hues, from white through pink, red and blue to purple, dotted the ground and grew up in many places *through the snow*. A lovely *Campanula*, like our own, but with the flower an inch or more in length, waved its bells in the cool breeze, while the pale flax flower, as much at home here as on the plains, nodded rhythmically, keeping time to the music of its neighbor's chimes. A blue gentian grew here and there, and the pale yellow flower of the wild mustard and the crimson of a meadow pink, lent their aid to brighten and diversify the scene. One of the most

beautiful among the lovely plants which we saw here was a columbine (*Aquilegia*). The plant resembles in most respects our Eastern species, but the flower is not less than one inch and a half across and is pure white, shading into a pale blue on the closed spur. It resembles more nearly some gorgeous tropical flower than one from the alpine height of 13,000 feet. And these floral gems are found growing beneath the shadow of the snowdrifts, and nourished by their cool drippings. . . .

Slowly riding through the sloping field, we approached the summit of the pass. The ascent was steeper than I had supposed, and our wearied horses had enough to do to drag themselves toward the top without carrying us. But two species of birds were visible—the Western song-sparrow and the titlark—and, besides these, a few insects were the only living things to be seen. The summit reached, we halted to rest and admire the scene before us. To the south and east we could see almost the whole of Middle Park, and all the rugged and broken mountains which surround it. In a little lake, which nestled in the mountainside a few hundred feet below us on the other side of the divide, the north fork of the Grand River takes its rise, and flows in a continually increasing torrent down the narrow, wooded gorge, whose whole length we can see as far as the plains of Middle Park. Grand Lake is not visible from the point where we stand. In a saddle high above us to the right lies a huge snowdrift, whose melting waters from one extremity flow into the stream along which we have been traveling, thence into the North Platte, and passing through the park, between the Big Horn and Laramie Mountains, out into the plains, through the great grazing and wheat regions of Wyoming and Nebraska, pour into the Missouri, the Mississippi and the Gulf. From the other end of this drift a cool stream leaps out to unite with the Grand River, which, flowing through Middle Park and southwestwardly between the Elk and Uncompagne Mountains, joins the Green River to form that marvelous stream, the Rio Colorado of the West. On it goes, through silent, desert wastes, between lofty mountains, and through silent, solemn canyons, until at last, after its long and tumultuous journey, it finds peace and rest in the calm waters of the Pacific Ocean.

Continuing our march, we descended on the other side, passing by the little lake, until we reached the first few spruces that grew highest up on this side of the range. Here we made camp, and soon afterwards I started out on foot to ascend the high mountain to the north and east of our camp. After reaching a point a few hundred feet above the level of the pass, vegetation



almost entirely disappeared, and a grey lichen, which attached itself to the loose blocks of trachyte which covered the ground, was the only plant to be seen. The mountainside was very steep, and the loose rocks afforded but an insecure foothold; besides this, the tenuity of the air was such that it was necessary to stop to take breath at frequent intervals. Although an icy wind was blowing from the west, I was wet with perspiration by the time I reached the summit. Here I reclined under the lee of a gigantic mass of rock, perfectly sheltered from the wind, and basked in the sunshine until I recovered from the fatigue of my climb.

At length . . . I pursued my way along the ridge of the mountain. . . . To the right lay an illimitable stretch of mountains, most of them pine covered and dark green, but one or two bristling with dead timber, the white dead timber, the white and weather-worn trunks of which gleamed and shone when touched by the rays of the sun. Far away across the park I saw the lofty crests of its western boundary, and noted with keen regret that the fire was still sweeping over the range toward the north. The bare Hogback, where we had camped sometime before, was easily recognizable, and near its base, between it and my present position, were a dozen lakelets sparkling in the sun like diamonds. To the southwest the view was cut off by the pinnacles which rose two or three hundred feet above the range,

and by mountains of about the same height as the one from which I was looking; but I could see to the right dimly through the haze the Rabbit Ears and Arapaho Peak. Before me, on the southeast, beyond the mountains lay the gorged and desolate plateaus of Middle Park, with many a pine-covered butte interrupting the view, and marked here and there with lines of brighter green, which indicate the courses of the various streams which traverse it.

The ridge along which I am passing is quite barren of life, and a single titlark is the only living creature that meets my eye as I slowly pursue my way along the crest. . . . Perhaps a mile from where I gained the summit I noticed in some loose sand in a little saddle, the fresh tracks of two mountain sheep, and followed them carefully; but before I reached the end of the ridge I saw the animals—a fine ram and ewe—come out onto an open plateau, and after looking at me for a moment or two, plunge down the steep face of a precipice and disappear in a deep ravine. They must have seen or scented me, and to follow them would, I knew, be useless; besides, approaching night warned me to return to camp.

Two days more were passed in this camp, and occupied in climbing the highest mountains and enjoying to the full their majestic scenery. Game we found very scarce, prospectors and Indians having driven it off. About Indians I hear unpleasant rumors, which if true would lead me back to the railroad, but I shall wait before starting, for something definite.

In one of my mountain climbs I came upon a colony of the grey-crowned finches (*Leucosticte*), which greatly interested me, because I had never seen the genus before. They are most active and noisy little birds, and occupy themselves continually in searching for food among the rocks, uttering the while almost constantly a shrill but rather musical whistle. . . . At last our provisions gave out and we were forced to turn our steps toward the Park once more, and a march of a day and a half brought us to Kosier's camp.

From Kosier's we proceeded down the Michigan to the crossing, and then turned south, following the road which leads to the Owl Creek Mines; our purpose being to cross the range into Middle Park. The Hot Sulphur Springs are well worth a visit, and the fishing in the tributaries of Grand River is usually very good. The road which we followed passes over the rolling plateau of North Park, at a considerable distance from the mountains, and no game was to be seen except antelope and sage grouse. Coyotes were rather abundant — attracted to the neigh-

borhood of the road by the carcasses of the antelope which are killed by travelers.

As we had but little meat in the wagons, all hands were on the lookout for game as we came down the Michigan. Antelope were extremely abundant in the stream bottom, but were rather wild, and for some miles we got no shots. . . .

After leaving the Michigan we crossed Owl Creek, along which are some placer washings which are dignified by the pretentious title of the Golden Gulch. They have not proved specially rich, I believe. The whole country contains more or less gold, and there are numberless claims staked out all through the mountains. The irruption of miners and prospectors this spring has caused much hard feeling among the Utes, who regard this section as their hunting ground, and view with suspicion and dislike the encroachment of miners and cattlemen. The Utes have always been friendly to the whites; and although occasionally wild spirits among them have robbed or murdered, these acts have been condemned by the tribe at large, and the perpetrators, when it was possible to capture them, have been punished. It is too likely, however, that if the rush into this country continues there will be trouble. The Indian, however friendly, if constantly pressed upon by the white man, will turn at last, and make a brave, if despairing, struggle. As to what inherent right a few thousand Indians have to occupy as a hunting ground a section of country that would support ten times as many white men, I have nothing to say. This is a great question in ethics on which there are different opinions; but all will acknowledge that it is sad to see a nation of brave, fine people driven from their homes, as I fear the Utes must soon be. I have particularly warm feeling for these Indians, for just nine years ago I spent some time hunting with the tribe and was most kindly and hospitably treated by them. In the event of a war with them, many of my old friends among the mountain men would come to grief, for the Utes are brave, and good shots, and the Indians, after great losses, would be conquered and moved away, so that I earnestly hope that the threatening danger may pass away.⁷

Just after passing the diggings of the Golden Gulch Mining Co., the road crosses a timbered spur which here runs out from the mountains, and then strikes the prairie again, and soon crossing the Illinois leads almost directly toward Arapaho Peak. The day had been cloudy and threatening, and, after crossing

⁷ The Meeker Massacre was only a few weeks in the future.

the Illinois, we had a couple of snow storms, the last one so severe that we could not induce our horses to face it, but were obliged to turn our backs to the wind and wait for the gale to blow itself out. Just after the last of these snow storms, as we were riding along muffled in our rubber coats and blankets, I saw W. and Kosier, who were ahead, halt on reaching a low creek, and gaze earnestly at some object off to the right. As soon as I reached the ridge, I saw a black object, about a mile off, feeding on the prairie. If I had been in what I supposed was a buffalo country, I should have shouted "Buffalo!" and been off at once; but as it was, I had to have recourse to my glass before I could believe that it was really a bison. Old mountain men say that the mountain buffalo, or, as they call them, in contradistinction from the plains' buffalo, bison, is quite a different animal from his once more abundant cousin of the prairie, but there is no good evidence in support of this statement. No zoologist, so far as I know, has ever been able to separate the two by any good characteristics. The inhabitants of the mountains are said to be larger and darker than the plain dweller, but I know of no more decided differences than these.

Of course when we saw the buffalo I was very anxious to get him, and at once started to try to kill him. The boys accompanied me, for it was impossible to resist their eager excited glances. The hunter's spirit was thoroughly aroused in them, and both were determined to have a shot at the bull if anyone did. . . .

Well, we did not get the bull, but it was through no fault of my young companions, both of whom did splendidly. The fault, if any there was, was on my part. This is what took place: The bull was feeding towards the mountains, and the cover among the foothills was good; so we rode briskly along until we were near the point where he would enter the hills, and then, leaving our horses, we advanced on foot. I saw the game, and by cautious stalking reached a point on the bare hillside above him, with a fringe of quaking aspen brush below us. We waited for some time, and I finally made up my mind that the animal must have laid down on the lower side of the bush — and slipped cautiously down to one point of the fringe to see if my supposition was correct. Just as I reached the edge of the brush I heard a low whistle, and looking around, beheld a sight which I shall never think of without the most hearty amusement. At the upper edge of the brush, about thirty feet from A. and W. stood the bull, only his gigantic head being visible to my companions, though from my position further down the hill, I could see his shoulders



just above the low bushes from which he was emerging. The buffalo was standing still, looking at the boys who were glancing in turn at him. In the excitement of stalking the game they had dropped their hats on the ground, and frequent wipings of their brows had caused their hair to stand on end like the proverbial quills of the peevish porcupine; their astonished eyes were like saucers, and altogether they presented a most laughable spectacle. It was evident, however, that although surprised they were not flustered, for their guns were at their shoulders, and just as I looked around, I saw the smoke leap from each rifle, heard the reports, followed by the "clap clap" which told me that both balls had struck, and saw the bull toss his head contemptuously and hurl himself backward into the brush. All this took place in an instant. I had just time to take it all in, but not enough to raise my own rifle and fire. We ran to the top of the hill, but nothing more was to be seen of the buffalo, nor did we again catch sight of his huge black carcass. He had come up through the thick brush so quiet that he had reached his point of observation without being detected, and it was only by accident that he was seen by W., who, when he first beheld him, was impressed with the idea that the grandfather of all the grizzly bears had come down from the mountains for the express purpose of making a meal of us. The shots fired at the bison had struck him in the head, the only part visible to the shooters, and had evidently not done him any material injury.

Slowly and sadly we retraced our steps, reaching our camp on Buffalo Creek about the middle of the afternoon. The next day we crossed the range by the Arapaho or Muddy Pass, and toward evening camped at the foot of Whiteley's Peak on Muddy Creek in Middle Park. As soon as the wagon reached camp, our rods were set up and two of us, A. and myself, fished for an hour, but without any very marked success. The fish were small, the largest which I took only weighing half a pound, and not very abundant. . . . A dozen or twenty trout were all that we took. The next day we followed down the Muddy as far as the Hermitage Rancho, the home of old Jack Rand, and from there crossing to the Troublesome and following that stream down to the Grand, we reached the mouth of Corral Creek about dark, and camped there. That portion of Middle Park which we traversed is a barren desert in comparison with North Park. There are few antelope here, and these few are very wild; but it is said that blacktail deer are numerous in the neighboring mountains.

Four miles beyond our camp, on Corral Creek, are the Hot Sulphur Springs, on Grand River. There springs have proved extremely valuable in cases of rheumatism and in certain other complaints, and invalids come from long distances to bathe in their waters. Their temperature varies from 112° to 117° F., and the waters are strongly impregnated with sulphurette hydrogen. The hot springs are on the north side of the river, and on the south there are several cold sulphur springs, the waters of which are by no means unpleasant to the taste. The hot springs are owned by our old-time correspondent and friend, Col. W. N. Byers, of Denver, Colorado, and one of the main objects of our visit to Grand City was, if possible, to see him there. To our great regret, however, we found that he was absent. . . . We spent but a few hours in Grand City therefore, and after a bath and a "sit-down" dinner at the hotel we retraced our steps to the camp on Corral Creek.

On our return journey we crossed the range by way of the Rabbit Ears Pass, and found the road a good one. Prospectors have been busy along the head of the Grizzly Bear River, but we saw none. On this stream we met with the first sharp-tailed grouse seen on the trip, and found them very abundant.

The Rabbit Ears Mountains take their name from a peak which is surmounted by two high pinnacles of rock standing close together and looking, from most points of view, somewhat like the erected ears of a hare. . . . Descending the mountains into North Park we soon reached a point where we could

cross over and strike the road which we had followed in going through the Muddy Pass. Near the point where we struck this road we passed a deserted Ute Camp about a month old, the poles of the wicky-ups and of the frames for dressing hides being still in position. The camp had not been occupied for any great length of time, but I noticed several bushels of antelope hair on the ground, indicating that the Indians had dressed a large lot of skins. I am told that they have killed this summer thousands of antelope for their hides alone.⁸

We camped that night on the East Fork of Arapaho Creek, and, as the horses were very weary from their pulls up and down the hills of Middle Park, we determined to move the next day only to our old camp on Buffalo Creek, a distance of two or three miles, and let the animals have a day of rest there. Game had been so scarce along the road in Middle Park, and we had been traveling so fast, that we were about out of meat, and it was necessary to secure some if possible. I started out on foot for an hour or so, soon after reaching our camping ground, but saw nothing but one old buck, who discovered me before I did him, and at whom I did not get a chance to shoot. That evening, at supper, some sarcastic remarks were made as to the hunting abilities of the company generally, and before I went to bed . . . I resolved that before I ate again I would kill some meat.

The day had not broken when I crawled out from my warm blankets into the frozen air. . . . My preparations occupied but a few moments, and only stopping to light my pipe I trudged off into the darkness. . . .

As I moved from camp no sound broke the silence of the morning, save the crackling of the sage brush twigs as I brushed through them. Soon, however, it began to grow light, and with the dawn came the general awakening, and the quiet was broken by the voices of many a bird and beast. The coyotes commenced their doleful concert, a prairie dog or two barked, and the little striped *Tami* squeaked in anger or alarm as he scuttled away from my path. The soft twitter of the shorelark fell upon my ear, and from the mountainside I heard the shrill call of a robin. . . . I saw a few antelope, but none of them were in situations where they could be approached, and after a three hours' tramp I turned back towards camp without having fired a shot. . . . Traveling toward camp, somewhat out of humor at my lack of success,

⁸ Ten years before Samuel Bowles, then in Middle Park, wrote that the Utes "had lately come over from North Park, where they had hunted antelope . . . with rare fortune, killing 4,000 in all in two or three weeks, half of them in a single hunt." Bowles, *Our New West* (Hartford, Conn.: Hartford Publishing Co., 1869) p. 121.

I spied on the side of a high bluff a white, moving spot, which I knew must be an antelope, and a look through my glass revealed the fact that the animal had already seen me. . . . I, therefore, proceeded, gradually turning away from him, and was gratified after a short time to see him commence to feed again. As soon as I got a bluff between the game and myself I approached as rapidly as possible, and in the course of ten minutes I was within range. I peered cautiously over the top of the last low ridge and saw, through the grass and sagebrush that crowned its summit, the noble buck standing with head and ears erect looking directly toward me. Aiming at the point of his breast I pulled the trigger, and he sank down on his side, and turning over on his back, stretched out his slender legs, and with a shudder or two lay still. . . . Taking one of the sirloins I hurried toward camp, and found the party about ready to start for Buffalo Creek, and as soon as breakfast was over, in company with W. I returned to the antelope, packed him on my horse, and leading the animal down the road, loaded the meat on the wagon. W. and I then rode back toward the hills to pass behind a low mountain, and reached camp by another trail.



We reached the top of the divide without seeing anything worth noting, but when we peeped over the precipice and looked down into the valley of Buffalo Creek, the sight we beheld was one to do a hunter's heart good. There were probably a thousand antelope in sight, scattered over a broad plain several miles in length and a mile in width, and we, from our vantage ground, could watch them unobserved. . . . We sat and watched them for some time, . . . but at length we turned back from the crest of the mountains and started to follow the trail down into the plain. . . . Before we reached our tents we were overtaken by a brief but furious snow storm, and after it ceased could see that the summits of the neighboring mountains were white, though on the lower ground the snow melted as it fell. Later in the afternoon, while A. and Fuller were out hunting, another storm of great violence came up, and snow fell to the depth of two inches. The absent hunters got a thorough wetting, although they tried to shelter themselves under the sagebrush.

From Buffalo Creek we proceeded toward Laramie, making no lengthened stops by the way. At the crossing of the Michigan we found the willow brush full of sharptailed grouse, which gave us good sport with our shot guns. . . . On our return march we camped at Pinkham's, on a small affluent of the Beaver, and near Leroy's; and from this last-named place, as we reached there about one o'clock, W. and I rode in to Laramie in the afternoon, leaving the team to follow the next day. We made the eighteen miles in two hours and a quarter. The next day was devoted to packing our collections and preparing for our journey east. . . .

