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The Festival of Mountain and Plain

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COLORADO'S greatest festival, The Festival of Mountain and Plain, was inaugurated in Denver in the autumn of 1895. It was held annually through 1899 and revived in 1901 and 1912. In spite of heroic efforts on the part of a few enthusiastic promoters sufficient public support was lacking thereafter, and the festival lived on only in the memories of those who had thrilled to the varied appeals of the seven celebrations that were carried through successfully.

According to W. N. Byers, who was president of the Board of Directors of the Festival in 1896-99 and a member from 1895 until his death in 1903, "The Festival of Mountain and Plain was conceived and originated as an expression and outpouring of the thankfulness of the people for the bounteous harvest of 1895."¹ Following the panic of 1893 and the other troubles occurring during the reign of Populist Governor Davis H. Waite, the return of prosperous times was heralded by the citizens of Colorado with delight.

General S. K. Hooper, general passenger agent of the Denver and Rio Grande Railroad, "first conceived the idea" and suggested it in an interview for the *Rocky Mountain News*, August, 1895.² But the germ of the idea, according to Mr. Byers, arose as follows:

Said Mrs. S. K. Hooper to her husband while on the train from the first flower carnival held at Colorado Springs, and which was a huge success: "It is too bad that Denver cannot have some sort of a festival. If Colorado Springs can hold one and make it a success, why can't Denver?" It was an idea, and Mr. Hooper took it up immediately. Denver could have a carnival, and Denver could make a success of it.³

Mr. Byers is the source, also, for the following information about the origins and management of the festival:

The general features of the first festival were planned by a committee composed of Platt Rogers, S. K. Hooper, E. B. Coe, T. J. O'Donnell and I. N. Stevens. It was to be an expression, also, of the

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¹William N. Byers, *Encyclopedia of Biography of Colorado* (Chicago, 1901), 162.

²*Rocky Mountain News*, October 16, 1895.

³Quoted from an interview with William N. Byers, included in an article "Men Who Make the Festival," *The Denver Times*, October 1, 1898.

revival of hope which began with the promising crops and signs of revival in commerce and the industries. It was to be a reunion of all the varied interests of the State toward the one object, and the name to be applied to the initial event—"Festival of Mountain and Plain"—bore equal significance to those whose crops and herds had grown upon the plains, or who worked in the shops of the cities or toiled in the mountains at the mines.



THE FIRST PUBLIC RODEO IN AMERICA WAS HELD AT THE FESTIVAL OF MOUNTAIN AND PLAIN

An association was formed, numbering in its membership the wealth, intelligence, the literary genius, the mechanical skill and the artistic excellence of the State. A season of four days in the year was set apart for joyous reunion, recreation and mirth, in which every shade and grade of citizenship becomes a partaker, while every department of industry and enterprise is represented in the grand pageants and the festive events. It rejuvenated the State and infused new courage and quickened spirit in the people. The benefits it has reaped to the State are immeasurable. It has become the superb attraction of the year to the visitor in the State and it has blazoned forth to the world in the most favorable light the characteristic broad-gauge nature of the people and the wonderful resources and possibilities of the State both in mind and material force. The festival is managed by a president and his staff of officers. The president in 1895 was ex-Mayor Rogers; from 1896 to 1899, William N. Byers; in 1900-1901, Charles H. Reynolds. . . . While the first festival was in process of formation the directory invited competition and offered a prize for the most appropriate name. "The Festival of Mountain and Plain" was suggested by Hon. I. N. Stevens and was adopted as most in harmony with the spirit of the affair.⁴

We were all new to the subject of carnival work, and the assistance we received from J. H. Jordon was very helpful. He had lived in the South and knew a great deal of the inside workings of the famous New Orleans festival, the Mardi Gras. Mr. Jordon took a very active part in all the preparations. Under his direction the Slaves of the Silver Serpent sprang into prominence. J. A. Vickers proved to be the genius of the first carnival. He did all the literary work and proved to be a fountain of new ideas that were all practical and excellent. Platt Rogers and Robert Speer were at the head of the festival at that time and to both of these men belongs a great deal of the credit of the first celebration.⁵

Many of the floats that appeared in the parades were shipped from New Orleans, and artists were even imported from that city to assist in the preparations for the festival.

⁴Byers, *Encyclopedia*, 162.

⁵Same as Note 3.

The *Official Program of the Festival of Mountain and Plain* "to be held in Denver, October 16, 17, 18, 1895" contains the following additional explanations:

It is intended to give in new form a state fair and mining exposition. In them every county and town will have a place, combining to make such a grand showing of the wonderful wealth and unrivalled resources of Colorado that the festival will at once attain national reputation. This display of material wealth is to have a setting of parades, pageants and other attractions, many of them wholly unique and others typically western in character. A half week of rare pleasure is planned in connection with the greater object of illustrating to the world Colorado's high standing as an agricultural, mineral and horticultural State. . . . Denver citizens agreed to bear the entire burden of expense and cooperate with the Board of Direction in every way possible. At the outset it was decided that everything in connection with the Festival should be free. Outside counties and towns were invited and urged to make displays of their resources as their only contribution. The generous manner in which they have responded assures a splendid success and such an advertisement of Colorado as she has never had.

The programme following is the result of but three weeks' preparation. It will be found to contain many features new to the Rocky Mountain Region. It is the first time at any fall festival that an attempt has been made to trace the entire history of a state of the union and show her present development in one mammoth parade. For the first time in the West an allegorical parade will be given after the plan of the ideal Mardi Gras. This will be under the direction of a mystic order known as the Slaves of the Silver Serpent, which is sparing neither time nor money to make the pageant gorgeous and complete. State troops and regulars will be massed in Denver during the Festival. The Associated Cycling clubs promise the largest illuminated wheelman's parade ever seen in a western city. The programme of games and sports is long and varied.⁶

The following description of the events to be held on each of the three days is quoted in full from the *Official Program*, for the style and the details are too good to risk losing through summarizing.

FIRST DAY

Wednesday, October 16, 1895

The Parade will move promptly at 1:30 in the following order:

First Division.—Pioneers

In this introductory division will be pictured, step by step, the development of Colorado from the earliest days. After a glimpse at the Cliff Dwellers and the Indian and Mexican occupancy of certain sections of the country, the invasion of the Rocky Mountain region by the whites will be taken up and its wealth of dramatic and historic incident followed through the entire pioneer period. The trials and discoveries of early pioneers and the coming of hunters and trappers to the wilderness will be portrayed, and next the greater invasion, when a vast tide of humanity swept slowly across the plains to found a new empire. An overland-ox-train, the pony express, overland stages and many interesting features in connection with the immigration during the years following '58, will be reproduced. The founding of the first church and school, the establishment of the first newspaper, discoveries of gold and silver, which stand as landmarks in the history of the State, and a score of events of historic interest will be presented by floats and tableaux, making a complete panorama of the development of the State, historically accurate and intensely interesting.

⁶*Official Program* (copy in State Historical Society Library). This now rare pamphlet, published by Gilbert McClurg and A. C. Charlot, printed by Marsh and Carter, 1728 Arapahoe St., Denver, was made up of thirty-two pages of "Introduction", "Programme", and advertisements, with a colored paper cover. Similar programs were issued for the 1896-99 festivals.

Second Division—Mining

Colorado's wonderful mineral resources will be shown in this division. Her inexhaustible mines of the precious metals will be supplemented with extensive exhibits and attractive floats, illustrating her wealth of coal, iron, oil and other mineral products. The displays made by the different mining camps will have places assigned in this division, which will prove an impressive object lesson in the magnificent wealth of the State.

Third Division—Agriculture and Horticulture

The amazing progress which Colorado has made in agriculture and horticulture will be illustrated in the third division. The displays will be on a very extensive scale, and products of farm and orchard will be used to advantage in a series of attractive floats.

Fourth Division—Live Stock

Only representative animals will be allowed in this division. Colorado live stock interests are not only a potent factor in her prosperity, but the State is producing superior breeds which are attracting the attention of the entire world.

Fifth Division—Manufacturing

The manufacturing display will be confined exclusively to products of establishments in the Rocky Mountain region. The extent and importance of these is little realized. The division will be a long one and will cover the entire field of home production.

Sixth Division—Decorated Carriages

One of the most pleasing feature of the long line will be a parade of decorated carriages, buggies and traps of various kinds, forming the sixth division. The decorations will not be limited to flowers, natural and artificial, but grains and grasses, ribbons and bunting and other decorative materials will be used, making a scene of great brilliancy and of most varied character.

Seventh Division—Civic Societies

All the uniformed civic societies in the State have been invited to make up this division. Many of them will be led by elaborate floats.

Eighth Division—The Schools

School children will make up this big division, arranged in companies, each bearing some token of the harvest.

Evening

8 P.M.—An illuminated trolley musicale, an entirely new feature, will be the evening attraction of the first day. Ten of the largest electric cars will be used. They will be splendidly and lavishly illuminated and the crowds upon the streets will be treated to a charming musical festival.

Note: Sixteenth street will be illuminated from Larimer to Broadway in this and subsequent evenings during the Festival. Over 3,000 electric globes will be used.

SECOND DAY*Thursday, October 17, Military Day*

Adjutant General C. M. Moses, Grand Marshal. Parade will move at 10 A.M. and will embrace the entire National Guard of the State, the Fort Logan garrison, school and college cadets and all semi-military and uniformed societies. The three divisions will be made up as follows:

First Division

Col. H. C. Merriam and Staff
Band

Seventh United States Infantry

Second United States Cavalry

Brigadier General E. J. Brooks and Staff

Col. A. W. Hogle and Staff

Band

First Infantry, N. G. C.

Col. H. B. McCoy and Staff

Band

Second Infantry, N. G. C.

Chaffee Light Artillery, Capt. Kincaid, commanding

State Agricultural College Cadets, First Lieut. H. D. Humphrey, U.S.A.,

commanding.

