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## Life in the Pike's Peak<sup>1</sup> Region: The Letters of Matthew H. Dale

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In the early spring of 1859 a frail young Pennsylvanian named Matthew H. Dale set out for the fabled gold fields of Colorado, determined, as he later said, to find health and wealth. After more than two years, considerably more robust but enriched only by experience, he returned to his native state where he successfully engaged in business until his death at the age of sixty-seven.

Dale was born on October 22, 1837, at the little Pennsylvania town of Daleville, named after his grandfather David Dale, who had come over from Yorkshire, England, about 1816 to settle in Lackawanna County. After completing his public school education he attended Wyoming Seminary, in Kingston, Pennsylvania, but poor health obliged him to abandon his quest of higher education to seek a healthier climate in Colorado.

Upon his return to Pennsylvania he married Sarah Allis of Scranton, December 22, 1863, and settled down to a business career in partnership with a Mr. Keen. That arrangement lasted until 1869, when Dale joined his brother, Thomas, in a wholesale produce business under the firm name, Dale & Company. The new company was the first to handle western dressed beef in Scranton and it became a highly successful venture. In later years the Dale boys branched out into the manufacture of tile and bricks and then into contracting. With the money he made in these ventures, Matthew Dale invested heavily in coal, water and telephone companies. By the time of his death he was quite prominent in local financial circles.

<sup>1</sup> The present spelling, recommended by the National Geographic Board, does not use the apostrophe in Pikes Peak. In order, however, to conform to the spelling used when Matthew H. Dale visited this region and wrote his letters, we are retaining the apostrophe.—*The Editor*.

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On November 22, 1904, he died in a Buffalo, New York, hospital as the result of injuries suffered in a train accident. He and a friend, Victor Koch, had boarded an east-bound Lehigh Valley train, mistaking it for one that was to take them to the West. The porter, who confirmed their error, urged the men to jump off since the train had not yet gained appreciable momentum. Impeded by a heavy valise and an umbrella, Dale fell partially beneath the wheels in his attempted leap and his foot was mangled. Upon examining the injuries, doctors said the patient was not in a serious condition, but unaccountably he took a turn for the worse and died.<sup>2</sup>

Between April 27, 1859 and October 21, 1861, the following letters<sup>3</sup> were written in the West to Dale's family back in Pennsylvania. The spelling in the letters has not been altered.

Leavenworth, K.T. April 27, 1859

My dear Father,

My propensity for seeing, only leaves me a few moments to drop you a line. After running the gauntlet of bogus ticket swindlers in Chicago, baggage smashers, sharpers, pick pockets, confidence men, and gamblers on the Missouri river, we have arrived safe, well and in good spirits in this famed city.

Travelling, and in fact every thing costs more than we expected. Very ordinary board is two dollars & two fifty per day here. We were two nights on the boat coming from St. Jo. Mo. to Leavenworth, a distance of 70 miles. Stuck on sand bars three or four times, and at last stove [stowed or stove in?] the Steamer quarter of mile above here, where we got off and walked into town.

We have been up to Fort Leavenworth to day a distance of three miles. Walked out and back—and intend starting for Lecompton in the morning. Its a little over 40 miles from here and fare per stage is \$4.00. We are nearly two weeks too early to start on the Plains successfully, without taking feed. Are getting used to Missouri river water but it is the thoughtest of any thing we have to take. The country what we have seen west of the Missouri is the finest [I] ever saw. Am quite in love with it. Apple trees are blossoming, the weather delightfully fine, and every thing looks spring like. This City has a population of over 12000. Much larger than I expected. I like the West. There is a dash of bold shrewed go-a-head style about every thing which is entirely unknown East. Every thing but river travelling is fast. I will write more extendedly soon. Walter<sup>4</sup> sends respects to all.

My love to all.

Affectionately, Your son,

M. H. Dale

P. S. Denver City is the first place we can get a letter from, and expect a host from there. Did not succeed in finding any of our Western friends. Mat.

<sup>2</sup>Information concerning Dale's life was obtained from Sarah Allis Dale Grant, Boulder, Colo.; the *Encyclopedia of Pennsylvania* (New York, 1919); and items from *The Scranton Republican* (Scranton, Pa.), November 23, 1904.

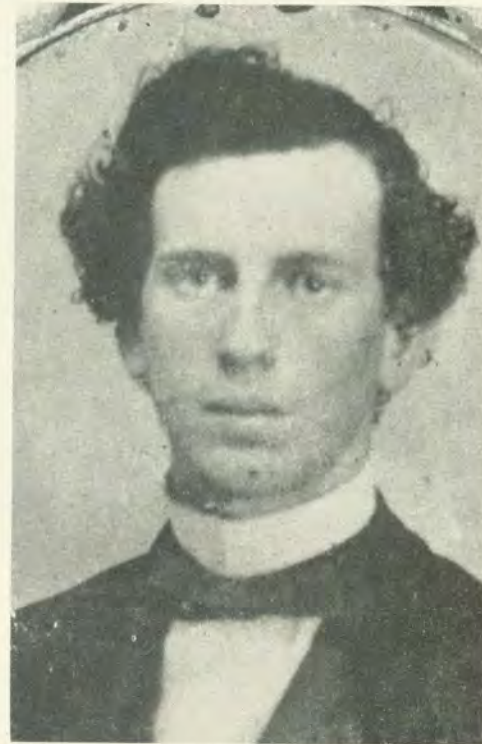
<sup>3</sup>Doctor Athearn wishes to thank Mrs. Sarah Allis Dale Grant of Boulder, Colorado, for the use of her father's letters and for the gracious assistance she lent in their preparation for publication. Acknowledgment is given Jane Titus of the Carnegie Library, Pittsburgh, and Leonore Rice of the Scranton Public Library, for their generous help.—A. W. S.

<sup>4</sup>Walter was engaged to one of Matthew Dale's sisters.

Council Grove, May 25, 1859<sup>5</sup>

My dear Dave,<sup>6</sup>

I thought [I] would have had time to write you all the particulars by this time of our start &c, but we have made such long drives 'twas so late [I] could never write after we stoped at night and we are off by daylight each morning. The team is now waiting for us & have only time to say we are quite well, getting along finely, have had good roads, and fine weather all



MATTHEW H. DALE

the way yet & are all in fine spirits although we hear very conflicting reports from the mines. The Santa Fe Mail this morning reports great numbers on the road returning while the Santa Fe papers give most favorable reports. The facts we can only ascer-

<sup>5</sup>Dale traveled at the height of the rush to Colorado. The *St. Louis Democrat* of May 18, 1859, reported that twenty thousand people were then en route to the mines. Quoted by Joseph L. Kingsbury, "The Pike's Peak Rush, 1859," *The Colorado Magazine*, Vol. IV, No. 1 (January, 1927), 1-6. Council Grove . . . Just south of Council Grove the government had established a reservation, agency and mission for the Kaw tribe of Indians.—Kansas State Historical Society's *Collections*, Vol. 8, p. 487.

<sup>6</sup>His brother, David W. Dale, who later served for many years as the Postmaster of Daleville, Pa.

tain by investigation.<sup>7</sup> I am quite as sanguine as when [I] started from home. Four comprise our company instead of five as I wrote you upon starting. Mr. [Illegible] the Vermonter backed out. We have three yoke Oxen & a riding poney. We are on the southern or Santa Fe route, keeping [on] the Santa Fe road untill we get to Bents Fort where we leave it keeping up this side of the Arkansaw.<sup>8</sup> We have passed most through the dangerous part of the Kaw Indians and have only been troubled by them in the matter of begging. They are most inveterate beggars as well as thieves. I will have no opportunity to write again or to send the letter untill about 110 miles further on our journey when will try and have a full a/c written out to send you. Write to Denver City, K.T. as we shall go through if possible. My love to all, and tell them all to be sure and write for I am very anxious to hear. If you knew my facilities for writing you would certainly excuse my miserable scrawls.

Walter sends respects & tell all my friends I should like to write to them if [I] could.

Yours Affectionately, Bro. Mat. H. Dale

Arrapaho<sup>9</sup> K.T. Aug. 16, 1859

My dear Father

You see by the heading I am still in [my] old quarters—and am likely to remain here this winter. Have been a little unwell since my last, but only a trivial matter from which [I] have recovered entirely. I got wet floating boards from the Saw Mill above and caught cold, but as a general thing am in much better health than ever before, or for a long time. The country is quite healthy; I believe out of the mountains there has been less sickness than among the same number of people any where else, and considering their living and the number sleeping in tents & leaky houses & on the ground is quite a significant fact. New Quartz leads<sup>10</sup> are being discovered continually. Some near Bo[u]lder (some 20 miles north of here) have lately been opened proving much richer than any heretofore opened, the famous "Gregory Lead" not excepted. Mills for crushing the quartz are being put

<sup>7</sup>In May 1859 one of the more resolute prospectors wrote from Auraria that "There has been a regular stampede on the Platte route back to the states, by some hundreds who have never been within fifty miles of this place. Others came and stayed one or two days—swore at everybody and then left; and others came in, begged something to eat, stole a mule or pony and left, telling on their way back, all kinds of hard tales." Henry Allen to Editors of *Council Bluffs Bugle*, May 13, 1859. LeRoy Hafen, *Colorado Gold Rush: Contemporary Letters and Reports, 1858-1859* (Glendale, Calif., 1941), 350.

<sup>8</sup>There were several routes leading to the gold fields. While the Santa Fe Trail was somewhat longer than the Smoky Hill or Republican River route, it was well marked and much used. General William Larimer called it "the best natural road in the world." The Platte River route, to the north, was another old and well established road. James F. Willard, "Sidelights on the Pike's Peak Gold Rush, 1858-59," *The Colorado Magazine*, XII, No. 1, 3-13.

<sup>9</sup>Arapahoe, organized November 29, 1858, was on Clear Creek, about two miles east of Golden. According to O. J. Hollister, *The Mines of Colorado* (Springfield, Mass., 1867), 59: "Very early in the year 1859 the citizens of Auraria, in Arapahoe County, Pike's Peak, began to scatter out to hunt for gold. After a pretty thorough prospecting of all the neighboring streams, they settled upon Clear Creek, or the Vasquez Fork of the South Platte, as being the richest. Diggings were opened on that stream, three or four miles from the edge of the Mountains, and a town soon sprang up, called 'Arapahoe.' At one time there must have been fifty houses in this town."

<sup>10</sup>A miner with the appropriate name of Golden wrote that his party was working in the Gregory diggings in "what is called 'leads' running through the mountains, these 'leads' are among the quartz rock and average two feet in width and are from one to three miles in length." Thomas L. Golden to G. G. Gillette of Nebraska City, June 23, 1859. Hafen, *Colorado Gold Rush*, op. cit., n. 385.

up.<sup>11</sup> One went through here about a week ago en route for [John H.] Gregory,<sup>12</sup> and we hear it is already in successful operation. Foundations and the heavy timbers required are being got in readiness, while primitive water mills for crushing are in successful operation. A big rock is attached to a simple flutter wheel, by a shaft, and is drawn round in a sort of basin or a solid floor. You understand no irons except those hauled through from the states can be obtained, hence the contrivance described above which is a very slow tedious method of crushing and only rotten quartz can be worked in this manner.

Am at present living with Mr. [Thomas C.] Giddings, (a younger brother of the venerable Joshua in Congress)<sup>13</sup> in a quite



STREET IN GREGORY'S GULCH, PIKE'S PEAK

From a sketch made on the spot, expressly for *Frank Leslie's Illustrated Newspaper*, by Col. D. H. Huyett, Saturday, March 24, 1860.

comfortable house for this country although it has a mud roof, and sheds rain but indifferently. I have the privilege of living in his house all winter free of charge if I desire. He has shown me much kindness, and given much good information. He has been here over a year is thoroughly posted and has good claims in the

<sup>11</sup>During the summer of 1859 the Mexican Arastra was being used in the Gregory district and about that time one Charles Giles assembled the first water-driven stamp mill in Colorado. Jerome C. Smiley, *Semi-Centennial History of the State of Colorado* (New York, 1913) I, 274. The first water power arastra was set up on 5 July, 1859, and ox-operated a week earlier. Fossett, *Colorado History*, 33; Cushman and Waterman, *Gold Mines*, 19; Fritz, *Boulder Mining*, 127-30, via Lynn Perrigo, Ph. D. Thesis, University of Colorado, 1936, "History of Central City, 1859-1900," footnote 10, p. 52.

<sup>12</sup>Of John H. Gregory, little is known. He was from Gordon County, Georgia, and left home in 1857 for Frazier River, on the Pacific, some four thousand miles from where he started. He drove a Government team from Leavenworth to Fort Laramie in 1858, where, by a succession of accidents, he was detained until the spring of 1859. Meanwhile he heard of the discoveries of gold on the South Platte, and started on a prospecting tour along the base of the Mountains, south, early in January. . . . The discovery was made on what is now (1867) Claim No. Five, on the 6th of May, 1859. . . . on the 8th of September following, Gregory left Denver for home with thirty thousand dollars' worth of dust.—O. J. Hollister, *The Mines of Colorado* (Springfield, Mass., 1867), 59, 63.

<sup>13</sup>He refers to Joshua R. Giddings (1795-1864), the famous abolitionist from Ohio. George W. Julian, *The Life of Joshua R. Giddings* (Chicago, 1892) says (p. 12) that Joshua Reed was the youngest of four children.

mountains, but cannot work them, as they are depending on a ditch company for water. He has not made sufficient to winter him here, but is a good carpenter and can get work at his trade at very fair wages this winter in Denver. We have been prospecting for the last week for a coal vein. We get very good indications, and have taken some fine specimens of soft coal from a sort of dyke. If we should be so fortunate as to strike a vein thick enough to work it would be a fortune to us as the location is very desirable, being near good markets, where wood is quite scarce. He is very energetic & uses no profanity or liquor, a *very* remarkable feature in this country. The ditch here is almost abandoned, and there is scarcely a probability of its being finished this winter. We made a small ditch to the lower part of one of his claims, running the water nearly half a mile along the edge of the bank, but could not get water very near the solid dirt, as the bed rock is several feet above it. The loose dirt pays but very poorly, and we have made so little washing, it is hardly worth mentioning.



GREGORY QUARTZ MILL, 1860

From a sketch made on the spot, expressly for *Frank Leslie's Illustrated Newspaper*, by Col. D. H. Huyett.

We can just make "grub" by working hard when the weather is fine. Walter is about discouraged as to getting a living this winter as no kind of employment can be obtained, and talks seriously of returning to the states soon. I intend to remain long as I can if [I] have to sacrifice my gun, watch and every thing. Through the assistance & advice of Mr. Giddings I have partly purchased a lead claim, but it cannot be worked this winter. If I hold it must advance \$50. on it in three months. Great bargains could be made now, on claims opened, by those intending to return to the states this fall, to get a fit out in the spring, if only had a little money to pay down. I think the prospect of doing well next season is very flattering, but it requires a little money to start. I inclose my note for two hundred dollars, and if it is possible for you to borrow it,

or send it without very much embarrassment, I hope you will do so. I do not feel the least hesitation in assuring you if I have my health, I can pay it with interest before maturity. St. Louis currency is the only thing here good, except specie & dust. Specie is at a premium. A draft on St. Louis, payable to my order would be the only safe way you could send it. That sent in a letter in care of "Leavenworth and Pikes Peak Express Co."<sup>14</sup> if put up good would be perfectly safe and come through very expeditiously. I expect you would have to go to the trouble of sending to New York for such a draft, but would be the only thing negotiable here at any thing near par. I expect next season to be able to pay you all back for this trip. Fortunes are made here, and I have a good show now if [I] can stick it out. Nothing but *good prospects* could induce me to stay for we have to forego all luxuries here, and undergo many hardships. As I shall wait expecting a remittance, untill [I] cannot get away without help, I hope you will not fail in assisting me immediately if you possibly can. I feel very confident in being able to refund everything next season, and believe I can make four times as much as any where in the states. I am sure [I] ought to. I feel my destiny for the next three or four years is in the Rocy Mountains. I have just got experience enough to realize partially the immense mineral wealth here. I shall make a bold stand, and hard pull for a fortune here & if [I] have my health (which [I] have every reason to believe [I] shall) have no misgivings about the results. I have received one paper—cost 10¢ letters 25¢ yet. Every thing put up good & directed in care of "Leavenworth & Pikes Peak Express Co." Denver comes through safely and expeditiously. I have received no letters since those here on my first arrival & think it a little strange. But suppose my letters are a long time going through as we usually to save money send them by persons going through, and not by regular express. Walter sends respects. Write immediately & if a remittance, send to Denver, as I have directed & write also advising me of the fact, to Arrapahoe, K.T. care of Leavenworth & P. P. Ex. Co. My love to you all. Am very anxious to hear from home, and if [I] dont get a letter in [the] course of a week or two [I] shall begin to get quite uneasy. Write in particular how business is prospering &c &c. We are an age behind all the news. Papers if we buy in Denver are 25¢ each, so we dont get the luxury of news. Hoping a reply early as possible

Your Affection Son

M. H. Dale

Have written this hurriedly, on my lap on a board and am sadly out of practice with pen.

Arrapahoe K.T. Aug. 20, 1859

My dear Parents

Have postponed writing a long time hoping [I] could give a favorable a/c of myself *but nothing turns up & what is more, we have succeeded in turning nothing up yet*, although keep trying faithfully. After runing over the mountains nearly a month, prospecting, (during which time it rained every day), we came to the conclusion we could do nothing as a company; so Walter and myself, split the company, left them in the mountains, and made our exit to this place. Here we obtained claims which prospected well enough to insure \$5 per day, but they could not be worked untill a ditch was completed costing about \$1500. After

<sup>14</sup> This express service into Denver dates from May 7, 1859 when the first coaches arrived from Leavenworth, having taken nineteen days in transit. For a good description of the mail delivery system see: LeRoy Hafen, "Early Mail Service to Colorado, 1858-60," *The Colorado Magazine*, II, No. 1, 23-32. See also: Margaret Long, "The Route of the Leavenworth and Pike's Peak Express," *The Colorado Magazine*, XII, No. 5, 186-194.

expending nearly \$1000 the whole concern blew up and now the ditch is in the hands of the creditors & its very uncertain whether it will go through or not this fall. *Every thing is uncertain.* What two weeks ago appeared a prospect too fair for clouds of doubt, is now wrecked by a whirlwind of uncertainty. We next turned our attention to a bar on the Creek where water was plenty, and after getting prospects we thought would pay us \$2 to \$3 per day bought a sluice and put it up, but the creek has become so high we cannot get fall enough on a/c of back water to work it, and so it goes. It requires a great deal of patience, and a philosophical mind to keep from getting discouraged. Walter is going to Denver tomorrow to see if anything offers there, while I am to wait here to learn what I can, concerning the prospects of the ditch, and wait for advices from a prospecting company to the Colorado, of which we bore half the expenses. The great rush is now for there, but we will not start until we get more reliable news from there if we go at all. Its very discouraging, but if I can [I] intend to remain in the vicinity during the winter, and court the fickle Lodes another season, for I am well *satisfied fortunes are to be and will be made here*, although I have done more hard work since here than during my previous life, and *not made a farthing yet.* The fact is the manner in which we came has crippled all our efforts. With \$50 more we could have purchased a team of our own, and that way, not only saved ourselves but been in a condition to get about after our arrival here, but as it was we had to sacrifice a \$100 for freight and be entirely unprepared to locomote when here. Having no money or team we could only be gone from our provisions so long, as what we could pack on our backs would last us, and if you could once see the amount one eats in the mountains & take into consideration the fact that to get from one Mountain Valley into another, we have to climb almost perpendicular mountains from 1 to 4 miles long, and at an elevation where the atmosphere is so rare its almost impossible to fill the lungs with air, you would conclude, it was a remarkably short time. To sum up we have no means to purchase paying claims, no facilities for finding them; while hundreds of others are in the same condition and worse, which makes it all the harder for us, as no employment can be obtained.<sup>15</sup>

So you see the prospects for the future are not particularly brilliant, however as nothing can be made by a retrograde movement now, we can only hope for the future, and stick to it long as possible. A few men are making fortunes rapidly, others amassing it slowly, but regularly, some merely making a living while by far the greater portion are like bees in a broken comb rushing about unsettled, flying wherever there is a stir of excitement, appearing not to know what the matter is, or where to settle.

My health has been much better as a general thing, than for a long time before I started. I am able to work at any thing. Our journey across the plains was a most tedious one. We had no adventures that began to pay for the toilsome tramp. We got all the discouraging, frightful, alarming rumors afloat, and fully believed all the Eastern accounts we had received were pure fabrications, as they mostly were, for everyone here concedes "Pike Peak" to have been a great humbug, and when they wish to represent a stupendous fraud, they merely say "there's Pike's Peak in it," so well is it understood here that is the strongest language they can use. All the paying diggings in the mountains being discovered after the spring emigration had started. My faith was so

strong that rich deposits would be found, I was resolved to come through, prospect and hunt part of the season, and then return to the states, go to California, or make a tour through New Mexico as circumstances might transpire, in fact any thing but turning back or joining filibustering expeditions, my antipathy being equally strong against either, as both insured a loss.

