



Hamlin Garland's Colorado

BY M. PAUL HOLSINGER

Few American men of letters are as intimately connected with one region of the country as is Hamlin Garland with the Middle West. Despite the fact that he wrote nearly fifty novels and hundreds of short stories and poems,¹ Garland's lasting contribution to the literature of this nation will always be his realistic studies of the midwestern frontier—*Main Traveled Roads*, his first book which appeared in 1891; *Boy Life on the Prairie*, a semi-autobiographical work published originally in 1899; *A Son of the Middle Border* (1917); and the Pulitzer Prize-winning biography for 1922, *A Daughter of the Middle Border*. Forgotten in the face of the popularity of these volumes,² especially the first, which has remained in print almost continuously for seventy-five years, is the fact that from 1898 to 1914, Garland's work was overwhelmingly dedicated to studies dealing with Colorado and the Mountain West. During that span of time, ten novels and a score of short stories were set at least partially in Colorado,³ and it is no overstatement to say that through these works, especially the novels, all but

¹ A complete bibliography of Garland's work appears in Jean Holloway, *Hamlin Garland: A Biography* (Austin: University of Texas Press, 1960), pp. 314-32.

² All of these works continually appear in paperback editions, making them available for mass circulation. *Main Traveled Roads* is now (1967) not only published in a hard cover edition but is also in three different paperback formats.

³ Garland's "Colorado novels" are *The Spirit of Sweetwater* (New York: Doubleday and McClure Co., 1898); *The Eagle's Heart* (New York: D. Appleton and Co., 1900); *Her Mountain Lover* (New York: The Century Co., 1901); *The Captain of the Grey-Horse Troop* (New York: Harper and

one of which were general popular successes, Garland did as much as any single author at the turn of the century to popularize Colorado and its spectacular geographical setting.⁴

Hamlin Garland first visited Denver, Colorado Springs, and the mountains beyond during the winter of 1892-1893. Still young and impressive, he was instantly involved emotionally in everything he saw.

I rode from Denver to Colorado Springs [Garland wrote in a notebook that he was keeping] with the mountains on my right and the vast descending plain upon my left. The near hills purple, the distant peaks flaming silver on the sunward side and shadowed in violet. The western sun sinking lower subdued the silver to steele-blue [sic] and the blue to purple. Each ravine was a vertical belt of blue swooping down from the foothills, each ridge between was white with snow. The clouds seemed to rise just above.⁵

Throughout the nineties, he returned every summer to "the high solitudes of Colorado . . . eager to re-enjoy their glories."⁶ So impressed was he with the beauty of the mountains in the state that in 1899, after his marriage to Zulime Taft, sister of the famous sculptor Lorado Taft, Garland honeymooned in Colorado Springs, the Uncompahgre Range and, after crossing the Continental Divide, in Silverton.⁷ All of these visits mixed business with pleasure, since the author took voluminous notes on Colorado scenery, people, and events to be used later in the construction of his fictional work.⁸

Brothers, 1902); *Hesper* (New York: Harper and Brothers, 1903); *The Tyranny of the Dark* (New York: Harper and Brothers, 1905); *Witch's Gold* (New York: Doubleday and Page, 1906); *Money Magic* (New York: Harper and Brothers, 1907); *Cavanagh, Forest Ranger* (New York: Harper and Brothers, 1910); and *The Forester's Daughter* (New York: Harper and Brothers, 1914). Some of the best of Garland's short stories which deal with Colorado can be found republished in *They of the High Trails* (New York: Harper and Brothers, 1916).

⁴ Only *The Tyranny of the Dark*, a study of spiritualism set in part in Colorado, was a poor seller. Garland himself later admitted this work to be "a wandering from the main line . . . a mistake." Hamlin Garland, *Companions on the Trail: A Literary Chronicle* (New York: The Macmillan Co., 1931), pp. 271-72. None of the Colorado novels were, however, universally well-received by the critics. See, for instance, the reviews of *Witch's Gold* in *The Nation*, LXXXIII (September 13, 1906), 228; *The Eagle's Heart* in *The Bookman*, XII (December, 1900), 351-52; or *Cavanagh, Forest Ranger* in *The Independent*, LXVIII (May 26, 1910), 1138.