Denver High School Cadets, Maj. Bradley, commanding

Second Division

Col. W. A. Root, Marshall

G.A.R.—A. Lincoln Post No. 4, Reno Post No. 39, Veteran Post No. 42, Farragut Post No. 46, M. M. Crocker Post No. 81, George Washington Post No. 85, and others.

Sons of Veterans—Farragut Camp No. 1, George Washington Camp No. 4, and others.

Third Division

Col. Phil. Trounstine marshal of all semi-military and uniformed societies.

Afternoon

1:30 P.M.—Prize Military Drill by State Troops.

3:00 P.M.—Exhibition Cavalry and Infantry Drills by United States Troops from Fort Logan.



FLOAT OF THE CHRISTIAN ENDEAVOR UNION, ENTITLED "THROW OUT THE LIFE LINE"

Evening

Illuminated wheelman's parade under the auspices of the Associated Cycling clubs of Denver, with at least 2,000 wheels in line. Prizes will be offered as follows:

First, for the best decorated wheel; second, for the most grotesquely decorated tandem; third, for the most grotesquely decorated tandem; fourth, for the club making the best appearance in line; fifth, for the neatest ladies' riding costume.

W. R. Marshall will act as grand marshal. The line will form as follows: First division, O. E. Boles in charge: All organized bicycle clubs of Denver, headed by a full band of fifteen pieces on tandems.

Second division, Charles E. Hawyer in charge: Ladies and their escorts. Third division, C. A. Lindsay in charge: All unattached wheelmen, not members of clubs.

The band on tandem bicycles which will lead the parade, is something never before attempted in this country.

THIRD DAY*Friday, October 18*

10 A. M.—Miners' Drilling Contests at Denver Athletic Club Park, adjoining City Park, under the direction of Harry A. Lee, State Mine Inspector. The following are the rules to govern, list of prizes:

Double-handed.—Entrance fee \$10. At least ten teams to enter. Down hole. First Prize.—Championship cup donated by Denver Mining Exchange, a purse of \$250 in cash and all entrance fees, making a cash prize of at least \$350 to go to the winners.

Second Prize.—Purse of \$150 in cash.

Third Prize.—Purse of \$75 in cash.

Fourth Prize.—Purse of \$37.50 in cash.

All steel must be full size—seven-eighths of an inch. No swedged steel bits allowed. The smallest must measure seven-eighths of an inch. "Milling" hole with two hammers not allowed beyond two blows from each hammer when change is made. Weight of hammer not to exceed eight pounds. Rock to be used, Gunnison granite. Time of contest, fifteen minutes.

Judges.—Walter H. Bunce, Ouray; Charles F. Palmer, Cripple Creek; John H. Hughes, Leadville.

Single-Hand Championship Contest.—Entrance fee \$5. Ten to enter. Down hole.

First Prize.—Championship of Colorado. Purse of \$125 in cash, and all entrance fees, making a cash prize of at least \$175 to winner.

Second Prize.—Purse of \$75 in cash.

Third Prize.—Purse of \$37.50 in cash.

Fourth Prize.—Purse of \$18.75 in cash.

All steel must be full size—three-fourths of an inch. No swedged bits allowed. The smallest bit must measure three-quarters of an inch. Weight of hammer must not exceed four and a half pounds. Rock to be used, Gunnison granite. Time of contest, fifteen minutes.

Judges.—Captain A. Coan, Boulder; Leo Wood, Rico; Col. M. K. Sullivan, Central City.

10 A.M.—At City Park, band contests for valuable prizes offered by the Festival Board of Direction.

Entrance fee open to all non-professional bands. Prizes of the total value of five hundred dollars.

2 P.M.—At City Park, Indian festival, dances, sports and ceremonies by Ute and Santa Clara Indians.

3 P.M.—On the ball field at Denver Athletic Club Park, football game.

Evening

8 P.M.—Grand Allegorical parade by the Slaves of the Silver Serpent; a gorgeous pageant that will rival the ideal Mardi Gras.

Immediately after the parade a general reception will be given by the Slaves of the Silver Serpent at the Brown Palace Hotel.

Marshals

Pioneer—Charles Lerchen

Mining—H. J. Mayham

Agriculture, etc.—George L. Goulding

Manufacturing—Charles Kibler

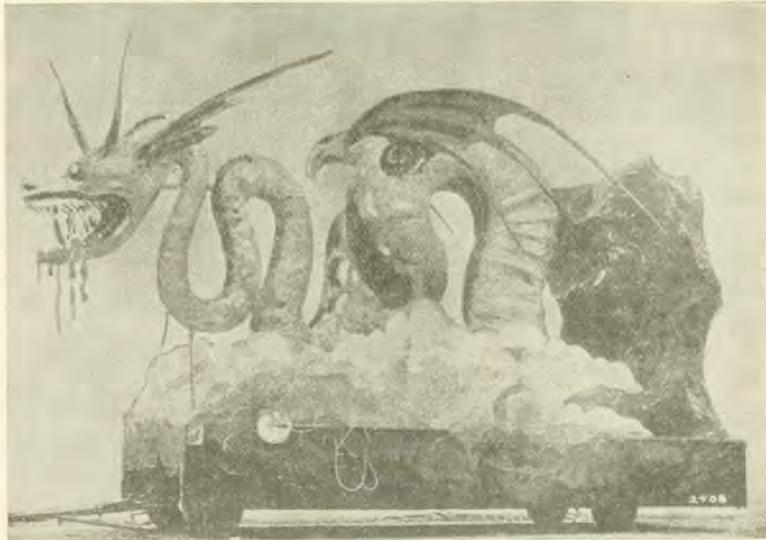
Decorated Carriages—John M. Kuykendall

Civic Societies—William Hesing

The Schools—R. F. Hunter

Note.—The State troops will be in camp at City Park during the entire festival. After the parade of the first day the exhibits showing the resources of the State will be arranged at the park, making a great open air State fair and mining exposition. The Ute and Santa Clara Indians will have villages at the park, and there will be other attractions.

Everything announced in the above programme is to be—
Absolutely Free to Visitors.



FLOAT OF THE SILVER SERPENT, MYSTIC SPIRIT OF THE GREAT FESTIVAL

The newspapers of Denver were enthusiastic in reporting the daily events of the first festival and in commenting upon the project as a whole. The *Rocky Mountain News*, for example, devoted all of pages one and two of the Thursday, October 17, 1895, issue to the Festival, as well as parts of pages 6, 7, 13, and 16. It was the leading item in the first three issues of the week and of the Friday and Saturday papers, also. The Sunday issue declared, "The success of the carnival means the building of a spacious auditorium in

Denver." Although such an auditorium was needed for the grand finale of the Festival and although it was announced that "the Slaves of the Silver Serpent and the promoters of the Welsh National Eisteddfod will act in conjunction" to get one, the city had to wait until 1908 for the completion of an adequate municipal auditorium.

The *Denver Republican* for Saturday, October 19, 1895 reported as follows:

The success of the Festival of Mountain and Plain is all the more remarkable considering the limited time between its inception and culmination. Without the aid of the entire state no such results could have been accomplished, and now that it is over, the scope of the annual festivals that are to follow can be clearly estimated. Public Spirit, Pluck and Colorado Generosity made it possible and will hereafter make it most famous of its kind.

Over 100,000 people witnessed the first public appearance. There was, however, some delay in getting the parade started on the first day, for the team hitched to the first float balked; a new team had to be substituted.

According to the *Republican's* Friday headlines people from all over the state took advantage of the excursion rates given by the railroads: "Still They Pour In — All Colorado Seems to be Faced This Way — Military Owned the City — Their Parade Was the Finest of the Kind Ever Seen Here." Other headlines stressed the following features: "Carnival on Wheels — The Cyclists Contribute the Third Great Parade — Nearly a Thousand in Line — Beautiful Designs, Grotesque Figures, Fancy Costumes — A Novel and Stirring Show — The Illuminations on the Bicycles were Brilliant and Picturesque — Great Rivalry Between the Larger Clubs — The Excellent Behavior of the Spectators Helped to Make the Parade a Success". The reporter explained that "of the total number of wheels more than half were decorated, and all save a very small number carried Chinese lanterns or illumination of some kind."

The big story on Saturday morning was all about the parade of the Silver Serpent and the ball at the Brown Palace, immediately afterward, which included a reception to the public by the King of the Slaves of the Silver Serpent. At the Ball, "which furnished the last scene in the Festival of Mountain and Plain, the flying hours were caught and held that all of pleasure that was in them might be extracted and nothing lost." In this same issue is an article commenting upon the highlights of the celebration; concerning the pioneer division of the first parade, the reporter noted that "James Baker, John Albert and Philander Simmonds, whose joint years number 243, made a most interesting group."

Another uniquely Western feature of the Festival was the participation by groups of Pueblo Indians and Utes. The following

selection from the enthusiastic account in Friday's *Republican* is not without historical interest:

For almost two hours yesterday morning such an entertainment was given Denver and her visitors as was never before imagined possible even in the wild and wooley West. No other city in the Union could produce such a variety of picturesque and unique performances...

The day began with the Indian games. It had been announced that these would start at 9 o'clock and by that time the great grand stand was well populated... It was 9:30 when the Indians arrived in front of the grand stand... The first were the Southern Utes, under chief Severo...

When all was in readiness for the dance of the Utes the familiar "hie, hieing" of the Indians began, and quickly it ran from one mouth to the other until the entire party was at it. Half a dozen of them commenced a droning song and the dance began. At first the Indians all stood in a circle, but Chief Severo, who looked uncommonly magnificent in his eagle feathers, broke from the ring and began a dance of his own in its center.

In a moment there was no center, each man having broken from his place and with knees crooked, back bowed and eyes fastened on some other of his tribe, he either hie-hied or joined in the monotone of the rest. A tom-tom kept up an incessant beating and the dancers each performed fantastic figures... It would be difficult to picture anything more promisingly bloodthirsty than a Southern Ute dance.