I suppose you have gained as accurate a knowledge of the country from Walters letters as anything I could write. We brought no liquors of any kind with us and needed none. The only things we have to regret is that we did not come in a different company and more independently. Ten dollars per cwt was the regular price for freights and from some answers to inquiries I made in the place where he (Satouche) lived, concluded it would



NEVADA CITY, COLORADO

be better for us to come with him than with a stranger, but I am sorry to say he is as lazy and unprincipled as ever. We are free from them now. Denver is a regular gambling hole that being the principal business of the place. Scarcely any one making what they represent, and almost *every one* have claims to sell. There's as much "Pike Peak" in the country as ever that is "humbug" and its a settle[d] fact here, that Greeley's [*sic*] eyes were so completely filled up he must have carried the whole Peak in them.<sup>16</sup> I suppose

<sup>15</sup> In a letter, dated June 9, 1859, at Gregory's Diggings, eastern journalists, Horace Greeley, Albert D. Richardson and Henry Villard, warned the reading public that from October until spring there would be neither employment, food, nor shelter for the thousands who poured into the mining regions convinced that they had but to pick up the golden pebbles. *Hafen, Colorado Gold Rush, op. cit., 382.*

<sup>16</sup> The "Greeley Report" of June 9, 1859 (signed also by A. D. Richardson and Henry Villard), while it warned the enthusiastic and optimistic, nevertheless gave a glowing account of gold discoveries in Colorado. Henry Villard, of the Cincinnati *Commercial*, admitted that the document became "a source of slander and abuse to its authors" by those who hopefully went to Colorado and were disappointed. Henry Villard, *The Past and Present of the Pike's Peak Gold Regions* (Reprinted from the edition of 1869, with Introduction and Notes by LeRoy R. Hafen, Princeton University Press, Princeton, 1932), 52.

you hear big reports of ditch companies & tunnelling companies furnishing any amount of employment to every one. These companies are formed by every one's taking stock who will, appointing officers, giving them orders to go on with the work, and when they require money to make an assessment not a farthing being paid in. Thus they get men to work a month, on their own means, and when pay day comes, these irresponsible stock holders fail to meet the first assessment, & a failure is the result in which none but the laborer loses. You can see the best part of the country is in the hands of the peniless speculators. Next season we expect the whole thing will be changed by the advent of capitalists, who will take these speculative schemes (most of which will pay) into their own hands. The arrival of . . . [Here the page ends. The remainder of the letter is missing. Ed.]

New Nevada E. S. R. M.<sup>17</sup> [Eastern Slope, Rocky Mountains] Nov. 27/59

My dear Father

Your remittance was recd a week ago but this is by the first express from the Mountains since, so the earliest opportunity of sending [a] reply. I have not yet had it exchanged. Find no difficulty in getting "dust" offered for the face of it, but am waiting in hopes of obtaining the premium from some one wanting to remit. I may not be compelled to use it as [I] have made a little, but did not feel very safe, especially in the long winter, with no dependence but the very fickle employment to be obtained here. Recd Mothers and sisters letters two weeks previous to your last, but one letter at a time must do you all. Fifty cts per letter makes writing a rather expensive luxury, and where finances are low to be indulged [in] only occasionally. In [the] future you may expect a letter at least once a month, providing we do not get cut off from communication by snow here in the Mountains.

We have abandoned the rented claim it proving a complete failure. Have since my last got a claim on the "Kansas leads" by running it through and measuring the claims more closely. This is a very prominent lead having a wide crevice & yielding very rich Quartz—though a very hard one to open. Claims on it sell before opening, from one to two thousand dollars. Mr. Giddings has two claims on the Burris Lead & we are now engaged in opening them so as to loose no time in the spring. There is now a very good prospect of having a very good crushing mill erected here this winter. In case it goes in operation soon can make something out of quartz this winter. There are nine tunnels in progress now in this district—from six to ten men constituting the "body incorporate" of each. They are worked exclusively by the members hence affording no employment. But two men can work in them at a time but they keep them going night and day. These will prove the leads for if they do not strike them big below the sulphoret leads will be almost valueless and that is the main dependence of mining on the eastern slope of the mountains though in all probability valuable bar & gulch diggings will still be discovered, but no very extensive ones, and the great drawback to such mines is the long season its impossible to work them.

<sup>17</sup> North Clear Creek . . . is a roaring torrent when the snows are melting and running out . . . Its course is southeastward and it empties into South Clear Creek fourteen miles above Golden City, so that it and all that is connected with it, are well within the Foothills. About half way from its mouth to its source, Gregory Gulch comes down to it from the west, flanked at slight distance by Russell on the south and Chase on the north. We say comes down, for in the course of two miles it falls more than a thousand feet. At its head is the town of Nevada. O. J. Hollister, *op. cit.*, 141-142. Nevada, Mountain City and Central City later became one continuous town reaching to the border of Black Hawk, which appeared in 1860.

Heard from Walter yesterday. He is still at Arraphoe. Has thirty men on the ditch and will have water on the bank by Wednesday. By his letter I gather things are quite brisk there, claims being jumped & things looking quite prosperous. His salary \$3 per day he has to take in water. We own besides claims there each a share of ditch stock, costing with the assessments about \$50. & in addition nearly \$100 of water coming to us. The bank there is estimated by experienced miners who have prospected it, to yield by proper working in summer days (minimum \$5 per day to the hand). It takes there four men to work a sluice & men could be hired in abundance thus far at \$2 per day—on this estimate, totals of sluice \$20—less \$6 for labour & \$2 for water leaving the minimum net earnings per sluice & for your own time \$12 per day. If the basis taken from the assurance of experienced practical miners is correct, the above calculation is low & one man could superintend at least two sluices on one claim. This calculation makes the claims there quite valuable, and as we all have claims there Mr. Giddings will go to the valley this week to prove & hold them if worth what we anticipate. I shall remain here at least one month to open our claims and build a house to have every thing in readiness for working as early as spring will admit & if the Mill I spoke about is located here and put in operation as we now have reason to believe, will in all probability remain during the winter. We have about six inches of snow and very cold weather but there is no sickness to my knowledge in the mountains. I never enjoyed better health. The cold does [not?] seem to be the least injurious to my lungs. I am satisfied a trip on foot across the plains with proper precautions & variety for food, enough to keep the scurvy off, is a very healthful one. The specimen of dust I send you is from this gulch. Its fine and saved by amalgamating with quick Silver & then retored [retorted?], so you cannot tell much about the real appearance of it. They have found lumps (varying in size) from one to fifty six pwts [?], pure solid gold. I have two small but fine specimens of gold visible in quartz I took out myself. I inclose Eight grains worth 26 2/3 cts at \$16 oz. what we get for it.

I have received no papers except the *Ledger* commencing August 10th. I recd two of that no. & the rest up to the 29th of Oct. I do not recognize the writing but think they are not from home. Whoever sends them I hope will continue but I don't want more than one of each no. as the Express charges are 10 cts each. I am very sorry [I] did not receive the "*Record*" you sent. Would be glad to get it occasionally & especially the no. you wrote about in Mother's letter. We buy a weekly *Tribune* occasionally at 25 cts to keep posted on the news. Every thing is readable these long nights and would give a pension had I one to spare for my text books especially my Geology & Chymestry, & every scrap of music is sought after with the avidity of *gold hunting*—but I have promised myself a supply of all these when a U. S. Mail is established. There is not much regularity in the present express arrangements. But would like to have the *Weekly Tribune* sent regularly, for [I] can stand 10¢ per week for the news it contains & want Sister to send all new, good songs & music *I would be apt to appreciate* & some one write every two weeks. Every thing interests me. The business, the politics of the country, in fact *every thing*. I feel confident I could place the store at Moscow on a paying basis with the full control of it and my hopes now are to return in two or three years with money enough to buy Mr. Simpson out if he will sell. Direct as before to Denver City care of Ex. Co. Private express runs from there to all the principal mines, so, can get them from there to almost every point. Love to all. Will write to Mother & Sister soon.

Affectionately, M. H. Dale

Nevada Eastern Slope R. M. Jan. 1860

My Dear Brother

Presume ere this you are in receipt of my anser to your former epistle, and now write to inform you of the safe arrival of the second batch of stamps and books. As you have been so kind in supplying me so bountifully, will not trouble you again soon, in that line.

Have nothing of interest to write you. We jog along quietly and monotonously, seldom having any thing to stir us from a uniform, dull routine. The few things that serve to arouse us, to any thing like excitement, is the weekly arrival of mails from the east, the weekly meeting of our lyceum, and the numerous political confabs, and buncombe orations of aspirants.

Politics in this country are much like the whiskey, plenty, and most villainously mixed. The first general election was to known if the people were in favour of state or territorial organization, and carried overwhelmingly for territorial, notwithstanding some thousand "Kickapoo" votes (from a little place on the Arkansas, called Fountain City of about a hundred inhabitants),<sup>18</sup> all in favour of state. Then came the contest for Congressional representative. There were about a dozen candidates in the field, as I could find nothing but democrats runing, would not vote. Dr. [George M.] Willing a Missouri slave holder got the certificate, by majorities from diggings never heard of until then.<sup>19</sup> [Beverly D.] Williams a Kentuckian, and the Express Agent at Denver was next on the list. He has gone on to Washington as contestant, and stands considerable show, as he will be backed by the funds of a heavy Ex. Co., who of course want an agent there, to see after the mail contract &c so soon as the Post route is established.<sup>20</sup>

The political demagogues in Denver and the other valley cities, who got up the State government movement, not satisfied by its defeat, and the unceremonious shaking off the public teat it gave them, which loomed before them with such inviting fat yielding prospect, now clubbed in caucus to euchre the people out of what they could not get honestly and openly. Lets see how they managed it. They first concocted a "Provisional Government" scheme, which being in fact nothing more nor less than a state government such as was defeated a few weeks previous by an overwhelming majority, of course they dare not submit it squarely to the people or it would share the same fate. But their scheming brains, fertile for rascality and political chicanery, were not long in surmounting the little difficulty of inducing the people to in-dorse in form what in reality they detested. Lets examine the modus operandi. In their secret conclave, they got up a Provisional Government ticket of such persons as they wished elected, and also an opposition ticket of such politicians as the people *had before repudiated*. Every thing ready now, the trap was sprung, and this peice of political skulldugery, hurried to consumation before opposition could be thought of. They sent insinuating declaimers

first, to cajole the mountain men into the belief, 'twas all done for their benefit, that the sole object was for harmonizing the laws of all the mining districts, and thus presenting in the spring a *united* front, to the aggressions, which they *supposed* the emigrants would then inagurate This was followed by the bold assertion, that our only choice was for candidates, it making no difference in regard to the government which ticket was chosen, or that choose which ticket we pleased it was all for the "Provisional Government." All who were opposed to it and saw through the thing, ignored its validity by staying away from the election, the only thing they could do. The mining districts thus forced into the measure, sent men to the legislature to oppose the organization of the government and also taxation. Presented in this form of course the Provisional Government was successful. The legislature met. The men sent from the mountains to oppose it had by this time acquired a taste for the sweets of office, and united with the men in the valley to force the thing down our throats. They voted themselves salaries to double that of Territories and levied a poll tax to cover its expenses. Too eager to wait for the collection of tax, they issued provisional script and paid themselves off in manner. I saw twenty five dollars of this script offered for a glass of whiskey, which is equally as bad, but refused to take it, so you can judge how it is valued in the mountains. In addition they passed a bill forming counties, located the county seats, and appointed a day for the election of county officers. This, except the granting a few charters for roads etc. on account private speculation, is sum total of their action. A few in the mountains at the county seat favour the government, and intend opening the polls. I have been thus explicit in describing the true state of things, as [I] apprehend the scenes of Eastern Kansas somewhat modified are to be reenacted. Each mining district are resolved to resist the tax, and already an organization is [in] existance, to forcibly if need be, take the polls on election day, and resist in every manner the organization of the county. What the result will be is hard to foretell. Each party have their complement of desperate men. The tax collector has already been hung in effigy. If force is resorted to, it will probably be resorted to in reality. They dont think twice before hanging a man, in this country.<sup>21</sup>

Mining prospects are brightening with each new discovery. Our lyceum meets every Wednesday evening. The debates are pleasant and instructive, besides they serve to while away the long evenings—We only have about five hours sunshine here in the valleys—These few slanting rays, that straggle over the top of the hill, are pleasant and cheering to see, but are not felt much—

The evenings are beautiful here. The clear, cold rare atmosphere seems to act like a telescope in vivifying scenes, and the sky, with this magnifying influence, seems doubled in brightness. I think the radiance of the mountains, glistening with snow is counteracted by the deep-dark green of the pines dotting their sides and summit.

It seems Dave your predilection for female society is strengthening, rather than waning. So long as you choose good, its right enough, if not look out for trouble—Think of that short sentence before going too far. Well as this is the time for sleighrides with nestling proximity to furs, picture you in the full enjoyment, of boyhoods elastic spirits—Enjoy yourself while you can Dave.

<sup>21</sup> Those who opposed the formation of the State of Jefferson held that the population was too small to support a State government and preferred to retain Territorial status for which the cost of maintenance would be furnished by the Federal government. An election was held September 5, 1859, and in very light balloting, the "State of Jefferson" was rejected.

<sup>18</sup> The vote from Fountain City was 1089 to 1 in favor of statehood. Smiley calls the figure "an error or a gross misrepresentation" and hazards the guess that 89 was the correct figure. The total vote from Denver and Auraria was only 1130.

<sup>19</sup> Smiley confirms this, admitting that the election was recklessly conducted with ballot-box stuffing taking a prominent part in the proceedings. Over 2,000 false votes were thrown out. Jerome Smiley, *History of Colorado*, I, 343. Dr. George M. Willing of St. Louis, wrote a diary of his trip out to the mines which he published. See: Dr. George M. Willing, "Diary of a Journey to the Pike's Peak Gold Mines in 1859," (ed. by Ralph P. Bieber), *Mississippi Valley Historical Review*, Vol. XIV, No. 3, 360-378.

<sup>20</sup> Williams became the delegate and served during the two sessions of the Thirty-sixth Congress. Although he represented merely the provisional Territory of Jefferson he was admitted to the floor of the House and was given an audience by the Committee on Territories. Jerome Smiley, *History of Colorado*, (2 Vols., Chicago, 1913), I, 299.

Its queer but true; in youth, the future contains all joy, as age approaches, no pleasure is seen, but in the past.

Dave I want to tax your generosity again. Soon as a mail route is established here (you will know it before we can) send me my Geology and some comprehensive work on Mineralogy. It will fill up time to good advantage, and could learn much that would be profitable to me, add to my pleasure and keep me out of mischief—No sleigh bells or other belles would come "bobbin in between" by my head and books here—Walter has sent me up a lot of county papers, one containing the green room scene, so you need send me none—You might send an *Atlantic Monthly* occasionally if you please. I recognize more characters in the green room than father mentioned—Dont he remember Jenkins who declaimed so violently against the sale of the State Works in the House? Write often, Remember me to friends.

Your Affectionate Brother, Mat. H. Dale

P.S. I wish Dave you would send me soon as you can after you receive this, The compendium of *Helpers Impending Crisis*<sup>22</sup> is creating such a furor in Congress I want to see it. You will see them advertised in the Tribune.

Yours.

Mat.

Nevada Dist. E. S. R. M. Jan 22, 1860

My dear Parents

Have an oppotunity to send letters by a gentleman going through by Ex. so [I] write, although have nothing of interest to say.<sup>23</sup> I think it quite strange some of you have not written. Its been over a month since [I] heard a word from home and there has been abundant time to have received answers to some of my letters. Write at least once a month, for [I] assure you my interest in home matters can never be abated, let the distance between us be ever so great.

My health has been remarkably good. I know you would be surprised to see the physical benefit I have derived from pure air, exposure, and vigorous exercise. The question of my being able to endure the hardships of mining life is a question no longer unanswered, and you must dismiss every fear for the result.

Dec. was a cold blustering month but with little snow. So far this month it is much pleasanter than any weather ever experienced in Penna. during the corresponding season. All the snow on the south side of the mountains has disappeared, and but for the remaining snow on the north side where the sun hardly strikes this month so far would be pleasanter in the mountains than Sept. or October. We anticipate a big storm in March, and altogether a nasty time with it. We are doing quite well mining now though of course nothing can be washed during the winter. The Arrapahoe bar like most of the bars in this country is now pretty evidently a total failure. Californians have been the heaviest losers in river and bar mining—Prospects that would insure a fortune there are worthless here—Many theories are advanced to show why this is the case but the sum and total of them all is that there is not more gold in the rivers of California than here, but that it is not so generally and regularly diffused, hence not

mixed with so much dirt—Mr. Giddings is still at Arrapahoe, not yet being satisfied of the nonfeasibility of making wages there—Walter is here in the mountains with me and expect Giddings up soon—Since Walter came up we have been working on Mr. Giddings claim, and have struck dirt averaging 40¢ per pan which is very good—His claims are on the "Burroughs Lead".<sup>24</sup> We are taking out dirt and quartz and if it does not run out will do *very well*. We will have quite a fortune . . . by the time it can be washed if it still continues so good—From fifty to seventy dollars per day can be washed a day from such dirt by two men and one sluice or tom<sup>25</sup>—There are very exciting reports of big discoveries on the Colorado branches, and every appearance of a large emigration there in the spring. There is a very general impression among the miners who have been here and prospected a season that the R. M. discoveries will prove the most extensive and best paying mines in the world—still I advise no one to come here. To any one however who had made up their minds to try the venture and were resolved to succeed by hard work, I should not discourage, and could [give] some valuable information to such in regard to outfitting, crossing the plains, mining etc. It takes about one season to learn how to mine to advantage. But as [I] wish to write several other letters will have to stop—We have quite lively times here—Debates in our club are animated and instructive—If we only had a good library of books to draw from we could pass the winter quite pleasantly—The inventor of chess too has received my benediction for making many a long winters night pass interestingly—Excuse this horrible paper—Its the best [I] could get, and even such as this is 50¢ per quire—My love to all my friends,

Your Affectionate Son

M. H. Dale

Nevada R. M. March 18, 1860

My dear Bro.

Within the last two weeks have received a grist of letters, for which [I] am very thankful. Among them are two from you, the last coming to hand on Friday night, and the former no less welcome by your not dignifying it by the title of a letter.

The express charges on mail matter, by a late arrangement, are reduced one half, so that letters cost but twenty five cts. and papers, pamphlets etc. but ten cts. This reduction is in consequence of the establishment of U. S. mail between the Mountains and Denver. The probable commencement of a through U. S. mail within two months is received most gratefully here. Our Post Master told me, the contract was to be let by 1st of May. One point of our present difficulty will then be obviated, viz. the great ir-

<sup>24</sup> O. J. Hollister, *op. cit.*, 165-174, discusses the "Burroughs Lode" as it was being worked in the early 1860s. He summarized as follows: "We have now traced the Burroughs vein for about 3,000 feet. It is the king lode of Nevada, and perhaps second to none in the country but the Gregory for strength, length, and value. It is a shame that but a very small portion of it is at present productive."

<sup>25</sup> The tom had been employed for years in the placers of Georgia. . . . It was, however, the ditch that gave opportunities for the general introduction of the tom and sluice, and in most districts they were unheard of until late in 1850 and 1851. The tom is a trough about twelve feet long, eight inches deep, fifteen inches wide at the head and thirty at the foot.

A riddle of sheet iron punched with holes half an inch in diameter forms the bottom of the tom at the lower end, so placed that all the water and the mud shall fall down through the holes of the riddle and none pass over the sides or end. The water falls from the riddle into a flat box with transverse cleets [sic] or riffles, and these are to catch the gold. . . . The tom was a great improvement on the rocker, but it was soon superseded by a still greater, the sluice, which is a board trough, from a hundred to a thousand feet long, with transverse cleets at the lower end to catch the gold.—J. Ross Browne and James W. Taylor, *Reports Upon the Mineral Resources of the United States* (Washington, G.P.O. 1867), 18-19.

<sup>22</sup> H. R. Helper, *The Impending Crisis* was an anti-slave volume that created considerable excitement, particularly in the South, during the 1850's.

<sup>23</sup> He might have told his parents something about the operation and function of a Miners' meeting. On January 21, the day before this letter was written, Dale was the Secretary at a meeting held "for the purpose of adopting laws for their future government, and electing officers to fill all offices created, for the ensuing year" in the New Nevada District. See: Thomas Maitland Marshall, *Early Records of Gilpin County, Colorado, 1829-1861*, University of Colorado Historical Collections, Vol. II (Boulder, 1929), 122.

regularity of our present mail receipts, caused by carelessness of express companies.

Occasionally the mail goes through to Salt Lake as was the case three weeks ago, and one or two mails have been stolen by, or lost and found by the Indians, but these are isolated cases, and every thing considered, we may congratulate ourselves on the comparative certainty we already enjoy in having our communications safely carried.

The *Tribune* much to my gratification comes regularly as the mails, and at a cost of only 10c per week. In the manner it was put up [I] judged it came direct from the office of publication. I am glad its going to continue for without the news it affords we would be entirely out of date. I knew not who to credit it too untill your last, but surmised a Mothers thoughtful kindness was at the heart of it.

*Helpers Compend.* received last Friday. It is very much sought after here—I have known so high as fifty and seventy five cts offered for the perusal of it for one week. The *Tribune Almanack* has not yet come but presume it will next week. I must again thank you all for these little kindnesses, great ones to us here. The difficulty of getting reading matter of public interest is much greater than you imagine.

We are having most delightful weather and have had all winter. On the south side of [the] hills in this vicinity there is not enough snow left to make a ball, and its nearly all gone from the north sides. With the exception of one or two cold weeks I never witnessed a milder or more uniform winter. This month has been incomparably fine. All who had the temerity to remain in the mountains during the entire winter are very much surprised that it should be so. We all expected a very severe time, but if this winter is a criterion of all—the winter months are the best for work (excepting sluicing) of the whole year. We never think of wearing coats, and in the day time almost every cabin door is ajar. The nights are cold, and indeed, even in the hottest time of summer, they are deliciously cool.