As I look back on the past ten years, and see what changes have taken place in these glorious mountains since I first knew them, I can form some idea of the transformations which time to come will work in the appearance of the country, its fauna, and its flora. The enormous mineral wealth contained in the rock-ribbed hills will be every year more fully developed. Fire, air, and water working upon earth, will reveal more and more of the precious metals, with the baser ores, now neglected here, but not less valuable from an economic point of view. Towns will spring up and flourish, and the pure, thin air of the mountains will be blackened and polluted by the smoke vomited from the chimneys of a thousand smelting furnaces; the game, once so plentiful, will have disappeared with the Indian; railroads will climb the steep sides of the mountains and wind through their narrow passes, carrying huge loads of provisions to the mining towns, and returning trains will be freighted with ore

just dug from the bowels of the earth; the valleys will be filled with fattening cattle, as profitable to their owners as the mines to their's; all arable land will be taken up and cultivated, and finally the mountains will be stripped of their timbers and will become simply bald and rocky hills. The day when all this shall have taken place is distant no doubt, and will not be seen by the present generation; but it will come. In the destruction of the noble forests that now clothe these majestic hills lies a great danger. Water is scarce enough anywhere in the West at present, but in the mountains, at least, there is plenty of it. Should the timber, however, be destroyed with the wantonness that has recently prevailed, the region may become as arid as is Arizona; and in that event the streams which water the great plains would be sadly diminished in volume, if not quite dried up. . . . Within a short time the Government has commenced to charge stumpage on timber cut from the public lands, and this action has already done a good deal towards checking the reckless destruction of the forests; but it is essential that, to protect an enormous extent of our Western country from a terrible and permanent drying up, the timber should be cut with judgment, and that plantations of young trees should be set out wherever it is possible. The subject is one that demands, and will receive, I hope, greater attention in the future than it has in the past. . . .

My summer's trip is over, and I return to my work freshened and invigorated by my jaunt. . . .

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Colorado's Urban-Mining Safety Valve

BY DUANE A. SMITH

Few concepts relating to the American frontier have aroused as much comment as that advanced by Frederick Jackson Turner—the hypothesis that the West served as an economic safety valve. His theory was expounded by his students and attacked by his critics. Turner himself referred only generally to a safety valve and in the classic article “The Significance of the Frontier in American History” used such phraseology as “each frontier did indeed furnish a new field of opportunity, a gate of escape from the bondage of the past.”¹ Others, however, were not so cautious in their statements, and the controversy continues.²

It would be redundant to rehash the arguments; what is needed is a testing of the hypothesis to see if it did function to any degree. W. Turrentine Jackson, in his study of Nevada's White Pine mining district, wrote: “There is no doubt that the mining rush served as a safety valve for many men in the West.” The release, Jackson concluded, was undoubtedly more far-reaching than on the agrarian frontier, because the miner needed much less for a stake.³ If this phenomenon occurred in one district for a short period, why might it not also work in a larger area over a longer period of time under similar circumstances?

To test the concept, I have chosen the state of Colorado during the years 1859-93. This period was selected because the conditions then were those of a repeated mining rush, similar to the

¹ Frederick Jackson Turner, “The Significance of the Frontier in American History,” *The Frontier Thesis: Valid Interpretation of American History?* ed. Ray Allen Billington (New York: Holt, Rinehart and Winston, 1966), p. 19.

² See Billington, ed., *The Frontier Thesis*, especially Fred A. Shannon, “Not Even an Indirect Safety Valve Attracting Eastern Farmers,” pp. 41-50, and Ellen von Nardroff, “A Resources and Sociopsychological Safety Valve,” pp. 51-62; also Clifford Solway, “Turning History Upside Down,” *Saturday Review*, June 20, 1970, p. 62. Billington wrestles with the concept in *America's Frontier Heritage* (New York: Holt, Rinehart and Winston, 1966), pp. 37-38, and chapters 8 and 9.

³ W. Turrentine Jackson, *Treasure Hill: Portrait of a Silver Mining Camp* (Tucson: University of Arizona Press, 1963), pp. 227-28.

ones discussed by Jackson. In those decades Colorado experienced a rapid population expansion and income growth, while a transitory populace reflected the predominance of mining activity.⁴ All of these derived from the continued discoveries of new mining districts and the birth and boom of numerous camps. Furthermore, as an urban frontier, the area held a multitude of attractions for all types of people. Mary Foote, who experienced it firsthand and wrote about the era in several novels, described the arrivals: "The restless elements of the Eastern cities; the disappointed, the reckless, the men with failures to wipe out, with losses to retrieve or to forget, the men of whom one knows not what to expect were there."⁵ And so were other ordinary people who thought they saw opportunity.

If a safety valve were to work, certain conditions had to be met. The inducements had to be varied, generally offering higher wages and numerous jobs and thereby decreasing the competition for them. The location had to be near at hand to minimize moving costs. The attractions which created the safety valve must continually provide expanding opportunity for established areas to draw off the surplus population from less prosperous neighbors. Also, in periods of depression the safety valve should provide an internal release to prevent the local economy from dangerously deteriorating. Finally, it should be able to prevent or greatly decrease labor unrest.

In Colorado during the period 1859-93 the urban mining economy grew rapidly enough to absorb an expanding population and to provide such a safety valve. It did not do so evenly over these years, and the effect was primarily limited to the mountain areas and communities such as Denver, whose prosperity rested squarely on mining. Here it was not just a theory but something concrete which affected thousands of people, by far the majority of those residing in the state. When this era ended Colorado found itself faced with hard times and bitter labor disputes.

Born of a mining rush, Colorado pulsated for over three decades in the excitement of a continually opening and shifting mining frontier. From 1859 into the 1890s mining undergirded the state's economic life, providing the repeated fresh stimuli of

⁴ Mining regions in the mountain states exhibited similar patterns. See Richard Easterlin, "Interregional Differences in Per Capita Income, Population and Total Income, 1840-1890," *Trends in the American Economy in the Nineteenth Century* (Princeton: Princeton University Press, 1960), pp. 75, 80, 83. Leonard Arrington, "The Changing Economic Structure of the Mountain West, 1850-1890," *Utah State University Press Monograph Series*, vol. 10, no. 3 (Logan: Utah State University Press, 1963), pp. 5-63, presents the overall picture.

⁵ Mary Foote, *The Led-Horse Claim: A Romance of a Mining Camp* (Boston: Houghton Mifflin Co., 1911), p. 11.

new discoveries and expanding camps. A golden and silver rainbow promised rich rewards for newcomers and old-timers alike who rushed to the rainbow's end. There was nothing new nor different about this mobile tendency. The *New York Mining Record* concluded that "miners are always rushing somewhere"; and the western historian Hubert H. Bancroft, in describing the California miners, used such terms as "mania for rushes" and "migratory . . . habits."⁶ This transience was, in essence, the lure of the whole mining frontier, whether it was the rush to California, Alaska, or Deadwood.

It was this lure that attracted thousands to Colorado in the spring of 1859; though the early reports were discouraging, the fortune seekers kept coming. E. A. Bowen, from La Salle, Illinois, expressed their determination when he wrote on May 24: "We made up our minds to try the mountains once more & unless we found a good thing we would start home this being the 4th time."⁷ The same optimism and determination kept another Illinoisan searching. Matthew Sheriff came out the next year and, before the summer was over, visited Central City, Tarryall, Fairplay, California Gulch, and some lesser-known diggings without success. Still, he could write that his prospects of getting pay seemed good, and he was always willing to give it another try.⁸

The next mining district perpetually held out what seemed to be a better opportunity. Clarence Mayo, a recent arrival from Massachusetts, illustrated this optimism when writing home from the San Luis Valley that Bonanza was having a "terrible 'boom' and if the mines turn out to be good it will be a second Leadville."⁹ None of these successes happened, so he moved on. The wealth and the general boom conditions infected those who came into contact with them, regardless of the year. Robert Bradford, isolated in Denver by the snow and cold of the winter of 1859-60, heard exciting rumors of rich prospects and eagerly wrote a friend: "Should this prove true, 'What a Stampede' when the snow goes off."¹⁰ The same excitement was shown by the enthusiastic individual writing from the recent San Juan discoveries in December 1872 who felt that no power on earth

⁶ *Mining Record* 9 (April 16, 1881):263; Hubert Howe Bancroft, *California Inter Pocula*, vol. 35, *The Works of Hubert Howe Bancroft* (San Francisco: The History Co., 1888), pp. 230, 237, 258-59.

⁷ Duane A. Smith, ed., "Pikes Peak Fifty-Niner: The Diary of E. A. Bowen," *The Colorado Magazine* 47 (Fall 1970):286.

⁸ Matthew Sheriff Diary, June 8, July 9, July 14, 1859, State Historical Society of Colorado Library.

⁹ Clarence Mayo to Ned Mayo (brother), March 27, 1881, Clarence Mayo Letters, Henry E. Huntington Library and Art Gallery, San Marino, California.

¹⁰ Robert Bradford to William Waddell, March 15, 1860, Robert Bradford Letters, Huntington Library.



Ashcroft, a Pitkin County ghost of the mining boom.

could keep “live and energetic people” from the area once the true resources were known.¹¹ And the editor of the Ashcroft *Rocky Mountain Sun* foresaw for his community a real old-fashioned boom, which would make it the mining center of Pitkin County.¹² He proved a poor prophet for this town, while neighboring Aspen fulfilled his expectations for the region.

Observers testified to the magnetism of gold and silver. Horace Greeley, on his way to the West Coast in 1859, stopped at the recently opened Gregory Diggings. The scene about him amazed this eastern editor, and his account speaks of the drawing power of the “mad pursuit of gold.”¹³ Another newspaperman, Henry Villard, who gained later fame in railroading, described it as a “gold fever,” which spread with the rapidity of a prairie fire. His observations covered a longer period than Greeley’s, and he bears witness to the attraction in Gregory Diggings, then only months old: “Even the owners of rich claims were once more seized with migratory sensations, and abandoned the certainty they possessed in the shape of well yielding claims, for the uncertainties of another gold hunt in the South Park.”¹⁴ To complete the picture only one other witness need

¹¹ *Rocky Mountain News* (Denver), December 19, 1872, p. 4.

¹² *Rocky Mountain Sun* (Ashcroft), February 18, 1882, p. 2.

¹³ Horace Greeley, *An Overland Journey from New York to San Francisco in the Summer of 1859* (1860; reprint ed., New York: Alfred A. Knopf, 1964), pp. 115-16 and 123-30.

¹⁴ Henry Villard, *The Past and Present of the Pike’s Peak Gold Regions*, ed. LeRoy R. Hafen (Princeton: Princeton University Press, 1932), p. 69.

testify, the Reverend George Darley, who knew the San Juan excitement from the pioneering days. “They [the miners] seem to ignore the dangers about them; they appear to think only of the ‘bonanza’ they expect to strike.”¹⁵ One constant in a continually changing frontier was this lure or magnetism; it attracted all of them. This was true in a small camp of 1859, in the mature Leadville of the 1880s, or in Creede opening in the 1890s; the populations varied but the impact was perpetual.

On this bustling street in Creede Jesse James’ killer, Bob Ford, was shot in 1892.



Some men and women persevered simply because no other alternative presented itself or because their pride would not let them admit failure. Mayo, who traveled to several camps in 1881-82, finally wrote to his family: “I will never go home a step till I have made some money.”¹⁶ He expressed succinctly what others surely must have felt. Whatever the reason, they came in increasing waves, as the news spread abroad that a new bonanza had been uncovered. For these people Colorado offered a fresh opportunity, a renewed chance.

Of the three decades immediately after the 1859 rush the sixties were the least active with respect to mining excitement, and in mid-decade a short depression gripped the territory. Colo-

¹⁵ George Darley, *Pioneering in the San Juan* (Chicago: Fleming H. Revell Co., 1899), p. 130.

¹⁶ Clarence Mayo to Ned Mayo, February 5, 1882, Clarence Mayo Letters.

rado's population grew only slightly, to 39,864 by 1870, although the astute Colorado observer Frank Fossett estimated that probably 100,000 had resided in the territory up to that year.¹⁷ If he was right, and there is no indication that his observation was not correct, a great many people drifted in and out, many of the adventuresome going on to Montana and Idaho, which offered more promising mining locations. The world traveler Bayard Taylor observed this shift and thought it all to the good. Montana, he decided, served as a "social strainer" or as a "miner's pan, shaking out a vast deal of dirt and leaving the gold behind."¹⁸ These territories served then as a regional safety valve as Colorado would do at a later date. By the end of the decade, with local mining districts again reviving, movement became more internal.

From this point on, however, Colorado provided its own attractions and no longer relied on outside districts to act as the safety valve. From the standpoint of new discoveries and mining opportunities, the next two decades were Colorado's finest. Previously known as a gold area, silver now emerged to challenge and then surpass that metal in production. Indeed, Colorado became the leading mining and silver state in the United States. From Caribou in Boulder County on the north to Rico in Dolores County on the south, rich finds were made on a line which diagonally bisected the state on a southwest axis, roughly 216 miles. In rapid succession such major areas as the San Juans, Lake County, the Gunnison country, and the Aspen district opened with a host of paying mines and growing camps, all within a few days' travel time of each other. In 1870 less than a dozen mining camps appeared in the incomplete census report; by 1880 the number climbed to forty-one. The state's 1885 census listed sixty-eight camps, some of the marginal ones having already declined or disappeared but others having taken their places. The 1890 figure reached nearly one hundred.¹⁹ The largest

were such well-known communities as Pitkin, Aspen, Silverton, and Ouray, all of which had been wilderness in the 1870s; each passed the thousand mark in 1890. Although Leadville had peaked officially at 14,820 in 1880 and was down to 10,384 a decade later, and while Silver Cliff dropped even more alarmingly from 5,000 to 400 in the same period, there were numerous smaller camps, seldom attaining more than a few hundred, whose community life ebbed within a short season or two. For the enterprising miner, merchant, laborer, speculator, or adventurer, it was opportunity unlimited. That the mining districts and mining camps held out a nearly irresistible attraction to many people and that the Colorado mining frontier did expand, especially in the 1870s and 1880s, is evident.

The question remains: where were the sources of these migratory people? The majority came initially from outside the state; Colorado's population was almost eleven times larger in 1890 than it had been in 1870. Following their arrival in a mining community, were they then attracted to newer areas? Did the older residents also rise to the lure and move as well? Evidence indicates the answers are affirmative and also that, once the first move was made, the successive ones proved easier in this fluid, transitory mining frontier. The overwhelming majority of people moving to a new district were single, even in the 1880s, when families were arriving in greater numbers. The latter group's movements, however, are somewhat easier to track by pinpointing where their children had been born. The 1880 and 1885 census returns (primarily those for recently opened camps to avoid statistics including newborn children) show that anywhere from 20 to 40 percent of the families with children had lived elsewhere in the state before moving to their present home. Those without children or with older ones proved to be impossible to check by this method.²⁰

Both direct and indirect testimony shows that the remaining majority moved. Newspapers and other contemporary accounts often listed the areas from which local residents had come. A Caribou correspondent in 1870 reported such communities as the

¹⁷ Frank Fossett, *Colorado, its Gold and Silver Mines, Farms and Stock Ranges, and Health and Pleasure Resorts* (New York: C. G. Crawford, 1879), p. 147.

¹⁸ Bayard Taylor, *Colorado, a Summer Trip* (New York: G. P. Putnam and Son, 1867), pp. 120, 131. See also Samuel Bowles, *Across the Continent: A Summer's Journey to the Rocky Mountains, the Mormons, and the Pacific States with Speaker Colfax* (Springfield, Mass.: Samuel Bowles & Co., 1865), p. 40, and Wolfe Londoner Interview, p. 10, Bancroft Library, University of California, Berkeley.

¹⁹ U.S., Interior, Census Office, *Ninth Census of the United States, 1870: The Statistics of the Population of the United States, 1:95-96; Statistics of the Population of the United States at the Tenth Census (June 1, 1880), 1:112-13; Report on Population of the United States at the Eleventh Census: 1890*, book 15, pt. 1:75-80. The 1885 Colorado returns are found in the *First Biennial Report of the Bureau of Labor Statistics of the State of Colorado, 1887-1888* (Denver: The Collier & Cleaveland Lith. Co., State Printers, 1888), pp. 375-80. The state's mining production shows a similar curve. See Charles W. Henderson, *Mining in Colorado: A History of Discovery, Development, and Produc-*

tion, Department of the Interior, United States Geological Survey, Professional Paper no. 138 (Washington: Government Printing Office, 1926), pp. 76, 88-94. S. D. Mock analyzes the 1870s in "Effect of the 'Boom' Decade, 1870-1880, upon Colorado Population," *The Colorado Magazine* 11 (January 1934):27-34.