The dances lasted about five minutes each, and between them were brief intervals for rest. Each successive dance was louder in its hie-hies and antics, but the one tone song and tom-tom accompaniment was always the same. It was vociferously applauded by the crowds and as both the crowd and the Indians became better acquainted the better they got along.

The leading editorial in this same Friday issue of the *Republican* pleaded as follows for better feeling between "Denver and the State":

It is hoped that one result of the festival will be that people living in Colorado outside of Denver will cease to think that this city is their enemy and that it is a duty they owe themselves to oppose it in all things.

The truth is that Denver seeks to build up all parts of the state. . . . Very recently Colorado has learned the lesson of self-reliance. It has discovered that it can stand alone and that it does not have to depend upon Eastern money for the development of its resources.

The Festival for 1896 followed, in general, the pattern established by the initial program of 1895. As president, however, William N. Byers replaced Platt Rogers, who continued as a board member. An elaborate sketch of the life of Byers and of his contribution to Denver and Colorado, together with his picture, occupied the first inside page of the *Official Program* for 1896. The placing of Byers in the position of leadership was not only a tribute to his past services as founder and editor from 1859 to 1878 of the *Rocky Mountain News*, the region's pioneer newspaper, and as a moving spirit in all community enterprises, but was also a recognition of the value of his originality and of his energy to the formulation and the execution of Festival plans. Probably the reason he was not

chosen as president in 1895 was that he was out of the city when the Festival was first suggested. R. W. Speer served as "Director-General" in 1896 and as "First Vice-President" in 1897. The Board of Directors included Wolfe Londoner, David H. Moffat, Rodney Curtis, M. J. McNamara, I. N. Stevens, and many another distinguished citizen.

The *Official Program, Second Annual Festival of Mountain and Plain, Denver, Colorado, October 6, 7, 8*, appeared within an attractive green cover ornamented with a shining drawing of a silver serpent. There is a "History" of the festival and a listing of "Points of Interest." As in 1895, the 1896 Festival opened with a "Pageant of Progress." At 7:30 P.M. on Tuesday, the first day, there was a "Street and Trolley Musical" with ten bands "at the same time . . . on illuminated trolleys." The second day provided a Band Contest and a Balloon Ascension and Parachute Jump at City Park, in the morning. In the afternoon "Lord Mayor Argentum Aurum will begin his reign with a monster parade. It will be composed of clubs, societies, individuals, in fancy, humorous and grotesque costumes, all doing homage to Queen Thalia." The Mask Parade wound through the down-town streets, from California and 19th to 17th to Arapahoe. "Here all teams and floats will turn to the right and retire for the day. Individual maskers will turn to the left and be allowed to remain within the district bounded by 15th and 17th streets, Larimer and Broadway until 6 P.M., when all maskers will be compelled to retire from the streets." The second day closed with a "Grand Mask Ball" at Arlington Park, from 8:30 P.M. to 12. "A limited number of seats have been reserved and tickets issued therefor to every subscriber to the Festival fund and to visiting officials and non-residents of Denver." There were 3,200 free seats, also. The third day was "Military Day," with the evening reserved for the "Grand Parade of the Slaves of the Silver Serpent" and the Silver Serpent Ball, which was, according to the *Rocky Mountain News* of October 6, 1896, not connected with the Festival directors and was open only to members and their guests. Even the membership of this society was secret.

The *News* reported that the first day parade was witnessed by 100,000 from Denver and 50,000 from outside the city. The twelve page "Special Colored Supplement" issued with the *News* on October 7 contained drawings of the parade passing the State Capitol, of "historical episodes depicted," and of "prominent floats." Headlines proclaimed: "Carnival Spirit Abides in Breasts of Citizens and Reigns Supreme — Good Nature Proves Contagious and Denver Lives Outdoors." One news story told of the presence of a party of visitors from Omaha, under the heading "On Business — High Officials of Ak-Sar-Ben of Omaha Getting Pointers Regarding Festival Shows." On page sixteen of this issue of the *News*

appeared drawings of the "Queen of the Plains and Ladies of Honor" and of such parade characters as the cowboy and the miner. The officials of the Festival are again praised for their successful efforts.

In order to make the 1897 celebration bigger and better the Board of Directors introduced several new features. As the time drew near they had only the weather and a few small details to worry about. Such is indicated by the following newspaper terms:

President Byers of the festival board almost created a collapse in the crowd assembled at headquarters yesterday by prophesying a rain storm. He based the prognostication upon a telegram from Salt Lake in the morning which told of a heavy rain on the western side of the Rocky Mountains. The storm, however, moved off to the northeast and the only evidence of a disturbance in atmospheric conditions noticed in Denver was a fringe of dark clouds which hung over the range.⁷

Major Hooper reported that the Indians were happy and that twelve good Indians had been found who can be trusted to shoot at the coach without injuring the passengers.

On motion of Mr. Monash the board authorized the purchase of ice and the supplying of ice water to marchers on military day. Six men will be detailed for the duty by the board of public works.⁸

The Festival crowds, including "thousands from Cripple Creek," were delighted by the balloon ascensions of "Aeronaut Abbott" and by the "Fire Laddies" who "dashed down the wide street [Fourteenth] amid cheers." But the outstanding new feature was the "Magnificent 'Bal Champetre', the first ever given in the United States," which began at the Grand Stand at 8:00 P.M., Wednesday, October 6, 1897. "The Grand March, led by Her Majesty Queen Thalia and retinue" was followed by the "Mask Ball," lasting until midnight. It was described as follows in the *Denver Republican* the next day, as a part of a twelve page "Special Edition":

A prettier kaleidoscopic effect than that presented at the "Bal Champetre" in the open air in front of the grand stand last evening would be difficult to conceive. All the jumbling of colors that had preceded it throughout the day was there in a form heightened by the half dozen calcium lights, and the color scheme of the second day was aggravated thereby. It was the first affair of the kind ever attempted in this country, but its success guarantees its repetition at future carnivals.

Five thousand masquers crowded the space in front of the grand stand that had been carpeted with a duck canvas 600 by 40 feet and what pleasure of dancing was lost to the motley crowd was more than compensated by the sight presented to the occupants of the 7,000 seats of the stands.

This outdoor dance was one of the innovations suggested by William N. Byers.⁹ In an editorial in its "Carnival Edition" *The Denver Times*, Wednesday, October 6, 1897, pays the following tribute to Byers:

⁷*The News*, October 3, 1897.

⁸*The News*, October 5, 1897.

⁹*Denver and Vicinity*, Chapman Publishing Co., Chicago, 1898, 145.



MISS LILLIAN HURD, "QUEEN THALIA" OF THE SLAVES OF THE SILVER SERPENT, 1897 FESTIVAL

To the festival board of directors, of which Hon. William N. Byers is president, is due the heartiest encomiums, and the *Times* takes pleasure in tendering its most sincere congratulations upon the magnificent success which has crowned their efforts. President Byers is one of the pioneers of pioneers in Colorado, where he has resided for thirty-eight years. He is a man of commanding executive ability, and has ever been recognized as one of the foremost business men of the state.

The newspaper reports of the 1897 Festival include many columns concerning society events. Queen Thalia, who ruled over the three-day celebration, with a different costume for each day, was

accompanied by a court of "forty or more charming young ladies from the various counties of the state." They occupied boxes at "the brilliant Ball of the Silver Serpent which formed the closing scene of the three days of revelry and splendor with which Denver was enriched in a thousand ways."

The following paragraphs from the *Denver Republican*, Sunday, October 10, contain but a small sample from the many columns devoted to lists of socially prominent participants and to the dresses and jewels worn by the ladies:

It is pleasant to hear on all sides, now that the Festival of Mountain and Plain is all over, for this year, expressions complimentary of Miss Lillian Hurd, who reigned as Queen Thalia over the city during the three days of the carnival. The first day she wore her full court costume. The robes were superb and appropriately were a combination of white and yellow, the carnival colors. The skirt was of heavy ivory satin, the front being embroidered in crystals in an elaborate design, a smaller but similar pattern being on the corsage. The train was about five yards and of heavy satin brocade and lined throughout with yellow satin. The sleeves were of shirred mousseline de soie embroidered in seed pearls. The queen wore her crown, which is of exquisite design and workmanship, in this costume. Her four ladies in waiting, Mesdames M. J. McNamara, W. N. Byers, Sarah S. Platt and J. D. Whitmore, were continuously beside her, besides two little pages.

Society was happily surprised on Thursday evening when at the great fashionable event of the year one of its most charming and popular young members was chosen by the Slaves of the Silver Serpents as their queen for the coming year. Never before did the beautiful Broadway Theater look so well. The decorations were superb. . . Up to the moment the king stepped up to the box in which Miss Louisa Hughes was an occupant and beckoned her to come forward no one had the slightest intimation upon whom the exalted honor was to be conferred.

Those who did not care to attend the "Bal Champetre" on Wednesday night might, according to the *Official Program—1897*, have gone to City Park, there to witness "Unique Indian Dances and Games," described as follows:

The Utes, Weminuches, Moaches and Capotas under the direction of Chiefs Ignacio, Savaro, Buckskin Charley, Julian Buck and Peevig, will give their famous Poco Conta dance, Squaw dance, Kiss dance and Arrow dance by fire-light. The Santa Clara Indians, under the direction of Governor Dolores Domingo, Lieutenant-Governor Pedro Baca and Leandra Tefoya will execute the Eagle dance, the Deer dance and the wonderful Sun dance.

The *Official Souvenir* book, which sold for twenty-five cents, contains pictures of the outstanding floats in the Pageant of Progress parade, of the floats in the Silver Serpent Parade, "designed and built by Robinson Bros., noted in this particular line," and of officials, decorated horse and buggy outfits, "Buckskin Charley and Squaw, Chief of the Utes," "Scenes of Mask Day," "The Chinese Dragon," "Queens and Maids of Honor," etc.