With the exception of two or three cases of scurvy, there has been no fatal cases of any disease in the mountains, which considering exposure, food, etc. is a very bright picture of healthfulness. There are duels, shooting affrays, hanging by mob law etc. most every week, which keeps up a morbid excitement through the mines and towns. No one who follows a legitimate business, tends only to his own affairs, or has any moral proclivities is in danger of these self constituted vigilance committies or mob juries.

The last duel<sup>26</sup> which occurred about a week ago, receives some notice from the position held by the principals, as well as the political nature of the difficulty. It was between our Representative, Mr. [J. S.] Stone and Secretary [L. W.] Bliss. Bliss is a sporting flash, a splendid shot on the wing etc. while Stone is unacquainted with weapons. Stone has strongly opposed the "Provisional Government" and successfully, hence he must be got

<sup>26</sup> According to J. E. Wharton in *History of the City of Denver From the Earliest Settlement to the Present Time*, (Byers & Dailey Printers, Denver, 1866), p. 65: "On the 5th of March 1860 at a public dinner given by Mr. Conklin at the Broadwell House, a difficulty occurred between L. W. Bliss, Secretary and at the time Acting Governor of the Territory, and Dr. J. S. Stone, member of the Legislative Assembly and Judge of the Miners' Court at what was then called the Mountain City District. The affair grew out of some personal language used by the former against the latter in presenting a toast. Dr. Stone challenged Governor Bliss to meet him in a duel. The challenge was accepted and the affair came off at 3 o'clock p.m., on the 7th on the opposite side of the Platte from Denver. The weapons were shotguns loaded with ball, and the distance, thirty paces. Dr. Stone fell at the first fire, mortally wounded. He lingered, however, in great agony and suffering for some five months ere death supervened."

rid off. Bliss for this purpose insults him, receives a challenge, accepts it, chooses fowling pieces to be loaded with ounce balls, and deliberately shoots him, Stone in the thigh, breaking it, and rendering his ultimate recovery very doubtful. Its the most barbarous, inhuman, cowardly code conceivable, and is likely to be followed up here with the same infernal results as in California.

We are still mining quartz, and doing very well. With the advent of Quartz Mills and proper tools we can make more than at the east. I shall give the mines a thorough trial before I abandon them. I am not so sanguine as Stevens, and yet have made more and learned more about mining than he has. He has been very anxious for his Bro. to come out, and yet he has not made enough to keep himself. But for me, he would have had to chop cord wood, or something [some?] like employment to keep him this winter.

If any one comes out from the Beech, I would like sent out three or four Welsh flannel shirts open in front, large pearl buttons, and pockets in them. Woolen socks, a pair of fustian pants, and what few articles [you] could send in [the] clothing line—Dont want to buy more here than [I] can help. Every thing is so high—Boots from 8 to \$10 for common ones. To any one coming from there alone [I] would advise [him] to come to St. Joe by R. R. and hire passage or work [his] passage out—with as much money and few other things as possible—To a company of three or four [I] would say, start from Leavenworth or St. Joe, buy a team, bring all you can in necessarys etc. Will write to Sis and Cousin Sarah soon and will then give more elaborate instructions—Love to all—

Yours hastily, and affectionately

Mat. H. Dale

Direct in future to Mountain City

Arrapahoe Co.

Kansas Territory

Nevada Gulch R. M. August 31, 1860

My dear Parents

One cause of my not writing oftener home is the provoking irregularity of express and mail carriers. You cannot imagine this reckless uncertainty. The mode of transmission from the River to Denver is changed nearly every month, and with each change a corresponding change of directions is required. The lines of transmission into the mountains being merely branches or feeders of the main one from Denver to the states of course it takes much longer to get them all regulated—and in these minor changes, besides the time consumed, many letters are unavoidably "dead letter" classified, and so lost.

Since writing last, a partial change has been made by the arrival of three or four loads of mail matter under Government conveyance—and we are now again in the midst of our usual most glorious uncertainty in regard to it—not knowing whether to look for letters at the P. O. or at the express offices—How long it will continue we cannot learn. The nearest office of the U. S. to us is at the mouth of the gulch about 3/4 of a mile from our cabin. You may direct in future simply Nevada Gulch Arrapahoe Co. K. T. so it will be likely to come through by some conveyance at all events, and leave off all Express companies—I have an opportunity of sending this through by the President of the District [Ira H. Morton] so it will most likely reach you safely. He is returning by Express for his family and has kindly volunteered to take any letters through I may wish to send.

The second cause of my tardiness is the peculiar dullness and sameness of mining life. After one general description of our

mode of living etc. nothing more of the descriptive can be made interesting without much more vivid imaginative powers than its my fortune to possess. Then there is nothing left to write about but myself, and although I will know you all deeply sympathize in every hope, in every success and each failure, yet mining is so peculiar its impossible to give the impulses from week to week without creating a very confused and imperfect impression of every thing. Every week and almost each day has its peculiar hopes of success, and in most instances its disappointments. In this uncertainty I choose to wait for the full developments, rather than as most miners do—give this week a glowing account of every thing, pictures of bright anticipations about to be realized, and the next drawing a cloud over the brilliant sunshine they had just created—and giving a gloomy picture of big failures where miners of good perception, large experience, and undoubted honest[y], and sound judgement, are most egregiously deceived. In some instances we have been successful, and in many more have failed entirely. The principal mining here has been in quartz, and in that branch of mining has been the greatest failure. From the assays and prospects, it was supposed none of the quartz would yield less than one hundred dollars per cord, yet the best as an average make no more in the mills now here, and many do not pay for working. In fact I never saw the mines so dull as at present—and do not expect much of a revival until some of the tunnels are driven so as to tap the Lodes at least a hundred feet below the surface. Then I anticipate great excitement and speculation again. The Tunnel property is changing owners rapidly and are being vigorously proscribed by capitalists in many instances.

We could have sold out this spring for three thousand dollars, but now I think all we have would not bring in cash more than one thousand. I intend remaining here another season. Walter wants to go back this fall if he can sell out. He is now over to Fall River about twelve miles from here. Expect him back Monday night. A friend of ours struck a silver Lode there and they have gone over to stake it off, and record it. It may be worth a fortune in less than a year and may be worthless. If he can manage it he will get us two or three claims on it. There is considerable excitement about silver mines at present, several very rich silver veins and cinnabar Lodes having been discovered quite lately. I have not the least doubt of this countrys ultimately being a great and profitable mining region, but time and money are both required to properly prospect it. I intend to remain until its proven one way or other. Whether I shall mine or not this winter [I] cannot say. If I thought the winter would be pleasant as last was would make arrangements to mine all winter, but am most afraid to trust it.

You ask about how we spend our Sundays etc. in the last letter received from Mother about a week ago. Sunday is very generally observed by the miners. No work is done, except patching up, tinkering around the cabin, doing their trading, retorting quick Silver etc. The saloons, groceries, gambling halls, etc. are always in full blast on Sundays and there is generally more gambling, drinking and fighting then than any other day.<sup>27</sup>

We have a lecture nearly every Sunday in this district, usually by some miner, and in Central, Mountain and Missouri Cities,

<sup>27</sup> The regulation of morals seems to have been difficult in the mining camp despite the much talked of effectiveness of Miners' Law. On April 28 the miners of New Nevada District adopted a resolution that "there shall be no Bawdy Houses, Grog Shops or Gambling Saloons within the Limits of this District." Violators were to be fined fifty dollars and warned; persistent violators were to be fined the same amount and given five days to leave the District. The Sheriff of the District was to collect half the fine, the remainder being deposited with the District President. In this letter, at the end of August, Dale does not indicate a successful enforcement. Marshall, *Early Records*, op. cit., 125.

preaching is held regularly and usuly in the Theatres, but sometimes as here in a Miners Cabin.

Of course under this state of things there is no regularly organized church, and no distinction of denominations recognized.

As [I] have got to end my paper and want to write several more letters will close this. Write often as possible and you shall hear from me if I change my place or any thing unusual occurs. Send me some papers or any thing to read. Now the U. S. mail is partially established papers come through. My *Tribune* has stoped entirely. Direct [to] Nevada Gulch, Arrappahoe Co. K. T. Love to all

Your Affectionate Son

M. H. Dale

Nevada City C. T.<sup>28</sup> March 12th 1861

Dear Brother

Intend writing to sister to day, and as you express some intention of coming out here in your last letter dated Nov. 5th I will sum up my impressions of this mining region, and let you advise yourself. Of course there are some things to be gained by striking out manfully and battling disappointments, that cannot be summed up mathematically. You cannot gain that self reliance, and independence under all circumstances a few years here would impart, by remaining any where in the east. This abstract you must give the consideration you think it demands, and now more specifically in reference to prospects pecuniary. Of course the trifling inconveniences, generally termed hardships are nothing, and not to be considered.

In my opinion, mining here thus far has proven an entire failure, taking the brilliant expectations formed the first year as a basis. The "placer diggings" by which term all mines that can be operated with pick and shovel are embraced, such as gulch, bar and dry diggings are so limited, not one tenth part of the miners now here can find employment in them, hence the future prosperity of this entire mining region depends upon further discoveries of "Placer" or in quartz mines already known.

As the country has been pretty thoroughly prospected it brings our attention more particularly to the prospects of success in quartz mining, which up to this time has resulted unfavorably. A yield of seventy five dollars per cord of quartz would pay a large dividend upon the expense of mining and crushing, could that much be saved, by the mode of crushing and washing now in use.

By a careful and extended analysis it is ascertained no quartz in this gold belt contains less than \$100 per cord, and ranging from that to a maximum of several thousands. It is estimated, with the best machines now in use, and best ways and means of saving the gold, an average of not more than one fiftieth is now obtained, hence the failure.

The cause of this great loss is owing in part to the fineness of the gold and to so much of it being coated with rust or oxidized. Its being in such fine particles precludes the possibility of crushing the quartz fine enough, by the present stamp mill, to free a close approximation of all the gold held by it. Much that is freed floats off in water its specific gravity (like gold bronze) being insufficient to bring it in contact with the mercury; as used in the present mode of sluicing.

A large proportion of the gold too is found to be oxidized so that it is impossible for the quicksilver to act upon it, before it is brightened by some process. In assaying acids of different kinds

<sup>28</sup> The Territory of Colorado was created by an act of Congress, which became a law on February 28, 1861.

are used to remedy this evil, but the expense would be too great to apply this principle extensively. Another difficulty arises from the impurities contained in the quartz and sulphurite. In the sulphurite especially much cobalt, arsenic, lead and other minerals are combined. These coming in contact with mercury, spreads over its surface in the form of a film or scum, and of such tenacity and strength as to interpose a great mechanical obstruction to its successful efforts to catch the gold, for which it has such an affinity.

I have enumerated some of the main causes to and difficulties in successful quartz mining. Until these difficulties are in a measure surmounted, I regard this entire mining region an entire failure. Our hopes are centred in the tests and experiments now in progress. If they prove only partially successful, results may arise putting an entirely different complexion on the mines. Hope ever buoyant leads us to anticipate great changes in the future. At this time the whole country seems to be bankrupt. The mills have been unable to run during the winter, and what little money was taken out last fall was long since consumed. Very little business is doing and that little upon credit. There has been no actual suffering nor is there danger of any. Plenty of provisions to meet the wants of all now here, for the next six months, is in market. Of mining upon which every thing hinges you have a pretty good and correct impression by this time, and now other matters.

Wages are never very high here. Miners during the summer can generally get from \$1.50 to \$2 per day and board, while common and general labourers get \$1 and board. I think by hiring for a whole year \$1 per day could be obtained for wood chopping and all general work, with board. My faith in the inventive faculties of the Yankee is still undiminished, and [I] have a firm belief that these mines will ultimately pay largely. To come here with the expectation of realizing a fortune in a few years and then returning I very much disapprove. But I candidly think no better country for eventually realizing a competence can be found for any enterprising young man, who will come with the expectation of *making this his future home*. He can realize this by any branch of industry he may undertake and *stick* too, but most emphatically by farming. During the last two weeks I have been in a quandary what to do. I sometimes think of returning home, but the present state of affairs offers no inducement, while the idea is too repugnant to my pride. At other times [I] think of returning to New Mexico,<sup>29</sup> and in fact every day brings new intentions. What my ultimate action will be is impossible to state. I shall however have to remain here for the next two months. Let me hear from you soon. Love to all.

Yours Affectionately

Mat. H. Dale

Nevada City C. T. April 28th 1861

Dear Brother

It seems very strange no letters came for me this week. I have not heard a word yet from home in answer to letters wrote from here, but several from others, which were in answer to those written at the same time. Nearly two weeks ago [I] received some, but none from home. I am very anxious to hear from you. I have

<sup>29</sup> On March 2, Dale wrote to his parents saying he had just returned from an unsuccessful "prospecting and exploring trip to the Sierra San Juan in New Mexico and some six hundred miles south of this gold belt." He was absent from Colorado for three months. His entire letter dealt with the details surrounding the sudden illness and death of his friend, Walter, who was buried four days before Dale's return.

been writing every week since my return, and will still do so, but its one sided business, for [I] cannot expect to interest you, but if you feel as I do, the mere fact of your being well is a great satisfaction.

There is nothing of importance new transpiring in the mountains. We have had several union meetings lately, in which compromise or secession principles had no show. We are getting the news by telegraph to Kearny [Fort Kearny, Nebraska] and from there by pony express. Yesterday morning we received news up to the 22d. This will give you some impression of Western enterprise. Only just think of it for a moment.

Receiving news thousands of miles and for six hundred miles and over, an almost barren and uninhabited (except by the Indians) region—having them printed and distributed all through the mountains in five days! That is doing things up with a rush, as every thing is done in the west. The news of course create[d] considerable excitement among such a feverish nervous temperament as makes a gold hunting community, but judging from the Telegrams nothing near so intense as throughout the states. Persons are leaving here every day almost to join in the melee. Its an awful state of affairs, and if I was at home and needed I could not hesitate a moment to fight under the stars and strips. I would never wait to be drafted but would rather volunteer a hundred times than be drafted once. It has come to war and no time for waiting and compromise now. Unconditional surrender to the Government is the only terms of settlement honorable to its dignity, and that dignity *must* be upheld at all hazards.

At a Union meeting in Denver last week the following address or resolution was passed unanimously, indicating the sentiment of the people here. "To the President"—"The eyes of the world are upon you—the hearts of the American people are with you—and may the God of Battles be with the Stars and Stripes."

There are a great many southern men here, but I have heard of but one "Rattlesnake" flag being unfurled.<sup>30</sup> We are ten to one for the government.

We deprecate the necessity of war. It will materially affect our prospects here which were dark enough before. I should not be surprised to hear of a company organizing here to take the field.<sup>31</sup>

The last news from the east mentions the difficulties in Missouri and we have a rumor that eastern mails are interrupted. This may be the cause of my not hearing from you. The most expeditious and direct route of our mail is through Missouri. It will be a sad event for us when that source of communication is cut off, but the enterprise of the men here will soon establish a line through Iowa by Pony Express or some other expeditious means.

We have just had quite a storm, but its now cleared off fine again. My health is very good, but my hands are so stiff [I] can hardly write. I am helping Giddings get his mill started and shall stay three or four weeks with him. I take charge of the mill one watch, tend the sluices etc. Its the most particular part about a mill, as the amount saved is the great desideration. I was up till

<sup>30</sup> On April 24 a Confederate flag was hoisted over the store of Wallingford and Murphy on Larimer Street. Samuel M. Logan, soon to be a captain in the Colorado Volunteers, went up on the roof and pulled it down. William C. Whitford, *Colorado Volunteers In The Civil War*, (Denver, 1906), p. 39.

<sup>31</sup> In 1860 two companies, the "Jefferson Rangers" and the "Denver Guards" had been organized but were disbanded at the end of the winter. Samuel Cook of the Idaho mining district is credited with raising the first Colorado troops for the war. In July, 1861, he began recruiting men to serve in a Kansas regiment of cavalry but Colorado Territory's new governor, William Gilpin, persuaded Cook and his men to remain and join the First Regiment of Colorado Volunteers.

twelve o'clock last night and every night last week. The business requires you to have your hands in the water most all the time, and my hands are chafed and swollen very much. Have received rather discouraging news from New Mexico, and the probability now is that I shall not return there. Nothing more of interest. Write often as possible. My love to all.

Your Affectionate Brother

M. H. Dale

P.S. Direct in care of the C. O. C & P P. Ex. Co.<sup>32</sup>—St. Joseph Mo. If the Government mail is stopped they will form some plan of getting their Express matter through.

Yours Mat.

Nevada Colorado Territory R. M. May 5, 1861  
Sunday Afternoon

My dear Mother

I have nothing to write that can interest you I am sure, but drop you a line to let you know how well I am, and because you will expect something. I had a letter from Bob Dunkir [Dunker?] this week in which he states that on his last visit in Daleville you mentioned having written to me. I have not yet received that letter, nor any other in answer to letters written since my return. There is a U. S. mail due tomorrow night which will be distributed on Tuesday morning. If it does not bring me a letter I shall almost give up all hopes of every getting that one. The letters I have received thus far have all been by the "Express Company." That I think makes the delay as I do not remember advising you to direct in care of Express. Until I direct you otherwise my address will be Nevada City, Colorado Territory R. M. Care of C. O. C. & P. P. Express Co. St. Joseph Mo.

We are in hopes the central overland will run through Denver, in which case we will have the benefit of a regular daily U. S. mail. I believe the service commences on that route about the 1st of July. We are making strenuous efforts to secure the mail line through the mines. It would result in almost incalculable benefit to this region. I most devoutly hope we will get it as the telegraph will surely follow in its wake.

The severest storm we have had this winter set in last night. The snow wears out nearly as fast as it falls, but the wind sweeps off the snowy range with terrific force. It still rages unabated and we all shiver to think of the fatal results it will prove to prospecting parties and the stock on the plains. After this storm we will be likely to have settled weather until the rainy season commences in July—when we will have a shower every day in the mountains for about a month.

I received a letter last night by express from the only friend I correspond with in Buffalo—Walter S. Stephens. He was in college the same time with me and showed much kindness in making my stay there agreeable. I think very highly of him—and the name bears an inexpressible charm to me now. His letter was inclosed in a Union envelope, a star spangled banner printed on the outside—and his letter breathed sentiments most loyal to the government. From his letter I gather that most extensive operations are going on there for war. Much as I dread civil war with its desolating concomitants, my whole heart is with [the] government in this struggle, and I do hope it will not have to be bullied into a degrading compromise—for any compromise with traitors is most degrading, and an insult to the dignity of our country. The south I think will find the north fully aroused by the time they have

effectually exploded, and that although slow to anger their wrath will be exceeding great.

The political troubles in America have resulted in great pecuniary disaster here. There was inflated a tremendous speculative balloon. The bayonets of coercion and secession have pierced it most effectually and a very sudden collapse is the result. Many stock companies with imaginary capital and fortunes of like character have suddenly melted—while a great depreciation in securities throughout the mines is the immediate result of secession thus far. We do not look upon the affair at Baltimore<sup>33</sup> as a true index of the sentiment of the state. It is notorious for rows, and the reckless portion of the city are always "spoiling for a fight". But I have written enough for you to tell my feelings and sentiments as to the struggle.

I attended devine service this morning in a log cabin. There was a very small attendance in consequence of the storm. A most impressive Union prayer was delivered.

I cannot extend this letter dear Mother for there is no material to draw from. I expect the troubles in the east will have a very prostrating effect on business of all kinds. I am very anxious to hear all the particulars and its real influence on business.

Hoping to get a letter soon, and with much love to you all

Very affectionately

M. H. Dale

Nevada City C. Territory  
Sunday Afternoon June 30, 61

My dear Father and Mother

Received your letter early last week, and one from Dave towards the last of the week. This is the first opportunity I have had to answer it. I am very sorry to learn so much sickness is prevalent there and that you have had such a cold disagreeable spring. It has been entirely the reverse here. The spring opened earlier than usual and we have had delightful weather for the last month—while I believe the country was never healthier. The rainy season is just commencing and for the next month the scorching heat of the sun will be counteracted by a heavy thunder shower each day, often accompanied by a heavy fall of hail. You can form no true conception of a thunderstorm in the mountains—its awfull grandeur. We never hear those sharp, short crashing claps that startle so vividly on the plains, but a full, deep sonorous tone, that seems to fill the entire space. The beholder is filled with awe and wonder, without experiencing any fear and as "The live thunder, leaps from crag to crag" you almost seem to be going with it. I have been on the mountain top, while a misty cloud was half way down the slope, and could see the grandness of Natures illuminations, playing in fantastic brilliancy almost at my feet, and could almost fancy a mount Sinai, but I did not intend wandering off in this labyrinth when [I] commenced writing so [I] will change the train of my thoughts.

Mr. Giddings whom I have been working for this spring failed, gave up every thing to his creditors, mill, claims and all, and after staying here and working hard nearly three years, now leaves worse off than we he came here.

I got a situation through his agency, in a mill that is doing quite well. My salary is one hundred dollars a month and found. I superintend in the mill. One of the partners has gone home for a couple of months, and if the mill continues to pay well as at present I am promised fifty dollars per month advance after the first

<sup>33</sup> He refers to the difficulty Union troops had in getting through that city on their way to Washington to answer Lincoln's call for men.

<sup>32</sup> Central Overland California and Pike's Peak Express Company sometimes called the "Clear Out of Cash and Poor Pay" by Coloradans.

month. This is a very large salery for this country, but I have learned all the new gold saving improvements, and you know *brains* will always command more than mere automatons in any business, and what I do I always study. My prospecting and mining for myself has proven so disastrous I believe I shall try it no more this season, but stick to the sure thing. Its hard work, and unpleasant but I did not come here for ease and pleasure.