⁵ MS notebook of Hamlin Garland, "Winter 1892-1893," unpaginated, Manuscripts Collection, Doheny Library, University of Southern California, Los Angeles, quoted in Edwin Julius Neumann, "Hamlin Garland and the Mountain West" (unpublished Ph.D. dissertation, Northwestern University, 1951), p. 137.

⁶ Hamlin Garland, *Roadside Meetings* (New York: The Macmillan Co., 1930), p. 298.

⁷ Holloway, *Hamlin Garland: A Biography*, p. 162.

⁸ The manuscript notebooks made during these visits are now in the Manuscript Collection of the University of Southern California Library, Los Angeles. In 1895, for instance, Garland visited Colorado Springs, Cripple Creek, and "the Currant Creek Country" with Herman MacNeill, a young sculptor friend. "For a week," Garland wrote thirty-five years later, "we absorbed the life and scenery like sponges. One of the men whom MacNeill modeled, a young cowboy and miner, suggested the hero of my novel, *The Eagle's Heart*;



This portrait of Hamlin Garland was included in *The Spirit of Sweetwater* (1898).

By 1902, Garland was convinced that he had exhausted the potential subject material available to him in the Middle West. While still living in West Salem, Wisconsin, he wrote in his diary on July 19 of that year:

The days here, while peaceful, are deadly dull and slow. I do not find stories here that seem worth my while. I must get out to Colorado and bustle and beat myself against the hills for awhile. Here all is fenced, owned and made tame. There I can still feel myself on the edge of things.⁹

Later, he added an even stronger thought. "I [have] lost perspective. . . . I must return to Colorado, to the hills whence cometh my strength."¹⁰ For nearly the next decade, Garland continued to come back to the mountains, usually to Colorado, and his fictional work constantly reflected these visits.

Garland had already been turning to Colorado for story themes before 1902. His first major work with a Colorado

and a group of cowboys contesting for a prize suggested a chapter in another novel called *Hesper*. And then while MacNeill was making a sketch of one of these men, I rode . . . in search of a round-up, an experience which enriched another chapter in *The Eagle's Heart*." Garland, *Roadside Meetings*, pp. 284-85.

⁹ Quoted in Hamlin Garland: *Centennial Tributes and a Checklist of the Hamlin Garland Papers in the University of Southern California Library* ("University of Southern California Library Bulletin," No. 9; Los Angeles: University of Southern California Library, 1962), p. 6.

¹⁰ Garland, *Companions on the Trail*, p. 156. During this particular trip in 1902, the Garlands investigated the circumstances of the "Cripple Creek War" as background for his novel *Hesper*, then in progress, "visited a ranch on the plains of eastern Colorado, joined a round-up in the Sierra Blanca country, explored the gambling houses and mines of Cripple Creek and Victor, and spent two weeks re-exploring the White River plateau" before winding up their vacation with a two weeks camp-out on a shoulder of Pikes Peak. Hamlin Garland, *A Daughter of the Middle Border* (New York: The Macmillan Co., 1921), pp. 58-59.



Colorado provided an idyllic setting for this scene from *Witch's Gold*. "I want to pledge my life to your service—my life and all I am," Richard Clement told the ailing heroine Ellice.

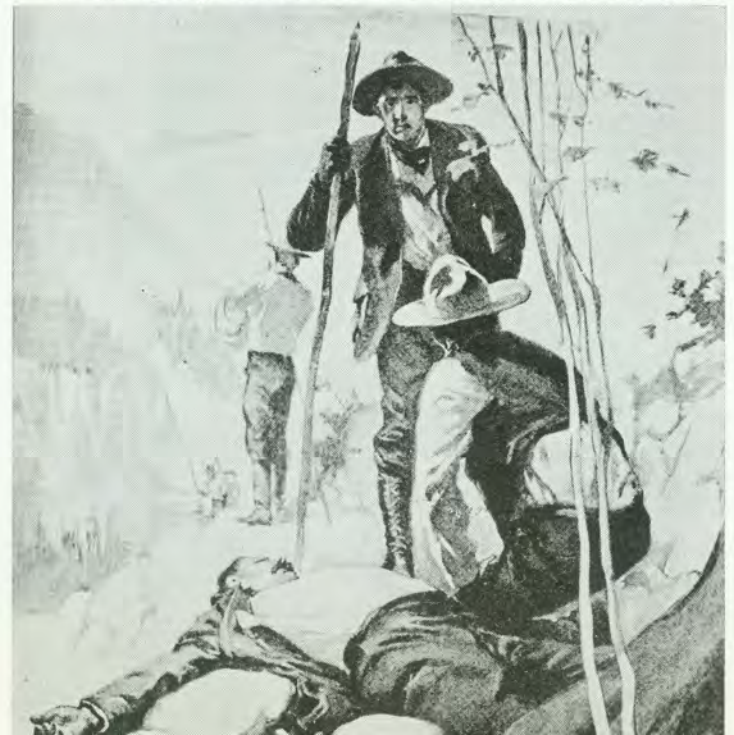
setting, *The Spirit of Sweetwater*, had appeared originally in Edward Bok's *Ladies' Home Journal* in 1898. Later expanded into the separate novel *Witch's Gold*, set in Cripple Creek, Manitou Springs, and Colorado Springs, it was the story of a young, tubercular girl and the older, successful miner who aided in her recovery. In 1900 *The Eagle's Heart*, a story of cattlemen and sheep ranchers, had been published, and the following year *Her Mountain Lover*, a novel set in Wagon Wheel (Ouray), Colorado, and London, England, had appeared. These three novels were all well read, but for Garland the most successful novels dealing with Colorado were still to come.