Such was the fame of the Festival that *Harper's Weekly* for October 30, 1897, included descriptions of it, accompanied by a picture of "Procession of October 6 Passing the Grand Stand,"

after a Photograph by W. H. Jackson. Eastern wonder at Western ways was expressed in the following passage:

It wound up with a night procession, when, in the words of a headline artist, "the phosphorescent trail of the Silver Serpent laid an iridescent radiance upon the city, and a brilliance that made the stars sneak behind the clouds" . . . The willingness to take a huge amount of trouble and to spend a good deal of money for annual frolics of this sort is an interesting feature of contemporary Western character. Such ebullitions have never developed on such a scale in New England or in the East. They are of the South and West, and they indicate the presence of a streak of spectacular gayety in the American character on which we have not been much used to count. It means no doubt, a strong infusion of French or German blood.

(To be Continued)

The Legal Status of the Colorado Cattleman 1867-1887*

CLIFFORD P. WESTERMEIER

IN the preceding section of this paper the problems growing out of the cattle drives, and especially those connected with the spread of Texas fever and other diseases, were discussed. This part of the drama of the growth of the cattle industry was only one of the plots of the play. The stage upon which this drama was unfolded was also an occasion for controversy. The land, that is the public domain, was important in this connection not only because of its utility, but also because of its misuse. The desire for the possession of land has always been strong, and the struggle on the Plains for its control was a bitter one.

As has been stated before, the great herds of the cattlemen were spread over the major portion of the West and Northwest and were grazing chiefly upon the public lands of the nation. They were there merely on sufferance and not by right of any grant or permission from the government. There existed in the land laws of the United States a barrier against the purchase of the public lands in the vast extent required to conduct the range and ranch cattle industry. In this country, hostility has always existed against the disposition of the public domain in large compass, whether to one person or to corporations.¹

Now, with the advent of the farmers to the edge of the High Plains, the people of this area realized that the use of the public domain for agricultural purposes was limited. The earlier ideas of agriculture were changing in this new region, and the original land laws of the United States were no longer expedient on these semi-arid and desert lands of the Plains.² The Report of the Public

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¹U. S. Cong. 48: 2, *H. ex. doc.* (ser. no. 2304), 41.

²Osgood, *Cattleman*, 84.

Lands Commission, which was sent out in 1879 to investigate the operation of the land laws in the far West, raised new questions and added much knowledge of the area which for so long had been a mystery.³

In 1868 the Surveyor General of Colorado reported to the General Land Office, "that the Territory has some of the finest pastoral and agricultural lands in the world, and fine food for cattle. Already large herds of cattle and horses are raised on its rich mountain and valley pastures and in a few years stock-raising will be of immense value to the country."⁴ In 1869 C. W. Dilke, an Englishman, traveling in this part of the country, observed, as he passed through Colorado; that "nothing, short of violence or special legislation can prevent the Plains from continuing to be forever that which under Nature's forming they have been—the feeding ground of the World."⁵

The range industry depended upon the success of the stockmen in their efforts to preserve it. The federal government, the proprietor of the public domain, offered little or no assistance, and yet the stockman realized that he was a tenant on sufferance. In the early days of the cattle range, the custom of priority—the idea of squatter sovereignty—met this situation adequately, but that system could only exist while there was enough room for expansion.

At first there was space for all, and when a cattleman found some range or valley which was already occupied, he rode on to seek range elsewhere. When he found it and settled, he had sufficient right to establish himself as proprietor of that area.⁶

Early in the boom the idea developed that a certain area became the accustomed range to be held against all others on the basis of priority. These claims had no legal backing, and the only manner in which a rancher could secure his claim was to get control of the water adjacent to his range. He might have to join forces with his neighbors in the same district and refuse to admit or to cooperate with any new-comers appearing in the region. Water dominated the ranges, and this fact was foremost in the minds of the homesteaders who took up land under the Preemption, Desert Land, and Timber Culture Acts.⁷

In a letter to the Public Land Commission of 1879, a Colorado cattleman describes such a plan:

Wherever there is any water there is a ranch. On my own ranch (320 acres) I have 2 miles of running water; that accounts for my ranch

³United States Congress, 46th Congress, 2nd session, (1879-1880) *House Executive Documents*, "Report of the Public Lands Commission," XXII, No. 46, (cited hereafter as U. S. Cong. 46; 2, *H. ex. doc.* (ser. no. 1923), 243-244.

⁴Report of the Commissioner of Agriculture for the Year of 1868, (ser. no. 1383), 459.

⁵Dilke, C. W., *Greater Britain, A record of travel in English-speaking Countries during 1866 and 1867*, London, 1872, 90.

⁶Osgood, *Cattleman*, 182-183.

⁷*Ibid.*, 183-184.

being where it is. The next water from me in one direction is 23 miles; now, no man can have a ranch between these two places. I have control of the grass the same as though I owned it.⁸

This was an invasion of the public lands already stocked through actual ownership of land along streams. With the gradual encroachment of farmers and actual settlers, the practice of fencing the range lands, and thus converting the so-called range cattle industry into a ranch cattle industry, inaugurated a new method of holding large areas of public domain.⁹

The possession of certain sections of land on both sides of many of the western streams secured for those engaged in the cattle industry the extensive areas of range or public lands, for these were too far removed from the water rights for grazing cattle that belonged to other persons. Various practices were pursued:

... cattlemen tried to make use of the federal land acts and found them poorly adapted to their needs. They probably made the most use of the Homestead act of 1862, but it served them only as they violated the spirit of the law. One hundred sixty acres was not a large enough tract for a good cattle ranch. However, cowboys were usually willing to file on land and, as soon as they had secured a deed, turned it over to their employer for a nominal sum. The Timber Culture act was at first thought to be a desirable law for cattlemen since the trees would protect the stock from storms better than the unwooded regions. They were soon doomed to disappointment since only one person in approximately thirty-two made a success of his timber-culture homestead.¹⁰

Because the land laws already enforced proved to be more adaptable to the interests of the cattlemen, the stock growers agitated for stock-raising homesteads and were summoned to Washington to appear before the Public Land Commission of 1879, there to give testimony concerning an effective land policy.

Albert W. Archibald wrote from Trinidad, Colorado, the following testimony:

I have heard the proposition in regard to the pastoral homestead in New Mexico, and I think that the proposition as suggested by Mr. Romero is a good one; that is, to give 3,000 acres as a pastoral homestead to actual settlers upon the condition that certain improvements be made; ...

My conclusion is that this is a non-agricultural country, and my judgment would be that Colorado and New Mexico are pastoral and not agricultural countries.¹¹

William S. Holt of Colorado Springs, wrote on December 26, 1879, to the Public Land Commission, about the existing land laws in relation to the cattlemen of Colorado:

It has been my experience that the existing laws, so far as the homestead and pre-emption acts go, serve their purpose well, especially since the recent adoption of more stringent rules and regulations... to prevent the perpetration of fraud; and as applied to those sections of the United States (including a small part of Colorado) which are

⁸U.S. Cong. 46; 2, *H. ex. doc.* (ser. no. 1923), 297.

⁹U.S. Cong. 48; 2, *H. ex. doc.* (ser. no. 2304), 45.

¹⁰Peake, Ora B., *The Colorado Range Cattle Industry*, California, 1937, (cited hereafter as Peake, *Range Cattle*), 64.

¹¹U.S. Cong. 48; 2, *H. ex. doc.* (ser. no. 1923), 243.

strictly agricultural lands, I do not believe a better system could be devised, either for the government or the settler. But so far as the bulk of the public lands in Colorado is concerned, those laws are and must remain practically inoperative, for the reason that the land is not worth a tithe of its cost under those acts. . . . They render the practical stock grower necessarily nomadic and prohibit him from surrounding himself and his family with any home comforts and from fencing and otherwise improving the land he occupies but cannot own because the government (with unconscious absurdity) demands that *he* shall pay the same price per acre for lands 20 acres of which will scarce support a single cow and calf per annum as the *farmer* pays for his garden and wheat fields, worth twenty times as much, and of which, if he buy any, he must buy several square miles.¹²

J. C. Jones of West Animas, Colorado, wrote:

I am in favor of the pasturage homestead and I would give each one 3,000 acres, but I think the settler ought to be required to improve the land. There is no hope of this land becoming agricultural land, at least in the portion of the country I live in. . . .

I think these questions of homesteads and disposition of land ought to be attended to right away, for if it is not it will lead to serious conflicts. In fact it has done so already.¹³

When the government failed to pass an act which would provide a legal method by which the cattlemen could secure the range needed for their industry, they concluded that, in order to be assured of pasture and water, they should enclose the public domain. They deduced that, by erecting fences, they were not violators of the law, but rather protectors of it. The range was being overrun with sheep and cattle, moving from one county to another in search for new forage. Because of this constant moving, the cattlemen avoided paying taxes, and they contended that, by saving some fresh pasture for the winter, they could feed the stock more successfully. This was a humane act. Some regarded it as a move toward improvement of breed in that the pure-blooded stock was protected from inferior, free-ranging breeds.¹⁴

This practice caused a great deal of comment. In a letter to H. M. Teller, one Posey Wilson wrote:

The Government is liberal with her lands, giving a quarter section by pre-emption, as much more by homestead act, an equal lot as timber claim, and a whole section under the desert act—a total of 1,120 acres, *But men are enclosing areas equal to small kingdoms and, contrary to law, are hiring men to pre-empt.*¹⁵

Another settler wrote:

I am engaged in sheep-raising with 5,000 sheep, depending upon the public range for their subsistence. My ranch is located near to cattlemen that claim the entire range for 15 miles square. Those cattlemen herein mentioned have threatened to take my life should I persist in ranging within what they call their range. Those cattlemen are riding daily over this range and are armed with rifles which they say will be used if their orders are disobeyed.

¹²*Ibid.*, 284-285.

¹³U. S. Cong. 48: 2, *H. ex. doc.* (ser. no. 1922), 288.

¹⁴Peake, *Range Cattle*, 63-70.