Most of the claims I have sold will come back to me in November, for I can plainly see the payments will not be met. If times liven up any this fall I will dispose of all I can for cash. I hardly look for it now however. There would have to be a great reaction, for at present not over one third of the quartz mills are running, and there are not more than a dozen mill men who have confidence either in the leads, the mills or in themselves. Dave says in his letter "Mat, you know I write more than all the rest together." Of course he does, but just tell him to remember I write him oftener than to all the rest. I shall answer his letter very soon. I have no more time to write to day. Oh yes I must tell you our calculations for the fourth. The mill boys will celebrate it by raising a flag, the stars and stripe over the mill. We have a pole already dressed over a hundred feet long, and are having a flag made 14 x 21 feet, thirty four stars, and one in the centre for Colorado. This will be the largest flag in the Territory but our patriotism is immense. Do write oftener dear parents. I love to hear from you above all others. My love to you all.

Your affectionate son

Mat. H. Dale

Nevada City C. T. Oct 21st 1861

My dear Parents

I received the last letters from home about two weeks ago, from Dave and Mother. I expected to be on my way home by this time but now the chances of my staying here a month longer seems very good. I have trouble in collecting the money due for my labor this summer but will I think get it in the course of a month. The whole country is nearer bankrupt than ever. It is almost impossible to collect money after it is earned. The claims I sold this summer all came back on my hands, the parties purchasing being unable to meet their obligations. I can make no disposition of them for money at present so will have to leave them. I do not expect to cross the plains by express so will be about three weeks in reaching the river after I start. I will drop you a line at the time of starting and you may expect me about the 1st of December. My health is very good at present. We are in the midst of a snow storm, the severest known at this season of the year. If I do not get into something that will pay me, my stay in the east will be very short, for I cannot afford to be inactive. My love to you all

Very affectionately

Your Son

Mat. H. Dale

# The Death of Zebulon M. Pike

By ROBERT M. WARNER\*

Few men have left such impressive monuments to preserve their memories as Zebulon Montgomery Pike whose memorial is probably America's best known mountain. This mountain, which now bears the alliterative name of Pikes Peak, was "discovered" by Pike in 1806 while leading an expedition, his second, into the interior of the newly acquired Louisiana Territory.

In August of this year he was promoted to a captaincy<sup>1</sup> and shortly thereafter was made a major. By 1810 this thirty-one-year-old officer, in the small American Army, had risen to the rank of Colonel of Infantry. His career, however, was destined to be of short duration. In the War of 1812 Pike, who now held the rank of Brigadier General, led the United States' assault on York (present-day Toronto, Ontario), which at that time was the capital of Upper Canada. On April 25, 1813, his forces of about 1,700 troops sailed in the squadron commanded by Commodore Chauncey<sup>2</sup> from Sackets Harbor, New York, across Lake Ontario to attack the settlement. During a lull in the attack on the fort, the British exploded their powder magazine sending stones and other debris in all directions. Pike, struck by one of the flying missiles, was fatally injured.

An interesting though somewhat morbid account of the General's death and burial is recorded in a letter from Dr. Samuel Dungan of Canandaigua, New York, to his wife, Elisa. Dungan was making a trip by stage and steamboat from his home to visit relatives in New Jersey when he met the General's widow, who was then returning from her husband's funeral. The fore part of this letter, here omitted, discusses family affairs of Dungan. The letter now is located in the Nathaniel Balch Papers in the Michigan Historical Collections, University of Michigan.

[May 29, 1813]

(Salutation destroyed)

Mrs. Pike (widow of General Pike) came in company with me from Albany and rode in the same stage with me from [New]

\* Robert M. Warner, son of Dr. Mark T. Warner of Montrose, Colo., is at present working for a Ph. D. degree in American History at the University of Michigan. As an Assistant in Research at Ann Arbor, Mr. Warner recently found a letter written by Samuel Dungan, which he has transcribed for *The Colorado Magazine*, exactly as it was written in 1813.—*The Editor*.

<sup>1</sup> On August 12, 1806, Pike was made a captain.—Francis B. Heitman, *Historical Register and Dictionary of the United States Army 1789-1903*. (Washington, G.P.O. 1903), Vol. 1, p. 792.

<sup>2</sup> Isaac Chauncey (Feb. 20, 1772-Jan. 27, 1840), naval officer, was born in Black Rock, Fairfield County, Conn. Descended from Charles Chauncy [q.v.], the second president of Harvard College, he was the fifth of nine children born to Wolcott and Ann (Brown) Chauncey. . . . Chauncey, early in September 1812, was made commander of the naval forces on Lakes Ontario and Erie.—*Dictionary of American Biography*. (Scribner's Sons, N.Y. 1930), p. 40 c. 2.

Brunswick—poor woman appears sorrowfull enough. She was at Sackets harbour when the General fell—the General was put into a Hogshead of Spirits and carried by Commadore Chauncey to Sacket's harbour where he was buried with the honors of war within the walls of the garrison—his wife saw the corps and say it looks natural but very pale, which the spirits would accasion. Poor woman she had all his effects with her, she had the coat surtout that he had on when the stone struck him, the coat was very much cut where the stone struck behind his shoulder and arm or rather more under and behind the arm pit, she had also the British flag with her, that was flying in Little York when it was taken, it was given to her by Commadore Chauncey. poor Soul my heart felt for her yesterday when she wanted something from the trunk that the General's clothes was in, her servant or rather the General's, when he was getting out the article she wanted, the gentlemen, all discovered it was the General's and begged the favour to look at them, which she kindly permitted and assisted the servant in getting them out. Poor woman she looked ready to faint, she showed his coats, the British flag and his sword<sup>3</sup> which she carried in her hands when she rode in the stage. It was a mournful sight to behold indeed. I could not help shedding a flood of tears as I helped her servant close the trunk, which she was doing when I offered my assistance she was glad to accept it and seemed to be relieved of an unpleasant task. . . .

I remain yours affection[ately]

Samuel Dung[an]

### THE SWORD OF GENERAL PIKE

Letters and an Affidavit now in the Archives of the State Historical Society tell the story of General Pike's sword, owned by the Society.

One letter reads:

Secretary,  
Colorado Historical Society,  
Denver, Col.

Aug. 18, 1903

Sir:

I have a client in Georgia who has in his possession the sword of General Zebulon M. Pike, worn by him at the time of his death April 27th, 1813, at the battle of York, Canada. The owner desires to sell and I write to enquire whether your Society will entertain a proposition to buy. Satisfactory proof of genuineness will be furnished.

Respectfully

(signed) James E. Brophy

Attorney and Solicitor,

Patents,

Soldiers' and Sailors' Claims

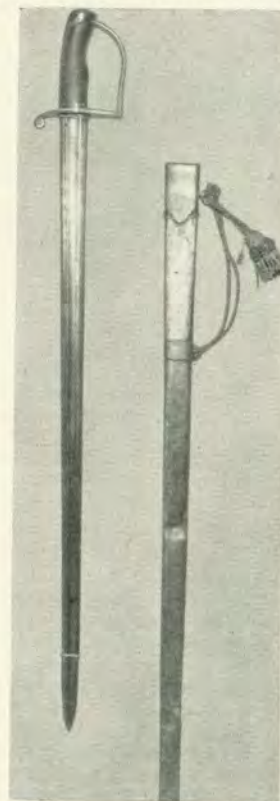
Washington, D. C.

Subsequent correspondence shows that S. W. Thomas, P. O. Box 86, Wrightsville, Georgia, wished to sell two swords which he

<sup>3</sup>This is the sword which later was given by Mrs. Pike to Major Donald Fraser, Aide de Camp to General Pike. The story of how it came into the possession of the State Historical Society of Colorado is told through the letters and affidavit published herewith.—The Editor.

said had belonged to his uncle, Major Donald Fraser,<sup>4</sup> one-time Aide de Camp to General Pike. One sword he said had belonged to Pike. Thomas's asking price was \$300 for the two swords. After an exchange of letters between Curator William C. Ferril of the State Historical Society of Colorado and Thomas, the Society obtained the two swords for the sum of \$150.00.

The following statement, acknowledged by a notary, accompanied the swords to Denver in November 1905:



Sword carried by General Zebulon M. Pike at the time of his death on April 27, 1813 at the Battle of York, Canada. Purchased by the State Historical Society in 1905, the sword is one of the outstanding exhibits in the Colorado State Museum.

### A F F I D A V I T

The undersigned makes the following statement to accompany the sword disposed of by him on the First day of November, A. D. 1905,

<sup>4</sup>Donald Fraser, born in New York, N.Y., appointed from N.Y. Ensign 15th Infy. Mch. 12, 1812—2d Lieut. Mch. 13, 1813. Asst. Depty. Pay Master Genl. Aug. 4, 1813 to Mch. 17, 1814. 1st Lieut., 15th Infy. Dec. 31, 1813. Tr. to 8th Infy. Mch. 17, 1815. Tr. to Corps of Artillery, Mch. 13, 1816. Resigned Nov. 1, 1816. Appt. Major and Pay Master Oct. 29, 1836. Resigned Nov. 17, 1841. Honors: Bvt. Capt. July 25, 1814 for gallant conduct at the battle of Niagara; Bvt. Major, Sept. 17, 1814 for gallant conduct sortie from Fort Erie. Francis B. Heitman, *Historical Register and Dictionary of the United States Army* 1789-1903. (Wash. G.P.O. 1903), Vol. I, p. 434, c. 2.

to the State Historical and Natural History Society of Colorado. My name is Samuel Willis Thomas, residing in Wrightsville, Georgia. I am forty-five years of age, having been born on May 27th, 1860 on Skidaway Island, State of Georgia, about twelve miles from Savannah, Georgia. I am the son of William A. Thomas, who was born in Brooklyn, New York, April 7, 1828, and who in 1857 or 1858 or about that time moved to Savannah, Georgia, where he lived until his death there on January 20, 1874. The said William A. Thomas, my father, was a Royal Arch Mason and a member of Landmark Lodge of Savannah. He was a nephew of Major Donald Fraser of the United States Army who was born in New York in April, 1791 and who died in Brooklyn March 5, 1860. The said Donald Fraser, as will appear from the war records of the United States Army was Aid De Camp to General Zebulon Montgomery Pike and was with him when he was killed at the Battle of Little York, Upper Canada, on April 27, 1813. It is a matter of record that before General Pike put his column in motion to attack Little York he placed in Major Fraser's (then Second Lieutenant Fraser of the Fifteenth Infantry) hands, a letter to his (Pike's) wife which he directed Fraser to deliver to his widow in case he fell. The enemy driven from their works by the fire of the American flotilla on the lake, left a slow-match lighted in connection with the magazine of the principal fort, and as the land column of the attack approached, the fort blew up and stones of great weight fell among Pike's men. General Pike himself was struck on the back and died the next day, and Major Fraser who was by his side was severely wounded in the right shoulder. Fraser in due time delivered Pike's letter to his widow who thereupon presented to him (Fraser) the sword worn by her husband on the occasion of his death. It is this sword concerning which I am making this statement and which I am this day disposing of to the Historical Society of Colorado. It may be described as a brass mounted sword in an iron or steel scabbard, with gilt cord and tassel and short strap with buckle attached and bearing on the back of the handle or hilt the following inscription:—

"The Sword of the late Gallant Gen' Pike presented by his Lady to Lieut. Donald Fraser his Aid D' Camp."

The indentations which appear on the scabbard of the sword are said to have been caused by the shower of falling stones from the explosion which killed General Pike.

The sword remained in Major Fraser's possession during his life time and he always kept it hung in his bed room. Shortly before his death and having no children nearer relations than my father, his nephew, his sword was given by Major Fraser to my father. I remember the sword as being in my father's possession all during his life time from my earliest recollections and he has many times related to me that during the Civil War and while he was a resident of Savannah, Georgia, he kept it buried to keep it out of the hands of both the Federal and Confederate soldiers. At his death in 1874 it came into my possession by inheritance, I being his only child, and it has remained in my possession ever since until the present time.

I am also sending with the Pike Sword another sword which may be described as a gold mounted and handled sword with a gold plated scabbard and Damascus steel blade, bearing the inscription on the outside of the scabbard: "From his fellow citizens of New York to Major Donald Fraser. A tribute to his Gallantry as a soldier and inestimable worth as a citizen."

This sword was presented to Major Fraser on Saturday, June 25, 1836 in the Governor's Room of the City Hall in New York City, the presentation speech having been made by His Excellency, William L. Marcy, Governor of the State of New York. This sword

also was given to my father by Major Fraser and by my father left to me.

(Signed) Samuel Willis Thomas

Also accompanying the swords was a memorandum book which had belonged to Major Fraser and which contained newspaper clippings relative to his death and to the presentation of the sword in 1836.

During the course of his early correspondence with the Historical Society, Mr. Thomas added the following postscript to one of his letters:

P.S. When a youth of 17 yrs. I went to school in Dutchess Co., N. Y. My father was a Democrat all my other relatives on my father's side now living are Republicans—I am a free-silver Democrat. I admire U. S. Senator Henry M. Teller of Col. and wish he was president.

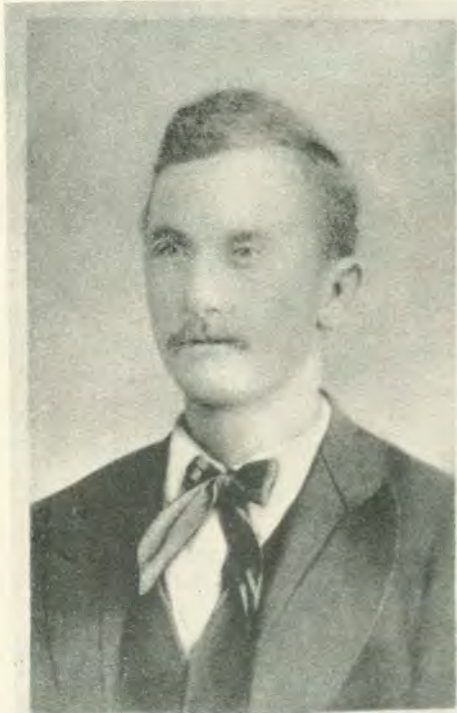
In 1911, Mr. Thomas wrote to the State Historical Society asking to buy back the swords stating that his mother was getting old and would like to see the family relics. In another letter he stated that if he could buy back the swords, he knew his friends could sell them for \$500. What reply was made by the Society is not of record. The swords remained in Colorado. Today the Pike sword is on display in the Pioneer Room of the State Museum of Colorado as a tribute to the first official American explorer to visit what is now the Centennial State.

# Memories of a Pioneer Childhood

By GEORGIA BURNS HILLS\*

I was three when in July, 1876, we arrived in Denver from Savannah, Georgia, having made the trip by the way of New York City and Philadelphia, where we visited the Centennial Exposition.

How my father, Harry Burns, came to get the job with a general store<sup>1</sup> in Denver, I do not recall ever having heard. Before then



*J. G. Needles,* LEADVILLE, COLO.  
HARRY BURNS, 1881

he had been proprietor of a little tea and coffee business in Savannah which he sold to finance the move to Colorado, as money was very scarce in Georgia in those days.

\* How the rugged life of pioneer Denver and Leadville impressed a youngster from the Deep South is vividly told here by Mrs. G. B. Hills of Decatur, Georgia, now an octogenarian. "We seem to remember more clearly the children of our childhood than we do the grownups," says Mrs. Hills and she centers her recollections around wee folk and the things that affected them most.—*Editor.*

<sup>1</sup> According to the *Denver Directory*, 1876, Henry Burns was a clerk for James Connor who was in the Tea, Coffee and Spice business. In 1877, he was listed as a clerk for Frank Winfield, who ran Charplot's Restaurant.

Memory seems to have dawned in me with the birth of my brother, Harry Robert, in September, 1877. Father wakened Madgie, my sister, and me in the night and carried us in to look at the tiny mite lying by Mother in the bed.

Next I remember a man<sup>2</sup> walking around the streets of Denver, ringing a bell and calling out, "Lost child! Lost child!" Often he was either calling for me, or bringing me home, for I was incorrigible about running away. Once a cowboy brought me to the store from over across Cherry Creek.

And then I remember Indians,—squaws with papooses on their backs, mounted on ponies and calling out over the back fence, "Bees-cuits, bees-cuits," or it sounded like that. Mother took a bagful of biscuits out to the first squaw. She looked at them, then shook her head vigorously. Through signs she indicated that what she wanted was clothing or blankets. Of those we had none to spare being so new to a cold climate.

One Sunday afternoon Father took us for a buggy ride through the Indian camp along the river. In front of the tents open fires burned and squaws were bending over them cooking. One sight I have never forgotten through the years. There was a smoke-blackened coffee pot on the coals. A woman opened it and spat in it deliberately.

"My, how she must hate her old man!" Father said.

Mother rented out two rooms in our house for housekeeping. One of the tenants was a very pretty dark young girl who had come to Denver to teach school. I don't remember her maiden name but she afterwards was a Mrs. Grant. It was said her husband was very rich. And then came two sisters from West Virginia. One of them, who had left a family of children back home, had "consumption." The maiden sister, Miss Julia Atkinson, had brought her out to Colorado hoping that she could be cured. But it was too late. After a few months she was taken home to die.

For many years we had in our home some short stories called "Saxe-Holm's Stories,"<sup>3</sup> which Mother said were written by Helen Hunt Jackson, who was an acquaintance of our family. She had given the stories to mother. They were written under a pen name before she became a distinguished poet. Once there was excite-

<sup>2</sup> "Elijah Wentworth, a pious old colored man, known as 'Lige' to everyone in and around Denver, had been a slave belonging to William Wentworth, who owned a large plantation, in Loudon County, Virginia... Lige was a prominent personage in Denver between the years 1860 and 1880, for he was gifted with the talent of making rhymes to extol the cause in his profession as a town crier... Lige's specialty was to find lost children. In a voice that was far-reaching, he would cry 'Lost chile, Lost chile,' and then say rhymes of his own making which told the name, color of eyes and hair, and further description of the missing youngster."—Augusta Hauck Block, "Old Lige," *Colorado Magazine*, Vol. XIX, No. 4, 154-155.

<sup>3</sup> "Saxe Holm's Stories" by Sax Holm or H. H. (Mrs. Helen Maria [Fiske] Hunt Jackson), were published by Scribner, Armstrong, 1874-1878.—*Dictionary of American Biography*, (N.Y. 1946), p. 542.

ment in the city over the suicide of a man named Key. He was said to have been a grandson of Francis Scott Key who wrote "The Star-Spangled Banner."

Not far from us was a hill on top of which was a big house with big grounds encircled by a fancy iron fence. Inside of the fence were peacocks which I used to love to watch, and which were responsible for many of my wanderings.

It was June of 1878 when Father came home one day to dinner and Mother began to cry and fuss at him.

"There are three children now, Harry," she said, "and a wild, rough place like *that* is no place to take them to live."

"George Robinson<sup>4</sup> has shipped the goods already and the store is building and I'll have to go," Father told her.

It was Leadville they were talking about. And in spite of Mother's protests he went there. And we went out to a ranch on the prairie owned by a family named Bell, who furnished us with milk. It was a lonely-looking place with a ditch around it and not far off was a gulch over which was a bridge to drive the cattle across to the grass on the other side. There were several young men around, whether sons or hands I don't know. Farther up there was another bridge over which trains went—where to, I don't know, either. But what I do remember was that two exciting events happened there that summer. It was hot and dry and one day a fire started in the dry grass across the ditch, and we realized why the ditch was there when it stopped the fire from reaching the house and barns. Another day there was a terrible roaring that set up a big commotion. Up in the mountains there was a cloudburst and a great wall of water came down the gulch. It carried away the bridges and one of the cowboys had to jump on a pony and fly off to warn a train that was due soon.

## LEADVILLE.

Some time in September we were all in a mess again packing up to go to Leadville. This was hard on Mother as Father was not with us now and she had it all to do herself. She was not well. But to me, the little adventurer, it was all very thrilling.

<sup>4</sup>George B. Robinson was born in the town of Gun Plains, Allegan County, Michigan, Jan. 28, 1848. In 1877 he retired from the position of cashier of the First National Bank of Allegan and traveled in Europe and in California. . . . In February 1878 he opened a store of miners' goods on Pine Street in Leadville. "He was successful from the start. His business grew with the wonderful camp until his house was one of the largest and most prosperous in the city. He erected a block on Chestnut Street, which at one time brought him a rental of \$7,000 a month. . . . In the spring of the year (1878) he outfitted two prospectors, Charles Jones and John Y. Sheddon, to work in the Ten Mile District, he to have one-half of the property located. In June following, these prospectors discovered the '78 and Undine lodes, and subsequently the Checkmate, Rhone, Big Giant, Little Giant and others, ten mines in all, which constitute the Robinson group. In December following, Mr. Robinson bought the interests of his partners and in April, 1880, organized the Robinson Consolidated Mining Company, in New York, with a capital stock of \$10,000,000." O. L. Baskin Historical Publishers, *History of the Arkansas Valley*, (Chicago, 1881), 409-410.

Of the start of the journey I have no recollection, but I recall how jammed the train was with men and how we all left it together.<sup>5</sup> There was a big white house where we spent the night. The next morning we were crowded into a stagecoach where Mother was the only woman and we three, the only children. A rough-looking man wept as he looked at little Harry in Mother's arms.

"Let me hold him for a minute," he pleaded. "He's the first baby I've seen in ten years. It was then I left mine back East."