The Captain of the Grey-Horse Troop, originally excerpted in *The Saturday Evening Post* in 1902, was probably Garland's most popular novel. Set only partially in Colorado, "somewhere

in the Beartooth Range," this novel is a not-too-imaginative story of an Indian agent trying to protect his wards from the grasping land-hunger of the local cattlemen. As with so many "Wild West" novels, the hero emerges victorious in defeating the cattlemen while winning the beautiful girl in the process—a sure best seller among Garland's many feminine readers. *Hesper*, published the following year, was a novel in the same vein. An eastern girl goes to "Sky Camp" (Cripple Creek), Colorado, with her young sickly brother, falls in love with an independent western mine owner, finds herself involved in the "Miner's War" of 1894, and, abhorring the West and its crudeness, determines to leave for good. In the end, however, she is at least partially instrumental in bringing about an end to the fighting and, though reluctant at first, is won by the hero, determining at that same time to live the rest of her life in the Colorado mountains.

In many ways, Garland's most outstanding Colorado work was his *Money Magic*, sometimes called *Mart Haney's Mate*, published in 1907. William Dean Howells, one of America's greatest early realists and a friend of Garland, several years later chose "with some hesitancy" this novel "as possibly the

Afraid that he would never regain his health, Mart Haney left his young wife Bertha and went into the mountains to die.



most masterly of the author's books,"¹¹ and Irene McKeethan, an expert in Colorado literature, called it "the best" of Garland's novels dealing with Colorado, "a real study of character."¹² With scenes in both Cripple Creek and Colorado Springs, *Money Magic* sought to show the effect money had on two Coloradoans, a gambler-mine owner from Cripple Creek and his young bride, a former hotel clerk from the small town of "Sibley Junction, Colorado."

Garland's last two novels dealing with Colorado are both centered in the national forestry program, which in the second decade of this century was just beginning to gain popular notice from the impetus given it by Theodore Roosevelt and Gifford Pinchot, the chief of the United States Forest Service. Neither

Hamlin Garland (right) visiting a forest ranger.



Cavanagh, Forest Ranger nor *The Forester's Daughter* are significant works of fiction, and, in fact, by the time the latter volume was published in 1914, Garland had already begun to lose interest in the "new" Colorado as it was developing. That year, in visiting Boulder, he left with no reaction at all to the mountains and did not even take the time to visit them.¹³ The Colorado he had come to admire seemed to be vanishing and even the people were no longer fascinating as types for his fiction. In September, 1912, he had noted in his diary after a visit to Colorado:

The people have changed for the worse—the settlements are no longer picturesque—they are pitifully squalid. The present phase of development is cheap, flimsy, and ugly. At fifty-three a man does not so easily overlook tin cans, flies, and dirty hotel rooms.¹⁴

Cripple Creek, which had furnished so much material for his stories, was "all shot to pieces," "a cheerless and depressing ruin." "Half the houses are empty and the streets are sparsely tenanted," Garland wrote in 1907. "All the confidence, all the audacity of its earlier days is gone. . . . It is an unnatural place—a monstrous place in which to live, a place of derelicts, men with no future. I leave it with a conviction that I shall never return, and a feeling of regret that I have seen it in its decay."¹⁵ Within a few years, Garland had deserted the Mountain West and Colorado altogether to return to the Middle Border and increased fame.