²⁰ The following camps were checked for 1880: Ouray, Maysville, Capitol City, Lake City, Ruby City, Gothic, Kokomo, Mineral Point, Columbia, Silver Cliff, Alpine, and Rosita. Those for 1885 were Ironton, Ashcroft, Aspen, Red Cliff, Crested Butte, and Bonanza. For the larger camps a sampling of at least five hundred people was utilized; for the smaller, the entire return. Only Mineral Point had no families with Colorado-born children. By the late 1870s mining was becoming so specialized that it is doubtful that many of these families came directly from a Colorado farm, thereby significantly altering the conclusion.

nearby mining camps of Central City, Black Hawk, and Georgetown, all older and more established.²¹ The process repeated itself in 1874, when the San Juans took people from Caribou, Georgetown, Gilpin County, and elsewhere in the territory.²² Frank Fossett described the excitement that Rio Grande County discoveries created and the hundreds of prospectors who went there in 1874-75 from throughout Colorado.²³ Rossiter Raymond, observing on a smaller scale, reported that the discovery of mines at Sunshine in Boulder County drew away "the floating population from Gold Hill."²⁴ The same story could be repeated for all new camps and districts in the seventies but for none more than Leadville, the greatest of them all.

Leadville dominated the scene in the late 1870s and early 1880s; no Colorado or regional camp could match its enticements. Probably no camp, young or old, failed to lose people to the "queen." Older counties, such as Boulder, Clear Creek, and Gilpin, lost a larger share; but even such newcomers as the San Juans and the southern camps like Summitville proved unable to stem the tide.²⁵

Eventually Leadville's charms waned and she lost her citizens in the 1880s to such new or booming communities as Ashcroft, Aspen, Ouray, and Silverton. In this decade the San Juans finally came into their own after years of promise but little fulfillment. Aspen dominated the scene, however, during mid-decade and was compared favorably with Leadville, the yardstick against which Colorado camps now were measured. The Gunnison country, with smaller camps such as Gothic, Crested Butte, and Irwin, added further excitement to the booming mining scene of Colorado.²⁶

²¹ *New York Times*, September 12, 1870, p. 1; see also *Central City Register*, August 31, 1870, p. 3; and *Boulder County News*, June 29, 1870, p. 3.

²² For the San Juans, see the *New York Times*, May 2, 1874, p. 4; *Colorado Transcript* (Golden), July 2, 1873, p. 2; and *Boulder County News*, August 14, 1874, p. 1.

²³ Frank Fossett, *Colorado, a Historical, Descriptive and Statistical Work on the Rocky Mountain Gold and Silver Mining Region* (Denver: Daily Tribune Steam Printing House, 1876), p. 433.

²⁴ U.S., Congress, House, *Statistics of Mines and Mining in the States and Territories West of the Rocky Mountains, Being the Seventh Annual Report of Rossiter W. Raymond, United States Commissioner of Mining Statistics*, 43rd Cong., 2d sess., 1875, Ex. Doc. 117, p. 370.

²⁵ Among the numerous reports of those who went to Leadville are Frank Leslie's *Illustrated Newspaper*, April 12, 1879, pp. 86-87; *Rocky Mountain News* (weekly), February 19, 1879, p. 2; *Rocky Mountain News* (daily), August 16, 1878, p. 4, and March 2, 1879, p. 4; *New York Times*, May 20, 1878, p. 2; and the *Denver Tribune*, March 3, 1878, p. 4. A fine contemporary account of this rush is in R. G. Dill, "History of Lake County," *History of the Arkansas Valley, Colorado* (Chicago: O. L. Baskin & Co., 1881), pp. 223-36.

²⁶ Reports of the mining rushes of the 1880s are numerous in almost all Colorado newspapers. See, for example, the *Weekly Republican* (Denver), March 1, 1888, p. 3; *Rocky Mountain Sun*, February 18, 1882, p. 2, and December 14, 1889, pp. 2-3; *Dolores News* (Rico), April 10, 1880, p. 1, and May 14, 1881, p. 2; *Rocky Mountain News*, January 1, 1881, p. 7. The *News* has excellent daily coverage for the entire decade.



Rosita, a nostalgic reminder of youthful hopes.

The variety of inducements is further shown by illustrating a few personal histories. A classic miner's case would be Richard Irwin who, in the years from 1860 to 1880, moved from Central City to Buckskin Joe, Tarryall, Georgia Gulch, Gold Run, Empire, Georgetown, Rosita, the San Juans, and finally the Gunnison country. The highly mobile Richard Irwin also had time for side trips to New Mexico, Utah, and the Black Hills.²⁷ Perhaps more typical was Walter Jenness, who went from Black Hawk to Caribou and Silver Cliff before arriving at Maysville in the 1868-79 period.²⁸

But not only miners and prospectors moved. Henry Wood, assayer and part-time miner, prospected in North Park and worked in Sunshine in 1876-77 before the rich silver discoveries in Leadville attracted him there. Of the declining camp of Sunshine he revealingly reported that there were only one to two hundred people in town, "most of them waiting as I was for some new mining field to be opened."²⁹ Newspaper editors also shifted to more promising localities, Percy Leonard trying his skill at Boulder and Leadville before finally settling in Buena Vista, a supply point for nearby mines.³⁰

Main Street merchants, although having invested more in a camp's permanence than the average resident, were no more averse to moving to a better consumer market. Giles Fonda ran drug stores in Central City, Caribou, and Leadville, with a stop in Boulder, during the years from 1866 to 1879.³¹ George Scott made only one move, from Denver to Ouray, with his store and

²⁷ *History of the Arkansas Valley*, pp. 748-49.

²⁸ *Ibid.*, p. 519.

²⁹ "I Remember," Henry E. Wood Collection, Huntington Library.

³⁰ *History of the Arkansas Valley*, pp. 525-26.

³¹ *Ibid.*, p. 330.

promptly diversified into mining and ranching.³² William Bush operated well-known hotels in Central City and Leadville, before finally casting his lot with Denver.³³ Even in such a conservative business as banking, new mining communities attracted interest. The Thatcher brothers, who established one of the state's major banking houses, remained in Pueblo but opened branch banks in Silverton and Ouray and invested in mercantile interests in Lake City.³⁴ Obviously, these men were drawn by the opportunities presented, for they were not unstable, transient businessmen who had failed and gone elsewhere to try again.

The best-known example of a businessman's moving is Horace Tabor, who owned stores in Oro City, Buckskin Joe, and again in Oro City and Malta before he turned to Leadville, which held for him its riches and fame, albeit in mining. Of a less significant nature were the gamblers, saloon keepers, and prostitutes who often became the first to desert the older camp for the fresh opportunities. They were, in truth, somewhat the barometer of a camp's or a district's prosperity.

Still another illustration of the transitory nature of the frontier is seen in the cries of anguish from older communities as their residents were drawn away. The American principle of growth as the major exponent of worth is shown clearly. Little thought was given to the idea that the draining off of surplus population would stabilize the local situation within the framework of its economic potential and prevent labor unrest over declining wages and too few jobs from reaching the danger point.

The outstanding instance of this reaction is shown by Leadville and its statewide impact. The editor of the *Georgetown Miner* advised his readers not to rush off with so much unexplored ground remaining in Clear Creek County. He admonished that if only the same amount of work were done at home, the returns would be "much greater."³⁵ The *Ouray Times* commented: "Ouray can crow about her weather and mines if she cannot boast a population of 12,000 and a murder every week."³⁶ The *Silver World* (Lake City) was defensive and critical at the

same time: "It [San Juan] stands higher in the estimation of the capitalists and practical men of the country than Leadville, being solid and lasting while the latter is largely speculative and ephemeral."³⁷ Even such an impartial source as the *Engineering and Mining Journal* finally felt obligated to advise its readers that, while Leadville was a wonderful camp, it was not the only place in Colorado where a fortune could be had.³⁸ But in that exciting spring of 1879 nothing matched it.

The contemporary comments just quoted illustrate the immediate reaction to the loss of population. This might result in the rapid demise of the camp, as some feared, or stabilization, which could be helpful both in the short and long runs, if the community had the economic basis to survive the transition from a mining to a diversified economy. The mining areas encouraged diversification by providing a ready market for everything from farm produce to heavy machinery. The growth of farming and ranching in the Boulder and Durango areas reflected the demand of nearby mining, as did the rise of industry in Denver and Pueblo. A stabilized camp, such as Silverton or Ward, was a steady, if not spectacular, consumer. Also, a camp which leveled at a population more adaptable to the mineral and job potential offered opportunity for the eventual development of a varied economy, better suited to the local condition and with more permanency than mining alone provided. Long-term planning of this nature, however, was not an outstanding characteristic of mining communities; it happened by transition rather than intention, if it happened at all.

A study of this stabilization of individual camps is beyond the scope of this article. However, one needs only to contrast the business district of a Caribou, Central City, or Rico in its boom with that of its maturity to see the difference. Permanency replaced what was often wild fluctuation in numbers and types of businesses.

Freighting to the booming Rico mines.

³² Frank Hall, *History of the State of Colorado*, 4 vols. (Chicago: Blakely Printing Co., 1889-95), 4:583.

³³ *Ibid.*, p. 378.

³⁴ Wilbur F. Stone, *History of Colorado*, 4 vols. (Chicago: S. J. Clarke Publishing Co., 1918-19), 3:16-18. Nineteenth- and early twentieth-century Colorado histories, as well as the Bancroft interviews, are full of brief biographies which illustrate the same tendencies exhibited by the careers discussed.

³⁵ *Georgetown Miner*, quoted in the *Denver Tribune*, November 7, 1878, p. 4.

³⁶ *Ouray Times*, May 10, 1879, p. 3.

³⁷ *Silver World* (Lake City), March 22, 1879, pp. 2-3.

³⁸ *Engineering and Mining Journal* 28 (September 13, 1879):183.



Having examined the Colorado mining frontier's expansion and illustrated that people were attracted to new areas from old, it remains to be shown in what ways this movement acted further as a safety valve. The lure of gold and silver had to be more than just an uncertain hope if it were continually to influence the course of Colorado.

Henry Villard expressed it well in 1859 when he wrote: "Gold—that mightiest spring of human action—was making its vitalizing influence felt."³⁹ Both he and Greeley, as others who came later, marveled at the change the discovery of that mineral could work in such a short time. Hundreds came, claims multiplied, stores appeared, homes were built, doctors and lawyers opened practices, as nature gave way to settlement all in the space of what seemed to be only a few days. The same could be said for silver, and the time could be any year for the rest of the century.

These new camps and districts held out the promise of a better life for everyone, not just the man who hoped to become a second Horace Tabor or Winfield Scott Stratton. There were the merchant who correctly sensed that a lucrative business potential was there for the taking for those who got in on the ground floor and the lawyer who knew that eventually his services would be needed in the mining disputes. These people remained a minority of the thousands who rushed to Silver Cliff, Telluride, and Aspen, or the hundreds who went to Tin Cup, White Cross, or Animas Forks. The laborer, whether miner, carpenter, blacksmith, clerk, or whatever occupation, could dream of making his fortune through mining; but more practically he had to find a job that would pay his living expenses.

The outlook was favorable and the possibilities seemed infinite, so much so that in the case of Leadville the number arriving exceeded those needed. The miner was not the self-sufficient man so often identified with the frontiersman. It took all types of supporting services to keep the mines and miners producing.⁴⁰ Here was where the ordinary individual could hope to make his money on the mining frontier. Not only was there more opportunity in the new areas, but the wages were substantially

higher in all occupations, in partial compensation for a higher cost of living and a reflection of the greater demand.⁴¹

The cost of living in the mining counties is shown in the following table:⁴²

	Flour per cwt.	Eggs per doz.	Beefsteak per lb.
Gunnison	\$3.36	30c	16c
Ouray	3.57	38c	18c
Summit	3.25	33c	16c
Arapahoe (non-mining)	3.08	26c	14c

People came because it was profitable for them to do so, and they moved on when a better opportunity presented itself. Most, being single, had few belongings to hinder their movement, though some married men migrated as readily. This transitory crowd shifted at will, leaving behind in each instance a few who decided to settle down.

The continual opening and development of Colorado mining areas in the three decades after 1859 provided a generally high rate of income and wages, accounting for the amazing growth of the state particularly after 1870.⁴³ Although the great mining expansion came after the 1873 national crash and depression, those camps which were booming then hardly noticed the effects. For instance, Caribou weathered the storm completely until mid-1875, when its major mine failed due to speculation,⁴⁴ and Georgetown's silver production and population steadily increased. Others like Alma, Rosita, Parrott City, and Gold Hill grew rapidly during these years; just at the end of the depression Leadville and a number of other camps were coming into prominence to erase completely the effects of the depressed financial situation. Until the 1890s the mines and camps pumped

³⁹ Villard, *Past and Present*, p. 55. See also Greeley, *An Overland Journey*, p. 106.

⁴⁰ For example, in 1876 Lake City had fourteen general merchandise stores, five blacksmiths, four hotels, and six restaurants included in its business district. *Silver World*, November 18, 1876, p. 2. In a camp the size of Leadville, the figures could climb almost unbelievably in the first boom year. The *Daily Chronicle*, June 7, 1879, p. 1, reported the following: 57 laundries, 44 hotels and lodging houses, 51 groceries, 59 bakeries, 120 saloons, and 15 blacksmiths.

⁴¹ For a discussion of wages in various camps, see *Boulder County News*, April 19, 1872, p. 3, and May 3, 1872, p. 2; *Rocky Mountain News*, August 13, 1859, p. 2, and June 30, 1875, p. 4; *Rocky Mountain Sun*, September 22, 1883, p. 2; *Denver Daily Times*, March 12, 1879, p. 4; L. A. Kent, *Leadville* (Denver: Daily Times Steam Printing House, 1880), p. 150; Fossett, *Colorado, its Gold and Silver Mines*, pp. 218-19, 454, 501, 504; *Third Biennial Report of the Bureau of Labor Statistics of the State of Colorado, 1891-1892* (Colorado Springs: Gazette Printing Co., 1892), p. 35. John Garraty discusses the generally higher western wages in *The New Commonwealth, 1877-1890* (New York: Harper and Row, 1968), pp. 130-31.

⁴² *First Biennial Report of the Bureau of Labor Statistics*, pp. 271-85.

⁴³ For a discussion of this trend on a regional basis, see Stanley Lebergott, "Wage Trends, 1800-1900," *Trends in the American Economy*, p. 452. Lebergott points out, for example, that farmhands earned sixty dollars per month in California in 1850, 400 percent above wages paid in the Midwest.

⁴⁴ *Boulder County News*, 1873-75; *Weekly Central City Register-Call*, 1873-75.

a life-giving stream of money into the state's economy, allowing it to weather successfully the ups and downs of the national scene. As long as this condition held true, Coloradoans, if they were willing to work in the mining districts or mining-related industries, had no worries about employment.

Another indication of the safety valve effect was the relative absence of strikes in the metal-mining industry, Colorado's major one during the period under examination. In the original placer fields of 1859, almost anyone could be an owner. This situation gradually changed as the years passed, but miners still had the opportunity to better themselves by going on to a different area and, as long as there was a mining discovery, the hope of making the big strike. It was unnecessary to stay in a district of limited opportunity and stabilized wages when all circumstances favored a move. Even during the one major strike prior to the 1890s the *Leadville Democrat* said the dissatisfied were free to go and try their skill in the Gunnison or San Juan.⁴⁵

Gunnison, destined to last on mining, ranching, and railroads.



Many of them did, hurting the attempt to prolong the strike and undermining the miners' movement. For the individual miner unionization to fight for better wages was unnecessary when all one had to do to secure them was to relocate relatively nearby. Unless one were particularly enamored of his present location, it was better for him to take his chances in an expanding job market rather than to ride out the storm with the end potentiality of longer hours or less money.

Although records were not carefully kept until the 1880s, there is no indication that labor trouble hit any Colorado camp

⁴⁵ *Leadville Democrat*, June 11, 1880, p. 4.

until Leadville in 1880. From then until 1893-94 the scene, except in the coal fields, remained quiet. Local strikes against one or several mines, such as occurred in Telluride and Silverton in 1883 and 1884, lasted but a few days; and in each instance management was forced to rescind a wage cut. Both the state bureau of labor and a federal commission came up with similar listings of strikes, and the latter concluded that no major strikes occurred.⁴⁶

By comparison the Colorado coal fields seemed to be in a state of perpetual labor unrest. They were located along the Eastern Slope in two general areas, roughly defined as the northern (Boulder and Weld counties) and southern (Huerfano and Las Animas counties), and also in a few scattered areas on the Western Slope. In the years 1881-87, a time when only two strikes occurred in the metal mining industry, the bureau of labor listed seventeen in the coal fields.⁴⁷ Some of these lasted as long as six months and involved several counties. Continued union activity and union-called strikes in the coal industry stand in marked contrast to the state's other mining areas.

The reasons for this are varied, to be sure, but several have important bearing on the mountain districts without strikes. The limited number of coal fields restricted freedom of movement for the miner working in such coal towns as Erie, Louisville, El Moro, and Walsenburg. His wage scales were lower than his neighbor's, his working conditions were not better but probably worse, and corporation mining came much more quickly. While a company store was unheard of in Silver Plume, St. Elmo, or Howardsville, it was a familiar establishment in the coal communities. Nor were there any coal rushes to equal those of silver and gold; coal mining proved less transitory, as did the associated communities.⁴⁸

The coal districts serve almost as a control group, showing what might have happened to the entire mining industry had it not been for the safety valve. The factors missing in the coal

⁴⁶ *First Biennial Report of the Bureau of Labor Statistics*, pp. 118-34; *Third Biennial Report of the Bureau of Labor Statistics*, pp. 173-80; *A Report on Labor Disturbances in the State of Colorado from 1880 to 1904, Inclusive* (Washington: Government Printing Office, 1905), p. 31.