But little Harry would not permit him to touch him, nor could anyone else except Mother since he had the fall which hurt his back and which kept him from ever walking.

Up and up we went in the mountains until, at one place, I looked down and saw a river below us which looked like only a green thread. On the other side was a wall of rock and I shivered to think what would happen to us if the stage went over. But it didn't. Soon we were where it was wide and level and there were dead animals and broken vehicles and other things scattered on both sides of the road. . . . And then we were in Leadville<sup>6</sup> and Father was hugging and kissing us all.

"Now, Madge, don't feel *too* bad when you see what we have to live in here. If you look around you'll realize that it's as good as the best there is in Leadville."

The cabin had only one room with bunks against the wall. Father pointed proudly to the floor.

"We did get lumber for a floor," he said. "There's precious few others who have *that*. And look at our stove. George Robinson got that up here for us, with Harry's pram."

It was our own, good, big stove from Denver, with the reservoir on the back. "Full of water, too," Father beamed. "And that's sump'n here in Leadville where you have to buy all you use."

<sup>5</sup>"In the fall of 1878 trains (Denver, South Park and Pacific) were put on from Denver to Buffalo where 'Bob' Spotswood had already provided stage connections to the mining districts." Albert Sanford, "The Old South Park Railroad," *The Colorado Magazine*, Vol. V, No. 5, 76.

According to M. C. Poor in *Denver, South Park and Pacific* (World Press, Denver, 1949), p. 144: "A second route, operated by Spotswood & McClellan, ran between Leadville and the railhead of the South Park railroad, the temporary stage stations moving west as the railroad advanced. This route was by way of Fairplay, Alma, thence up Mosquito Gulch and over Mosquito Pass, another hump with an elevation of 12,188 feet. From this pass, the road dropped down the west slope of the Park Range into Leadville." A writer for *Harper's New Monthly Magazine*, Feb. 1880, 2357, Vol. LX, pp. 389-390, in an article entitled, "Grub Stakes and Millions," said: "It must be known that, not among careless tourists, but among experienced drivers, who rightly estimate danger, the crossing of the Mosquito is considered what the life-assurance companies call 'extra-hazardous.'"

<sup>6</sup>The infant town rose like magic, and before the season closed it numbered two thousand people; but the approach of winter drove a good portion of these away. In the spring of 1878, however, the rush again set in, and before mid-summer there were between five and six thousand people in the camp. C. W. Waite, Esq., *A Complete Illustrated Guide To The Wonderful Mining Country, Leadville, Colorado*. (Vandercook & Co., Chicago 1879), 5.

"Oh, Harry!" was all that Mother could say as she stooped over to plump up the pillow which was already in the pram. For little Harry did let Father hold him and bring him from the stage.

Father had put up some shelves and made some rough furniture (he was never much of a carpenter), out of packing cases. He had groceries in the house, too.

"I hope you remembered some grits," Mother said. "I'm starved for some."

"I've had some cooking all day," he told her. "In this climate it takes hours longer for them to get done than it does back home. See, they're in that heavy iron pot on the back of the stove. I sneaked up here every chance I got and stirred 'em."



RESIDENCE AT LEADVILLE

From an article entitled, "Grub Stakes and Millions" in *Harper's New Monthly Magazine*, February, 1880.

"You're a darling," Mother said as she lifted the lid off the pot and leaned over to look at the grits.

When she smelled the steam rising she turned pale and retched. Father raised up from laying little Harry down and reached to support her.

"The bunk is made up," he said. "You'd better lie down."

<sup>7</sup> Looking back now, after my own experience with pregnancy, I realize what a terrible winter that must have been for Mother.—*The Author*.

The cabin was not a stone's throw from the main business street and the nights were filled with all manner of rowdyism. Mother did not dare open the door until she heard Father's peculiar whistle. Scarcely was there a night when somebody was not shrieking, "Help!" or, "Murder!"

Mother's heart must have stood still many times wondering if Father was the one in need of help for each night he brought home the day's receipts from the store. Often it was the middle of the night before he reached home.

All around us shacks sprang up like mushrooms.<sup>8</sup> Some tents were pegged down. Into one of the shacks, a short time after our arrival, came a family with two children—a boy of about twelve, and a little girl about my age. The parents had a saloon-dancehall. They left the girl, Gracie, at home alone at night, or until her brother returned drunk, if he chose to go home at all before two or three in the morning when the parents closed their place of business. My parents always knew when that was, because Gracie's mother would stop and shriek, "Gracie!" until the little girl tumbled out of someone's shack or tent. Often it was ours for Mother could not refuse shelter to the poor lonely child on a bitter night—as they all were. We did have blankets and kept a fire in the stove. Gracie would lie on the floor, a blanket above and below her, until the calling began.

I recall a boy who rode around the camp on a pony. I was very envious of him. He probably was older some than I was, but everything about him was indicative of wealth. His clothes were of the style we associate with Little Lord Fauntleroy. He had golden curls hanging over his shoulders. Sometimes he rode beside a man on a large horse. The man's hair was fair and long. I don't recall ever having heard who either was.

On April 21, 1879, Father appeared at home in the morning with an old Irish woman whom he left there. Then he took Madgie and me back with him to the store. He left us in charge of a woman who took it upon herself to teach me how to crochet. Anything in the store we wished to eat we got just by asking for it.

It was a wonderful day—no father and no mother to keep saying, "Don't do this or that." Then Father came and took us home. There we found a wonderful thing had happened in our absence. A doctor had been there and had brought a new brother. His name was Kenmore.<sup>9</sup>

<sup>8</sup> "With the location of the Little Pittsburgh and the New Discovery, men simply went crazy with excitement... Buildings began going up and the sounds of hammer and saw could be heard twenty-four hours a day. Many buildings still standing were built by the light of lanterns and bonfires. Shelter was needed for families and, with winter coming, the crude huts, tents and dugouts must be replaced with homes." Marian P. Smith, *Healy House* (State Historical Society, Denver 1951), 8-9.

<sup>9</sup> Kenmore Burns is now in the real estate and insurance business in Macon, Georgia. And there are Kenmore II and Kenmore III.—*The Author*.

As my parents were Episcopalians and there was no Episcopalian church in Leadville in 1879, it was necessary to wait until the bishop<sup>10</sup> came up from Denver to have the baby christened. The ceremony, I think, took place in the courthouse. As there was no font for the purpose, an amateur carved one out of wood for the service. But I have often heard my mother say that it was stolen twice before the christening day arrived. A third one, not nearly so ornate as the first, had to serve.

By now the camp was spreading out and real houses were being built to shelter the thousands who were pouring in. Mother, whose health had been poor since Kennie's birth, seeing her own kind of folks coming to occupy these real houses, was growing more unhappy each day as the camp spread wider and wider and we still occupied the one-room cabin.

September came and we were back in school when one morning before daybreak someone knocked on our front door. When Father opened it he found Mr. Potter of Twin Lakes there. The Potters had been friends of ours in Denver. Jumping out of their covered wagon were the Potter children seen dimly in the light from the lantern swinging at the wagon's side.

"Have you heard about the Indians bein' on the warpath?" Mr. Potter asked. "They've broke out of the reservation, murdered the agent and are ridin' through the country killing the homesteaders . . . and burning their houses."<sup>11</sup>

"Did they get to yours?" Father inquired.

"No. Men are riding everywhere giving warning. We put out for here in a hurry. We left everything behind but the family."

Of course they all came in and had breakfast with us. And after it was eaten, Father and Mr. Potter went down town. Scouts were sent out to get more news while the men organized for defense in case the camp should be attacked.

<sup>10</sup> The Right Rev. John Franklin Spalding, S.T.D., Bishop of Colorado, entered on his charge in 1874 as Missionary Bishop. . . . On the 12th of November of that year (1878), the Bishop held services in the school house on Chestnut Street (in Leadville), and baptized three adults and one infant. On August 18, 1879, the Bishop again visited Leadville and held service in Mount Massive Hotel, and baptized one infant.—Rev. George Leslie, *History of The American Church in The Diocese Of Colorado*, (The Ledger Publishing Co., Longmont, Colo. 1899), 45. According to Don and Jean Griswold, *The Carbonate Camp Called Leadville*, (University of Denver Press, 1951), 254: "The Episcopalians, organized in 1878, had no church of their own for nearly three years. At first, under the leadership of W. F. Minor, they worshiped in the Spruce Street School building and in the County Court House."

<sup>11</sup> During the first days of October, 1879, the people of Colorado and adjacent states were horrified by the news that Mr. N. C. Meeker, Agent of the White River Indian Agency in western Colorado, and several other Agency employees had been killed by the Ute Indians, and the women and children had been carried into captivity. . . . Although trouble with these Indians had been freely predicted during the previous months and great anxiety had prevailed in the Ute Indian country, the news of this tragedy came as a shock to the people of Colorado. For several months previous to this occurrence the Colorado papers had carried many stories of outrages and depredations which the Ute Indians of western Colorado were alleged to have committed.—Elmer R. Burkey, "The Thornburgh Battle With The Utes On Milk Creek," *The Colorado Magazine*, XIII, No. 3, 90.

Word went out that if the Catholic Church bell rang all the women and children must come to the courthouse where the men were readying to protect them. The women were told to bring whatever food they had on hand. Schools were closed and the children were kept close at home.

At our house the children were allowed to play in the yard as there was not room enough inside for the two families. Out in front the covered wagon was kept in readiness for sudden departure.

Not far from our house a road wound around a hill which was much higher than ours. And as we children played we suddenly heard fierce yells coming from back of that hill. Then a pony came racing around the curve with a rider who was letting out war-whoops. His hair was flying in the wind. Almost immediately the bell began ringing and people rushed out of their houses with their arms loaded. Of course we made for the wagon and Mrs. Potter seized the reins. We were soon on our way to the courthouse. We picked up women and children with their baskets and bundles as long as they could be jammed in. Wild excitement was everywhere and all eyes were fixed on the hill road. We expected to see hordes of Indians at any moment. But none came. Even the one solitary rider had completely disappeared as though the ground had swallowed him up.

Very soon someone had an idea. At the foot of the hill around which the "Indian" had come was a tent where a group of people sold what they called Indian remedies. They gathered huge audiences by giving free shows and prizes each evening. Clad in Indian costumes the salesmen or "actors" sold medicines between acts. They lived in wagons on a rented lot. Riding into these quarters the marshal and his deputy found a pony which had been ridden hard. An Indian wig had been thrown carelessly into a wagon. Also, the leader of the company still had Indian makeup on. He greeted the officers of the law with a roaring laugh.

"What you think? Fine advertising stunt, wasn't it?" he said.

The marshal did not think the stunt funny.

Later, when word came of the death of a much-beloved brother during the yellow-fever epidemic in Savannah, Father decided that Mother, with the four children, should return home for a long visit.

Not until the first frost came in those days were epidemics considered over and gone and so the winter came with us still in Leadville. About the first of December, we set out on the journey southward. Most interesting memories are connected with that time and with that winter in Savannah, but this story concerns Colorado. I have good reason to remember the date of our return.

At that time, children under seven traveled free. My seventh birthday fell on the thirty-first of January. We had planned to

leave for Leadville a week before the end of January. But it so happened that on the day we had set to leave, my great-grandmother, who was eighty-four, suffered a stroke and died a few days later. In the midst of all this, little Harry was taken sick, which delayed our leaving until a day or two into February. As Mother was always an honest woman she never afterwards spoke of what happened then, and most likely thought that I had forgotten it. But I didn't. What I surmise is, that she had been sent just the amount of money for the trip without a half-fare for me. I was a large child for even seven—the conductor looked me over and asked, "Is *she* under seven?"

"Yes, sir," Mother faltered.

"Oh, no, Mother," I exclaimed. "You know Aunt Lou gave me a birthday party day before yesterday."

And Mother had to pay half-fare for me to Atlanta. What happened about the fare the rest of the way I never knew, but we had no layovers at hotels for rests, as we had had when we went to Georgia.

Father met us in Denver and filled Madgie and me with excitement by telling us that a big surprise awaited us in Leadville. And though we gave him no rest from teasing, he did not tell us before we saw with our own eyes the new house which he had built for us. It was on a hill beyond the stores—on the back side of the hill, the yard running down to the creek across which there was much activity. The railroad<sup>12</sup> was being built there and later on there was a roundhouse where engines were turned around.

The house did not compare with those on the street in front of us, some of which had barns for horses, or a horse and vehicle of some kind. Ours had but two rooms but they were each heated by its own stove, our old range heating the kitchen (which was also the bedroom for us girls), and a heater for the other room in which were a real bed and dresser. And there was a carpet on the floor. And the house was painted! After the cabin, which we never saw again, it seemed palatial.

And now in this spring of 1880 when the population was growing by the thousands there were schools for the children. And to one of them Madgie and I were immediately sent. My teacher was a pretty black-eyed, black-haired girl who lived not far from us with her mother. Amongst the pupils in my class was a little girl whose father ran a saloon in the rear of which the family lived. We entered the living quarters by a door opening on a side street.

<sup>12</sup> Transportation by stagecoach for the final and hardest lap of the journey to the Carbonate Camp lasted until July 23, 1880. On that day the first train of the Denver and Rio Grande Railway—the first train of any line to reach Leadville—huffed and puffed, whistled and clanged its way into the two-mile high city. Don and Jean Griswold, *The Carbonate Camp Called Leadville*. (University of Denver Press, Denver, 1951), 134.

We stopped by for this child to go along with us. One morning when we stopped we were told that she was sick. A few days later it was announced in school that she had died. On the way home a group of us stopped by her home and asked if we might see the corpse. We were admitted and shown to the cot where the sheet-covered child lay ready for the coffin. Someone in the group suggested that we kiss her good-bye. We each did so, spilling our tears on the spotted face while the mother wept with us.

"What caused her death?" Mother demanded when we told her the touching tale.

We did not know. When it turned out that she had died of scarlet fever, Mother went wild. In due course, Madgie and I both were taken with it. And, there being no way to keep the two younger children from being exposed to the disease, they, too, were attacked. Poor Mother!

On the lot next to us stood an old shack which must have sheltered miners of other years, but which now was occupied by a woman with a young baby. She left it there alone night after night and returned to it in a drunken condition. This added greatly to Mother's worries as she could not listen to the child's shrieks without going over to care for it.

One day the woman came home before dark. She was sober and in a panic. She implored Mother to allow her to stay at our house.

"When the baby was only three months old I took it and ran away from my husband," she said. "And now he has found out that I am here and if he finds me I know he will kill me."

Mother was in a fix. She hadn't the heart to send the girl unprotected to her shack. She sat down and wrote a note to Father and sent me with it to him. I met him on his way home with two men. One was the sheriff. Father read the note, then read it aloud to the men. I walked back home with them. Father went in the house with me and told the young mother to go on home. He said that the sheriff was with her husband and that she had nothing to fear. She begged Father to go with her, so he did, leaving the baby with us. Later Father came and took the baby to the shack. Madgie and I started to cry. We had grown very fond of the child.

"Are they going to take the baby away?" we wanted to know.

"Looks like it," Father said.

Soon he and the sheriff came out of the shack together. They stopped outside to talk for a few minutes while we were dying with curiosity. When he came home he said, "They've made up. He's a pretty nice fellow and was determined to have his child. He's one of the plodding kind who works hard and she was gay. At a party she met a fellow who persuaded her to run away with him.

He wanted her to leave the baby, but she wouldn't. They came to Leadville where the man left her in a dancehall and went off with another girl. The young mother really loves the baby, but the law will give it to the father if she doesn't go with him now."

The next morning the woman came in to tell us good-bye. She seemed happy, but we were not, having to give up that baby.

Father bought the lot and tore the shack down to make fuel for us for the following winter.

It was just after this that Mother began feeling badly again. Mrs. Potter, who lived on a homestead out beyond Twin Lakes,<sup>13</sup> had been urging us to visit them. Mr. Potter had been a farmer in the East and had filed the year before on land for the purpose of farming again. Their cabin was at the base of a mountain. Father rented a carryall to take us in. At Twin Lakes we spent a night in a small hotel facing one of the lakes. Down the road a short way was a corral with a big board fence around it. One side edged the lake.

The next morning when Mother woke me up the air was full of the most exciting noises. Men were shouting and yelling and horses were snorting.

"Come here to the window and look," Mother said.

It was a thrilling sight. One fellow was on a pony which was cavorting around the lot. The horse tried to throw the rider but the man stuck on. Men shrieked and clapped approval. Suddenly the animal reared up and made a spring. The next instant he and the rider were struggling in the lake. The snorting pony lunged and then he and the rider went under the water. When the cowboy came up a lariat flew through the air from the fence and curled around him. He was pulled to the fence where his companions stood ready to lift him up.

We did not learn whether the rider was injured as Father already was waiting impatiently for us to start on our way.

Our visit was a pleasant one and we found the Potters very happy in their mountain home.

Although things were booming in Leadville and the store's business increased daily, Mr. Robinson had many other interests. In addition to business, he branched into politics and in the fall of 1880 was elected Lieutenant Governor of Colorado. A short time

<sup>13</sup> Twin Lakes were at the foot of Mount Elbert, eighteen miles southwest of Leadville. Lake County takes its name from them.

afterwards trouble developed at one of his mines.<sup>14</sup> Mr. Robinson ordered guards to be stationed near one of the mines. Later hearing that one of the guards was not at his station, Mr. Robinson went to the mine to check up for himself. He demanded entrance. When he was asked for the password, he could not give it. He had forgotten it. He announced who he was and tried to force entrance, but one of the guards fired. Mr. Robinson was fatally wounded. He lived about two days. Father accompanied the remains to Denver.

The only other excitement I remember during the winter was the chugging of engines across the creek going to and coming from the roundhouse and the building of new houses wherever there was room to build them.

Among these new houses was one for us! Father decided that we needed a five-room house. He built it on the lot where the old shack had been. It was just about completed when one Sunday upon coming home from Sunday School, Madgie and I found another brother at home, a red-faced baby with black hair. He was named Thornton William,<sup>15</sup> but for some reason Mother called him Tittlebat Titmouse Theodore Van Horn William Thornton Harrison Burns.

Thornton's birth was on April 10, 1881. Mother was planning to move to the new house as soon as she was able to do so, which she thought would be May first. But on that day Father came home with the news that he had been commissioned to go to Robinson

<sup>14</sup> A message from Kokomo to the *Rocky Mountain News*, Nov. 28, 1880, told that George B. Robinson had been shot at seven o'clock in the evening. "Dr. Burdick of Leadville and Dr. O'Connor of Kokomo, are in attendance... The excitement in Kokomo and Robinson Camp is intense..." Death came on November 30.

Said the *Rocky Mountain News*, Nov. 30, 1880, p. 1, c. 1: "At seven o'clock this evening Undertaker Rogers started for Leadville with the remains escorted by Mayor Mensch, W. S. Young, A. A. Miller and O. McDonald, members of Summit Lodge I.O.O.F. The cortege arrived at Leadville at 11:15 this evening." In explaining the fatal shooting the *News* said: "On Saturday morning Mr. Robinson went with Brown (J. C. Brown, general manager of the Robinson mines), and an assistant named White, to Brown's office (in Kokomo), which he also used as a residence, to examine and balance the company's books. After they had got through they went to the hotel and got their supper. Then the three started out to examine the condition of matters around the property. Mr. Brown having been informed by Warner, the boss of the day force, that armed men had been seen around the mines, determined to put on a guard at night, and a man named Patrick Gillan had been detailed for duty. He was armed with a rifle and told to be careful not to allow anybody to enter the tunnel. When the party of three neared the tunnel where the path is so narrow that they had to go in single file, Mr. Robinson was in advance. Mr. Brown states that he cautioned him not to go too close, as the guard's instructions were very strict. To this the unfortunate man replied, 'I simply want to see if everything is all right.' Then he advanced to the tunnel door and shook it. The guard inside shouted 'What do you want?' This satisfied Mr. Robinson that the man was on the alert, and as that was all he wanted to know, he made some reply which the guard says he did not hear, and then turned to go. At that moment the man discharged his rifle through the door... The guarding of the mine was a precaution taken by Mr. Robinson, in view of rumors to the effect that parties under the lead of Captain Jacque, who claims ownership in the mine and was at law over it, were to jump the property."

<sup>15</sup> Thornton William Burns was a Veteran of the First World War. For many years his brother and sisters lost all trace of him. When found through the Veterans' Bureau he was a patient in the Veterans' hospital in Boise, Idaho. For many years he had lived in Salt Lake City. There he died and is buried. None of us ever saw him after the war although I was in correspondence with him until near the end.—*The Author*.

to look after the store there until Mr. Robinson's affairs could be settled.

"And we've got to *move* there?" Mother moaned. "What about our new house?"

"A new banker who's just come to town wants to buy it."

"And we'll have to live again in a shack?"

"Looks like it."

"I just can't do it, Harry. There was just one baby there. Now there are three babies, with little Harry. We'll have to be near a doctor for *him*. I just can't live in a shack again."

But she did.

### ROBINSON OF TEN MILE DISTRICT<sup>16</sup>

As I remember it Robinson was eighteen miles above Leadville and the railroad ended there. The miners' cabins were built on a mountain side, the backs of them against it, and the fronts on high stilts, with snow piled up under them.<sup>17</sup> The long flight of steps going down from the front door ended on a muddy walk beside a muddy road or trail.

Mountains were all around us and a few stores were going up in the narrow valley. Already we had neighbors and as soon as a house was finished there was another family ready to occupy it. A narrow path ran down the hill to the stores, the largest one of which, nearest the mine, was Father's. It was a big one with goods being hauled to it all the time.