If Garland's novels dealing with Colorado are not great works or even representative of his more famous studies, and most critics agree that they are not,¹⁶ there are nonetheless many examples which show the love, respect, and understanding that Garland had for Colorado and its mountains in their primitive state. Lyrical word-portraits of the beauties of nature constantly reappear in Garland's stories. Typical is his picture of the mountains near Ouray:

The mighty walls, soaring six thousand feet above the town, were lighted with the golden glow of the sun, which had

¹¹ William Dean Howells, "Mr. Garland's Books," *The North American Review*, CXLVI (October, 1912), 527.

¹² Irene Pettit McKeethan, "Colorado in Literature," *Colorado: Short Studies of its Past and Present* ("University of Colorado Semicentennial Publications," Vol. IV; Boulder: University of Colorado, 1927), p. 168.

¹³ Hamlin Garland, *My Friendly Contemporaries* (New York: The Macmillan Co., 1932), pp. 18-20.

¹⁴ Garland, *Companions on the Trail*, p. 516.

¹⁵ *Ibid.*, 358-59.

¹⁶ See, for example, Jay Hubbell, *American Life in Literature* (New York: Harper and Brothers, 1936), II, 187; or W. Taylor, *The Economic Novel in America* (Chapel Hill: University of North Carolina Press, 1942), p. 179.

already left the top of the secondary peaks. The broad fields of snow were rosy pink; the grassy slopes glowed with opalescent lights; and one or two great solitary white clouds seemed to stand on edge behind Ouray, waiting on the deep blue sky.¹⁷

Garland's impression of the mountains behind Colorado Springs is equally poetic:

... the great peaks [were] delicately tinted with purple, over which a snowy wall of clouds was mystically rising. It was like looking up at the bastions of a celestial city; a region of cool air, swift streams, and alpine flowers.¹⁸

The descriptions of Colorado towns in Garland's writings are at times, however, less than flattering. As people moved to replace nature's beauty with man-made objects, Garland often thought the subsequent changes were somewhat undesirable. The contrast is no place as clear as in the author's description of the area around the town of Creede:

The valley was glorious with pink and green slopes and purple-green firs and majestic borders of rocks; but Creede was a filthy, one-street village of shacks built along a grandly picturesque canon. Great horns of purple and green and yellow rock rose above the river which had been turned a sewer—a shameful pollution of a noble stream. Mills and ramshackle homes filled the narrow tortuous valley for miles. . . .¹⁹

In 1960 Garland's daughter, Isabel Garland Lord, wrote a tribute to her father in which she noted that "he loved—and occasionally hated—with passion and one of the great loves of his life was, incontestably, the Mountain West." It was in Colorado and the Rockies, Mrs. Lord felt, that her father found both "inspiration and delight," for it was this region, even more than the Middle Border, that "was closest to his heart."²⁰ These thoughts may very well be too strong when viewed in the total perspective of Hamlin Garland's life, but there is no doubt that for over two decades, he was almost totally dedicated to the area. As an author of fiction, he caught the spirit of Colorado perhaps better than many non-fictional writers. In the opening chapter of his last "Colorado" book, *The Forester's Daughter*, Garland wrote what Irene McKeehan in 1927 felt to be "the best description of Colorado that I have ever read."

There are two Colorados within the boundaries of the state by that name, distinct, almost irreconcilable. One is a plain (smooth, dry, monotonous), gently declining to the east, a land



According to the caption in *The Forester's Daughter*, "Her face shone as she called out: 'Well, how do you stack up this morning?'"

of sage-brush, wheat-fields, and alfalfa meadows—a rather commonplace region now, given over to humdrum folk intent on digging a living from the soil; but the other is an army of peaks, a region of storms, a spread of dark and tangled forests. . . . The landscape seems to contain nothing but rocks and towering crags, a treasure-house for those who mine. But this is illusive. Between these purple heights charming valleys wend and meadows lie in which rich grasses grow and cattle feed.²¹

Few men of letters have used Colorado as a setting as often as did Hamlin Garland. In 1927, he was aptly classed as a

¹⁷ Garland, *Her Mountain Lover*, p. 330.

¹⁸ Garland, *Companions on the Trail*, p. 74.