¹⁵United States Congress, 48th Congress, 1st session, *Senate Executive Documents*, "Letters of the Commissioner of the General Land Office on the subject of unauthorized fencing of public lands," VI, no. 127, (cited hereafter as U. S. Cong. 48: 1, *S. ex. doc.* (ser. no. 2167), 18.

They have said in no way will they proclaim themselves peaceful otherwise than allowing by special contract certain portions of the public domain for my grazing purposes. * * * A few days ago while driving along on the public highway I met in congress with five cowboys, and before the chaplain had time to offer prayer the speaker commenced pounding me over the head with a large six-shooter, exclaiming at the same time, "Move from my range to-day or I'll see that you do it tomorrow," at the same time pointing his revolver at me.

If possible, would be pleased to have your private opinion regarding those cowmen letting contracts for public range, whether legal or illegal.¹⁶

In the Annual Report of the Commissioner of the General Land Office of 1882, there are several serious complaints of fraud under the shield of Preemption, Homestead, and Timber Culture Laws. Letters received at this office from many persons and reports . . . "disclose the fact that unlawful proceedings of this character are carried on to a great extent, and future serious trouble is apprehended between settlers and residents and the 'cowboys,' as employees of the stockmen are called."¹⁷

Another report by George W. Fairfield, the Deputy United States Surveyor for Nebraska, reveals the following facts:

The whole country embraced in my contract is occupied and run by capitalists engaged in cattle raising, who have hundreds of miles of wire fence constructed to inclose all desirable land, including water-courses, to form barriers for their cattle and prevent settlers from occupying the land. They also represent that they have desert and timber claims upon the land they have inclosed.

Upon their fences they have posted at intervals notices as follows:

"The son of a bitch who opens the fence had better look out for his scalp."

The fences are built often so as to inclose several sections in one stock ranch, and the ranches are joined together from the mountains clear around to the mountains again.

Persons going there intending to settle are also notified that if they settle on land the ranchmen will freeze them out; that they will not employ a man who settles on or claims land; and that he cannot get employment from any cattlemen in the whole country. They will not even allow their men to take on Government land.¹⁸

A ranchman by the name of H. H. Metcalf of River Bend, Colorado, made no denial that he had enclosed public land. Before H. C. St. John, a special agent to the Commissioner of the General Land Office, he made a statement which the agent sent to Washington:

[He] admitted to me at the United States land office in Denver, Colo., and in the presence of Louis Dugal, register, that he (Metcalf) had 200,000 acres of public land inclosed, which fence cost him \$13,000.¹⁹

¹⁶U. S. Cong. 48: 1, *S. ex. doc.* (ser. no. 2167), 26.

¹⁷*Annual Report of the Commissioner of the General Land Office for 1882*, 13.

¹⁸United States Congress, 48th Congress, 1st session, *House Executive Documents*, XXVI, pt. ii, no. 119 (cited hereafter as U. S. Cong. 48: 1, *H. ex. doc.* (ser. no. 2206), 2.

¹⁹U. S. Cong. 48: 1, *S. ex. doc.* (ser. no. 2167), 45.

The Annual Report of the Commissioner of General Land Office for 1883, says in part: "foreign as well as American capital is understood to be largely invested in stock-raising enterprises involving unlawful appropriation of the public lands. Legal settlements by citizens of the country are arbitrarily prohibited, public travel is interrupted, and complaints have been made of the detention of mails through the existence of these inclosures."²⁰

From the *House Reports* of the Forty-eighth Congress, comes the following:

One titled gentleman, the Marquis de Morales, has a large inclosure in Dakota of the public lands, maintained by his retainers as against American citizens. . . .

The official reports show that some of these inclosures are controlled by foreign capitalists exclusively, such as the Arkansas Cattle Company, one million acres; the Prairie Cattle Company (Scotch), upwards of a million acres; the Carlisle Cattle Company (English), in Colorado; the Wyoming Cattle Company (Scotch) in Wyoming, and numerous others, the data as to area not being given. In Wyoming alone it appears that upwards of 125 corporations have large areas of the public land inclosed.²¹

An investigation, conducted by the federal government, of the practice of illegal inclosures of public domain brought a wealth of information to the Department of the Interior in the form of letters from settlers. Among the illegal practices, inclosure was the most prevalent. Concerning it, N. C. McFarland, who was Commissioner to H. M. Teller, the Secretary of the Interior, wrote: "It appears also, in some cases, that lands so fenced in are parcelled out according to the number of the cattle possessed by individual ranchmen, and the right to herd upon such public lands leased to them for a money consideration."²²

The report continued later:

Another system of fraud was even more "barefaced," inasmuch as a party entitled to but two quarter sections only, leaving one-half of a school and one-quarter of a State section, deliberately fenced in a tract of public land extending from the river two and a half miles south, and easterly four miles, embracing a territory from the "public domain" of six entire sections of the very best land, of which all but one and one-quarter sections was public property, and so secure did this party deem himself in the assistance and influence of others engaged in a similar and unwarranted act, that he had the effrontery to not only refuse permission to a neighboring settler to put a gate into the fence thus on public property (he wanted it to get his cattle out, when they got into this inclosure by way of the river), but forbid his entering, and when this settler (now a magistrate) did so, sued him for "malicious damage," but compromised after the case had come to trial; and this same party claims "that he has a right to inclose and reserve all of the 'public domain' that he can afford to put a fence around."²³

²⁰Annual Report of the Commissioner of the General Land Office for 1883, 30.
²¹United States Congress, 48th Congress, 1st session, *House Reports*, V, no. 1325 (ser. no. 2257), 6.

²²United States Congress, 47th Congress, 2nd session, *Senate Executive Documents*, III, no. 61 (cited hereafter as U.S. Cong. 47: 2, S. ex. doc. (ser. no. 2076), 4.

²³U.S. Cong. 47: 2, S. ex. doc. (ser. no. 2076), 29-30.

A system of fraud is also revealed in the letter of Peter Willhour, who wrote the following:

"Then there are another class of stockmen who drive in their stock and bring their herders, who will take claims and perhaps do a small amount of plowing, and dig a hole in the ground and cover it with a few boards and call it a house; and under the present law, allowing a claimant to make final proof in six months, they will prove up and transfer the land to the owner of the stock, who will secure a loan upon the land as security and pay the interest for a few years to have a range for their stock, and when they need the range no longer they stop paying the interest, and the mortgage is foreclosed and the land becomes the property of the mortgagee; consequently remains unsettled and held by a speculator to the detriment of the actual settlers."²⁴

In the Act of March 3, 1867, the lands of the United States, by whatsoever title acquired, could not be occupied, possessed or settled, without consent of the United States. The titles of intruders were to be forfeited.²⁵ This law authorized "the President to direct the Marshal of the proper district to remove unlawful boundaries placed on the public land, . . ."²⁶ Still, with all the evils and frauds that had been going on in relation to enclosing the public domain, N. C. McFarland wrote to the Secretary of the Interior: "I have hesitated to recommend the summary exercise of the power vested in the Executive by this act, although it may become necessary to invoke that authority."²⁷

By 1884 thirty-two cases of illegal fencing of public lands revealed that the area enclosed in these cases aggregated 4,431,980 acres.²⁸ Another report given out by the Commissioner of the General Land Office for 1887, disclosed the astounding figures of 465 enclosures aggregating nearly 7,000,000 acres.²⁹ Of the 193 cases of illegal fencing in Colorado in 1885, the largest number of violations were in Pueblo, Bent, Fremont, Las Animas, Arapahoe, Park, El Paso, La Plata, Elbert, Larimer, Weld, and Huerfano counties.³⁰

By 1883 the Department of the Interior sanctioned the destruction of the illegal enclosures by persons who desired to make genuine settlements on the enclosed tracts, but were prevented from doing so by threats of violence, or by the fences. It did not, however, offer any assistance if the threats of violence developed into action.³¹

²⁴*Ibid.*, 12. The Supreme Court of the United States in the case of *Atherton vs. Fowler* (6 Otto, 513), and the subsequent cases of *Hosmer vs. Wallace* (7 Otto, 575), and *Trenouth vs. San Francisco* (10 Otto, 251), has held that no right of pre-emption can be established by a settlement and improvement on a tract of public land which is in the possession of one who has inclosed, settled upon, and improved it.

In *Hosmer vs. Wallace*, the court says: "To create a right of pre-emption, there must be settlement, inhabitation, and improvement by the pre-emptor, conditions which cannot be met when the land is in the occupation of another." United States Congress, 47th Congress, 2nd Session, *House Miscellaneous Documents*, (1882-1883), XIX, (ser. no. 2158), 1169.

²⁵United States Statutes at Large, II, 445.

²⁶Annual Report of the Commissioner of the General Land Office of 1882, 12.

²⁷*Ibid.*, 14.

²⁸Report of the Secretary of the Interior for 1884, I, (ser. no. 2286), 17.

²⁹Annual Report of the Commissioner of the General Land Office for 1887, 457.

³⁰Report of the Secretary of the Interior for 1885 (ser. no. 2378), 470-471.

³¹Annual Report of the Commissioner of the General Land Office for 1883, 30.

Congress, on February 25, 1885, approved an act which gave the President the power to remove and destroy unlawful enclosure on the public domain. Those who violated the provisions of the act were guilty of misdemeanor and liable to a fine not to exceed one thousand dollars and imprisonment not to exceed one year for each offense.³²

On August 7, 1885, the President issued a proclamation and made use of his authority to remove all such fences. He said, "Now therefore, I, Grover Cleveland, President of the United States, do hereby order and direct that any and every unlawful enclosure of the public lands, maintained by any person, association or corporation, be immediately removed."³³

The decree was particularly irritating because it became effective two weeks after the President ordered the removal of all stock from the Cheyenne-Arapahoe reservation in the Indian Territory. "The stockmen of Colorado were afraid that the cattle would be trailed to their ranges, which were already overstocked and badly burned. The number of cattle driven from the Indian Territory had been estimated at between two hundred ten thousand and three hundred thousand."³⁴

During the year of 1886, a feeling of impending danger and uneasiness prevailed in the range cattle industry. Enormous losses in the southern ranges during 1885-1886, strengthened this sense of disaster. With crowded ranges, the area experienced one of the severest winters in history, and stockmen in this area lost about 85 per cent of their herds. By the fall of 1886, the cattlemen of the northern ranges were in a panic, for depression had struck the Chicago markets and the price of beef began to decline. The southern stockmen had no demand for cattle and increased the panic by trying to sell out. It was, however, the winter of 1886 that completed the debacle of the range cattleman, for late in January 1887, following severe snow storms which covered the forage, a blizzard, such as never before had been experienced, swept the range. The herds of cattle perished in appalling numbers. Disaster had come.³⁵

The range cattle industry had received its severest blow. Confidence in the old range methods was gone and never again would stockmen take chances which at one time were regarded as a part of the business. The larger the stock holder, the larger the loss. The range was no longer safe, nor could it be trusted to reestablish the industry as it had been carried on in the past.