Already there was a saloon-dancehall in action, or maybe two of them.

Not long after we had moved to Robinson we heard an awful noise at the side of our house. And looking out of the window we saw a group of small donkeys with uplifted heads, braying with all their strength of their lungs.

"Why are they standing there making all of that racket," Mother wanted to know.

"They're hungry," Father said. "Miners rode them here before the railroad came and then they were abandoned to shift for themselves."

<sup>16</sup> The new Ten-Mile mining camp, some eighteen miles northeast of Leadville, though in another county [Summit], is a wonder in its way. Carbonates are as a matter of fact more easily struck there than around Leadville. There are some one thousand people scattered about in the cabins in the woods there, and two or three town plats have been laid off in the vicinity. The snow up there is from four to six feet deep very much impeding mining operations.—C. W. Waite, Esq. *A Complete Illustrated Guide To The Wonderful Mining Country, Leadville, Colo.* (Vandercook & Co., Chicago, 1879), 14.

<sup>17</sup> Through the years we have caused wonder in the South by telling about freezing ice cream on the second of July with the ice and snow dug from under a pile of lumber beneath our cabin porch. I remember that date as it was the day the attempt was made to assassinate President Garfield.—*The Author*.

Mother, who could never bear to think of anything going hungry, gathered up what scraps she could find and we children carried them to the little animals.

Mother came to be sorry that she fed the burros as they became regular morning visitors, waking the neighborhood. But Madgie and I had lots of fun with them. They were gentle as could be and we rode around on their backs wherever they chose to take us, for we never learned to guide them.

Across the street from us a shelf of rock projected and on it soon after our arrival a house was erected. No sooner was a roof on it, than a middle-aged woman who called herself Miss Hamilton, moved in. Her arrival coincided with the opening of another dancehall on Main Street. It turned out that Miss Hamilton played the piano there—and a fine pianist she was, too. Now real music floated up to us on the evening air instead of the thump-thump kind that we had previously been forced to listen to. And one day when Miss Hamilton came over to borrow some coffee, Mother discovered that she was a woman of culture.

Little Harry immediately took a liking to her which gave Mother a feeling of friendliness for her. Since both women were starved for intellectual companionship, Miss Hamilton crossed the street to our house often. Arguments often arose between the two women as Miss Hamilton was a Yankee and a Republican and Mother was a member of an ex-slave-owning family and a Democrat.

Mother talked freely about her family and her previous life but try as she would, she could never get Miss Hamilton to talk of hers until near the end of their acquaintance. Not even then did she mention her real name. Mother was always sure that it was a distinguished one.

When President Garfield was shot, on July 2, the business section of the camp was draped with black. With the velveteen that was on Father's store, Madgie and I later played make-believe ladies.

By midsummer there were several families with children in Robinson so it was decided that a school should be opened. At Father's suggestion, Miss Hamilton was chosen to teach it. She was an excellent teacher. The school house was just a mere shell of a store building put up on the hillside opposite to the one where we lived.

Among the children who entered this school with us was a colored girl of about ten years of age named Pearl. We had already heard about the arrival of her mother and herself in camp, as Father brought the word to Mother.

"You'll love her, Madge," he said. "She looks like a genuine mammy from down South; and the girl's hair is tied up with strings just like they do in Savannah."

That news really caused Mother's heart to flutter. Having been brought up surrounded by Negroes she could never feel quite at home in a place where there were none. She was anxious to see the new arrivals.

Soon after school began the Negro woman appeared in the school room demanding to talk with Pearl. She soon had the child shrieking as she pulled her down over her broad lap, lifted her dress and bore down with a heavy hand on that place where such punishment is customarily administered.

"You see that you nevah do *that* no more!" the colored woman was saying when Miss Hamilton arrived.

"How dare you come into my school and do such a thing?" she demanded of Chloe, which turned out to be her name. I don't recall ever having known her last name.

"The time to give a child a beatin' is when you find out they's needin' it," was the answer. "And Pearl won't be forgettin' this 'n."

Just what Chloe's job was I don't know; but Pearl sang at night at one of the dancehalls. She had a high, sweet voice which plainly came up to us as she sang, "Oh, Dem Golden Slippers," "Whoa, Emma," and some spirituals. Miss Hamilton thought so much of Pearl's voice that she started right out giving her voice lessons. She herself was a trained singer as well as a pianist.

On warm afternoons while the baby slept Mother often sat on the front steps with little Harry in her lap, which was all the outing he could get, the "pram" being too cumbersome to pull up and down to the narrow sidewalk. Soon after the day when I brought home the news of Pearl's whipping in school, Mother was sitting on the steps. She saw a Negro woman coming up the trail from Main Street. When she got to our street she crossed it and came straight on up to Mother.

"I heard there was a lady here from down South," she said, "and I ain't rested till I got here to see you. You *is* Mrs. Burns?"

"Yes," Mother said. "And I'm glad to see *you*. It makes it seem more like home, 'way off here."

"And, honey, *is* I glad to see you! I ain't seen none o' my folks in God knows when."

"What state are you from?" Mother asked her.

"F'm Alabama and my name's Chloe. You talk like our folks. Is you f'm there, too?"

"I'm from Georgia. We're close neighbors anyhow, Chloe. How come you to be way off here?"

"The folks I was nursin' for moved to Birmingham from a little place. My ol' man got to playin' around wid another gal an' I got mad and up and went after 'em. And then they come out West and I come along. That was 'fore Pearl was borned and I been wand'rin' ever since. And here I *is*, honey, mighty glad to see somebody f'm back South."

"There, I hear my baby. I'll have to go in now," Mother said.

"Can't I tote this'n up the steps for you, honey?" Chloe asked.

"If he would only let you!" Mother sighed wearily. "But he's spent most of his life in my arms and is afraid of anyone else—afraid they'll hurt him, I reckon."

But little Harry whose bright brown eyes had been surveying the visitor, surprised Mother now by holding out his arms to the visitor.

"I like you," he said. Though he couldn't walk, he could talk well.

To Mother, worn out by the constant care of three babies, this was a miracle. She had expected little Harry to shrink from the black woman in fright. But Harry cuddled in Chloe's fat arms, seemed perfectly content. After that he looked forward each afternoon to her coming to take care of him. And not often did she fail to appear.

This attachment of Chloe to Mother and little Harry, however, angered Miss Hamilton, who finding her there one afternoon when she came over, said, "I can't understand why you've taken this fancy to Mrs. Burns. One would think it would be us Yankees you'd love instead of those who kept you in slavery until we freed you."

"Yes 'm I know. But you all don't take no *pus'nal* interest in us. And the Southern folks *loves* us. If we git into trouble down there they helps us to get out of it—if they're *your* folks. But the Yankees just lets us shift for ourselves like as if we was white folkses."

"Well, of all the things I *ever* heard," Miss Hamilton exclaimed. "And some of my people died to free you."

"I don't know how it is," Chloe said humbly, "but my color likes friends and Mrs. Burns knows how that is."

Chloe was truly a friend in a time of dire need. Little Harry, all of his life a sufferer with his deformed back, began to squirm in agony at the slightest touch on his spine. And this was all the harder on Mother because at that time Father had to make a trip to St. Louis to buy goods for the store. He was gone about two weeks.

By the time Father returned Mother was deeply distracted about little Harry. His hump was inflamed and he was suffering constantly. Of course that meant loss of sleep at night. And, but for her good friend, Chloe, who volunteered to look after the babies in the afternoons while Mother lay down on our bed in the kitchen, no telling what would have happened to her, for it was impossible to get a nurse in the camp, and the only doctor was off on a drunk.

When Father saw and heard about this, he said that Leadville was full of doctors as they were holding a medical convention there. He and Mother took Harry to Leadville and asked Chloe to stay with the rest of us.

All summer Mother had promised Madgie that she would have a party for her on her birthday on August 15. That was the day they took Harry to Leadville and Madgie was broken-hearted about the way things had turned out.

"You ain't goin' to miss that party, honey," Chloe told her. "You jest go on and invite who you wants to come to it and Chloe'll tend to the rest."

And she did. When Mother got back she found little cakes baked, with pink and yellow frosting on them. Everything was ready for lemonade. But I did not get to attend. I had been a bad girl and was shut up in the house while the birthday party was held on the hill above the house. I had taken advantage of Father's absence in St. Louis and had run up a bill with the Italian fruit stand man for California peaches and pears, which I had long desired, but which Father had told me were too expensive for us to buy. The man had immediately presented the bill upon Father's return.

The abscess on Harry's back had been lanced and he was much more comfortable, but he was so thin and pale!

By now the new house which Father was having built for us was almost completed. We moved in on September 1, which was little Harry's fourth birthday. Again, Chloe was the heaven-sent helper. In this house there were four rooms. It was ell-shaped, the front door opening from a little stoop into the kitchen. It was up the street on the brow of the hill. From it we could look down and see the trains coming and going, with two engines attached when they went up and around a curve. Off in the distance was the Mount of the Holy Cross, with the snow shining on it. Almost behind us, up a little trail, a rough building was going up, which proved later to be a structure in which carcasses of sheep and cattle were to be stored for winter use. The only refrigeration came through the open spaces between the boards.

One day when Father came home to midday dinner he brought news that a little town named Kokomo, not far away, had been

burned<sup>18</sup> to the ground in the night. When he said he was going over to see what damage had been done, I asked to go with him. As I recall it there were no buildings left on the site, but there was an iron safe standing out in the middle of where a bank had been, so Father said.

After little Harry's visit to Leadville, a doctor came up from there occasionally to see him and as he said, "to put the fear of God" into the Robinson doctor. The latter probably was a good doctor when sober, which, it seemed, was seldom. Harry was now in constant need of medical care and so constantly was Mother engaged in the care of him that Madgie and I were kept home from school to help with the housework on the mornings when it was impossible for Chloe to be there. The family must be fed and the babies cared for.

Steadily now was little Harry losing ground. In late October when a blizzard swept down on us and the trains stopped running, the Leadville doctor could not get up to Robinson. The local doctor could not be found. Blood poisoning set in and on the first day of November, 1881, little Harry died.

To Mother it seemed the end of all things. We were all heart-broken. From the little window in my parents' bedroom I watched men light a big fire on the snow. They kept it going until they could get a grave dug under it. A metal casket was sent up from Leadville in which the little body was placed. A preacher had come to the camp and he held church services and Sunday School in a store building on Main Street. He conducted the funeral services.

And in all the years since, I have often thought of that roomful of people singing, "Nearer My God to Thee," and "Safe in the Arms of Jesus." I cried my heart out because they took my little brother out in the cold and left him all alone in a hole in the ground . . . I thought that was why Mother spent so much time in tears.

"Oh, Harry, how can I *stand* it staying here in all the snow all through the long winter?" I remember she moaned one day.

And then there came a day when she announced that she would not stay and keep the children there. Father agreed that she should go back to Georgia for another visit. The visit extended on through the years.

Father stayed on in Colorado for almost a year. What might have been his future had George B. Robinson lived? There is no telling, as Mr. Robinson was a millionaire and had been made Lieu-

<sup>18</sup> In 1881 just at the peak of Kokomo's boom when its population reached 10,000, the town burned. After the fire, a large portion of "the floating and prospecting element" left, looking for "new fields of adventure." Kokomo rebuilt at once . . . but its heyday was past . . . Muriel Sibell Wolfe, *Stampede To Timberline* (Boulder, Colo., 1949), 70.

tenant Governor of Colorado. But he was gone. There were labor troubles in some of the mines. Father decided to return to Georgia. But never did he cease to regret the circumstances that had conspired to shut the door for him on Colorado.

Throughout her life Mother was haunted by the memory of that lonely grave on the hillside in Robinson. With almost her dying breath she told me that if it could be found, she wished that the metal coffin could be brought back and buried by her own body. But it is still there to this day, I have no doubt.<sup>19</sup>

<sup>19</sup> And what has happened to Robinson? Although it thrived during the 1880s "by 1890 the high grade ores were nearly exhausted, and since then mining in the region has been spasmodic." Upon visits to Robinson in later years, Muriel Sibell Wolle, author of *Stampede to Timberline* reported that the "Wheel of Fortune's huge mill stood idle (1920) and Ten Mile Creek began to suck Robinson's wooden sidewalks into the swamp meadowland." Mrs. Wolle made sketches of Robinson on that visit, but when she returned several years later she found that "Robinson was gone. Where were the false-fronted stores and the crazy, crooked sidewalks?... Finally, close to the hill I saw the smelter stack and not far away the second one, and I knew that I stood on the site of Robinson although the swamp and the huge settling ponds of the Climax Molybdenum Company were claiming it inch by inch." Muriel Sibell Wolle, *Ibid.*, 67-68.

## Coloradans and The Maxwell Grant

By HAROLD H. DUNHAM\*

During the latter part of the nineteenth century, a surprisingly large number of Coloradans were interested directly or indirectly in the famous Maxwell Land Grant located partly in Las Animas County, Colorado, but largely in Colfax County, New Mexico. Their interest stemmed from a variety of causes that will become evident in the following sketch of the grant's first three score years. A considerable portion of those years was affected by law suits involving the grant and its owners. This litigation and other grant developments were periodically reported at length in the Colorado, particularly the Denver, press, so that the grant warranted the description of "the most written about, the most notorious, the most questioned piece of property west of the Mississippi."<sup>1</sup>

The grant enclosed within its boundaries a portion of the mountain branch of the old Santa Fe Trail, extending from a few miles north of the summit of Raton Pass southward for about sixty miles to just below Carson's and Maxwell's Rayado fort. It had originated during the period of Mexican control of the area, when in 1841 New Mexico's Governor Manuel Armijo approved a petition of two prominent residents of the country, Charles Beaubien and Guadalupe Miranda, for a tract of land on which to grow sugar beets and raise stock.<sup>2</sup> Subsequently, that is in 1848, the region became a part of the United States, and still later the grant ostensibly came into the possession of Lucien B. Maxwell, a well-known frontiersman, hunter, scout and son-in-law of Charles Beaubien.<sup>3</sup> From this ownership arose the name the Maxwell grant. In 1860, Congress confirmed the grant, and in 1879 the U. S. Government patented it for 1,714,000 acres.<sup>4</sup>

If one overlooks the pre-Territorial day activities of such "Coloradans" as the owners of Bent's Fort and other Mountain Men like Kit Carson and "Uncle Dick" Wootton, the first significant interest of Colorado residents in the grant arose during the early period of the Civil War. On March 10, 1862, the First Colorado Regiment of Volunteers, travelling by forced marches to Fort Union to help check the progress of the invading Texans, stopped

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<sup>1</sup> Father Stanley, *The Grant That Maxwell Bought*. (1952) p. 63.

<sup>2</sup> Le Roy R. Hafen, "Mexican Land Grants in Colorado," *The Colorado Magazine*, May 1927, p. 89.

<sup>3</sup> H. H. Dunham, "Lucien B. Maxwell: Frontiersman and Businessman," *Denver Westerners Brand Book*, 1949. (1950) pp. 269 ff.

<sup>4</sup> U. S. vs. Maxwell Land Grant Co. (121 U. S., 325).

at Maxwell's ranch and received from the proprietor sheltered lodging, as well as some badly needed supplies, including 160 pounds of sugar and 100 pounds of coffee.<sup>5</sup> This provided a welcomed interlude to a tired, footsore and hungry band of troops.

Later, Coloradans taking the stage from Denver to Santa Fe frequently stopped at Maxwell's place and were hospitably treated. The only known exception to such hospitality occurred in 1865, when a Denver stage carrying Sister Catherine and three companion



MAP OF MEXICAN LAND GRANTS  
Drawn for the State Historical Society By Herschel Lee

Sisters to the New Mexican capital was delayed at the Cimarron River, and by an oversight the women spent the night in the coach rather than among the comforts and cordiality of the ranch house.<sup>6</sup>

During that same year, according to his quasi-autobiographical account, "Uncle Dick" Wootton was granted authority by the Colorado and New Mexican legislatures to establish his well-known

<sup>5</sup> O. J. Hollister, *Boldly They Rode: A History of the First Colorado Regiment of Volunteers* (1949), p. 50.

<sup>6</sup> Sister B. Segale, *At The End of the Santa Fe Trail* (1948) p. 85.

toll road in Raton Pass, within the later patented area of the grant.<sup>7</sup> However, on another occasion, while testifying in connection with some of the frequent litigation concerning the grant, "Uncle Dick" declared that he had purchased the land through which his road passed from the owner of the region, Lucien B. Maxwell.<sup>8</sup> Though it is a bit difficult to reconcile these contradictory statements, there is no doubt that the toll station was established and that Wootton operated it until the Santa Fe railroad company occupied the Pass.<sup>9</sup>

The discovery and development of gold mines in the Maxwell grant area during 1866-1867 claimed the attention of Pike's Peak residents, and periodic reports kept the latter informed of the progress in this rival gold district.<sup>10</sup> Out of publicity came the effort of Coloradans and their associates to purchase the grant. In 1869 two Colorado residents, Jerome B. Chaffee of Central City, and George M. Chilcott of Excelsior, Pueblo County, along with a former Coloradan, Charles F. Holly, secured an option from Maxwell to purchase all of the claim but Maxwell's home ranch.<sup>11</sup> Subsequently, that is during July 1870, Maxwell and his wife, through the aid of those who held the option, sold their property to the Maxwell Land Grant and Railway Company for \$1,350,000.

This New Mexican company elected as its first president General William J. Palmer, soon to become the organizer of the Denver and Rio Grande Railway Company, and a Colorado resident.<sup>12</sup> General Palmer planned to construct his narrow gauge railroad from Denver southward over Raton Pass, but the Santa Fe railroad later thwarted this plan by being first to occupy the Pass.

The stock of the Maxwell company was held by New Mexican, Coloradan and, chiefly, British investors, and the grant was bonded to Dutch capitalists for \$3,500,000. But by the time these financial arrangements had been completed the company had encountered a snag in the form of a refusal by the land department of the government to issue a patent for the land of the grant.<sup>13</sup> The refusal resulted from a fundamental disagreement on the size of the grant.

<sup>7</sup> H. L. Conard, "Uncle Dick" Wootton (1890) pp. 418-9; and J. F. Willard, "A Raton Pass Mountain Toll Road," *The Colorado Magazine*, Mar. 1930, pp. 77 ff.

<sup>8</sup> U. S. vs. Maxwell Land Grant Co. Transcript of Record, U. S. Supreme Court, October Term, 1886, No. 974. Bentley's brief for the gov't, pp. 78-9.

<sup>9</sup> It is interesting to note that in 1865 a group of troops from Ft. Union had worked to improve the road through the Pass. F. Stanley, *Fort Union, New Mexico* (1953) p. 184.

<sup>10</sup> See the report of George B. Walker of the Clark & Co. Bank, printed in the *Daily Miners' Register* (Central City), Sept. 22, 1867.

<sup>11</sup> *The Rocky Mountain News*, June 12, 1869; and F. Stanley *op. cit.*, pp. 52-3. R. E. Twitchell asserts that Chaffee, David H. Moffat and Wilson Waddingham bought the grant. R. E. Twitchell, *Leading Facts of New Mexican History* (1912) II, pp. 415-6.

<sup>12</sup> "Proposal of John Collinson to the Stock and Bondholders of the Maxwell Land Grant and Railway Company for Reorganization, etc., 20th November 1874." (Pamphlet)

<sup>13</sup> H. H. Dunham, *Government Handout: A Study in the Administration of the Public Lands, 1875-1891*, (1941) pp. 221-2.

The company claimed nearly 2,000,000 acres, while the land department ruled that the total could not exceed 97,000 acres, the maximum amount permitted by Mexican law for a grant to two men. Since neither side to the dispute would yield, the granting of a patent was withheld.

This stalemate, so to speak, continued for a number of years, during which period many settlers entered land in the area claimed by the company, and some of the settlers received patents to their land under the settlement laws.<sup>14</sup> Then in 1876 the Supreme Court of the United States rendered a decision in a somewhat analogous Mexican land grant case, that supported the Maxwell company contention.<sup>15</sup> With this precedent in mind, the land department then surveyed the Maxwell grant in 1877, and, as previously mentioned, issued a patent for it during May, 1879. The patent came into the possession of the Maxwell Land Grant Company, basically a reorganization of the 1870 company, with Frank R. Sherwin as the new concern's president.<sup>16</sup> Sherwin is known as a son-in-law of William Gilpin, the first Territorial Governor of Colorado, and a periodic resident of Denver.

The patent covered approximately 265,000 acres of land in Las Animas County, and so affected adversely the rights of settlers and investors in the area. These settlers numbered about 2,000 and some of them were those who had previously received government patents for their land. At least one corporation, the Colorado Fuel Company, also held patent title to lands within the same area. Many settlers on the grant had begun to protest the government's action as soon as they learned that the official survey had been commenced. Those residents of the Colorado section of the grant carried their protests to the State Legislature and were able to obtain the adoption of a memorial in their behalf addressed to Congress.<sup>17</sup> This petition reached Congress by February 18, 1879, and though it requested protection for patented rights within the grant boundaries, it seems to have received no attention after being referred to the proper Senate Committee.<sup>18</sup>

Certain prominent leaders of Denver also voiced their protests against official action concerning the grant, especially over the rather curious circumstances of the foreclosure proceedings in a New Mexican court on the bonds of the first Maxwell company.<sup>19</sup>

<sup>14</sup> By 1874, when the company refused to accept the land department ruling, the General Land Office ordered the grant area surveyed as public land and opened to entry under the settlement laws.—*Author*.

<sup>15</sup> *Tameling vs. U. S. Freehold Land and Immigration Co.* (93 U.S. 644).