⁴⁷ *First Biennial Report of the Bureau of Labor Statistics*, pp. 118-34. The 1891-92 count was seven strikes to two. *Third Biennial Report of the Bureau of Labor Statistics*, pp. 173-80.

⁴⁸ The following coal camps were examined in the 1885 Colorado census: Walsenburg (Huerfano County), Franceville (El Paso), Erie (Weld), and Canfield, Marshall, and Louisville (Boulder). Of these, Germans and Austrians dominated Franceville and Louisville. Marshall was an Italian community; but Walsenburg, Erie, and Canfield exhibited mixed populations, similar to a mining camp. Interestingly, the coal miners seem not to have gone to the gold and silver areas in large numbers, but more work needs to be done on the group before any definite conclusions can be reached.

fields were precisely those which support most clearly the safety valve concept.

One incident of unrest which challenges this safety valve theory is the 1880 Leadville strike which broke out in May, lasted until mid-June, and involved the whole camp. Although the strike appears to have been spontaneous rather than union-organized, a local miners' union was involved. The continued threat of violence, plus growing bitterness between labor and management, finally moved Governor Frederick Pitkin to declare martial law, which succeeded in breaking the strike. This strike, which proved to be the prototype for those of the 1890s, hurt all sides but especially the union.

Of interest here is what caused the strike, which began with one mine, the Chrysolite. The reasons given at the start involved such petty issues as talking while working and the resignation of several foremen. This dissension eventually evolved into a demand for higher wages and the eight-hour day. The strike spread from the Chrysolite to the other big mines; the smaller ones eventually closed either because of miners in sympathy with the walkout or fear of violence. As the strike lingered its real causes mystified observers.⁴⁹

Wages in Leadville remained high, even though the camp was nearly three years old; and the eight-hour day was in effect in some mines, though not yet standard. Perhaps an underlying cause was the sudden emergence of corporation mining on a large scale and the noticeable gap in wealth and power between the owner-manager and the worker. While this was the coming trend for the entire state, it was still relatively uncommon and the implications were not really understood.

At this late date the cause cannot be pinpointed, but it is within reason to assume the motivation to have been provided by management rather than by the workers. This argument pivots on the condition of the Chrysolite Mine, one of Leadville's best known and largest. Along with the Little Pittsburg, it had helped bring Leadville into its bonanza days; both had been incorporated with stocks sold to Easterners. Already in 1880 the Little Pittsburg had suspended dividends and its stock price had collapsed, creating gloom in Leadville and in the East. As spring advanced, the Chrysolite seemed to be going the same

way, the stock price dropping steadily from a high of over forty dollars per share into the teens. In late April dividends were reduced by half, and disquieting rumors were heard about the mine's condition and management. Just before the strike broke out, it was rumored that the Chrysolite would have to forgo its monthly dividend, as did occur. At this point the company was following alarmingly in the Little Pittsburg's path; public confidence was weakening, the stock price collapsing, dividends declining, and criticism of the management mounting.⁵⁰

A strike then would be most opportune to give management a breathing spell, as well as a ready-made reason for passing another dividend without reflecting on the mine's worth and a chance to unload stock before the price went lower. Some contemporaries blamed the management for the strike, giving a variety of reasons for so doing. They thought it was an attempt to "bear" the stock, to cover up the mine's poverty, or to sell out.⁵¹ The evidence is circumstantial but, as supported by the history of the mine, incriminating and extremely intriguing. Also fascinating is the fact that, while Leadville stocks suffered a general downward price trend during the strike, Chrysolite shares jumped from thirteen dollars to the seventeen- to twenty-dollar range with over ten thousand shares sold per week during the period.⁵²

Although the Leadville strike itself set the pattern of others which followed, its causes did not. Whatever reason one cares to assign as a cause, it was not the lack of job opportunities or the chance for better wages in another camp.

When the great period of strikes broke out in the 1890s and the early twentieth century, the expanding mining frontier no longer was in existence, its usefulness as a safety valve gone. By the early nineties the silver mining era was coming to an end. Few areas were being opened, the older ones were declining, and the price of the metal had fallen steadily. The depression of 1893 and the repeal of the Sherman Silver Purchase Act proved to

⁴⁹ See the *Engineering and Mining Journal* 29 (January-May, 1880); *Leadville Democrat*, April-May, 1880; *Mining Record* 7 (May 22, 1880), p. 482, and May 29, 1880, p. 525.

⁵⁰ R. G. Dill, *The Political Campaigns of Colorado, with Complete Tabulated Statements of the Official Vote* (Denver: Arapahoe Publishing Co., 1895), p. 50; Carlyle C. Davis, *Olden Times in Colorado* (Los Angeles: Phillips Publishing Co., 1916), p. 248; *Rocky Mountain News*, June 17, 1880, p. 2; *Inter-Ocean* (Denver), July 31, 1880, p. 425; *Mining Record* 7 (June 19, 1880), pp. 577-79; *Leadville Democrat*, May 28, 1880, p. 4, and June 11, 1880, p. 4.

⁵² Stock quotations are found in the *Engineering and Mining Journal* 29 (May 1-June 26, 1880) from listings of both the New York and American exchanges. Within two months after the end of the strike, the Chrysolite was in the final throes of collapse. The Chrysolite had been incorporated for 200,000 shares, and some of the same men were involved both in it and in the Little Pittsburg.

⁴⁹ Sources on the Leadville strike include the *Leadville Democrat*, May 27-June 18, 1880; *Rocky Mountain News*, May 27-June 23, 1880; *Leadville Daily Herald*, February 9, 1881, p. 2; *Colorado Executive Record*, 1875-81, pp. 522-25, Colorado State Archives and Records Service. See also Paul T. Bechtol, Jr., "The 1880 Labor Dispute in Leadville," *The Colorado Magazine* 47 (Fall 1970):312-25.

be the *coup de grace*. Unlike 1873 the smaller camps collapsed, while the larger ones suffered decline. Denver's *Weekly Republican* estimated by September 14 that 435 mines had closed throughout the state and over 45,000 men were out of work.⁵³ Silver, long the primary metal, was replaced by gold, though the number of districts was limited and the opportunities drastically restricted. A few silver districts, such as the San Juans, found enough gold to boom again; others, like Leadville, tried with sporadic results; but most quickly slipped into insignificance.

It may be argued that the increase in mining labor unrest and the end of an expanding frontier for precious metals both were consequences of the twenty-year decline in silver prices. This older view needs to be re-examined in the light of several facts. First, the life of any given mining district was obviously limited by the amount of ore reserves. Most of the camps in Colorado by the 1890s were from five to thirty years old, long-lived in terms of mining. Peak production was past and an individual decline had set in, which was masked by the increasing number of camps and the related increase in state-wide production. The declining price of silver was damaging, without question, but it can be said with certainty only that this economic trend hastened the demise of some areas. Secondly, in the early nineties a large number of the districts were starting to feel the effect of their own declining production, and few new ones were opening to drain off the surplus population. Finally, there can be little question that a mining era was closing in that decade, the major silver and gold districts having been discovered and in operation. The crash of 1893 pinpointed the problem and magnified it but did not produce it.

Miners flocked to the new gold camps in the Cripple Creek district; beyond these there were no promising outlets. Suddenly, with opportunity gone, the old problems became more crucial—long hours, drudgery, relatively low pay, poor working conditions, increasingly impersonal corporation control. A decade of labor unrest opened.⁵⁴ The appeal of unionism took on new meaning, as men struggled to maintain what they had or to better themselves in an unequal match against entrenched management.

That the disappearance of this safety valve was one cause,



The Cripple Creek district's Portland, Strong, and Independence.

and a major one, in producing the changing situation cannot be denied. A few people had appreciated its importance during the previous thirty years; but most had taken it for granted or, more likely, had not even considered it.⁵⁵

A part-time surveyor and miner, Harry Cornwall, who lived in Irwin in the early 1880s, said: "Any fool can make a million in Colorado in two years and not half try."⁵⁶ As long as this spirit held out and new districts appeared, the mining frontier kept moving and the safety valve operated. While mining camps or districts beckoned, present conditions could be ignored or forgotten in the exciting dreams of future fortunes. When the bubble burst, an era died and the course of Colorado development changed. Colorado was fortunate in having this safety valve during the first thirty-four years of its existence. In contrast is the decade immediately following, with labor strikes, depression, and general decline in the mining regions.

The much-criticized safety valve concept of Turner and his students may not have operated as they envisioned it, but it was a factor in one state during its formative years. Fred Shannon, in his attack on the concept, wrote that the excess popula-

⁵³ *Weekly Republican*, September 14, 1893, p. 8.

⁵⁴ Revealingly, the *Engineering and Mining Journal* 27 (March 15, 1879), p. 181, and (April 5, 1879), p. 234, prophesied that the opening of new districts in Colorado would solve the labor problem in the Pennsylvania coal fields.

⁵⁵ Two that did discuss it were the *Labor Enquirer* (Denver), October 2, 1886, p. 1, and the *Aspen Daily Times*, January 14, 1888, p. 2.

⁵⁶ Harry C. Cornwall, "My First Year in the Gunnison Country," ed. Duane Vandenbusche, *The Colorado Magazine* 46 (Summer 1969):241.

tion flowed to the cities rather than to free land, thus creating a pattern the reverse of Turner's.⁵⁷ The safety valve as hypothesized for Colorado did not operate as Turner interpreted it (the frontier relieving the pressure of the heavily settled areas), nor did it operate as Fred Shannon described it. What existed in Colorado was a safety valve that was both urban and frontier at the same time, with the flow from a declining community to a booming one, from the older mining district to the newer. This urban-mining safety valve significantly influenced the state's development for three decades.

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⁵⁷Fred A. Shannon, "A Post-Mortem on the Labor-Safety-Valve Theory," *Agricultural History* 19 (January 1945):37. (Cited in note 2 as "Not Even an Indirect Safety Valve Attracting Eastern Farmers.")

Triumph to Disaster: Colonel James A. Ownbey

BY LAWRENCE R. BORNE

By 1910 Colonel James A. Ownbey had established the basis for a thriving coal industry in southern Colorado and northern New Mexico.¹ Centered in the newly created town of Wootton, a few miles south of Trinidad, Colorado, the Wootton Land and Fuel Company which he had created seemed well situated for a profitable operation. The Santa Fe Railroad had built the necessary sidings onto the Wootton property for transporting the coal, geological surveys having revealed an ample supply of that valuable fuel.

Some of it was being sold through agents to customers in Colorado, New Mexico, Texas, and Kansas; and contracts for selling to major railroads were soon arranged. In March 1910 the Wootton Company was selling the Santa Fe Railroad 225 tons per day,² and in October 1910 Wootton began making shipments to the Colorado and Southern Railroad.³ The Wootton coal was apparently of a high quality since numerous complimentary reports were received from companies which used it.⁴ The financial foundation of the Wootton Land and Fuel Company seemed especially secure since J. Pierpont Morgan, the most famous financier in the United States at the time, was one of the principal stockholders of the company.

The manner in which Morgan and James Ownbey first became acquainted is shrouded in mystery. Colonel Ownbey's life was filled with many exciting and interesting episodes, but certainly none was stranger than his friendship with J. Pierpont

¹ See Lawrence R. Borne, "The Wootton Land and Fuel Company, 1905-1910," *The Colorado Magazine* 46 (Summer 1969):189-208, for the first part of the Ownbey story.

² Ownbey to Thomas Joyce, March 16, 1910, James A. Ownbey Papers, Western History Collection, University of Colorado Libraries, Boulder. Unless otherwise noted, all materials cited are from this collection.

³ Business Statement, February 9, 1911.

⁴ J. F. Springle, manager, Andrew McClelland Mercantile and Realty Company, to the Wootton Land and Fuel Company, May 8, 1909.

Morgan. Their friendship was unusual because of the different backgrounds of the two men. Morgan was born to wealth, which continued to increase throughout his life; Ownbey was a poor boy who fought his way up the ladder of success but ended his life nearly destitute. Morgan was an international financier with tremendous power but a relatively quiet man in public life who shied away from extensive newspaper publicity; Ownbey was an outspoken, rough-hewn Westerner who sought publicity rather than avoiding it. These and other contrasts can be found in comparing the lives of the two men. What could and did lead two such different men into contact and friendship? There has never been a satisfactory answer to this question although many explanations have been offered.

There has been a persistent story that Colonel Ownbey kept Morgan from serious injury and that the resulting friendship was one of gratitude on the part of Morgan. J. Edgar Chenoweth, former United States Congressman from Colorado, heard that Ownbey had saved Morgan's life,⁵ while a former neighbor of Ownbey, Donald McInnes, reported a similar story.⁶ Andrew Fraser, who built the ranch house and bathhouse at Wootton, was under the impression that the colonel had saved Morgan from being shot.⁷ However, another of the colonel's business acquaintances, Henry Spangler, was convinced that Ownbey "had something" on Morgan and that Ownbey was, in effect, blackmailing the financier.⁸ This account is very difficult to believe; blackmail, of course, was not impossible but the relationship between the two men definitely shows the marks of a voluntary association, not an enforced one.

Biographies of J. P. Morgan do not even mention James Ownbey or the Wootton Land and Fuel Company. If Morgan himself ever made a written record of his first meeting with Ownbey, it never has been revealed.⁹ Although Colonel Ownbey several times mentioned his first meeting with Morgan, his story varied through the years. After Morgan's death several newspapers in Colorado interviewed James Ownbey about his unusual friendship with the financier. The colonel said he had known Morgan thirty-eight years but would reveal few other details.¹⁰ One newspaper account embellished this story, claim-



The colonel (left) in the Wootton Land and Fuel Company office.

ing to have obtained the details from a friend of Ownbey. The story related that Morgan had asked Ownbey to investigate an investment proposition in which Morgan was interested. Ownbey's sound judgment and honesty in the subsequent investigation supposedly convinced Morgan of Ownbey's integrity and brought the two into a close friendship.¹¹

Later, when litigation occurred over control and ownership of the Wootton company, Colonel Ownbey testified briefly in 1916 about his relationship with Morgan. He stated that he first met him in 1873 and became well acquainted with him only after 1875. If so, Ownbey was nineteen when he first met Morgan, the dates fitting roughly with Ownbey's claim in 1913 that he had known Morgan for approximately thirty-eight years. In additional testimony in 1917, however, Ownbey stated that Darius Ogden Mills had introduced the two men "twenty odd years ago."¹² This would place the first meeting in the late 1880s or during the 1890s. This contradiction of dates with his 1916 testimony is not resolved by any later testimony.

⁵ Letter to the author from J. Edgar Chenoweth, April 24, 1969.

⁶ Interview with Donald McInnes, First National Bank in Boulder, March 1, 1968.

⁷ Information from Andy Frazer [sic], n.d., L. Tovani Papers, Western History Collection, University of Colorado Libraries.

⁸ Information from Henry W. Spangler, n.d., *ibid.*

⁹ Letter to the author from F. B. Adams, Jr., director, Pierpont Morgan Library, New York, March 21, 1969.

¹⁰ *Denver Times*, March 31, 1914, pp. 1-2.

¹¹ *Rocky Mountain News* (Denver), April 1, 1913, pp. 1, 5.

¹² Testimony before Special Master Edward C. Stimson, *Morgan v. Ownbey*, no. 6368 (in Equity), D. Colo., Nov. 6, 1917; April 24, 1916. (Copies of this and other legal records cited below also are in the Ownbey Papers.)

As the Wootton litigation continued, Ownbey tried to gain favorable newspaper publicity to aid his cause. He received extensive press coverage and finally a new story emerged about the Ownbey-Morgan relationship in a small periodical called *Jim Jam Jems*, published in St. Paul, Minnesota; the entire story was printed in the January and February 1926 issues. According to this account, Ownbey had worked in the Comstock Lode in Nevada and had learned a great deal about its numerous veins of ore. He thought Darius Ogden Mills, a friend of his, would be interested in this information, which indicated that proper financing and development would bring in rich rewards from the Comstock Mine. Mills listened to Ownbey's story and was interested, but he lacked sufficient capital. Consequently, he called on J. P. Morgan to raise enough money to purchase the mines. Morgan also was interested but felt that Ownbey was exaggerating the potential of the mine. Morgan even called Ownbey a liar, whereupon the latter rushed out of the conference room to get a gun to use on Morgan! Fortunately, Mills kept the two men separated until Ownbey's temper was quieted and Morgan realized the error of accusing a fighting Westerner of lying. Then, when both were in better frames of mind, they talked more calmly, learned to respect each other's character and assets, and soon became good friends.¹³

This account of the initial meeting between the two men is the most spectacular; its very nature, however, makes it difficult to believe. Colonel Ownbey's inclination to exaggerate events at times may have been intensified by the litigation which preceded the *Jim Jam Jems* story. In effect, then, there is no final answer to the question of how Morgan and Ownbey met. The real story may never be known since all the principals in the events are dead; but, whatever the story, the two men were friends. Ownbey later represented the interests of Morgan and Mills in Australia, Peru, and South Africa. Their friendship also was the key to the organization and financing of the Wootton Land and Fuel Company since Ownbey himself did not have enough money to buy the land and equipment for the coal-mining operation. Morgan and two other eastern capitalists, Ogden Mills and Benjamin Cheney, had spent several hundred thousand dollars to develop the Wootton coal land. After Ogden Mills sold his shares in the Wootton company in 1909 to the other stockholders, J. P. Morgan, James Ownbey, and Benjamin Cheney completely controlled the enterprise by 1910.