¹⁹ *Ibid.*, 89-90.

²⁰ Hamlin Garland: *Centennial Tributes*, pp. 5-6. Jean Holloway, Garland's major biographer, feels, however, that at best he must be called "an observer, an appreciative and sympathetic visitor, but an outsider, nonetheless." *Hamlin Garland: A Biography*, p. 229.

²¹ Quoted in McKeehan, "Colorado in Literature," *Colorado: Short Studies of its Past and Present*, p. 168.

member of "the big three" of Colorado fiction.²² That distinction is in many ways still true forty years later. Garland's "Colorado novels" were, as one student has called them, "genuine microcosms of the native Mountain West."²³ After 1914, Garland may have returned to the Middle Border for the themes of his stories and even later to the field of psychic research and spiritualism, but for this native Midwesterner, Colorado and the Rockies in their primitive state and the days he had spent in them were to remain an image of beauty to be remembered forever. As he wrote in one of his most quoted poems:

Oh, the good days of the trail
 I cannot lose you, I will not.
 Here in the amber of my song I hold you
 Here where neither time nor space can do you wrong.
 I sweep you together, the harvest of a continent
 The gold of a thousand days of quest.

So when I am old, like a caged eagle,
 I will set and dream
 Of splendid mountains, the gleam of rivers
 And the glow of sunset on the vanished plains.²⁴

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²² *Ibid.* The other members of the triumvirate were William MacLeod Raine and Robert Ames Bennet.

²³ Neumann, "Hamlin Garland and the Mountain West," p. 95.

²⁴ *Hamlin Garland: Centennial Tributes*, pp. 5-6.

THE WOMEN AND GOVERNOR WAITE

BY JOHN R. MORRIS

Under Populist leadership the women in Colorado gained the right to vote in 1893. Yet the next year the Populist governor, Davis H. Waite, turned against woman suffrage and toured the country lecturing against it. How this happened is perhaps the most dramatic episode of the woman suffrage story in Colorado.

There were a few attempts to introduce woman suffrage in Colorado before the Populist era. Twice the issue was raised in the legislature during the territorial period, but it received little consideration. The state constitution of 1876 did give women the right to vote in school elections. The following year, however, the males of Colorado turned down a proposal for general woman suffrage by a large majority. In 1881 an effort to extend the franchise to women in municipal elections lost out in the legislature.¹

Nothing further occurred in Colorado during the eighties, although for Davis Waite this period may have been quite important in forming his attitude toward woman suffrage. Waite was a member of the Knights of Labor, a national labor organization which was politically active in Colorado in the eighties and early nineties. The Knights championed women's rights and called for woman suffrage.

There seems to be little evidence during the early nineties among Populists and non-Populists to suggest that woman suffrage would win in Colorado in 1893. Many Populists were known to favor woman suffrage, but it was usually not included in their platforms in order to avoid dissension over what was considered to be a minor issue. One exception occurred at the

¹ Joseph G. Brown, *History of Equal Suffrage in Colorado, 1868-1898* (Denver: News Job Printing Co., 1898), pp. 5-13.

St. Louis convention in February, 1892, where a resolution was passed stating that "the question of female suffrage be referred to the legislatures of the different states for favorable consideration."²

Waite did not stress woman suffrage during his campaign for governor. He was mainly concerned with such issues as railroads, land, and money, especially the latter. Shortly after the election of the Populist administration in November, 1892, Governor-elect Waite received occasional correspondence favoring woman suffrage. Quitman Brown, a Populist rancher from Yuma, wrote to him urging the vote for women to combat the "saloon menace." He suggested that women over twenty-one be given the vote in municipal, school, and judicial elections.³ In recommending woman suffrage for all elections, one Denver lady told Waite that "women have tried to bring about reforms but have failed to an extent because they could not vote."⁴

In his inaugural address to the Ninth General Assembly, Governor Waite recommended the extension of woman suffrage to all municipal elections. He noted that women had gained the right to vote in school district elections several years before, but the "heavens have not fallen, and the efficiency of the public schools has been greatly improved."⁵ Whatever the reason, possibly political tactics, Governor Waite did not ask for full woman suffrage in his 1893 message.