<sup>16</sup> Letter of Frank Springer to Sec. of Int. S. J. Kirkwood, Dec. 23, 1881. Records of the Dept. of the Int., General Land Office, Private Land Claims, Docket #15. The National Archives.

<sup>17</sup> Reported passed in *The Rocky Mountain News*, Feb. 8, 1879.

<sup>18</sup> *Congressional Record*, 45 Cong. 3rd Sess., Vol. 3, Part 2, p. 1511.

<sup>19</sup> *N. Y. Daily Tribune*, Sept. 22, 1879.

Their concern was reflected in the observations of a British visitor to Colorado, who wrote in 1880:<sup>20</sup>

The varied protests from both Coloradans and New Mexicans led to determined efforts to have the government set aside the Maxwell patent. Organized settlers<sup>21</sup> were championed by Rev. O. P. McMains, who urged the Interior Department and the Attorney General's office to bring suit in the courts for voiding the patent.<sup>22</sup> McMains met with rebuffs until aid came from an unexpected quarter. Pierce Archer, a prominent attorney in Pennsylvania, brought his persuasion to bear in the matter. Archer was reported to have represented "a large number of Philadelphians [who are] interested in agricultural and mining properties in New Mexico and Colorado."<sup>23</sup> One might hazard a guess that these Philadelphians were the same ones who backed either the original Maxwell company or some of General Palmer's land ventures such as the Colorado Coal and Iron Company.<sup>24</sup>

In any case, Archer contacted Attorney General Wayne Mac Veagh in 1881, and then his successor, Benjamin H. Brewster, and at his own "urgent solicitation" was finally successful in securing action.<sup>25</sup> On March 4, 1882, Attorney General Brewster requested District Attorney E. L. Johnson of Colorado to bring suit in chancery to set aside the Maxwell grant patent.<sup>26</sup> Archer and Judge J. A. Bentley, of the Bentley and Vaile law firm in Denver, were appointed special counsel to the District Attorney. During the subsequent course of the litigation, Bentley provided legal aid to the government, but Archer was not able to serve as counsel in Denver at least, while the case was being tried there.

<sup>20</sup> S. N. Townshend, *Our Indian Summer in the Far West*. (1880) pp. 54-5.

As the law courts in the Maxwell Grant case veered around, we have ourselves heard, from men considered very leading ones in Colorado, first that the Maxwell Grant title was good and undoubted, and then as their interests in it appeared to be going into other hands, that not only was that title bad, but that we lied to have ever written the reverse, though fortunately we have not only taken a memorandum of the conversations with us, but had the title offered to be vouched for in their own handwriting. Millions have been lost by the Dutch and English in these Mexican land grants, but chiefly in this Maxwell one, and all to enrich a patriotic Republican ring to be found in Denver and the regions for sixty miles round thereabout.

<sup>21</sup> One report of organized patents was printed in the *Dolores News*, Apr. 16, 1881. The report stated that since the commencement of trouble on the grant, an estimated 500 lives had been lost there.

<sup>22</sup> F. Stanley, *The Grant That Maxwell Bought*, op. cit., Chap. Ten; and F. Stanley, "O. P. McMains, Champion of a Lost Cause." *New Mexico Historical Review*, Jan. 1949, pp. 1 ff.

<sup>23</sup> *Philadelphia Record*, Aug. (?) 8, 1884. (Name of month obscure in clipping used.)

<sup>24</sup> *Colorado Coal and Iron Co. vs. U. S.* (123 U. S. 307), Transcript of Record #46.

<sup>25</sup> Letter from Pierce Archer to Commissioner A. J. Sparks, June 11, 1885. Private Land Claims Docket #15, loc. cit. The letter is written on official stationery of the Office of the Attorney General of Pennsylvania.

<sup>26</sup> *U. S. vs. Maxwell Land Grant Co.*, case #980, Exhibit 1. U. S. Circuit Court for the District of Colorado, Denver, Colorado.

The government's bill against the Maxwell company was filed on August 25, 1882 in the Circuit Court for the Eighth Judicial District. It charged that 265,000 acres of Colorado land, valued at \$2,000,000, had been fraudulently included in the official survey on which the Maxwell patent was based. A little more than a year later, the government filed an amended bill,<sup>27</sup> with the consent of the then presiding judge, Moses Hallett, adding the charge that the Maxwell grant was originally restricted by Mexican law to 97,000 acres. The subsequent hearing on the bill and the company's answer before Judge David J. Brewer resulted in a preliminary ruling in July 1884 that was partially adverse to the company.<sup>28</sup> A Denver newspaper carried an account of the decision under the headline, "Maxwell Men Mourning."<sup>29</sup> After additional arguments on the case, Judge Brewer rendered his final decision January 25, 1886, and therein completely exonerated the Maxwell company of any wrongdoing, thus upholding the validity of the grant and the 1879 patent.<sup>30</sup>

*The Rocky Mountain News* not only reported the decision in its news columns, but carried an editorial about it, which said in part:

We have no doubt that Judge Brewer's decision will be endorsed by all fairminded and intelligent men who will take the trouble to read the opinion on which it is based. It may be that fraud was practiced in procuring some of the surveys and it is quite possible that the patent as it stands should never have been granted; but there must be somewhere a limit to the power of even a sovereign state to start out with a microscope and a search warrant for the purpose of correcting the blunders of its agents at the expense of private individuals and corporations. The United States should not issue a patent without knowing that such action is lawful and proper, and then that patent should never be called in question by the power that issued it.

The government then appealed the case to the U. S. Supreme Court. It was argued there from March 8 to 11, 1887, and the decision was handed down on April 18.<sup>31</sup> The Court sustained the ruling of the Circuit Court on both of the main points in dispute, to the delight of the grant owners and the dismay of the settlers who had taken up land on the grant before the Maxwell patent had been issued.

The Supreme Court decision called forth a special dispatch to

<sup>27</sup> *The Rocky Mountain News*, Dec. 6, 1883. The newspaper article was headed: "The Maxwell Muss."

<sup>28</sup> 21 Federal Reporter 19.

<sup>29</sup> *The Rocky Mountain News*, July 29, 1884.

<sup>30</sup> 26 Federal Reporter 118. The lawyers for the company were General Bela M. Hughes, Charles E. Gast and Frank Springer. *The Rocky Mountain News*, Jan. 26, 1886.

<sup>31</sup> 121 U. S. 325. The government requested a rehearing of the case, only to have it denied the following year. (122 U. S. 365.)

*The Rocky Mountain News*, printed under the date of April 19, 1887. It stated:

The Maxwell Grant has always been regarded as the most gigantic of all swindles on this continent, a typical fraud on the government, the top and crown of land jobberies, and no speech was ever made in opposition to fraud and corruption in the West without holding its enormous proportions up, as an illustration of what wicked men can do in the way of land stealing. "As big a swindle as the Maxwell Grant." has been a proverb.

But the Supreme Court of the United States today decided that it was not a swindle, that it was an honest grant, that the persons to whom it has descended are entitled to the land, and that the squatters now occupying it to the number of several thousand have no right there.

The decision will create a great sensation. It will fall like a thunderbolt on the citizens of Trinidad and on other towns on the grant, and will surprise most people who are familiar with the case. . . . fifty million dollars is a small valuation of the property.<sup>32</sup>

While the Supreme Court decision determined the legality of the government's action in regard to survey and patent, it did not conclude the difficulties, legal and other, which the company faced. For instance, while the patent suit was pending, another suit was commenced in the Federal Circuit Court in Denver that involved the Maxwell Land Grant Company only indirectly, though it was potentially quite significant. On August 30, 1884, Edgar Cayple filed a bill of complaint against Frank R. Sherwin, charging breach of contract and placing a request for damages at \$50,000.<sup>33</sup> Cayple had enjoyed a varied life, for at one time he had toured the West with a theatrical company, and later had become a court stenographer in Columbia, South Carolina.<sup>34</sup> When he was twenty-one years old he travelled to Europe, and later, while in London, was offered the position of Secretary of the Maxwell Land Grant Company by Sherwin. As part of his compensation, Cayple was to receive 64,000 acres in any part of the grant area for grazing purposes, but this agreement was never carried out. Cayple left the employment of the company in September, 1880, and became an attorney in Santa Fe. Later he moved to Denver, and because his contract still was unfulfilled, brought suit against Sherwin.

Sherwin had had a rather checkered financial career, but in 1877 he had been able to buy up a majority of the bonds of the first Maxwell company at a low figure, when he learned that the government survey of the grant was underway.<sup>35</sup> Subsequently he assisted in the organization of the new company, and then controlled its affairs in New Mexico in a somewhat carefree fashion. In 1884, though still a citizen of New Mexico, Sherwin had come to live in

<sup>32</sup> Trinidad was not located within the grant boundaries.—*Author*.

<sup>33</sup> Case #1598. U. S. Circuit Court for the District of Colo., Denver, Colo.

<sup>34</sup> Frank R. Hall, *History of the State of Colorado*, (1895), Vol. IV, p. 409.

<sup>35</sup> H. H. Dunham, *Clean Government Handout*, op. cit., p. 232.

Denver,<sup>36</sup> for his days as president of the company had ended the year before.<sup>37</sup>

How Sherwin, or others, overcame Cayple's complaint is not revealed in the court records—there is only a notation in them that on November 25, 1884, the latter's attorney declared he would no longer prosecute the suit. But the information filed in the original bill justified the Denver newspaper comment that if the suit had come to trial, it would have furnished "a grand expose of the manner in which the government . . . parted with millions of acres of public land without a corresponding increase in the treasury."<sup>38</sup>

About three years later, a group of men from Colorado, New Mexico and Arkansas planned to purchase the Maxwell grant from its foreign and American owners, and develop mining and irrigation projects of an extensive character.<sup>39</sup> The syndicate was headed by Stephen A. Dorsey, (formerly a Senator from Arkansas,) and included such men as Col. J. W. Dwyer, John Delman, Marey Mills, Thomas Gable and Col. George R. Swallow.<sup>40</sup> These men organized a company that sent Dorsey to Europe in February, 1887, in an apparent effort to enlist foreign capital to carry out their project. While in London, Dorsey staged a banquet that "was attended by some of the most prominent capitalists of London and Paris," as well as ex-President U. S. Grant's daughter. Nothing came of the syndicate's effort, however, for probably the capitalists were wary of Mexican land grant projects, and the Dutch and American owners of the grant (N. K. Fairbanks, George W. Pullman, Frank Sherwin and George P. Carpenter were the American directors) refused to sell when, during April of that year, the U. S. Supreme Court gave them a clear title to their property.

The disappointment of the settlers on the grant with the foregoing decision again caused them to organize to resist the company's claims, especially when they were requested to purchase title to their land from the company or move away. This resistance developed into miniature war for a time in the Stonewall area of Colorado. During August, 1888, it resulted in the shooting of such prominent homesteaders as Captain Richard D. Russell.<sup>41</sup> *The Denver Republican* carried a series of special articles on the war. Colorado's Governor Alva Adams kept in close touch with the de-

<sup>36</sup> *The Rocky Mountain News*, Aug. 31, 1884.

<sup>37</sup> According to the *N. Y. Times* of Oct. 16, 1883, Sherwin was arrested in New York on charges preferred by the Maxwell Land Grant Co. of misappropriating and embezzling funds. But see his defense of his actions in the same article.

<sup>38</sup> *The Rocky Mountain News*, Apr. 31, 1884.

<sup>39</sup> *Ibid.*, Apr. 19, 1887.

<sup>40</sup> Col. Swallow had been prominent in the banking business in Trinidad and had later moved to Denver to pursue a like occupation. In 1884 he had been elected Treasurer of the State of Colorado. Hall, *op. cit.*, IV, p. 565.

<sup>41</sup> W. I. McPherson, "A History of the Maxwell Land Grant." M. A. Thesis, Colorado State College of Education. ms. (1936) p. 81.

velopments at Stonewall and under the command of Colonel B. F. Klee sent a body of National Guard troops to restore order. At first, Colonel Klee believed that a visit of the Governor would help to quiet the tension, but upon reflection he reversed this opinion, for he wired the Governor not to come because "these people [are] even capable of attacking the Governor," since they know him to be connected with the Summer Resort Company, "which is a recognition of the grant's validity."<sup>42</sup>

Gradually order was restored in the grant area and more peaceful means of overthrowing the Company's claim were tried, but without success.<sup>43</sup> The widow of the slain Captain Russell faced a suit for ejectment, brought by the company. The case dragged through the courts for six years, until in May 1895, the Supreme Court of the U. S. upheld the company's position.<sup>44</sup> Mrs. Russell did not have to move, however, for the company gave her title to half of her 160 acre ranch, and allowed her to purchase the remainder at the minimum government price of \$1.25 per acre.<sup>45</sup>

Meanwhile, the Maxwell company was continuing to fight legal battles on many fronts. Only four additional suits need to be considered in connection with Colorado interest. These suits produced: the Henry Clark case; the case (or cases) of the heirs of Charles Bent; the Inter-State Land Company case; and the Colorado Fuel Company case.

The Henry Clark suit arose from the efforts of the heirs of certain Mexican War veterans. It received only a brief and somewhat enigmatic notice in Denver newspapers in 1891. During the first part of June, *The Denver Times*, *The Denver Republican* and *The Rocky Mountain News* each published the following item:<sup>46</sup>

Las Vegas, N. M., June 1—Chief Justice O'Brien of the New Mexico Supreme Court has handed down his opinion in the celebrated suit brought by the heirs of David D. Mitchell, Benjamin Walker and others of St. Louis against the Maxwell Land Grant Company to recover five-sixths of the Maxwell Grant of nearly 2,000,000 acres in New Mexico and Colorado. The decision is against the plaintiffs, dismissing their bill and sustaining the titles of the Maxwell Company on all points.

What story lay behind this cryptic notice? What was the basis for these claimants contesting the company title, and how serious a threat did they offer? The answers to these questions are found

<sup>42</sup> Letter of Col. B. F. Klee to Gov. Alva Adams, Aug. 28, 1888. Files of Gov. Alva Adams, Colorado State Archives, State Historical Society, State Museum Bldg., Denver, Colo.

<sup>43</sup> In 1893 Gov. Davis H. Waite vainly sought to have the General Land Office support the settlers' cause. *Philadelphia Press*, Sept. 29, 1893.

<sup>44</sup> 158 U. S. 253.

<sup>45</sup> W. I. McPherson, *op. cit.*, p. 84. See also: "Memoirs of Marian Russell," *Colorado Magazine*, Vols. XX and XXI.—Editor.

<sup>46</sup> *The Denver Times* carried it on June 1, the other two papers on June 2. I am indebted to Miss Ina T. Aulls of the Western Division, Denver Public Library, for calling this publication to my attention.

in a seldom noticed phase of Mexican land grant history that begins in the period before the Mexican War. The character of this history can be suggested by reviewing the beginnings of the Maxwell grant in greater detail than was given above.

It will be recalled that the Maxwell grant originated as the Beaubien and Miranda grant in 1841, with the approval of Governor Manuel Armijo.<sup>47</sup> Two years later, the original petitioners ostensibly were placed in formal possession of their land by the Alcalde of Taos, and during the following year, 1844, they began to encourage settlement upon the grant. And yet by that time the two grantees were not the sole owners. Shortly after the possession-granting ceremonies in 1843, these grantees had deeded a fourth of their land to each of two other New Mexicans, namely Governor Armijo and Charles Bent.<sup>48</sup> Bent was a member of the firm Bent, St. Vrain and Company, then a strong rival of the American Fur Company, and he was one of the owners of Bent's Fort on the Arkansas River. Thus, by the time the Mexican War broke out in May, 1846, there were four principal owners of the Beaubien and Miranda grant.

The war led to the bloodless conquest of New Mexico when General S. W. Kearny entered Santa Fe on August 18, 1846, without firing a shot. Thereafter the Army of the West was divided into three units: one remained in New Mexico under Colonel Sterling Price; one departed for California under General Kearny; and one marched southward under Colonel A. W. Doniphan to join General Zachary Taylor's forces at Chihuahua.<sup>49</sup> Associated with each of the forces for at least a period of time, were four officers who joined with two Santa Fe traders to purchase the Maxwell grant during December, 1846. The officers, one a regular Army officer and the others volunteers, were the previously mentioned Lt. Col. David D. Mitchell and Major Benjamin Walker, and Captain Thomas B. Hudson and Major Dunham Spalding.<sup>50</sup> The two traders were Joab Houghton and Charles Bent. This latter is the Charles Bent who already owned a fourth of the grant. At the time of the aforesaid purchase he was serving as Governor of New Mexico.

In passing, it might be added that these same six men are recorded as having also purchased the Vigil and St. Vrain or Las Animas grant in December, 1846. This grant lay wholly in present day Colorado. In 1863 it was surveyed for approximately 6,000,000

<sup>47</sup> Wm. A. Keleher, *Maxwell Land Grant* (1942) p. 14.

<sup>48</sup> Register of Land Titles, Book A. (Under the Kearny Code of Laws for New Mexico) Bureau of Land Management, Santa Fe, N. M.

<sup>49</sup> R. W. E. Twitchell, *The Military Occupation of New Mexico, 1846-1851*. (1909) Chaps. II & III, *passim*.

<sup>50</sup> Major Spalding had been appointed paymaster of Volunteers and Major Walker was paymaster for the regular forces. They failed to bring sufficient cash with them to Santa Fe for paying all the troops. R. P. Bieber, ed., *Journal of a Soldier Under Kearny and Doniphan, 1846-1847*. (1935) pp. 244-5.

acres, although Congress had confirmed it in 1860 only to the extent of 97,000 acres. This grant has a little known history that need not be elaborated here.

How these six men became interested in buying up Mexican land grants is not indicated by the record. Nevertheless, the available evidence indicates that they did purchase the Beaubien and Miranda grant by a deed dated December 20, 1846.<sup>51</sup> The recorded vendors were Charles Bent, Charles Beaubien, Paula Beaubien (Charles' wife), Guadalupe Miranda (by his attorney Charles Beaubien) and Manuel Armijo (by his attorney Charles Beaubien). The purchasers paid a sum of \$1,000 to each of the vendors. A total payment of \$5,000 for a grant that was later ascertained to include nearly 2,000,000 acres would appear to have been a great bargain. It is true that the deed stipulated that 30,000 acres lying along the southern boundary of the grant were to be reserved to the vendors, but even so the price of New Mexican land was remarkably cheap for soldiers and traders.

There are five additional items of special interest that stem from the favorable purchase. First, the vendors of the grant appeared before Robert Carey, Clerk of the Prefect's Court at Taos, to acknowledge their part in drawing up the deed, but their appearances are dated December 14, whereas the deed is dated December 20. Perhaps this is only a minor discrepancy. Second, several of the purchasers could not have been in Taos, where the deed was signed on the date designated, because reliable evidence places them with the military forces fighting on distant battle fields.<sup>52</sup> Third, the fact that Charles Bent appeared as both a vendor and a purchaser may seem unusual. However, a lawyer for the purchasers later explained that such a dual position merely meant that Bent had reserved for himself a one-sixth interest in the grant, rather than a one-fourth interest. Fourth, the original deed was later reported lost. Nevertheless it had been copied in 1849 in the Register of Land Claims, Book B, established under the Kearny Code of Laws for New Mexico. This book itself became lost from the Office of the Surveyor General where it had been transferred when that Office was established in 1854.<sup>53</sup> Other copies of the deed must have existed too, or its provisions would not have been available for the litigation of the 1880's and '90's. And finally, no apparent effort was made by the purchasers to take over their property until forty years after the deed was drawn up.

<sup>51</sup> Henry Clark, et al. vs. The Maxwell Land Grant Co. Case #768. Files of the 4th Judicial District, District Court, Colfax County, N. M.

<sup>52</sup> For example, both Captain Hudson and Colonel Mitchell took part in the battle of Bracito, a little north of El Paso on Dec. 25, 1846. Bieber, ed., *Journal of a Soldier*, op. cit., p. 306.

<sup>53</sup> Notation in Book A, Bureau of Land Management Office, Santa Fe.

In the meantime, the two original grantees continued to utilize the grant and to sell land within its claimed boundaries. Charles Beaubien and his wife sold the Rayado grant to their son-in-law, Lucien B. Maxwell in 1858.<sup>54</sup> That same year, Maxwell purchased from the son of Guadalupe Miranda, acting on a power of attorney for his father, the latter's share of the Beaubien and Miranda grant. When Charles Beaubien died in 1864, it was found that his will provided for the distribution of his share of the Rayado grant to his children.<sup>55</sup> During the next six years, Maxwell bought out the share of each of these children, except that owned by his wife, the former Luz Beaubien, and also purchased the rights of Charles Bent's children, derived from the deed of 1843.<sup>56</sup> Thus, seemingly, Maxwell and his wife became the sole owners of the grant, and so sold it to the Maxwell Land Grant and Railway Company in 1870. Armijo's one-fourth share in the grant, based on his deed of 1843, was ignored, not only in 1870, but also when the patent was issued in 1879 and in the Supreme Court decision of 1887.

Meanwhile, what of the rights of the six purchasers of the grant in December 1846? Most of these persons died during the succeeding four decades, but their descendants finally endeavored to secure recognition of their claim to the grant. Perhaps their efforts were stimulated by the nation-wide publicity that accompanied the government's patent suit and the Supreme Court's decision thereon, or perhaps some of the many alert New Mexican lawyers dug out of the records a copy of the 1846 deed of sale and contacted the descendants of the purchasers. Whatever the cause, during the September 1886 term of New Mexican First Judicial District Court, these descendants filed a bill of complaint against the Maxwell Land Grant Company, seeking to obtain title to five-sixths of the grant.<sup>57</sup> The name of Clark appears in the case due to the fact that Fanny Clark was one of the six children of David D. Mitchell, who on February 4, 1863, had married Henry Clark. The other complainants in the case consisted of approximately sixty descendants of the 1846 purchasers of the grant.