¹³ "The Pillage of J. A. Ownbey by the Morgan Executors," *Jim Jam Jems* 15 (January 1926):15-17.

The practical operation of the company was handled by Ownbey, who served as vice-president, treasurer, and general manager. On April 16, 1910, he submitted a report of the company operations to the other stockholders; this report was accepted and his operation, control, and management of the company were approved.¹⁴ With this approval Ownbey continued to manage the company's activities, and thousands of tons of coal were produced during the next two years as the output of the mines increased to five hundred tons per day.

At the same time that this was occurring the town of Wootton was growing to keep pace with the development of the coal productivity. By early 1911 its population was more than 350, and improvements on the land included "a large electric generating and light plant, water works, telephone line, store buildings, a large and beautiful ranch house, fifty-four apartment and tenant houses, two boarding and bunk houses, a school house, slaughter house, blacksmith shop, stables, a large barn, truck scales, 240 pit cars [and] farming tools."¹⁵ In addition there were several miles of railroad siding, more than one thousand head of cattle, a hospital, a doctor's residence, and a large office building on the property.¹⁶

Such improvements to the Wootton land prompted much attention from newspapers in the Trinidad area. One item of particular interest to them was the ranch house mentioned above. This was a reconstruction of the home of "Uncle Dick" Wootton, a famous Colorado pioneer whose home had been destroyed by fire in 1892. Colonel Ownbey and Benjamin Cheney had conceived the idea of duplicating this dwelling for use as a residence for Ownbey and as a guest lodge for friends and business acquaintances. The house was to be as nearly as possible a duplicate of the original home with the addition of certain modern conveniences. An engineer, J. W. E. Taylor, made blueprints from the foundations and from descriptions given him by people who had visited the original dwelling.¹⁷ The builder, Andrew Fraser, also obtained a photograph of the old house from Dick Wootton's sister and used this as an additional guide.¹⁸ The home had two stories with a front porch on both levels; the interior was decorated with oil paintings, sculptures, and other luxurious furnishings.¹⁹ Adjacent to it

¹⁴ Resolution, April 16, 1910.

¹⁵ Analysis of the Wootton Land and Fuel Company, n.d.

¹⁶ Photograph file, State Historical Society of Colorado Library.

¹⁷ J. W. E. Taylor to Ownbey, July 6, 1908; Ownbey to Benjamin Cheney, July 12, 1908.

¹⁸ Information from Andy Frazer, L. Tovani Papers.

¹⁹ "Inventory of House," n.d.

was a Turkish bathhouse with its own attendants and heating plant.²⁰ Such a display of luxury in the southern part of Colorado did not go unnoticed; newspapers from Trinidad, Denver, and Boulder often published feature stories on this burgeoning empire near the New Mexico border.

Despite these signs of progress and their publicity, not all was well with the Wootton Land and Fuel Company. Behind the facade of resplendent success were brewing problems which would soon lead the Wootton Company to reorganization and serious difficulties. One of these problems was Benjamin Cheney's financial situation. Cheney owned one-quarter of the Wootton stock while Ownbey held one-third and Morgan controlled five-twelfths.²¹ Dividends, which were to be paid in these proportions to the three men, were not forthcoming since high operating expenses and lack of sufficient orders for coal had prevented a profitable operation. Cheney had suffered losses in several other investments, and he decided to use his Wootton stock as collateral for a loan since it was not returning any money on his investment. In September 1910 he accordingly borrowed money from J. P. Morgan and Company. His hope that this money would recover his other losses failed. He finally had to surrender his Wootton stock in January 1913 to J. P. Morgan and Company when he could not repay his loan.²² This transfer was disturbing to Colonel Ownbey, for he, Cheney, and Morgan had an agreement that none of the partners would dispose of his stock without first giving the other partners a chance to purchase it. A further part of the agreement was that any partner who was dissatisfied would make a "give and take" offer to the others; this meant that he would set a price on the shares of stock and agree to sell his interest at that price or to buy the other partners' shares at the same price.²³ The colonel's protests were futile, however, and the Morgan Company now controlled a large bloc of Wootton stock.

At this same time J. P. Morgan, who was retiring more and more from any public activities, was delegating most of his responsibilities concerning the Wootton company to his secretary, Thomas Joyce, and to his junior partners. Ownbey, hearing rumors that the entire Wootton company was for sale, tried to raise enough cash to buy all the Morgan stock but was unable to do so.²⁴ Ownbey also tried to contact J. P. Morgan personally to

²⁰ *Trinidad Chronicle-News*, July 22, 1910, p. 8.

²¹ Ownbey to Joyce, May 17, 1910; Ownbey to Cheney, May 17, 1910.

²² Cheney to Ownbey, January 13, 1913.

²³ Ownbey to Morgan, January 25, 1909.

²⁴ Ownbey to Cheney, April 1, 1912; [Ownbey] to Anson Beard, April 14, [1912].

discuss the future of the Wootton operation but constantly ran into obstacles in the form of Morgan subordinates who were handling business affairs.²⁵ Whether Ownbey could have solved these problems is impossible to say, for two events which occurred in 1913 altered the entire situation of the Wootton operation. These were the labor troubles that affected most Colorado mines in 1913 and 1914 and the death of J. P. Morgan in 1913.

Labor relations at the Wootton Land and Fuel Company generally had been cordial, perhaps because Colonel Ownbey himself once had been a miner and thus knew how to treat his workers in a fair manner. A miner named Steve Hadis, for instance, was injured in 1908, apparently through his own negligence; the company, nevertheless, agreed to give him medical treatment and hospital care for four months and cash payments of two dollars per day for as long as 100 days.²⁶ A woman whose husband died in a mine accident was allowed to keep her house, rent free, and to take in boarders so she could earn a living at Wootton.²⁷

Living conditions for employees at Wootton also seemed to be quite comfortable. The houses had stone foundations laid in mortar and roofs that were guaranteed waterproof.²⁸ *The Chronicle News* of Trinidad described these houses as "a modern village of cozy, clean and sanitary cottages that shelter the grimy workers. . . . The cottages are . . . clean and sanitary and thoroughly modern."²⁹



Colonel Ownbey's reaction to labor unions also illustrates labor-management relations at Wootton. In 1908 the Colonel received a letter from E. P. Weaver, general manager of the Colorado Industrial and Mining Inspection Company. Mr.

²⁵ Ownbey to Morgan, January 23, 1912.

²⁶ Accident settlement between Steve Hadis and the Wootton Land and Fuel Company, August 24, 1908.

²⁷ [Ownbey] to John J. Hendrick, April 10, 1911.

²⁸ "Specifications for Houses," n.d.

²⁹ *Trinidad Chronicle-News*, July 22, 1910, p. 8.



Houses of the general manager (left) and foremen.

Weaver believed that the "radical" Western Federation of Miners had taken over the organizing of coal mines and that this group was planting the seeds of socialism in the minds of the workers. He wished to place one of his inspectors at Wootton to help educate the men there about the dangers of socialism and the value of the free enterprise system.³⁰ Ownbey replied that he had no interest in Weaver's proposition since he had been involved in mining for nearly forty years and had always been able to protect his own interests without interfering with unions or letting them interfere with his business. He summed up his answer by stating that he was "interested neither in promoting nor destroying union influence."³¹

Although Ownbey seemed generally to deal fairly with his workers, there were some labor disputes at Wootton. For instance, when a small strike occurred in July 1909 the colonel ordered every man who took part in it fired.³² When a general strike threatened Colorado in April of the following year, he announced that miners' wages would remain the same while the price of coal remained stable; but if the price of coal rose, wages would also rise. In addition, any miner who took part in the strike would be fired and removed from company property within two hours.³³

During the serious coal-mining strike that occurred in 1913-14 in Colorado, Ownbey's attitude was a little milder; he continued to operate his mines and tried to maintain friendly relations with the unions. Union men later indicated that he had

displayed a fair and sympathetic attitude toward them and also had prevented physical attacks on some miners and union officials.³⁴ He contributed \$500 to the Mine Workers' Relief Fund and allowed workers to live at Wootton while the strike continued. He told union officials he could not recognize the union because of agreements with J. P. Morgan and Benjamin Cheney but insisted that he wanted to "get along" with them.³⁵ Apparently, word of Ownbey's sympathetic attitude spread among the workers since he was nearly the only mine manager from southern Colorado who could walk the streets of Trinidad without the protection of guards.³⁶

But these labor problems continued, and their effect on the Wootton Land and Fuel Company can be seen easily in the statistics of its operations during 1913 and 1914. The average number of men employed dropped from 176 in 1913 to 84 in 1914, and working days were reduced from 293 to 105. Total tonnage decreased from 93,352 in 1913 to 25,668 in 1914; the overall result in Wootton operations in 1914 was a loss of \$19,416.27 compared to a 1913 profit of \$11,461.13.³⁷ The Wootton Land and Fuel Company would never be the same after 1913.

Contributing even more than labor troubles to the changes was the death on March 31, 1913, of J. P. Morgan, Colonel Ownbey's friend and chief financial backer. Although Morgan died without ever seeing the Wootton property, without him there would be changes in the organization of Wootton, and Ownbey would no longer have a special friend and benefactor in the company's largest stockholder.³⁸ The close relationship between the two men already had dimmed somewhat near the end of Morgan's life. The reason is not clear. Morgan began to withdraw from public affairs after his participation in the so-called Panic of 1907; and, as this retirement continued, he gradually may have lost interest in the Wootton enterprise.³⁹ This change of relationship was becoming evident by 1911. When Colonel Ownbey felt that his letters were not reaching Morgan but were being read and acted upon by his subordinates, he began sending copies to Miss Belle Greene, who worked at Morgan's library, and offered her money if she would bring certain data to Morgan's attention.⁴⁰ Ownbey also tried to reach Morgan through

³⁴ Statement by Frank J. Hayes, n.d.

³⁵ Examination of Mr. [John] McQuarrie, deputy sheriff, Las Animas County, testimony before Special Master Edward C. Stimson, no. 6368 (in Equity), D. Colo., Aug. 29, 1917.

³⁶ [Ownbey] to Cheney, October 29, 1913.

³⁷ General Comparative Statement of Earnings and Expenses, 1913 and 1914.

³⁸ *Denver Post*, March 31, 1913, p. 10.

³⁹ Frederick Lewis Allen, *The Great Pierpont Morgan* (New York: Harper and Brothers, Publishers, 1949), p. 267; Joyce to Ownbey, December 10, 1910.

⁴⁰ Ownbey to Belle Greene, October 24, 1911.

³⁰ Weaver to Ownbey, February 28, 1908, and March 4, 1908.

³¹ Ownbey to Weaver, February 29, 1908.

³² Ownbey to C. V. Stewart, July 20, 1909.

³³ Ownbey to McDonough, Bailey, Stewart, and all employees, April 2, 1910.

his daughter, Mrs. Herbert L. Satterlee, but this approach was as fruitless as the one made through Miss Greene. Thus, by 1913 there were many unresolved problems about the operation of the Wootton company and the relationship between Morgan and Ownbey; despite these problems, Colonel Ownbey's interest in the company seemed secure as long as J. P. Morgan was alive.

To the United States the death of J. P. Morgan meant the end of an era of personal finance in large business enterprises. To Colonel Ownbey Morgan's death also meant the end of an era. Although it would not be evident for several years, the death of the eastern financier would mean the ruination of Colonel James A. Ownbey.

This change in Ownbey's fortunes was not immediately apparent since relations between him and the Morgan heirs and executors were cordial for several years after J. P. Morgan's death. The settling of his vast estate required the establishment of various trust funds and the sale of some of his assets. The Wootton company was one of the assets which executors of Morgan's estate considered selling, but no immediate decision was made. There were many business ventures more important than Wootton that the executors had to handle, and they knew little about the details of the Wootton operation.⁴¹ Ownbey, however, mistakenly assumed that all matters would be settled by September or at least November 1913,⁴² and he tried to hurry the executors' decisions. He received assurances from them that he would be treated fairly and allowed to handle the property as he desired. These were the instructions J. P. Morgan had given his secretary, Thomas Joyce, before sailing to Europe on his last trip.⁴³ The colonel was not satisfied with these assurances, however, and correctly foretold in December 1913 that any settlement between him and the estate of J. P. Morgan would eventually come through court action.⁴⁴

The Wootton company continued to operate while these first contacts were being made between Ownbey and the Morgan estate. Orders for coal were numerous in 1913 although the labor turmoil of that year did hinder the company's output and distribution,⁴⁵ but in 1914 the situation worsened when the Colorado and Southern Railway did not renew its coal contract because of an accumulated stockpile of coal.⁴⁶ Although the



Admirably situated near Raton Pass, at its peak Wootton's coal was shipped by the AT&SF, the D&RG, and the C&S.

Wootton mines remained open and were kept in good repair throughout 1914, coal was no longer being shipped regularly.⁴⁷ Ownbey had a difficult time filling the few orders that he did receive because of lack of operating capital. He estimated in April 1914 that he needed \$50,000 to pay current obligations while waiting for payments on orders.⁴⁸

As Ownbey struggled with such operating problems, attempts were made to settle the status of the Wootton company. Alton B. Parker, the Democratic nominee for president in 1904 and a friend of James Ownbey, tried in 1914 to arrange some settlement between Ownbey and the Morgan executors. When the latter refused to grant Ownbey an option on the stock they held, Parker suggested that they name a price per share at which they would sell to Ownbey or buy from him.⁴⁹ The executors, however, did not want Ownbey's stock for they thought the whole Wootton proposition was an uncertain investment.⁵⁰ Ownbey also tried to convince other men to buy all the stock controlled by the Morgan interests so that the Wootton company could be reorganized.⁵¹ Several schemes which he attempted along this line failed, and in 1915 litigation finally began between Ownbey and the Morgan executors. The precipitating event was a dispute over the stock formerly owned by Benjamin Cheney. As noted previously, this stock was taken over by J. P. Morgan and Company when Cheney had defaulted on his loan. But Ownbey objected to this transfer because of the partnership agreement arranged by him, Cheney, and J. P. Morgan. He claimed that the transfer was illegal, but he had no written proof of the original agreement giving the partners an option to

⁴¹ Cheney to Ownbey, May 23, 1913.

⁴² [Ownbey] to Robert L. Owen, June 2, 1913.

⁴³ George W. Cook to Ownbey, October 3, 1913.

⁴⁴ Joyce to Ownbey, December 18, 1913; [Ownbey] to Joyce, December 27, 1913.

⁴⁵ [Ownbey] to Henry B. Anderson, November 11, [1913]; [Ownbey] to Benjamin Sherrod, January 7, 1914.

⁴⁶ J. D. Welsh to Ownbey, January 8, 1914.

⁴⁷ [Ownbey] to James Dalrymple, September 3, 1914.

⁴⁸ Ownbey to George Haigh, April 30, 1914.

⁴⁹ Parker to Herbert L. Satterlee, July 6, 1914.

⁵⁰ Satterlee to Parker, July 7, 1914.

⁵¹ Ownbey to Anderson, February 12, 1914.

buy stock;⁵² therefore, the executors continued to insist on a proper transfer of the Cheney shares from Ownbey who had possession of the company records. Finally J. P. Morgan and Company made a formal demand through a Colorado law firm for transfer of the 25,000 shares of stock.⁵³

Legal action quickly branched into two clearly defined cases: one heard in the federal courts in Colorado and the other in the state courts in Delaware. The first suit was filed in federal district court in Denver by the executors of the Morgan estate against Ownbey and two other directors of the Wootton company.⁵⁴ This suit alleged that Ownbey and the other western directors of Wootton refused to call a stockholders' meeting at which the Morgan-controlled stock could be voted and were thus exercising an undue amount of influence in operating the company; it was also charged that \$200,000 of the funds of the company were not accounted for. The court appointed George Bowen, a former officer of the Victor-American Fuel Company, to be receiver of the Wootton company while the case was heard.⁵⁵ In October 1915 Judge John A. Riner of the U.S. district court ordered Edward C. Stimson, the master appointed to the case, to receive testimony as to whether accounts between J. A. Ownbey and the Wootton company had been settled as of April 16, 1910.⁵⁶ Ownbey testified that a special meeting of the board of directors had been held on that date, at which time all items, including financial obligations, were settled. Ownbey did not have written proof of these facts from J. P. Morgan; but Benjamin Cheney, who had been present at the meeting, supported Ownbey's contentions. His testimony, plus the records Ownbey did have, was convincing; for the master filed a report in September 1916 arguing that all accounts of the Wootton company had been settled on April 16, 1910.⁵⁷ In the following month Judge Riner approved this report.