As the range cattle industry spread northward, the stock growers' association was one, among others, that came into existence. In Colorado the cattleman realized the necessity of unified common

³²United States Statutes at Large, XXIII, 321-322.

³³United States Statutes at Large, XXIV, 1025.

³⁴Peake, *Range Cattle*, 75-76.

³⁵Osgood, *Cattleman*, 217-219. Dale, E.E., *The Range Cattle Industry*, Norman, Oklahoma, 1930, 108.

action when the Texas herds became so important that they influenced legislation in the territory. As these great herds moved northward, they had to pass through Colorado, and in their course they came in contact with those in Colorado. The herders drove along indifferently; they neither noticed nor cared whether their trail herds increased in size as they moved northward.

As early as 1872, Colorado could boast of two stock associations. These were the Colorado Stock Growers' Association which had been organized in 1867, but was not important until 1872, and the Southern Colorado Association. The members of the former association soon made it obvious that state and territorial lines did not limit the cattle industry and they invited the cattlemen of the border territories to meet with them. At this meeting in 1873, they drew up plans for directing roundups, for checking stock thieves, and for a system of brands. Common bonds of interest between the stock growers of Colorado and Wyoming brought sixteen delegates from that northern territory to this meeting.³⁶

The cattleman's organizations, in their untiring efforts, solved many of the difficulties that were omnipresent in cattle raising on the range. These efforts had a great effect on the political and social life of their respective districts. The cattleman appeared to be a law-abiding citizen, but because some problems could not be solved under law, he resorted to illegal action.³⁷

The Colorado range cattle industry profited much from the many cattle ordinances, laws, and regulations enacted by the General Assembly. There were local ordinances passed by the various cities and towns to control and to impound wandering stock. There were state laws regulating the roundups, estrays, branding, breeding, and punishment for cattle thieves. A law was enacted to regulate tolls for cattle-moves on private roads, bridges, and through mountain passes. Taxes were levied on non-residents who desired grazing permits for their cattle. The assembly organized a system of collecting funds to be expended for the eradication of poison weeds and plants and for the destruction of predatory animals. When the railroads took too great a toll of the stock, legislation was passed which made the companies liable for killing or injuring the animals.

In the majority of cases the laws and ordinances were propitious to the cattleman. His industry was protected in every legal way, and was thereby, in time, stimulated in its growth. These laws and ordinances were typical throughout the West during that time and in many cases they are fundamental in the legislation regulating the ranch cattle industry of today.

The range cattle industry was probably the last of the great

³⁶Osgood, *Cattleman*, 118-119.

³⁷*Ibid.*, 124.

frontier activities that actually grew out of the environment and its inhabitants, both animal and human. It developed with amazing rapidity, it grew to an almost unwieldy size, and it occupied probably more territory than any other single industry in this country.

The various problems that arose came from within the industry itself. The presence of cattle disease was, without doubt, the first factor that evoked a series of events in such magnitude that they involved territorial, state, federal, and foreign legislation for protection against it.

Colorado had an unusual position in relation to the range cattle industry. It was directly in the path of the cattle-moves from south to north and, at the same time, it was in the path of the advancing farmer. The advent of the farmer was the second factor that caused difficulties. The conflict that developed from these two opposing forces — the cattleman and the fenced public domain on the one hand, and the farmer and his desire for agricultural plots on the other — resulted in a series of situations that were unique and at the same time, when solved, were natural decisions. The position of the cattleman was one protected by law; however, nescience on the part of the federal government in understanding the problems of the man, the beast, and the environment and negligence in initiating measures to remedy these variations caused the cattleman to resort to illegal activities in order that he might survive.

The range cattle industry came to an unfortunate end because of ambitious over-expansion, an outmoded system of cattle raising, and the natural violence of environment.

The First Five Years of Colorado's Statehood 1876-1881

DUDLEY TAYLOR CORNISH*

THE CENTENNIAL STATE

THE fourth of July, 1876, was a Glorious Fourth indeed. The American nation was celebrating its one hundredth anniversary, and all over the country there were monster parades, mammoth community picnics, mass meetings and speeches: plenty of noise, plenty of food, and plenty of Americans. Out in the Territory of Colorado there were celebrations, too; the same picnics and parades and speeches, but with a difference. The people of Colorado were celebrating not one but two events of great significance to them: the one hundredth anniversary of the signing of the Declaration of Independence, of course—and also Colorado's entrance to statehood.¹

Three days earlier the people of Colorado had ratified their state constitution by a majority of 11,381: 15,443 for, and 4,062 against. In relation to the population of the aspiring state, this was an "unexpectedly light" vote.² President Grant lost no time in preparing his proclamation,³ and on August 1, 1876, one month to the day after the ratification of her constitution, Colorado became the Centennial State.

The new state was full of promise and buoyant with high hopes. The hopes were well founded, and the promise was to prove far from illusory. Consider only the dry statistics of the Tenth Census; compare only the figures of 1870 with those of 1880. In that one decade, Colorado's population increased nearly five-fold, from 39,864 to 194,327.⁴ It is Dr. LeRoy Hafen's estimate that nearly half this increase was acquired after 1876.⁵

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¹The *Denver Weekly Times*, July 5, 1876, exclaimed, "we celebrate the progress of the hundred years, and the good start [the men of 1776] gave us. Here in Colorado we do more. We celebrate our emancipation from parental control and discipline, and step into the family of states on equal footing with all. Colorado stretches forth her hand across two thousand miles of land and a hundred years of time, and thanks the men of the revolution for that action which has made her existence possible. We... express our thanks... and rejoice, not only over the success of the past, but revel in bright anticipation of the future." For an account of another jubilant Colorado celebration, see the *Boulder Colorado Banner*, July 6, 1876.

²Frank Hall, *History of the State of Colorado*, 4 vs., Chicago, 1889, (cited hereafter as Hall, *History*) II, 328. He points out as reasons for this light vote that "the farmers were just then occupied with preparation for harvest, and the miners were in the midst of the busiest season of the year."

³James Daniel Richardson, ed., *A Compilation of the Messages and Papers of the Presidents, 1789-1902*, 2d ed., 11 vs., Washington, 1903, VII, 392-4.

⁴*Compendium of the Tenth Census (June 1, 1880)*, in two parts, Washington, 1883, (cited hereafter as *Tenth Census*), I, 2-4.

⁵LeRoy R. Hafen, *Colorado, The Story of a Western Commonwealth*, Denver, 1933, (cited hereafter as Hafen, *Colorado*), 220.

But the progress of states cannot be measured by numbers of people alone; there must be agriculture, industry, and resources to attract and to hold the people. The new state had all of these. The farms of Colorado numbered only 1,738 in 1870, and they were valued at only \$3,385,748. Ten years saw them grow to 4,506 with a value of \$25,109,223.⁶ That these were productive farms is indicated by the following table:⁷

	1880	1870
Barley	107,116 bushels	35,141 bushels
Indian corn	455,968 bushels	231,903 bushels
Oats	640,900 bushels	332,940 bushels
Wheat	1,425,014 bushels	253,474 bushels
Wool	3,197,381 pounds	204,925 pounds
Hay	85,062 tons	19,787 tons
Irish potatoes.....	383,123 bushels	121,442 bushels
Horses	42,257	6,446
Mules and asses	2,481	1,173
Working oxen	2,080	5,566
Milch cows	28,770	25,017
Other cattle	315,989	40,153
Sheep	746,443	120,923

Clearly, Colorado was a "land of milk and honey." Even the production of butter increased out of all proportion to the increase in dairy cattle: from 392,930 pounds in 1870 to 860,379 pounds in 1880.⁸ Pasturage was good in the West.⁹ The oxen that had hauled the Conestogas across the plains were dying out, but the number of horses had increased almost sevenfold. Cattle and sheep ranching had become big industries.

There were other industries on the scene, too. The number of manufacturing firms in the state was a mere 256 in 1870, as against 599 ten years later. In that decade, their evaluation had risen from \$2,835,605 to \$4,311,714, while the total value of their products had increased over five-fold, from \$2,852,820 in 1870 to \$14,260,159 in 1880.¹⁰

In the van of Colorado industry were ninety-six lumbering concerns, sawing and planing mills; the estimated value of all their products in 1879 was \$1,051,295.¹¹ Forty-six firms were engaged in the manufacture of brick and tile, with a total production valued at \$605,128. Their products included, in 1879, 65,628,000 common brick, 13,725,000 pressed brick, and 4,040,000 fire brick.¹² Among the state's industrial leaders in 1880 were thirty-four flour and grist mills, twenty-three brewing concerns,

⁶Tenth Census, I, 650, 658.

⁷Compiled from *Ibid.*, I, 660, 662-3, 665, 667-8, 672, 675-80.

⁸*Ibid.*, 682.