Apparently no immediate action in the case followed the filing of the bill of complaint because the government suit to set aside the patent to the grant was then pending in the United States Supreme Court. But when that court decided to uphold the patent and denied in 1888 the government's plea for a rehearing, the Clark case could proceed in the New Mexican District Court. Consequently action was renewed by the filing of an amended bill of

complaint during the September, 1889, term of the New Mexican court, and then under date of January 5, 1891, another amended bill was filed, this one being ninety-one pages long.<sup>58</sup> The record of the sale of the grant in 1846 seemed clear, so that there appeared to be little doubt but that the District Court would recognize it and cause the Maxwell Land Grant Company whose property had already cost \$10,000,000 through previous title difficulties, to now lose five-sixths of the grant.<sup>59</sup>

The company, however, preserved its title, as revealed in the above quoted newspaper report of the District Court decision. Unfortunately it is impossible to discover the grounds for the court's decision. The written opinion in the case is annoyingly brief. It merely states that on May 29, 1891, at Las Vegas, Chief Justice James O'Brien decided that:<sup>60</sup>

On this day this cause came to be heard, the same having at a former day been duly submitted for final hearing upon the pleadings and proofs, pursuant to a stipulation made and filed in behalf of all the parties thereto, and having been argued by counsel, the complainants appearing on said hearing by Mr. James O. Broadhead, Mr. Joseph S. Laurie and Mr. James N. Purdy, and the defendant appearing by Mr. Frank Springer, its solicitor; and the same having been taken under advisement, and due consideration being had thereon; It is ordered, adjudged and decreed that the equities of the said case are with the defendant, and that the bill of complaint herein be, and the same is hereby dismissed.

And it is further ordered, adjudged and decreed that the defendant recover of and from the Complainants herein its costs in this behalf, to be taxed.

This decision was given while the judge was "in vacation" that is, when there was no formal session of the court. It was only one of many such decisions of the court which, like the Territorial Supreme Court, faced a crowded docket when Chief Justice O'Brien assumed office in 1890.<sup>61</sup> Deciding cases in vacation was a method of trying to clear up the backlog on the court calendar.

As might be expected for so important a case, the Clark group requested the right to appeal to the Territorial Supreme Court, and on May 12, 1892, Chief Justice O'Brien signed a statement authorizing such an appeal.<sup>62</sup> And yet there is no evidence of the case having been heard in the Territorial Supreme Court.<sup>63</sup> Why it was thus dropped is not revealed by the official records. It is fruitless to speculate on the cause or causes which may have been any one or several of a number that suggest themselves. In any case, the Maxwell Company had again successfully defended its title to the grant.

<sup>54</sup> *Ibid.*

<sup>55</sup> The estimate of the cost, or loss, is given in *Copp's Land Owner*, Jan. 1880.

<sup>56</sup> Docket of Case #768, *loc. cit.*

<sup>57</sup> Arle W. Poldervaart—*Black-Robed Justice* (1948) p. 147.

<sup>58</sup> File of Case #768, *loc. cit.*

<sup>59</sup> Interview of the author with the present Clerk of the New Mexico Supreme Court.

<sup>54</sup> *Transcript of Title of the Maxwell Land Grant*. (1881) p. 33.

<sup>55</sup> Probate Records and Deeds. Book B. No. 3, 1859-1864. Taos County Court House, Taos, N. M., pp. 344-5.

<sup>56</sup> Father Stanley, *op. cit.*, pp. 37-43.

<sup>57</sup> File of Case #768, *loc. cit.*

The litigation of the heirs of Charles Bent against Lucien B. Maxwell and other claimants of the grant resulted in one of the most extensive and sustained legal proceedings on record. It concerned one of the most celebrated cases in New Mexico, being carried on in the courts there during more than thirty years.<sup>64</sup> Five times the case reached the Territorial Supreme Court and thrice it appeared before the United States Supreme Court. The action began in 1865 when the three children of Charles Bent brought suit for possession of one-third of the grant.<sup>65</sup> This was later changed to a demand for one-fourth of it, for the original suit had appeared to ignore the right also established for Governor Manuel Armijo.

Out of this suit there resulted a court order to have the grant partitioned and the Bent children assigned their fourth of it. Shortly thereafter instead of the partition, the Bent heirs agreed to sell their rights to Lucien B. Maxwell, and the sales were made. But some of the essential legal niceties had not been observed, and after Maxwell sold out to the first Maxwell company, litigation in behalf of some of the Bent heirs was resumed. It is unnecessary to trace the tedious course of the proceedings here; suffice it to note that by 1897 the Maxwell Land Grant Company title was cleared of this challenge, as it has been of others.<sup>66</sup>

The Inter-State Company was a Colorado concern which in November, 1886, purchased the 1832 Beales and Reynuela Mexican land grant.<sup>67</sup> This grant involved a claim to an area of 60,000,000 acres, covering portions of Texas, New Mexico and Colorado. It included within its limits the Maxwell grant, which dated only from 1841. The famous rancher, Charles Goodnight, was one of the most prominent of the men supporting the Inter-State Company. This organization brought suit against the Maxwell Company in the U. S. Circuit Court for the District of Columbia to recover from the latter company a large tract of its land. But the Inter-State Company lost the suit when the Circuit Court supported the Maxwell company's position that the empresario grant (that is, a grant to contractors who were to colonize any or portions of the land designated) to Beales and Reynuela had never become operative because they had been unable to colonize it; therefore the Maxwell Company could retain possession of the lands it claimed. The Supreme Court of the United States took a similar stand, on April 6, 1891, so once again the latter company could feel victorious.<sup>68</sup>

<sup>64</sup> *The Rocky Mountain News*, Oct. 25, 1895.

<sup>65</sup> Bent, et al. vs. Maxwell Land Grant and Railway Co. (3 N. M. 158).

<sup>66</sup> Thompson vs. Maxwell Land Grant and Railway Co. (168 U. S. 451).

<sup>67</sup> F. Stanley, *op. cit.* Chap. Eight.

<sup>68</sup> 139 U. S. 569; *Denver Times*, Apr. 6, 1891. The Supreme Court decision was written by Justice L. Q. C. Lamar, the man who had been Secretary of Interior when the Court decided the government's patent suit in 1887. His decision asserted that questions affecting the validity of the Maxwell Land Grant as to the authority of the Mexican government to make it were no longer open to question.

A little more than a year before this latter decision, that is in November, 1889, the Maxwell company instituted a suit in the Colorado courts against the Colorado Fuel Company to secure possession of about 800 acres of land in Las Animas County.<sup>69</sup> The land lay within the surveyed limits of the Maxwell grant, but the Fuel company claimed its title was derived from certain patents of 1880 based on homestead entries of 1878, which was prior to the issuance of the Maxwell grant patent. Before the case was decided, the Fuel company was consolidated with the Colorado Coal and Iron Company under the Colorado Fuel and Iron Company (organized in 1892).<sup>70</sup> But the legal action continued against the Fuel company until in its October Term, 1896, the Colorado Supreme Court decided in favor of the Maxwell company.

Then legal contest was replaced by a contractual agreement, for in 1901, after a long period of consideration, the Colorado Fuel and Iron Company, under its President, J. C. Osgood, purchased from the Maxwell Company for \$1,000,000 approximately 250,000 acres of the Maxwell grant in Colorado.<sup>71</sup> *The Rocky Mountain News* termed the sale "one of the largest and most important land deals in Colorado during the last quarter of a century." *The Denver Post* reported that there were "2,000 squatters on the land, all of whom signed an agreement a few years ago to recognize the land grant company as the owners of the land. The new owners will allow these settlers to remain." In passing, it might be noted that the same account related that the chief men who owned the Colorado Fuel and Iron Company were J. C. Osgood, Senator Wolcott and Joseph Heimerdinger of New York. They had recently been confronted with an effort by John W. Gates, John Lambert and I. L. Ellwood to secure control of the company, an effort which more than doubled the value of the company's stocks, so that the former three men became \$9,000,000 richer than they had previously been.

Such a contest for control is reminiscent of the bidding for the securities of the first Maxwell company on the Amsterdam Exchange when it became known that the U. S. General Land Office was preparing to issue a patent for the Maxwell grant. But that struggle was only a part of the history of the grant to interested or concerned Coloradans. Many of the latter had experienced hope, pleasure, fear or anger during sixty years of grant developments, and though the major legal contests were decided by the turn of the century, the emotional reactions in Colorado to these developments have lasted to the present day. "The most written about, the most notorious, the most questioned piece of property west of the Mississippi"—the Maxwell grant.

<sup>69</sup> 22 Colo. 71.

<sup>70</sup> *Moody's Industrials*, 1900, pp. 703-5.

<sup>71</sup> *The Denver Post* and *The Rocky Mountain News*, Apr. 23, 1901. *The Denver Times* of Mar. 23, 1891 had forecast the sale.

## Colorado's First Highway Commission, 1910 - 1912—Part II

By FRANK MERCHANT\*

The manuscript "Minutes" ledger and the two printed "Biennial Reports" of Colorado's first State Highway Commission attest that, in the years 1910-1912 inclusive, this largely advisory body anticipated most of the functions of the post-World War II Commission and civil service-staffed Department. With only two full-time employees this first three-man Commission directed the layout and designation of the first State roads, set up construction and maintenance standards, and gave advice on construction and maintenance to county governments. In addition, this energetic, appointed Commission had its Secretary-Engineer, James E. Maloney, make the first "sufficiency rating" of roads in Colorado, superintend the first survey of road materials and materials testing and, until its supersession by a Commissioner and five-man Advisory Board in 1913, worked through a forceful public relations program to lead the citizens of the State of Colorado toward a consciousness of the need for modern highways.

This leadership was the first Highway Commission's major accomplishment. It was the prophet only of good road building because it was denied the money which was made available to its successor, the Commissioner-Advisory Board setup. The first Commission received a \$56,000 appropriation for its own expenses and aid to counties in 1910 and failed to receive the \$25,000 appropriation for 1911 voted by the General Assembly.<sup>1</sup> In 1912, the first Commission was supposed to receive support from the Internal Improvement Fund, which had been voted it by the General Assembly in 1911 because the Rocky Mountain Highway Association (including the Colorado Good Roads Association) and the Denver Chamber of Commerce had pushed hard for highway support. But the first Highway Commission failed to receive what had been a legislative "Pork Barrel" when, on a suit initiated by Prowers County, the State Supreme Court ruled in 1912 that failure to print the roll-call on the bill in the Senate journal invalidated the bill.<sup>2</sup>

\* Dr. Merchant, Information Officer of the Colorado Department of Highways has written this second article on the history of Colorado's highways upon request.—The Editor.

<sup>1</sup> *Second Biennial Report of the State Highway Commission . . . 1912*, 5.

<sup>2</sup> Stone, *History of Colorado I*, 579 ff. and *Second Biennial Report*, 6-7. The Legislature had also referred a \$10,000,000 road bond issue to the people who vetoed it, as they did also a measure reversing the Supreme Court. In originally granting the Internal Improvement Fund to the Commission, the General Assembly had tried to subtract 93 special road improvement appropriations from it, but these were vetoed by Governor John F. Shafroth.

The Good Roads Association continued pressing for adequate road support and in 1913, when Colorado's "first adequate road legislation"<sup>3</sup> was passed by the General Assembly, the Internal Improvement Fund of \$766,311 was made available to the Advisory Board. This law also turned over the first car license fees for road improvements. And in 1914, a referendum made a State property levy of one-half mill ready for the Advisory Board's use in 1916.<sup>4</sup>

In 1912, however, the first Commission—chairman, Charles P. Allen of Denver; William M. Wiley of Holly, and Thomas H. Tulley of Durango—wrote in their Second Biennial Report: "The past two years with the State Highway Commission of Colorado have been a series of handicaps and disappointments." They told how \$25,000 appropriated by the General Assembly from the General Revenue "being a fifth-class appropriation, was unavailable because of sum-total of the appropriations was far in excess of the revenue income." Then followed the sad tale of the invalidation of the appropriation of the Internal Improvement Fund to highway use, with the note that this invalidation was especially embarrassing, since the Commission had thought itself to buy \$50,000 worth of road machinery which was rented out to counties at 5 per cent per annum. Furthermore, the Second Biennial Report complained:

"As a consequence, some of the counties embarrassed themselves, as they thought temporarily, to get the new work under way.

"As notable examples may be cited: Morgan County, which undertook improvements on the main highway, involving an expenditure of over \$30,000; Otero County, the construction of a \$50,000 bridge near La Junta . . . Mesa County, about \$20,000 in the Plateau country, where an excellent piece of work was prosecuted by a convict camp assigned by Warden Tynan to do the same; Archuleta County, far beyond its means and individual ability . . ."<sup>5</sup>

Yet, Colorado's first Highway Commission had laid out 4,380 miles of a primary road system eligible for State aid, a system which it estimated "will take twenty years to complete,"<sup>6</sup> had surveyed the sand and gravel available near these roads in all counties,<sup>7</sup> and had received extensive reports on the qualities of these materials from Colorado University Professors Milo S. Ketchum and C. C. Williams, who were the first, volunteer, "materials laboratory" staff for the State's highways.<sup>8</sup>

<sup>3</sup> Stone, *loc. cit.*

<sup>4</sup> LeRoy R. Hafen, *Colorado and Its People*, I (New York, 1948), 567 and *Third Biennial Report . . . 1914*, 15. Commissioner T. J. Erhart stated of these appropriations, *Third Report*, 16: "The present Highway Law has thus far proven very satisfactory in its operation . . . but recommend that in order to increase the efficiency of the State Highway Department (actually not existent until 1921—F.M.) that the annual continuing appropriation be increased to \$20,500, enabling us to employ one additional Engineer, and one more field supervisor."

<sup>5</sup> *Op. cit.*, 5-6.

<sup>6</sup> *Ibid.*, 45-47.

<sup>7</sup> *Ibid.*, 21-24.

<sup>8</sup> *Ibid.*, pp. 48-55. These pages contain six pictures of early highway materials testing apparatus.

Even without sufficient funds, the first Highway Commission managed to get Colorado's first illustrated road guide printed—as precursor of the present “Colorful Colorado” State Highways map folder which, in annual editions of 600,000, is distributed all over the world. The arrangement of that printing is described in the entry for February 17, 1912, in the Commission's hand-written “Minutes”:

“Note of verbal agreement made between The Clason Map Co. of Denver, Col. and Mrs. Allen of The State Highway Commission and Dr. F. L. Bartlett of The Denver Chamber of Commerce Good Road Committee: The Clason Map Co. to get out and publish and sell for \$1.00 apiece a book of “strip” road maps about 80 in number, the book to contain 192 pages, balance of pages to have half tones and printed matter.

“The Highway Commission to take 2000 books at 50 cents each and pay for same as soon as money is available.

“Also, to pay Clason Map Co. \$500.00 in lieu of advertising matter in the book, to be paid when the money is available. . . Dr. F. L. Bartlett and C. P. Allen agree to jointly advance \$500.00 to The Clason Map Co. to enable them to expedite work on the book and to be repaid by the Clason Map Co.”

Not only by this ingeniously-gotten map distribution, but also by its use of photography, the first Highway Commission set a graphic precedent for the education and publicity programs of future Departments of Highways. In their first printed report, to Governor Shafroth, the Commissioners stated:



CLIMBING DIVIDE—DISAPPOINTMENT CREEK, 1910  
From First Biennial Report of the State Highway Commission  
of the State of Colorado, 1910

“The permanent equipment of the Commission contains a photographer's outfit and a stereopticon apparatus. There has been accumulated a fine lot of pictures showing road conditions in different parts of the State. From some sixty of these photographs we have had colored slides made for the stereopticon, and these are used for educational purposes. The display of a couple of these slides, showing, as they do, the contrast between a good road and a bad road, takes the place, and with better results than hours of argument. This outfit will be used at the Good Roads Convention Your Excellency has called for January 13, 1911, as well as at the State Meeting of the County Commissioners to be held about the same time.”<sup>9</sup>

The Commission's “Minutes” ledger records the purchase of this camera and stereopticon on June 15. Both were committed to the possession and, presumably, the use of the necessarily versatile secretary and engineer, James E. Maloney. Continued use of pictures for educational purposes is demonstrated in the list of vouchers approved on April 27, 1911:

Voucher 182—Chicago Photo Finishing Co.—for prints and developing, 12/23—2/20—68 prints \$6.80—\$7.05

Voucher 184—Colorado Film Ex. Co.—to Carbons for stereopticon—\$2.50

Voucher 201—H. D. Smith Lantern Slide Co.—Lantern slides, \$24.50

Voucher 224—F. H. Hildreth, Longmont—Pictures and slides of—\$30.00

Voucher 227—H. D. Smith Lantern Slide Co.—Denver—Slides for stereopticon—\$24.75.<sup>10</sup>

The “Minutes” ledger also shows the Commission sending out an extensive amount of printed information, by following its distribution of 1,000 copies of the Act which established it with 1,000 printed copies of its Bulletin Number One<sup>11</sup> and an equally large edition of Bulletin Number Two.<sup>12</sup>

The first Highway Commission anticipated Federal Aid for state road systems by its unavailing support of the bill offered in the national House of Representatives by the Hon. Edward T. Taylor of Colorado. This bill would allow the State to sell 1,000,000 acres of public domain for the construction and maintenance of highways at not less than \$5 an acre. Not more than 160 acres were to be sold to any one individual or corporation.<sup>13</sup> This unsuccessful proposal looked forward to the beginning of Federal Aid for state highway construction in 1916 and this year's proposals of a 10-year national appropriation of \$50 or 101-billion for the states' road construction.

The first Commission extended its campaigns of publicity, education and advice as far as it could toward an enforcement of the doctrine of good roads. It preached and allowed to the counties

<sup>9</sup> *First Biennial Report* . . . 1910, 28.

<sup>10</sup> “Minutes” ledger, 192-3.

<sup>11</sup> *Ibid.*, 60, entry for June 15, 1910.

<sup>12</sup> *Ibid.*, 155, entry made November 26, 1910.

<sup>13</sup> *First Biennial Report*, 7-8.

monetary credits for maintaining—chiefly dragging—roads on the designated State system. It had Secretary-Engineer Maloney draw up or aid in the drawing up of plans for construction of roads and bridges.

In the Commission's maintenance efforts, its propaganda for the "King Road drag," as pictured in its reports was outstanding, although it admitted: "We find this campaign of education slow to take root, but there are favorable signs of awakening as the good road doctrine spreads. Already they are dragging the adobe roads in both Douglas and Adams counties and the results are wonderful."

In its first printed Report, the Commission drew a picture of itself "mother-henning" local authorities which is frank, amusing and concise:

"Where grades are excessive, some being as high as thirty per cent, the Commission is ordering them reduced to seven or eight per cent, if possible.

"We have harped day in and day out against the needless detriment of irrigation water on the public highway; have preached the dragging after storms of roads; have criticized counties for leaving their graders, scrapers, slips, rollers, plows and other machinery on the open highway when not in use, to be damaged by weather when they should be put under cover and properly cared for."<sup>14</sup>

The knowledge of the State's hardly marked out and rarely graveled roads which the first Commission acquired in order to be able to heckle the County road authorities so assiduously was gained by field trips made by horse and wagon, train, foot, steam-roller and sometimes by automobile. Autos were usually hired. In June, 1910, when the Commission projected a statewide tour, E. R. Cumbe of Mitchell offered a car, including maintenance, repairs and board and lodging for the driver at \$35 per day. Commission Chairman Allen countered with an offer of his "automobile together with chauffeur (sic)" and eventually was reimbursed with \$809.02 for the tour.<sup>15</sup>

Previous to this, one of the major accomplishments of the Commission's first year was effected on a trip which Secretary-Engineer made with the three Commissioners between June 24 and July 17, 1910, when all the roads of the State were covered and Secretary Maloney wrote a detailed report on all the stretches of highway and structures encountered which covers eight full manuscript pages in the "Minutes" ledger.<sup>16</sup> This was an equivalent of the present Department's annual Rural Highways Sufficiency Rating Survey,

<sup>14</sup> *Ibid.*, 29. Plans and explanation of the use of the King Road Drag appear in these Commission Reports: *First*, 34; *Second*, insert after 18.  
<sup>15</sup> "Minutes," 68, entry for August 5, 1910, including transcript of Cumbe's letter of June 22.  
<sup>16</sup> "Minutes," 37-48, entry of July 20, 1910. This Survey is described, but survey results are not given in *First Biennial Report*, 25.

which in 1954 won one of the first Golden Milestones awarded by the National Highway Users Conference.

The first Commission handed over its powers to the new Highway Commission on March 25, 1913.<sup>17</sup> In his 1916 report,<sup>18</sup> that Commission, T. J. Ehrhart wrote a simple but fitting epitaph on the leader of a State governing body which never disagreed and did a little more than was possible with its meagre funds and powers.

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<sup>17</sup> "Minutes," 313.

<sup>18</sup> *Fourth Biennial Report of the State Highway Commission... 1916* (Denver, 1917) 17. Allen was appointed January 1, 1910 and elected Chairman on January 17 according to "Minutes," 1-2. The *Fourth Report's* title page has a Commissioner, Chairman of the Highway Commission and members of Advisory Board. Commissioner Erhart was serving with a five-man appointed Advisory Board, which elected its chairman. The Commission was not restored until 1953.