The master then held hearings on the events concerning Wootton from April 16, 1910, until February 14, 1915, the date when the receiver had been appointed.⁵⁸ One of the items examined in this second phase of the case was the salary Colonel Ownbey had received while he operated the Wootton Land and Fuel Company. He was paid \$1,000 per month plus the privilege

⁵² Ownbey to Estate of J. P. Morgan, January 28, 1914.

⁵³ Francis McKnight to Ownbey and Henry Spangler, January 25, 1915.

⁵⁴ Morgan v. Ownbey, no. 6368 (in Equity).

⁵⁵ Rocky Mountain News, February 4, 1915, p. 5, T. F. Dawson Scrapbook 59:725, State Historical Society of Colorado Library.

⁵⁶ Order of Judge John A. Riner, October 28, 1915, Morgan v. Ownbey.

⁵⁷ Telegram, Ownbey, Harry S. Silverstein, Horace N. Hawkins to Cheney, September 15, 1916.

⁵⁸ Order of Judge John A. Riner, October 5, 1916, Morgan v. Ownbey.

of living at the ranch house at the expense of the company.⁵⁹ Hearings extended throughout 1916 and 1917. Benjamin Cheney's testimony was again vital since J. P. Morgan had left few written records about his approval of events at Wootton and Cheney was often the only man present when Ownbey and Morgan discussed business arrangements concerning Wootton. In January 1918 the master in the case, Edward Stimson, decided that the Wootton Land and Fuel Company owed J. A. Ownbey \$53,280.67 for back salary and expenses.

The colonel had triumphed again in the case, but his victory was short-lived. An appeal was immediately made to the U.S. Circuit Court of Appeals for the Eighth Circuit at St. Louis.⁶⁰ This court reviewed all the issues and evidence during nearly two more years of hearing before rendering its decision. It reversed some of the findings of the district court in Colorado by disallowing approximately \$56,000 worth of claims made by Colonel Ownbey because of the lack of adequate written records. Thus Ownbey now owed the Wootton company approximately \$3,000 instead of having the company owe him slightly more than \$53,000. This was a major defeat for the colonel but not a complete disaster since he still retained his interest in the Wootton enterprise and his debt to the company was a relatively small one.⁶¹

But disaster was in the offing in the form of another case being prosecuted at the same time in the state courts of Delaware. The Wootton Land and Fuel Company had been incorporated in Delaware because of that state's liberal corporation laws, so a case could be initiated there. Because of the procedures of the Morgan lawyers the complexion of the Delaware case was entirely different from that begun in the federal courts in Colorado. An old law in Delaware, called the Custom of London, a carry-over from colonial days, provided that a suit could be brought against a nonresident defendant and, if the plaintiff stated that the defendant owed the plaintiff a sum exceeding fifty dollars, a Writ of Foreign Attachment would be issued. Then the plaintiff could name the required bail that the defendant must post; if the latter could not furnish this required amount, he would not be heard by the court.⁶² The amount set under these provisions by the Morgan interests, the plaintiffs, against Ownbey, the defendant, was \$200,000. This figure was

⁵⁹ [Ownbey] to Cheney, July 2, 1913; Cheney to Ownbey, July 16, 1915.

⁶⁰ Ownbey to Ed. B. Smith, August 30, 1918.

⁶¹ [Ownbey] to James Dexter Ownbey, May 1, 1920.

⁶² "The Pillage of J. A. Ownbey by the Morgan Executors," *Jim Jam Jems* 15 (February 1926):20.

based on what Ownbey allegedly had owed the late J. P. Morgan: \$140,000 plus interest.⁶³

Ownbey admitted that J. P. Morgan had advanced him \$140,000, but he denied that he owed this to Morgan as a personal debt or that there was any interest due on it. The money was an advance for Ownbey's share of the development work at Wootton, an amount Ownbey had been unable to pay at the time. It was to be repaid to Morgan out of the first profits of the company; since Wootton had not made a substantial profit, the \$140,000 had never been paid.⁶⁴ However, testimony to establish these facts could not be presented in the Delaware court; Ownbey and his attorneys appeared but their remarks were stricken from the record because Colonel Ownbey had not posted the required \$200,000 bond.⁶⁵ The instructions to the jury noted that there was no testimony contrary to the Morgan attorneys' allegations about the debt, so in May 1916 the jury approved the claim that Ownbey owed the Morgan estate \$200,000 and that his stock in Wootton should be sold to satisfy this judgment.⁶⁶

Colonel Ownbey decided to appeal this decision and began a series of legal maneuvers that lasted eight more years. The first appeal was to the Delaware Supreme Court which upheld the decision of the lower court against Ownbey without stating the reason for its decision.⁶⁷ The next step was an appeal to the U.S. Supreme Court in 1920; the case was heard in November and the court deliberated throughout the balance of 1920 and early 1921. In a decision delivered by Justice Pitney, Ownbey's plea for reversal was denied and the original Delaware decision stood.⁶⁸

The Delaware court now ordered Ownbey's Wootton stock sold at auction to satisfy the \$200,000 debt. In July 1921 the stock was purchased by Thomas Joyce, former secretary of J. P. Morgan, for \$41,655.42.⁶⁹

James Ownbey had been beaten at every turn in these legal maneuvers; but he resumed the fight almost immediately, launching another suit in Delaware to recover the money which had been paid for his stock.⁷⁰ The earlier cases had attracted a great deal of attention in Delaware, and there was a considerable

amount of public sympathy for him. The Delaware court agreed to rehear the entire case although the only redress Ownbey could expect was the amount of money that had been paid for his Wootton stock. His lawyers made some telling points in their arguments when the case began; as it progressed during 1924, Ownbey appeared to be headed for success. The Morgan interests, therefore, offered a compromise to end the litigation. In December 1924 Ownbey's lawyers strongly advised him to accept this settlement rather than to continue the legal battles.⁷¹ The colonel accepted their suggestion after arguing against it for some time and finally received a payment of \$25,000 on December 29, 1924.⁷² The legal battling had ended. Ownbey threatened to launch additional lawsuits in order to gain complete vindication for his actions, but he never proceeded with them. The rest of his fighting consisted mainly of accusations through the newspapers.

The years of court activity had worn out James Ownbey—both financially and physically. In December 1921 he had been forced into bankruptcy, and he returned to mining to earn a living. He became an agent for the Southwestern Coal Company of Amarillo, Texas, for a brief period but failed to achieve much success in selling coal.⁷³ He examined job offers in Arizona, Utah, and Montana and made several mining reports on property in Mexico.⁷⁴ Also, in a serious effort to develop gold-mining property in Canada he traveled to that country several times in 1926, but nothing substantial resulted from this endeavor.⁷⁵

In addition to his financial problems Ownbey had undergone personal difficulties while the court cases were being fought. He and his wife, Pearl, had been separated several times, but they had been able to effect reconciliations through the aid of their friends in Boulder. Finally, however, they were divorced in February 1926, Mrs. Ownbey being given custody of their fifteen-year-old son, Donald.⁷⁶

Throughout the balance of 1926 and early 1927, Ownbey's activities were reduced greatly. He lived in the State Armory in Boulder where he had a cot and some storage space for his personal belongings.⁷⁷ His health deteriorated rapidly during these months. He had suffered several serious accidents throughout

⁶³ Certified copy of testimony in Sup. Ct. Del., May 29, 1916; no. 46, Del., New Castle County, Jan. 1916.

⁶⁴ Joseph T. Atwood to Parker, July 18, 1914.

⁶⁵ "The Pillage of J. A. Ownbey," p. 20.

⁶⁶ Certified copy of testimony in Sup. Ct. Del., May 29, 1916.

⁶⁷ Writ of Error to the Sup. Ct. Del. in and for New Castle County, n.d.; C. J. Pennewill delivering opinion of Sup. Ct. Del., n.d.

⁶⁸ Ownbey v. Morgan, Executors of Morgan, 256 U.S. 94 (1921).

⁶⁹ Order of Sale in the Sup. Ct. Del., July 14, 1921.

⁷⁰ [Ownbey] to Cheney, January 30, 1922.

⁷¹ David J. Reinhardt to James Teller, December 8, 1924.

⁷² [Ownbey] to William Smalley and Reinhardt, December 26, 1924.

⁷³ Earl Cobb to Ownbey, December 13, 1922, and January 15, 1923.

⁷⁴ Ownbey to Father Agatho [Strittmatter], April 8, 1925.

⁷⁵ Ownbey to C. M. Moore, May 8, 1926; [Ownbey] to Walter Durand, May 25, 1926.

⁷⁶ Decree of divorce, February 10, 1926.

⁷⁷ Information from Brooks Custer, n.d., Box 2, L. Tovani Papers.

his life and had been plagued also by severe coughing spells and complications resulting from a bullet wound in his chest. On August 15, 1927, he died at the home of his older son, James Dexter Ownbey, in Boulder, Colorado, at the age of 73. The doctor who attended him said that he had succumbed to a weak heart, complicated by his persistent coughing.⁷⁸ A Boulder newspaper described the event as "a peaceful death in strange contrast to the storms and battles that had characterized his life."⁷⁹

Colonel Ownbey was buried in the Mountain View Cemetery in Longmont, Colorado. No marker was placed over his grave until 1945, when his son James Dexter died, providing in his will that money be used for a headstone for his father's grave. For some reason the inscription placed over the colonel's grave carried the name of the son. And so Colonel Ownbey, after years of success, wealth, and publicity which had made him well-known throughout the United States, has lain for years in a grave that does not even bear his name.⁸⁰

Most of Colonel Ownbey's dreams died with him or shortly after his death. His family suffered a number of serious personal tragedies, and the Wootton Land and Fuel Company slowly faded from the public eye. While the colonel was still alive, the company buildings were suffering from neglect and gradual deterioration. Albert Berg, who had been receiver of the company from 1917 until 1919, leased the Wootton Land in 1926 and used it solely as a cattle ranch.⁸¹ His son Donald has continued this operation and still leases the old Wootton land from the Colorado Fuel and Iron Company, which has seldom exploited the coal resources on the property.⁸²

The character and personality of Colonel Ownbey was an intriguing and integral part of the decline of the Wootton operation. James Ownbey was certainly an entrepreneur of some note. Although Wootton was never one of the largest coal mines in Colorado and eventually failed, Ownbey had developed it into an enterprise which employed hundreds of men, produced thousands of tons of coal, and brought hundreds of thousands of dollars into Colorado. His other enterprises did so also on a lesser scale.

But Ownbey never forgot, and could never let the world forget, that he was a part of frontier Colorado. He first had come to the territory in 1870 and was present when many of the ex-

⁷⁸ Report by Earl J. Perkins, M.D., August 15, 1927.

⁷⁹ *Boulder Daily Camera*, August 15, 1927, pp. 1, 4.

⁸⁰ Interview with Mrs. Lois Mock, November 15, 1969.

⁸¹ *Trinidad Chronicle-News*, September 29, 1952, p. 2.

⁸² Interview with Otto Eastlund, CF&I Steel Company, January 23, 1970.

citing events of the far western frontier occurred—the gold and silver strikes, the visits of dignitaries who came west to hunt buffalo, and the last of the Indian conflicts. These events which helped shape Ownbey's character were used by him to enliven the publicity which he often received. Unfortunately,



A typical, heroic pose of the colonel in his prime.

some of the characteristics that he treasured were hindrances in his business activities. He was often bellicose and intemperate in his language whether expressed in person or by letter. This was such a serious fault that Benjamin Cheney warned him that his letters could be damaging to the company if they ever fell into the hands of competitors.⁸³ But such warnings went unheeded by Ownbey; he was a tough frontiersman in his own mind and had no desire to try to change his ways or his image.

Some of the characteristics that he had learned in his youth—courage, daring, and aggressiveness—were useful in his enterprises, but they needed tempering with tact, technical skill, and

⁸³ Cheney to Ownbey, May 27, 1909.

business astuteness to gain the success that he desired. However just may have been the colonel's position in the various lawsuits in which he was engaged, he should have recognized that the weapons of the business world were money, power, and law courts. They were not the six-shooter, invective, and unbacked threats upon which he had relied in the past. His inability to recognize these facts led to the failure of the Wootton company and his own personal disaster.

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Denver's Struggle for Home Rule

BY MARJORIE HORNBEIN

In 1897 the distinguished political scientist Frank Goodnow deplored the fact that there existed "no generally accepted theory of municipal government."¹ This was one reason, perhaps, that cities increasingly were being controlled by state interests incompatible with their own. Too often municipal officials were chosen by special interests or solely to advance a political party.

Realization of this situation prompted the National Municipal League at the turn of the century to adopt a municipal program, the major part of which was a provision for home rule, defined as "ample power in the city itself, to conduct its local government, without possibility of outside assistance or of outside interference save by such supervision of a central state administrative authority as may be necessary to enforce a state law applicable to all the cities."² According to the program of the league, "special state legislation for the cities was not absolutely prohibited, but it was surrounded by certain safeguards designed to protect the city from unwarranted interference with its local affairs."³ As Clyde King wrote in his study of Denver government: "The essence of home rule is the freedom and power of a city to think for itself. . . . Municipal elections must be fought on municipal issues, not on state or national issues."⁴

The foregoing discussion of home rule may appear complex or merely the dream of some idealistic reformers or theorists in political science. On the contrary, a study of home rule, particularly in the city of Denver, shows that this concept of government arose as a practical solution to a condition which

¹ Frank Mann Stewart, *A Half Century of Municipal Reform: The History of the National Municipal League* (Berkeley and Los Angeles: University of California Press, 1950), p. 28.

² *Ibid.*, p. 38.

³ *Ibid.*

⁴ Clyde L. King, *The History of the Government of Denver, with Special Reference to its Relations with Public Service Corporations* (Denver: Fisher Book Co., 1911), p. 290.

threatened autonomous government in cities throughout the nation.

Denver did enjoy self-government in its early days. The city was established in 1861 by an act of the legislative assembly of Colorado Territory. The charter consolidated three pioneer towns—Denver City, Auraria City, and Highland—as the City of Denver and set up a local government with mayor and city council.⁵ From that time until 1889 the government apparently proceeded satisfactorily, and neither the territory nor the state, after 1876, attempted to impose any uncongenial authority over the city.

Then in 1889 a drastic change took place. The Colorado legislature enacted legislation which created a board of public works. This new agency consisted of three persons to be appointed by the governor. It was given "complete and exclusive authority to expend for and in behalf of said city, such sums of money as . . . may be realized from the sale of bonds . . . together with any amounts realized by special assessment for public improvements."⁶ Thus, the governor's appointees rather than the city council had the real authority regarding all Denver public improvements.

Two years later in 1891 a legislative act set up a fire and police board whose duties soon made it obnoxious to Denver's citizens. This board, which consisted of the fire, police, and excise commissioners, had the right to appoint the fire chief, police chief, and all members of those departments. It had the power to fix salaries of these employees and to remove or suspend any of them at its will.⁷

With the establishment of these two boards which constituted the power base of local government, Denver came entirely within the shadow of the statehouse. Although most of its citizens still showed little interest in the problems of local government,⁸ in 1892 a group of business and reform leaders in the chamber of commerce did initiate action to change the government.⁹ Of course, such revision could only be accomplished by a new city charter granted by the legislature. By January 1893 a committee representing the chamber of commerce had completed a draft of a proposed charter. The proposal was submitted

to the state legislature,¹⁰ which at this time was made up of representatives of three political parties—Republican, Democratic, and Populist—with no one party in control.¹¹

In his book King praised the new proposal as an effort that would "tend to secure efficiency in city government."¹² But to the ordinary Denver citizen of 1892, the issue could not have appeared as clear or well defined, for the entire problem was closely linked with Colorado's complicated political situation. Each faction, each interest, and each locality were ambitious to increase their own power, and control of Denver's government was apparently the most sought-after prize. This fact brought together rather strangely diverse groups, who were suddenly in accord in support of the proposed charter. Republican leaders and corporate executives joined reformers to work for the enactment of the charter. It would give the mayor rather than the governor the authority to appoint all members of the boards and would give the Denver council "more rigid inspection and regulation of matters affecting the life, health and property of the citizens."¹³

Until 1895 the Republicans were continually in control of the city government.¹⁴ Although Platt Rogers, a Democrat, was mayor from April 1891 to April 1893, the Republicans controlled the city council.¹⁵ In April 1893 their candidate, Marion Van Horn, was elected mayor. As one might assume, the Republicans preferred to have power vested in these local officers rather than in the governor, who, in 1893, was Populist Davis Waite. Accordingly, they supported the proposed charter, which was "the embodiment of the theory of home rule," as the *Denver Republican* declared.¹⁶

But the critics of the proposal regarded it in a different light. They denounced it as the work of a few powerful corporations which were trying to advance their own interests.¹⁷ In fact, the *Rocky Mountain News* polled members of the chamber of commerce and announced that the majority did not favor the change; they preferred that the appointive power over the boards remain with the governor.¹⁸ "The bill will never pass the legislature in its present form," the *News* predicted. "No lobby

⁵ Colorado, Legislative Assembly, *Session Laws*, 1st sess., 1861, pp. 483-84. See also Jerome Smiley, *History of Denver* (Denver: Times-Sun Publishing Co., 1901), pp. 632, 635.