⁹Frank Fossett wrote that "Colorado is one of the best grazing regions of the world." *Colorado; Its Gold and Silver Mines, Farms and Stock Ranges, and Health and Pleasure Resorts. Tourists' Guide to the Rocky Mountains*, 2d ed., New York, 1880, (cited hereafter as Fossett, *Colorado*), 182. Fossett had much to say, too, on the importance of irrigation to agricultural expansion, a subject of which the newspapers of the period were uniformly full. "Irrigating canals and ditches of great extent and value," Fossett wrote, "are constructed every year, and each season sees thousands of acres of land reclaimed and made valuable." 165.

¹⁰Tenth Census, II, 928-9.

¹¹*Ibid.*, 1163.

¹²*Ibid.*, 1107.

twenty manufacturers of saddlery and harness, seventeen foundries and makers of metal shop products,¹³ sixteen bakeries, and fourteen slaughtering and meat-packing houses.¹⁴



JAMES B. BELFORD

Mining was the state's primary industry. It was gold in the Pike's Peak Country that had started the rush in 1859, but by 1880 Colorado stood in fourth place among the gold-producing states. Silver had moved into first importance. Gold was still mined in large quantities, but its value was dwarfed by that of the silver produced. Dr. Hafen says that even Colorado's lead exceeded its gold in value: during the decade of the eighties, lead brought over five million dollars a year, gold less than four million, while silver averaged fourteen million annually.¹⁵ In 1880, Colorado stood first among the states in silver production; Leadville and the other boom towns dug 12,800,198 ounces from their rich veins, a bonanza worth \$14,549,274.¹⁶

Colorado coal mines were being opened up and developed, too. Railroad building encouraged coal production; so did the construction of smelting works, in which coal replaced charcoal. Excellent beds of coking coal were discovered near Trinidad,¹⁷ which in turn encouraged iron production in Pueblo, the home of Colorado Coal

¹³Colorado heavy industry produced 4,500 tons of iron rails worth \$225,000 in 1879. *Ibid.*, 1149.

¹⁴*Ibid.*, 950. The total value of Colorado's meat products was \$1,082,690 in 1879. *Ibid.*, 1187.

¹⁵Hafen, *Colorado*, 235-6.

¹⁶Tenth Census, II, 1231. Nevada, the Silver State, produced 9,614,561 ounces worth \$12,430,667 to rank second.

¹⁷The Denver *Weekly Times*, March 19, 1879, reported that seventy ovens for the manufacture of coke "are in operation near Trinidad and El Moro. Thirty more will be completed by the first of May."

(later Fuel) and Iron Company. In 1870, Colorado miners dug 13,500 tons of coal; in 1880, 462,000 tons. Production was to pass the million ton mark two years later; by 1890 over three million tons were being mined every year.¹⁸

Communication and transportation are always primary needs of any growing community. Colorado's needs were very great, particularly with the opening of more and more mines and smelters. Heavy machinery had to be moved into the mountainous mining regions; the rich ores had to be moved out. In addition, there was the problem of supplying the every day "necessities"—flour, beans, meat, salt, and liquor—to support the rigorous life of the miners, timbermen, and all the nondescript army that had invaded the fabulous Rockies.

Wagon roads replaced the early mule trails; stage lines carried the mail and the more affluent adventurers and tourists, and railroad building forged ahead. Frank Fossett, writing in 1879, said, "although railway building has almost ceased in every quarter since . . . 1873, this is one of the few states where it is still vigorously prosecuted. During the past three years the mileage has been nearly doubled, and is still being increased."¹⁹ In 1876, the Atcheson, Topeka, and Santa Fe completed their road west as far as Pueblo, thus providing Colorado's third rail outlet to the East. The following year saw the Colorado Central extended into Clear Creek County as far as Georgetown, and north from Longmont to join the Union Pacific at Cheyenne. Meanwhile, the Denver and Rio Grande pushed its steel over the Sangre de Cristo mountains to Garland and on to Alamosa on the Rio Grande. In 1878 the Atcheson, Topeka, and Santa Fe moved south over the Raton Mountains into New Mexico, at the same time fighting a war with the Denver and Rio Grande over the Grand Canyon route to Leadville. In the same year, the Denver and South Park ran up the Platte canyon and into Hall valley. By 1879, Denver had become, as Fossett pointed out, "the center of a system of railways radiating in all directions."²⁰ In early 1879, Colorado could boast of 1,218.6 miles of railroad, a gain of 174 miles over the previous year. Of this total, almost two-thirds, or 758.16 miles, were standard broad gauge, with the remaining 460.44 miles narrow gauge.²¹

The newspapers of Colorado during this period, particularly during the three years Fossett referred to, are full of railway news and of discussions of projected lines. One Denver paper, in reviewing the progress of 1877, stated with good reason: "there is nothing in which our people take so much interest as in railroads and rumors of railroads."²² One of the most colorful chapters in Colorado's

¹⁸Hafen, *Colorado*, 238.

¹⁹Fossett, *Colorado*, 151.

²⁰*Ibid.*, 149.

²¹*Ibid.*, 158.

²²Denver *Weekly Times*, January 2, 1878.

history is the development of its railroads. Frank Hall, who saw much of this history made at first hand, has several illuminating chapters on railroad building in his well-known *History of Colorado*;²³ his narrative of open warfare between the Atcheson, Topeka, & Santa Fe and the Denver & Rio Grande is especially lively and instructive.²⁴

Besides agriculture, industry, and means of transportation, a growing population needs room for expansion. That Colorado was expanding is indicated by the increase in the number of counties in the seventies: from twenty-one in 1870 to thirty in 1879.²⁵ Now, there was plenty of room for expansion in Colorado in the first decade of statehood, but the Western Slope was more inviting than the dry plains to the east or the rugged passes of the Big Thompson and the Continental Divide. The white settler—and the white miner—hankered after the lands along the Silvery San Juan and the White River. The Ute Indians who lived on those lands under government protection were the last barrier to the settlement of the vast expanses of Colorado beyond the mountains. As a Denver newspaper pointed out in August, 1879, "the whites will go wherever they can find gold and silver, and that is all there is to it; and unless the matter can be satisfactorily arranged between the two races, it is only a question of time when a conflict will occur."²⁶

Forces had long been at work to effect final and complete removal of the Indians from the state,²⁷ but a satisfactory arrangement between the two races was difficult to achieve. In September, 1879, the Utes themselves brought things to a climax with the double tragedy of the Milk Creek ambush and the Meeker massacre.²⁸ By the end of 1881, the Indian menace was well on the road to oblivion, and Colorado was on a clear, unobstructed highway to expansion.²⁹

The foregoing is a rapid survey of the new state showing the major forces at work there: the farming and ranching interests, expanding railroads, rapidly developing industry, fabulous mining activities, and always the white settlers and miners pushing on to new lands and seeking new lodes, irresistibly pushing the red men before them.

The Centennial State was on the last frontier. It was a mining state, a farming state, a cattle and sheep ranching state, but more than all these it was an industrial state. An industrial state on the frontier seems paradoxical. But Leadville was almost as near the White River agency where Meeker died as it was to the bustling and brawling metropolis of Denver. Before the Utes had been moved

²³In Volume II, Chapters XVII-XIX.

²⁴*Ibid.*, II, 383-405.

²⁵Fossett, *Colorado*, 588, 590.

²⁶Denver *Weekly Times*, August 20, 1879.

²⁷Percy S. Fritz, *Colorado, the Centennial State*, New York, 1941, 283 ff.

²⁸*Ibid.*, 286-9.

²⁹*Ibid.*, 291. Cf. Hafen, *Colorado*, 210-13.

out to the Uintah reservation in Utah, Governor Pitkin had been prevailed upon to declare martial law in Leadville, not because of any Indian menace, but because of a miners' strike for higher wages and shorter hours.³⁰ Even the passing of Calamity Jane was recorded among highly partisan political editorials, discussions of railway expansion, and heated arguments for coinage in the Denver mint.³¹

THE BELFORD-PATTERSON CONTROVERSY

As soon as President Grant had proclaimed Colorado a state on August 1, 1876, political parties began preparation for the election of state officials and representatives in Congress.³² The Republicans organized at Pueblo, August 23, and chose James B. Belford of Gilpin to run for the House. John L. Routt, the last territorial governor, led the state ticket.³³ The Democrats held their convention at Manitou six days later and named Thomas M. Patterson their congressional candidate and General Bela M. Hughes for governor.³⁴



THOMAS M. PATTERSON

After an active campaign in which Henry and Willard Teller worked hard for the Republican slate,³⁵ their party made a clean

³⁰Hall, *History*, II, 460-64.

³¹Denver *Weekly Times*, August 28, 1878.

³²The Denver *Weekly Times*, July 12, 1876, accurately forecast a bitter contest: "the unity of purpose and action which characterized Republicans and Democrats and induced them to coalesce and make common cause for the adoption of the State constitution, will soon give place to party strife and antagonism . . . all the greater that the offices to be controlled by the successful party comprise the most important within the gift of the people of a State . . . so evenly divided are the parties supposed to be that no effort will be left untried to carry the State."

³³Hall, *History*, II, 330-1.

³⁴*Ibid.*, 332. Denver *Weekly Times*, September 6, 1876.

³⁵Hall, *History*, II, 333-4.

sweep on October 3. The Republican state ticket won by a large majority; the party controlled each branch of the legislature,³⁶ thus insuring the choice of Republican senators. The selection of a Representative was not such a simple matter.