⁶ Colorado, General Assembly, *Session Laws*, 7th sess., 1889, p. 138.

⁷ Colorado, General Assembly, *Session Laws*, 8th sess., 1891, p. 65. See also Smiley, *History of Denver*, p. 936.

⁸ J. Paul Mitchell, "Progressivism in Denver: The Municipal Reform Movement, 1914-1916" (unpublished Ph.D. dissertation, University of Denver, 1965), p. 71.

⁹ *Rocky Mountain News* (Denver), January 21, 1893, p. 8.

¹⁰ *Ibid.*, January 21, 1893, p. 5; *Denver Republican*, January 21, 1893, p. 5.

¹¹ *Denver Republican*, January 3, 1893, p. 4.

¹² King, *Government of Denver*, p. 178.

¹³ *Denver Republican*, January 21, 1893, p. 5.

¹⁴ Smiley, *History of Denver*, p. 639.

¹⁵ Mayor Rogers stated that the council was wholly controlled by the Tramway Company and had become "indifferent to public and private rights." *Rocky Mountain News*, January 27, 1893, p. 4.

¹⁶ *Denver Republican*, January 26, 1893, p. 4.

¹⁷ *Rocky Mountain News*, January 28, 1893, p. 8.

¹⁸ *Ibid.*, February 4, 1893, p. 5.

will prove powerful enough to inflict such a monstrosity on this city in the interest of corporations."¹⁹ The *Republican* replied in an editorial which stated: "The pretense that absolute control of the city government could be more easily secured by corrupt combinations of politicians or corporations under the proposed system than under the present one will not bear intelligent investigation."²⁰

In any case, the *News's* prediction proved correct. The legislature amended the proposed charter until it was scarcely recognizable. Instead of centralizing power in the mayor, they made him a figurehead; and the local government was further decentralized with responsibility diffused.²¹ In King's words, it became "a politician's government."²² The governor's power over the boards was increased. Heretofore, the board members themselves had chosen their president, but now the person designated by the governor as fire commissioner became the president of the fire and police board, while the president of the board of public works was appointed directly by the governor.²³

The boards themselves gained more power—a fact that was soon to arouse the Denver citizenry out of its apathy. The fire and police board was given authority to grant, refuse, and revoke licenses for "tippling houses, dram shops, billiard tables and bowling alleys; and to regulate the selling or giving away of any intoxicating or malt liquors."²⁴ The charter further provided that "all patrol wagons, telephone service, fire boxes, fire and police stations, engines, horses, hose carts, hook and ladder trucks, utensils, city jails . . . shall be turned over to and shall thereafter be under the absolute control and management of said board."²⁵

Similarly, the board of public works was to exercise greater power, although it had been unmindful of the wishes and interests of the local populace.²⁶ The board was to have the "exclusive management and control of the construction, reconstruction and maintenance of all public and local improvements."²⁷ The mayor could let all contracts for public improvements but only upon recommendation of the board, and the improvements were to be "constructed by and under the di-

¹⁹ *Ibid.*, January 28, 1893, p. 8.

²⁰ *Denver Republican*, January 26, 1893, p. 4.

²¹ Colorado, General Assembly, *Session Laws*, 9th sess., 1893, p. 155.

²² King, *Government of Denver*, p. 190.

²³ Colorado, General Assembly, *Session Laws*, 9th sess., 1893, pp. 167, 172.

²⁴ *Ibid.*, p. 146.

²⁵ *Ibid.*, p. 175.

²⁶ King, *Government of Denver*, p. 190.

²⁷ Colorado, General Assembly, *Session Laws*, 9th sess., 1893, pp. 167-68.

rection of said board."²⁸ All this authority in the hands of the board so diminished the rights of the local council that its sole power over public works remained its right to require railroads to construct viaducts and tunnels when necessary,²⁹ a power quite remote from the city's urgent needs.

The *Denver Republican*, recognizing the scope of Governor Waite's appointive power, admonished him to refrain from appointing any "political hobos" to the boards. "We can assure Governor Waite," the newspaper stated, "that the people of Denver . . . are strenuously opposed to any scheme designed to make either the Fire and Police board or the Board of Public Works a political machine."³⁰ Whether or not the boards became a political machine, their activities exploded in a dramatic climax during Governor Waite's turbulent administration, which, according to Smiley, brought the city "to the verge of civil war."³¹ This historian called Waite's government "the government of folly," which only increased the burdens and responsibilities of the Denver people.

The trouble, which grew to such disgraceful proportions, was not a quarrel between hostile political parties but a family affair within the governor's own political organization. The fight was between the governor and the fire and police board which refused to enforce the state laws on gambling.³² It refused to obey the governor's demand that gambling houses, which were prohibited by law, be suppressed. Waite became furious with the laxity of the board and in June 1893 requested Police Commissioner George Phelps to resign.³³ Phelps refused and the governor ordered both his removal and that of Fire Commissioner C. B. Stone. He charged them with "incompetence and neglect of duty."³⁴ The governor did hold a hearing of sorts, but he did not allow the commissioners the right of counsel nor the right to cross-examine witnesses.³⁵ Some of the evidence did, in fact, indicate that they had protected certain gambling activities.³⁶

Stone and Phelps appealed to the supreme court for relief, and at the same time refused to relinquish their positions on the board.³⁷ They removed all their books and records from the office of the board and stationed policemen at the door as

²⁸ *Ibid.*, p. 201.

²⁹ King, *Government of Denver*, p. 187.

³⁰ *Denver Republican*, January 24, 1893, p. 4.

³¹ Smiley, *History of Denver*, p. 921.

³² King, *Government of Denver*, p. 212.

³³ See Trimble, Plaintiff in Error v. People ex rel. Phelps, Defendant in Error,

19 Colo. 188 (1893).

³⁴ *Denver Republican*, June 18, 1893, p. 1.

³⁵ Trimble v. Phelps, p. 189.

³⁶ *Rocky Mountain News*, June 17, 1893, pp. 1-2.

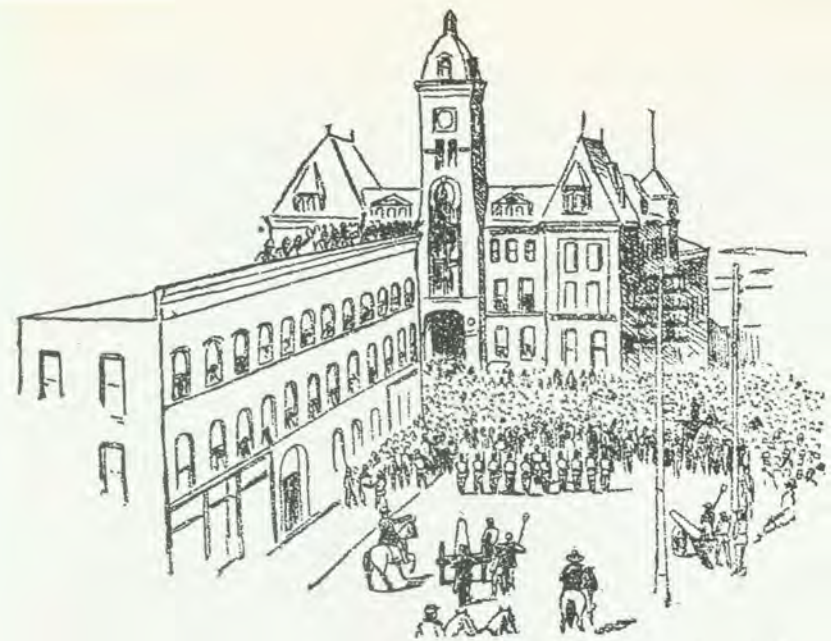
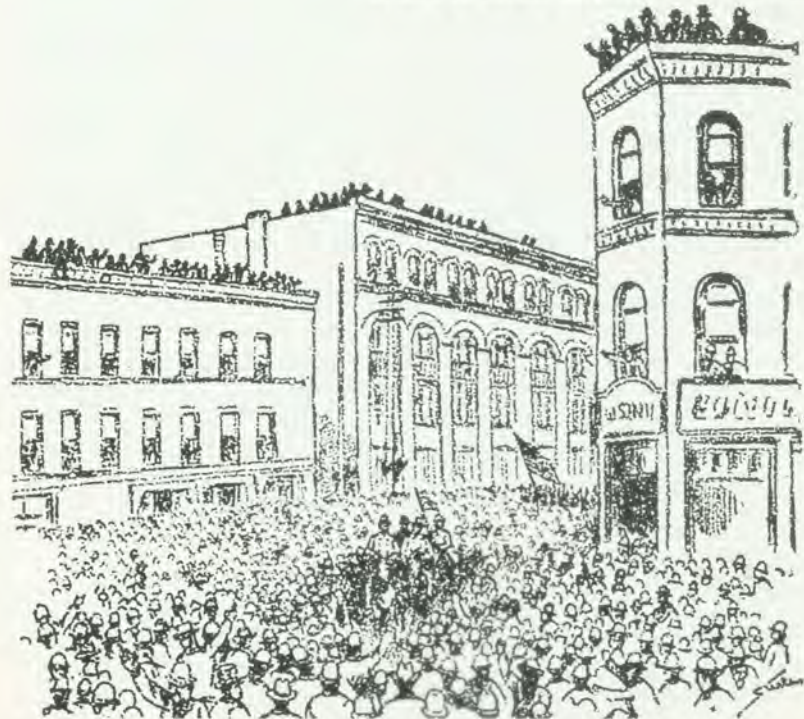
³⁷ *Ibid.*, June 19, 1893, p. 1.

guards.³⁸ But they were unable to resist the power of the governor. The supreme court upheld his right of removal and stated that the cause for such removal could be ascertained in any manner satisfactory to him; the court would not inquire into his motive.³⁹

After the court had spoken, Stone and Phelps accepted their dismissal; and on June 20, 1893, A. J. Rogers, father of former Mayor Platt Rogers, and Jackson Orr—the new police and fire commissioners respectively—were occupying the office of the board.⁴⁰

But the drama in which the governor and the boards played the leading roles was not over. The climax took place in the second act, which was staged in and around Denver's City Hall, while hundreds of people gathered in the streets. "There was the greatest turmoil and excitement ever witnessed in Denver," the *Republican* declared.⁴¹ The incident started with Governor Waite's order for the removal of Orr and D. J. Martin, the excise commissioner. The governor charged them with protecting

Orders to vacate City Hall are delivered.



The Rocky Mountain News's sketch from a nearby window.

gambling houses,⁴² but Smiley suggests that the governor's appointees had simply refused to cooperate with all of his policies.⁴³

When Orr and Martin refused to leave, the Governor shocked all of Denver by ordering Colorado National Guard troops to proceed to the City Hall to eject Jackson and Orr.⁴⁴ But they had become aware of the governor's intentions and countered his move by establishing their own group of militia, Denver's police department, which was entirely under the control of the board, according to the 1893 charter,⁴⁵ and which the board immediately stationed in and around City Hall in order to protect the building.⁴⁶

Over two hundred policemen and deputy sheriffs were armed to confront the troops of the militia. An outbreak could have caused tremendous loss of life and property; yet, such a clash was expected momentarily. The governor ordered three hundred members of the United States infantry at Fort Logan to "clear the streets of the crowds that had gathered, and

³⁸ *Denver Republican*, June 19, 1893, p. 1.

³⁹ Trimble v. Phelps, pp. 191-98.

⁴⁰ *Denver Republican*, June 20, 1893, p. 1.

⁴¹ *Ibid.*, March 15, 1894, p. 1.

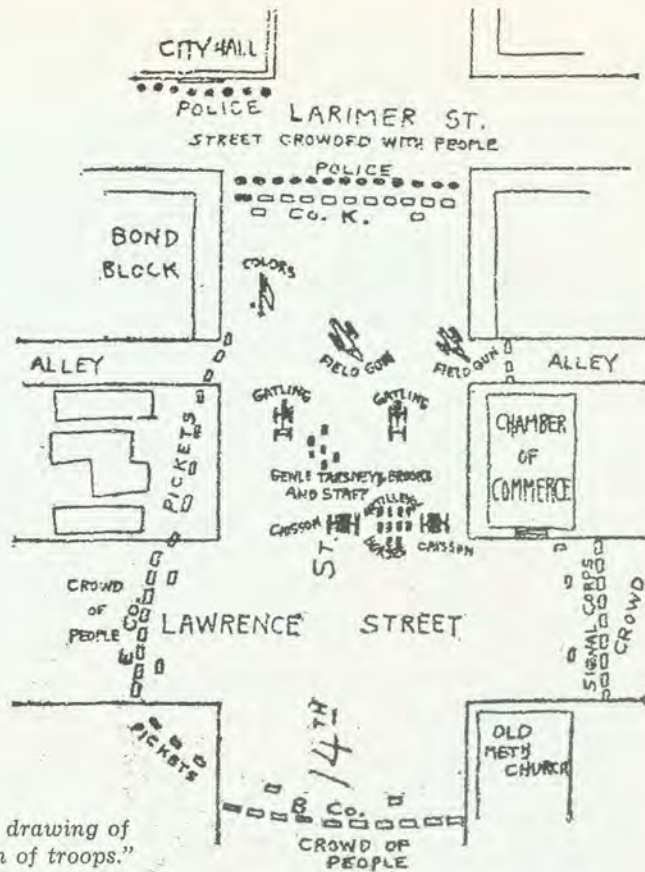
⁴² King, *Government of Denver*, p. 213.

⁴³ Smiley, *History of Denver*, p. 921.

⁴⁴ *Denver Republican*, March 15, 1894, p. 1; March 16, 1894, p. 1; *Rocky Mountain News*, March 16, 1894, p. 1.

⁴⁵ See also Smiley, *History of Denver*, p. 921.

⁴⁶ *Denver Republican*, March 16, 1894, p. 1.



A newspaper drawing of "the deposition of troops."

protect property.⁴⁷ The entire police and fire departments were thrown into disorder; and Denver was practically without police protection, although, fortunately, most of its criminals and hobos were occupied at the City Hall where they were serving as deputy sheriffs.⁴⁸

At this critical moment when bloodshed seemed imminent, a group of leading Denver citizens besieged the governor with pleas to withdraw his forces in order to prevent bloodshed.⁴⁹ They urged him to appeal to the Colorado Supreme Court to rule on the legality of using military force to accomplish the removal of municipal officers.⁵⁰ The governor agreed to petition the court and did so immediately. He stated that the situation "is so grave and critical as to demand the instant attention and

⁴⁷ Ibid.
⁴⁸ Ibid.
⁴⁹ Ibid.; King, *Government of Denver*, p. 214.
⁵⁰ Art. V, sec. 3, of the Constitution of Colorado provides that the Supreme Court shall give its opinion when requested by the governor.

the speedy decision of the court."⁵¹ The court responded promptly and repeated its decision in *Trimble v. Phelps*: it sustained the governor's plenary right of removal and would not consider the wisdom of his act.⁵²

However, in its lengthy decision the court severely admonished Waite for using force to remove members of the board and to install his new appointees. The opinion stated: "His duty and responsibility cease upon the making of the order or appointment, and any attempt on his part to personally enforce such order or install his appointee is beyond any express or implied duty or power."⁵³

With the governor's power of removal upheld by the court, Orr and Martin agreed to relinquish their posts to his new appointees, and Waite withdrew the troops from Denver. Denver's streets were quiet once again, and the peace was protected by the local police. The supreme court had assured Denver citizens that they would not again be subject to any governor's whim to call the militia to Denver.

But the strange crisis had at last stirred the city from its long apathy. The people were now aware of the incongruity and impracticality of having municipal officers appointed by the governor. The movement for local independence had been strengthened. That Denver had become aware of the boards and the governor's power over them was apparent in 1899 when a committee for charter revision recommended that (1) the fire and police board consist of the mayor, city treasurer, and city clerk; (2) the board of public works consist of the mayor, city engineer, and city attorney; and (3) all bills and expenditures of said boards be subject to the inspection of city council.⁵⁴

Again in 1901 the evil of the boards was stressed by Governor James Orman in his inaugural address. Orman gave strong support to the home rule movement:

The question of home rule for Denver has been a disturbing one ever since the enactment of the law under which the governor appoints the Denver board of public works and the fire and police board. It may occur that governors will be elected that have little or no knowledge of the governmental affairs of such a city as Denver . . . [and] the responsibilities for all city employees should be cast upon the people who live in the cities. Place the responsibility where it belongs—upon the voters of the city.⁵⁵

Meanwhile another factor closely connected with the boards

⁵¹ *In re Fire and Excise Commissioner*, 19 Colo. 495 (1894).
⁵² Ibid., pp. 496-504.
⁵³ Ibid., p. 502.
⁵⁴ *Denver Post*, January 15, 1899, p. 2.
⁵⁵ Colorado, Legislative Assembly, Senate, *Journal*, 13th sess., 1901, pp. 136-37.

was adding to the dissatisfaction of Denver citizens. They felt that certain corporations had too much power over the municipal government. This was apparent in the 1895 election for mayor. "There are only two issues," the *Denver Post* declared. "One is a reform government, and the other is a continuation of the corporation gang administration."⁵⁶ The *Post* and the *Rocky Mountain News* agreed that local governmental reform was urgent, and both newspapers gave loud support to Mason Howard, the candidate of the Taxpayers' Reform Association.⁵⁷

As the association's name indicated, it sought to lighten the heavy taxes which had become a burden to the taxpayer. The Union Water Company and the Denver Tramway Company were attacked by the association as having escaped payment of taxes, while they prevented the city council from allowing the citizens the opportunity to vote on public ownership of the water works. The platform of the association further charged these corporations as having prevented any state legislation which would relieve the people of the excessive water tax.⁵⁸

But Howard was defeated by Thomas S. McMurray, who, according to the *Denver Times*, could unite all factions of the Republican party and was "worthy of public trust."⁵⁹ Although McMurray was a Republican, he was not allied with the corporations; he headed a nonpartisan Taxpayers' ticket pledged to reform and economy.⁶⁰ Election of the nonpartisan ticket at last made Denver's government free of party obligations, but it still had very little power under the existing charter. Specific legislative approval was necessary for every power which it wished to exercise. This made any progress difficult; for the legislature scrutinized every request, and if it were found to be contrary to party or corporate interests, it would never be granted.⁶¹ However, McMurray apparently had the support of the voters, for he was reelected in 1897, carrying the entire Taxpayers' ticket into office.⁶²

One has only to glance at a few of the newspapers of this period to know that King is right when he says that the entire issue in this election was the question of water rates.⁶³ The Taxpayers' platform understandably drew the wrath of the corporations, particularly that of the Denver Union Water Com-

"THE BEST MAYOR DENVER EVER HAD."



Editor Hill—I Have Not Changed My Opinion One iota.

This News cartoon in March 1897 focused on McMurray and the water issue.

pany, for the Taxpayers advocated lower water rates and city-owned water works.⁶⁴ In fact, the mayor actually instigated a suit against the water company after he had failed to make the company establish rates in compliance with an existing Denver ordinance.⁶⁵ Details of this litigation are beyond the scope of this study, but the Colorado Supreme Court supported the company in a lengthy decision which held that the ordinance in question was unenforceable.⁶⁶ This decision weakened the position of those who would rid the city of government controlled by the public utility corporations. Home rule status for Denver was becoming increasingly urgent.

In January 1899 the People's Party, which supported public ownership of the water plant, issued a demand that the "governor and legislature at the present session grant to the city of Denver immediate and complete home rule."⁶⁷ But the reform groups were not yet strong enough to balance the strength of the

⁵⁶ *Denver Post*, April 1, 1895, p. 1.

⁵⁷ *Ibid.*, pp. 1, 8. See also *Rocky Mountain News*, March 22, 1895, p. 4.

⁵⁸ *Rocky Mountain News*, March 22, 1895, p. 4.

⁵⁹ *Denver Times*, March 13, 1895, p. 1.

⁶⁰ King, *Government of Denver*, pp. 199, 217.

⁶¹ *Ibid.*, p. 173.

⁶² *Denver Republican*, April 7, 1897, p. 1; *Rocky Mountain News*, April 7, 1897,

p. 1.

⁶³ King, *Government of Denver*, p. 204.

⁶⁴ *Rocky Mountain News*, March 12, 1897, p. 1; March 25, 1897, p. 1.

⁶⁵ *Denver Water Company*, ordinance no. 44, series of 1890, adopted April 12, 1890, in Henry J. Hersey, *Compiled Ordinances and Charter, The City of Denver* (Denver: The Smith-Brooks Printing Co., 1898), pp. 845-55.

⁶⁶ *City of Denver v. Denver Union Water Company*, 41 Colo. 77-113 (1907).

⁶⁷ *Denver Post*, January 15, 1899, p. 5.



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corporations which had been the continual opponents of home rule.⁶⁸ McMurray was defeated in 1899, and it was not until the legislative session of 1901 that a bill which would submit to the state electorate a home rule amendment was introduced. It was drafted by J. Warren Mills and John A. Rush, the chairman of the senate judiciary committee.⁶⁹ Even then some Republican opposition in the legislature threatened the measure,⁷⁰ but it could no longer counter the demand for reform. An editorial in the *Denver Post* gave a dreary account of the Denver government:

There are vast opportunities for improvement in the management of our local affairs. Denver could be easily better governed. It would be somewhat difficult to have it worse governed than it is at the present time.⁷¹

The "Rush" bill, as the home rule amendment became known, passed the legislature in March 1901 and was applauded by the state's liberals as "a grand stride in popular government."⁷² Its success was undoubtedly due to the fact that it extended like privileges of home rule to all cities of 2,000 or more persons.⁷³ The bill was ratified by Colorado's electors in No-

⁶⁸ *Rocky Mountain News*, June 3, 1903, pp. 1, 6.

⁶⁹ Mitchell, "Progressivism in Denver," p. 65.

⁷⁰ *Denver Post*, March 7, 1901, p. 10.

⁷¹ *Ibid.*, March 9, 1901, p. 4.

⁷² *Rocky Mountain News*, March 10, 1901, p. 1.

⁷³ *Colorado, Constitution*, art. XX, sec. 6.



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vember 1903 and became Article XX of the Colorado constitution.

Article XX consolidated an area of 59¼ square miles, which included the towns of Argo, Berkeley, Elyria, Globeville, Montclair, and Valverde.⁷⁴ These municipalities joined with Denver to become the City and County of Denver; they added six thousand persons to Denver's already rapidly growing population.⁷⁵ The city was vested with all rights and properties formerly owned by Denver and the other included municipalities. Its government would no longer be determined by the state legislature, but rather by the local council. Section 2 of Article XX provided that the city and county offices be merged and that, therefore, only one set of officials would be elected. This apparently innocuous clause became one of the most controversial in the entire amendment and was bitterly contested in litigation in the Colorado Supreme Court, which is discussed below.

Another crucial section gave the new corporation full power as to municipal ownership of public utilities.⁷⁶ Franchises would be granted only by a vote of the city's tax-paying electors.⁷⁷ The importance of this section of the Rush amendment is clear when

⁷⁴ *Ibid.*, sec. 1. See also King, *Government of Denver*, p. 226.

⁷⁵ According to the census of 1900, the population of Denver was 133, 859. U.S., Department of Interior, Census Office, *Twelfth Census of the United States, 1900: Population*, 1:440.

⁷⁶ *Colorado, Constitution*, art. XX, sec. 1.

⁷⁷ *Ibid.*, sec. 4.

we note the strenuous efforts of the corporate leaders to control the supreme court;⁷⁸ they hoped that the court would declare the Rush amendment unconstitutional.⁷⁹

Finally, with the enactment of Article XX, the fire, police, and public works departments were placed under civil service.⁸⁰ Denver was rid of the boards, whose presence had probably more than anything else increased the agitation for home rule. And only the citizens of Denver, instead of the state legislature, would have the power to amend the charter.⁸¹ Denver had at last secured the right to self-government, but its political problems were not over. Would the new city and county be able to administer its government for the benefit of its citizens, or would it succumb to the pressure of small groups and private interests?

Its first task was the election of members of a charter convention which would formulate a charter to be approved by the Denver electorate. Such an election was held on June 2, 1903, and the "civic" ticket, made up of the reformers and progressives, scored an easy victory.⁸² This group drew up a charter consistent with its principles, and its work was applauded by the liberals.⁸³ "The charter was drawn to centralize the responsibility for city government . . . [and] to give people a larger share in the initiation and control of legislation," the *News* declared.⁸⁴

The proposed charter called for the election of a small unicameral council and for seven executive officers—mayor, treasurer, auditor, assessor, clerk, and two judges of the municipal court. This provided a short ballot and was the first of modern American charters to do so.⁸⁵ A simple procedure for municipal ownership of public utilities was established, and the records of public service corporations were to be open for municipal inspection.⁸⁶ These last two important provisions, however, were probably what brought about the defeat of Denver's first charter when it faced the electorate for approval on September 22, 1903.

The combination which defeated it seems an unlikely one—the Republican-controlled corporations and the Democratic machine. Yet, it is apparent that both of these factions had much to lose if the charter were adopted.⁸⁷ Its short ballot "made party spoils scarce," and it brought the public regulation of the utility corporations within easy reach.⁸⁸ Thus, the first charter for the city and county of Denver was rejected by its electorate.⁸⁹

Article XX, section 4, provides that if a charter is defeated in the election members of a new charter convention shall be elected, so a second election for members of a convention which would author a charter was held on December 8, 1903.⁹⁰ Shortly before the election took place, the *Post* explained in an editorial that:

What Denver wants is a common sense charter. NOT one loaded with the experiments of theorists. It wants a plainly written law that everybody can understand.⁹¹

In any case, the same combination which had defeated the progressive charter in September again succeeded and elected its representatives in the December election. The *News* observed that "the corporations will write the next charter for Denver."⁹² Apparently they did, for the proposed charter set up a complicated method for securing municipal ownership of public utilities. Significantly, the civil service was limited to those specifically enumerated in Article XX, and the city council was to be bicameral.⁹³ This charter was adopted by the voters on March 29, 1904.⁹⁴ Next was the election of officers under the new charter. This election was held on May 17, 1904, and those elements which had continually opposed home rule immediately seized on this election as a means of questioning the constitutionality of Article XX and thus of destroying home rule. The issue was tested in the now famous case of *People v. Sours*.⁹⁵

The petitioner, Charles Elder, who was elected treasurer in the May election, demanded that all books, papers, and records belonging to the office of treasurer be turned over to him. The respondent, Paul Sours, who had served as treasurer in Arapahoe County, refused to relinquish the office of treasurer on the

⁷⁸ *Denver Post*, December 2, 1904, p. 1.

⁷⁹ *Rocky Mountain News*, June 3, 1903, pp. 1, 6.

⁸⁰ *Colorado Constitution*, art. XX, sec. 3.

⁸¹ *Ibid.*, sec. 5.

⁸² *Denver Post*, June 3, 1903, p. 1; *Rocky Mountain News*, June 3, 1903, p. 1. Art. XX, sec. 4, provided that the charter convention be made up of twenty-one qualified electors. In the June 2, 1903, election the civic ticket won nineteen seats, the Republicans two. *Denver Post*, June 3, 1903, p. 1.

⁸³ Among the charter's supporters were Judge Ben B. Lindsey, Edward Keating, Edward Costigan, John Rush, and former mayor Thomas McMurray. *Denver Times*, September 3, 1903, p. 4.

⁸⁴ *Rocky Mountain News*, August 23, 1903, sec. 2, p. 4.

⁸⁵ *King, Government of Denver*, p. 234.

⁸⁶ *Ibid.*

⁸⁷ *Denver Times*, September 3, 1903, p. 4; September 4, 1903, p. 1; September 10, 1903, p. 10.

⁸⁸ *King, Government of Denver*, p. 234.

⁸⁹ *Rocky Mountain News*, September 23, 1903, p. 1.

⁹⁰ *Denver Post*, December 7, 1903, p. 1.

⁹¹ *Ibid.*, December 6, 1903, p. 4.

⁹² *Rocky Mountain News*, December 9, 1903, p. 1.

⁹³ *King, Government of Denver*, p. 236; Mitchell, "Progressivism in Denver," p. 71.

⁹⁴ *Denver Times*, March 30, 1904, p. 1.

⁹⁵ *People ex rel. Elder, as Treasurer of City and County of Denver v. Sours*, 31 Colo. 369-40 (1903).

ground that Elder had been elected under the new amendment, which was unconstitutional. He contended that city and county officers could not be merged, for this consolidation in fact destroyed all "state governmental duties" in Denver,⁹⁶ an argument which will relate to subsequently discussed litigation.

It should here be noted that at this time the supreme court still consisted of only three justices. The brilliant and liberal Justice Robert Steele wrote the decision in the Sours case, with Chief Justice William Gabbert concurring. Justice John Campbell dissented. The majority decision found the amendment constitutional and Elder's election valid. Denver electors did have the power to choose officials who would perform functions of the county as well as the city, and Article XX's provision which merged the two governments was declared constitutional.

Steele said:

The amendment is to be considered as a whole, in view of the expressed purpose of securing to the people of Denver absolute freedom from legislative interference in matters of local concern; . . . we find nothing in it subversive of the state government or repugnant to the constitution of the United States.⁹⁷

The purpose of the amendment is to consolidate the city of Denver and a portion of the county of Arapahoe into a new sort of municipality having the combined powers of city and county governments.⁹⁸

However, only two years later the court issued a decision which was a blow to Denver's home rule.⁹⁹ In the case of *People v. Johnson*,¹⁰⁰ the attorney general petitioned the court to remove Democrat William Johnson, the county judge, who had been elected in May 1904. The petition alleged that the Denver charter's provision which increased the number of Denver's county judges from one to two, was unconstitutional. In a lengthy and involved decision the court stressed the fact that Denver could only legislate on matters of local concern—and strangely enough the court did not view county judges as a local issue. "The question is," Justice John Maxwell wrote, "can the people of the state, by constitutional amendment, set apart any portion of the state and vest the citizens thereof with power to legislate upon matters other than those purely local and strictly municipal in their character?"¹⁰¹

The decision explained the necessity for limiting Denver's authority:

To concede the right . . . we would have a community of citizens . . . legislating for themselves upon all matters, and not subject to the general legislation of the state. . . . The laws of the state and its constitution were as much in force after the adoption of the 20th article as before.¹⁰²

The court emphasized the fact that Denver was still subject to the constitution and the laws of Colorado:

The 20th article did not set apart a territorial subdivision of the state, where people were to be freed from the general laws. . . . Home rule for cities means home rule in strictly city affairs.¹⁰³

Thus, William Johnson was expelled from the office to which he had been elected. But this decision had more serious and far-reaching results. One historian says that it actually struck down section 2 of Article XX and thus made the full implementation of home rule impossible.¹⁰⁴ As noted above, this is a crucial clause in the amendment; it provides that "every charter shall designate officers who shall perform the acts and duties of county officers." Its clear intent was the election of one set of officials, but according to the court's ruling, which in fact overruled Sours, a dual set of officers for city and county must be chosen.

King says that "the bench and bar of the state generally looked with disfavor upon this decision as being a political one."¹⁰⁵ After having tried in vain to follow its strange logic, this writer arrived at the same conclusion.

While Article XX had been crippled by the Johnson decision, it was strengthened by another opinion of the same court in 1905. In the case of *Denver v. Hallett*¹⁰⁶ the court upheld the city's power to build an auditorium.¹⁰⁷ Justice Steele, speaking for the court, admitted that this power was not expressly granted by Article XX. But this amendment was not meant to be a complete enumeration of powers. "The test is," Steele concluded, "whether the power, if exercised, will promote the general objects and purposes of the municipality."¹⁰⁸ This decision broadened the city's legislative powers; they need not be specifically enumerated in Article XX.

⁹⁶ *Ibid.*, pp. 271-72.

⁹⁷ *Ibid.*, p. 387.

⁹⁸ *Ibid.*, p. 395.

⁹⁹ The change in the court's thinking was due to a change in personnel. A constitutional amendment adopted in November 1904 had increased the court from three to seven justices.

¹⁰⁰ *People ex rel. Attorney General v. Johnson*, 34 Colo. 143-93 (1905).

¹⁰¹ *Ibid.*, p. 157.

¹⁰² *Ibid.*, pp. 157, 159.

¹⁰³ *Ibid.*, pp. 159, 160. (Emphasis in original.)

¹⁰⁴ Mitchell, "Progressivism in Denver," p. 76.

¹⁰⁵ King, *Government of Denver*, p. 248.

¹⁰⁶ *City and County of Denver v. Hallett, Executor*, 34 Colo. 393-416 (1905).

¹⁰⁷ Chief Justice Gabbert and Justices Maxwell and Campbell dissented.

¹⁰⁸ *Denver v. Hallett*, p. 400.

But it was not until 1911 that Denver's home rule was fully accomplished. This came about through another decision of the court, which is surely one of the most important in its history. In the case of *People v. Cassidy*,¹⁰⁹ the Johnson decision was reversed.

In a forthright opinion notable for its clarity, Justice Thomas Bailey severely castigated the court of 1905 for its ruling. He showed the fallacy of the court's clumsy reasoning. He concluded that "if the Sours case stands . . . the Johnson case cannot."¹¹⁰ "The reasoning of the Johnson case . . . is distinctively and fundamentally wrong," Bailey declared, "in that it declines to recognize as effective . . . a provision of the state constitution."¹¹¹ He emphasized the fact which Steele had earlier stressed in Sours—that "Article XX . . . is a part of the constitution of the state . . . and is as much in force as any part of the original constitution itself."¹¹²

The Cassidy decision concluded that as section 2 of Article XX was valid as a part of the constitution, the citizens of Denver could elect one set of officials who would discharge county as well as city functions. The local self-government which the amendment had intended was now possible. After 1911 the dual set of officers was abolished. Denver was at last a city and county incorporated as one municipality.

MARJORIE HORNBEIN contributed "Three Governors in a Day" to the Summer 1968 issue of *The Colorado Magazine*, an article based on her master's thesis, which was written at the University of Denver.

¹⁰⁹ *People ex rel. Attorney General v. Cassidy*, 50 Colo. 503-97 (1911).

¹¹⁰ *Ibid.*, p. 518.

¹¹¹ *Ibid.*, p. 533.

¹¹² *Ibid.*, p. 507.