The original plan was to hold the election of a representative to the Forty-fourth Congress, Second Session, on October 3. Territorial Secretary John Taffe issued his proclamation of this election on August 31.³⁷ Then, in mid-September, the Denver *Times* announced:

As will be seen by advertizements printed today, the powers have decided that there is no authority for electing a member of Congress on the 3d of October except for the unexpired term of the 44th Congress, and have accordingly issued a proclamation for an additional election on the 7th day of November, to choose a member of the 45th Congress. There are some nice points included in this decision, and it is not clear to us exactly how we can hold our election on the 7th of November when we have no provision among our statutes for an election upon that day. In the doubt which exists, our advice would be for each party to vote for a member of the 45th Congress on the 3d of October, as heretofore intended. Then if it should be decided that the second election, on November 7, is invalid, we will not lose our representation.³⁸

The Republican state committee chairman, J. C. Wilson, approved the *Times*' suggestion, but Hugh Butler, Democratic state leader, insisted that two elections should be held.³⁹ "This course has been decided upon by the Democratic State Central Committee," the *Times* explained, "and if both parties acted thereon, there could be no danger of injury to either candidate or to Colorado."⁴⁰ But both parties did not act thereon, choosing rather to accept the *Times*' earlier advice. Accordingly, the tickets for the October election contained the names of both candidates for both Congresses.⁴¹

In his campaign, Patterson emphasized the distinction between the October and November election.⁴² It is obvious that there was considerable misunderstanding among Routt's territorial administration as to exactly when Colorado should elect her representative to the Forty-fifth Congress. Whatever the understanding of the voters, the results of the October election were these:⁴³

44th Congress: Belford, 13,302; Patterson, 12,865;

45th Congress: Belford, 13,532; Patterson, 12,544.

It looked as if Belford had been elected to both Congresses, but Patterson argued that the October vote for the Forty-fifth Congress was invalid. Patterson insisted that he would be a candidate in the

³⁶*Ibid.*, 334.

³⁷Denver *Weekly Times*, September 13, 1876.

³⁸*Ibid.*, September 20.

³⁹*Ibid.*, September 27.

⁴⁰*Ibid.*

⁴¹Congressional *Record*, 45th Congress, 2 Sess., VII, Pt. 1, 194.

⁴²Hall, *History*, II, 332.

⁴³*Ibid.*, II, 336.

November election already announced.⁴⁴ At first, the Republicans planned to oppose Patterson in this election; this is clearly indicated in a letter, dated October 10, sent to Republican party workers by State Chairman Wilson.⁴⁵

Then, Governor Routt, Jerome Chaffee, and others in the Republican organization met about mid-October⁴⁶ and decided that there was no authority in the Enabling Act for the November election. Secretary Taffe revoked his previous proclamation,⁴⁷ and party leaders withdrew Belford's name from the previously anticipated contest.⁴⁸

The Democrats argued that "an election must take place in November, or we shall lose our representation in the next Congress," and proposed to "get out as large a Democratic vote as possible and give Mr. Patterson a claim for a seat."⁴⁹ Patterson refused to withdraw, continued to campaign, and took almost all the votes cast in November. He found no opposition at the polls,⁵⁰ but he found plenty when he took the returns to the state election board: they refused to canvass, holding that the election had not been official.⁵¹ To any ordinary candidate, this would have been discouraging, but Patterson was an Irish politician. When Belford went east to claim his seat in the Forty-fourth Congress, Patterson went east, too.⁵²

Meanwhile, the state legislature met and chose Henry M. Teller and Jerome B. Chaffee as Senators.⁵³ According to plan, Colorado had come in as a Republican state, and three strong Republicans reported to the second session of the Forty-fourth Congress when it convened on December 4, 1876. The Senate was under Republican control; Chaffee and Teller were immediately sworn and seated.⁵⁴ But the House was under Democratic control, and Belford found no welcome. If the representative-elect from Colorado

⁴⁴*Ibid.*

⁴⁵*Ibid.*, II, 337. Cf. *Congressional Record*, VII, Pt. 1, 159.

⁴⁶*Ibid.*, II, 338-9.

⁴⁷The *Denver Weekly Times*, October 18, 1876. The notice, dated October 16, includes this enlightening phrase: "it appears upon further examination that there is no law or statute authorizing the said proposed election to be had, or any election to be held in the State of Colorado at that time..."

⁴⁸The *Boulder Colorado Banner*, October 19, 1876, sneered: "Republicans say that they will not take part in the coming campaign. Don't let Democrats be fooled by this." The *Banner* continued to run Taffe's proclamation of the November election, in complete disregard of his withdrawal notice.

⁴⁹*Denver Weekly Times*, October 18.

⁵⁰The *Denver Times* reported, November 15, that Patterson had a majority of 527 over all competition in Denver districts; Belford had only 14 votes to Patterson's 547.

⁵¹Hall, *History*, II, 339. The *Denver Times* reported, November 15, that "two of the judges of the late one-sided election brought ballot boxes to the county clerk's office to be deposited. Officials gave the parties permission to leave them if they thought proper, declining responsibility."

⁵²Patterson seems to have gone through a period of indecision at this time: on his way east he told a *Kansas City Times* reporter that he intended to take his seat in the 44th Congress as the delegate from the Territory of Colorado until it was recognized as a state; later, on his return from Washington, Patterson maintained that he had refused to sit as territorial delegate since that action might have thrown doubt on Colorado's claims to statehood. *Denver Weekly Times*, December 6 and 20.

⁵³The *Denver Times*, November 22, predicted, with its usual prescience, a great political future for Teller.

⁵⁴*Congressional Record*, 44th Congress, 2 Sess., V, Pt. 1, 1, 2.

thought he had left his political battles behind him, he was soon proved wrong.

The Democratic objection to Belford's being seated was not personal. The Hayes-Tilden controversy was already tearing the country, and the new state—if, indeed, it was a state, which the Democrats denied—brought with it three good Republican votes in the Electoral College.⁵⁵ In a desperate effort to deny Hayes those three votes—the three votes that later decided the presidency of the United States—the Democratic majority in the House referred the Belford matter to the Judiciary Committee to have it decide whether or not Colorado had been legally admitted as a state.⁵⁶ The Democrats based their case on the technical argument that the Enabling Act was unconstitutional, because, by delegation to the President of authority to pass on the republican character of Colorado's constitution, it conferred judicial powers on him; and by permitting him to admit the state, it gave him powers reserved to Congress.⁵⁷

The Judiciary Committee decided on December 12 by a vote of seven to three to admit Belford. Two reports were brought into the House on January 3, 1877 (the holidays having intervened), one favorable, the other unfavorable, to Colorado and her elected representative.⁵⁸ Both reports were recommitted, but finally, on the last day of January, the majority report was taken up, and Belford was seated to serve the short balance of the session, to March 3.⁵⁹

The following October, Belford presented his credentials signed by Governor John Routt to the Forty-fifth Congress.⁶⁰ Patterson was also in Washington, without credentials signed by the governor, to be sure, but with the abstract of votes cast in the election of November 7, 1876, and other evidence.⁶¹ Nearly two months of sharp discussion followed.

The first session of the Forty-fifth Congress ran its course and ended without a Representative from Colorado. The second session

⁵⁵From the first, the *Denver Times* had predicted that the Colorado vote would be decisive; August 9, November 15, 1876. Of the Democratic objections to Belford, the *Times* remarked, December 6, "the country knows that had Colorado voted for Tilden, the present question or quibble would never have been raised."

⁵⁶*Congressional Record*, V, Pt. 1, 7-11.

⁵⁷*Denver Weekly Times*, December 6. Cf. letter from Springer to Patterson, *Boulder Colorado Banner*, January 11, 1877.

⁵⁸*Congressional Record*, V, Pt. 1, 408.

⁵⁹*Ibid.*, 1140-54. The *Denver Times*, December 27, 1876, summed up Colorado Republican feeling succinctly with: "the Democrats in the House are playing this State permanently into Republican hands."

⁶⁰*Ibid.*, VI, 52.

⁶¹*Ibid.* Patterson had started collecting this evidence immediately after his return to Denver in December, 1876. *Denver Weekly Times*, December 27, 1876, January 3, 1877. The *Boulder Colorado Banner*, May 24, 1877, presented an argument that must have amused Republicans: "Patterson will likely get his seat in the 45th Congress, as he of right should. If it were *vice versa*, if Belford had carried the last election and the House were Republican, no one would ever dream of doubting Belford's admission."

opened, still with Colorado's seat empty.⁶² Finally, on December 6, 1877, the Committee on Elections brought in three reports: the majority held that Patterson ought to be seated; the minority favored Belford, and a third dissenting report held that there had been no valid election in Colorado.⁶³

Discussion continued. Belford, evidently thoroughly discouraged, withdrew from the contest and returned to Colorado. Patterson himself was permitted to appear on the floor of the House to argue his case. Then, on December 13, the issue was finally settled. The minority report in favor of Belford lost by a vote of 128 to 110;⁶⁴ and then the dissenting report was considered. It, too, was lost, but by only one vote: 117—116.⁶⁵ At last the majority report was put to the test, and Patterson won his seat by the narrow margin of six votes: 116—110.⁶⁶

On the day before Patterson was seated, the *Denver Times* discussed his possibilities and turned a critical eye on his political future in these prophetic words:⁶⁷

His success in getting in by might against right, by a mere party vote, will never conceal the fact that he was fairly beaten in the only vote given by the people, and that he is not in Congress by the voice of the people, but against their expressed will. And this issue he will never be able successfully to meet before the people of the State, and it is one that will rise up against him whenever he again comes before the people.

Whether it is true that, as the *Times* insisted, both Democrats and Republicans regarded the November election as a "ridiculous farce" can be argued, but the fact remains that despite his rather enviable record in the House, Patterson could not be reelected.⁶⁸ Not without reason did Frank Hall write at the end of the eighties, "every battle the Democratic party has entered upon in this state has been in the capacity . . . of a forlorn hope."⁶⁹ The *Times'* dictum, as well as Hall's, seems justified by the history of the next twenty years.

(To be Continued)

⁶²*Ibid.*, VII, Pt. 1, 8-9. No one answered at roll call.

⁶³*Ibid.*, 51.

⁶⁴*Ibid.*, 197.

⁶⁵*Ibid.*, 198.

⁶⁶*Ibid.*, 199.

⁶⁷*Denver Weekly Times*, December 12, 1877.

⁶⁸Students of Colorado's early political history may find room for research in the colorful Belford-Patterson campaign of 1878, particularly in the Walsenburg scandal which seems to me to have been a deliberate attempt by Patterson to frame Belford and thus to ruin him politically. The attempt was unsuccessful.

⁶⁹Hall, *History*, III, 67.