The *Rocky Mountain News* described the inaugural references to woman suffrage in glowing tones: "The greatest demonstration . . . was during his references to woman suffrage. They were so well put that the audience fairly rose and cheered, the demonstration being renewed under the leadership of a lady in the gallery, who leaned over and waved her handkerchief enthusiastically as a signal to others."⁶

A bill to submit the woman suffrage question to the voters was introduced in the House by a Populist, Representative J. T. Heath of Montrose. It passed both houses mainly due to the Populist vote, but not without badly needed help from the Republicans, since the Populists did not have a majority



Colorado's women joined the men at the polls in 1894.

in either house. Governor Waite signed the measure on April 7, 1893. At the general election that fall the male advocates of woman suffrage won by 35,798 to 29,451, a majority of 6,347. Colorado thus became the first state to attain woman suffrage by a vote of the males of the state.⁷

After the election Helen M. Reynolds, a leader of the Equal Suffrage Association of Colorado, thanked the governor for his support of the woman suffrage bill and said that the victory in Colorado represented the greatest achievement yet for equal



Helen M. Reynolds also helped found the Women's Educational Club.

² John D. Hicks, *The Populist Revolt* (Minneapolis: University of Minnesota Press, 1931), p. 439.

³ Quitman Brown to Waite, December 15, 1892, Colorado State Archives and Records Service, Records of the Office of Governor: Davis Waite, 1893-95. Correspondence. Hereafter referred to as Waite Papers.

⁴ Sallie Mortimer to Waite, December 18, 1892, *ibid.*

⁵ Inaugural address of Governor Davis H. Waite, January 10, 1893, Colorado, General Assembly, House, *House Journal*, 9th Sess., 1893, p. 120.

⁶ *Rocky Mountain News*, January 11, 1893.

rights.⁸ The Women's Christian Temperance Union of Colorado warmly praised Governor Waite: "Believing that your influence in both your official and private capacity was a potent factor in securing the passage of the Equal Suffrage Bill in the legislature and its subsequent approval by the people, the Women's Christian Temperance Union of Colorado desires to express appreciation of this service in the cause of moral reform."⁹

Congratulations also came from equal suffrage groups in other states. Emily B. Ketcham, president of the Michigan Equal Suffrage Association, wired the governor: "In behalf of the women of Michigan please accept cordial greeting and congratulation to the loyal men of Colorado for being the second state to render justice to their women."¹⁰



A PAIR OF HAPPY VICTORS.

National attention now focused on the Colorado experiment with woman suffrage. As the leader of the political party which was chiefly responsible for the triumph, interest especially centered on the views of Governor Waite. A leading national magazine, *The North American Review*, published the arguments of Waite in favor of equal suffrage.¹¹

In this article Waite gave two principal reasons for extending the vote to women. First, he said, there should be no taxation without representation. Yet women were often taxed although they had no voice in government. Secondly, the right to vote should be based on intelligence, not sex. "If a woman has the mental ability to protest against unjust laws, and to demand enactments calculated to promote the general welfare, why should not her wishes, and most especially when taxed as a citizen, be consulted in the exercise of the government?"¹² Waite especially had in mind the thought that the entrance of women into politics might help the forces of reform whose success he believed to be essential to the survival of American democracy.

The governor cautioned against an indiscriminate extension of suffrage, however, and felt that there were legitimate reasons for limiting suffrage where people were ignorant or uneducated. Whether women would pass the test only the future could tell, as in Wyoming and other areas where woman suffrage was in effect no noticeable progress in political reform had occurred. Waite belittled the usual arguments against woman suffrage based on woman's peculiar nature and traditional functions.

On the subject of woman suffrage and partisan politics, Waite remarked that there was nothing partisan in itself about the issue. In all states, men of all parties favored or opposed woman suffrage, but in Colorado, he continued, the women clearly owed suffrage to the Populist Party. He forecast that neither the Democrats nor the Republicans would ever confer equal suffrage as they did not believe in equal rights. In conclusion, he stated that "the Populist Party will, at no distant day,

⁷ For a recent account of the woman suffrage movement in Colorado see Billie Barnes Jensen, "Let the Women Vote," *The Colorado Magazine*, XLI (Winter, 1964), 12-25.

⁸ Helen M. Reynolds, Denver, to Waite, December 19, 1893, Waite Papers.

⁹ Women's Christian Temperance Union of Colorado to Waite, December 19, 1893, *ibid.*

¹⁰ Emily B. Ketcham to Waite, November 11, 1893, *ibid.*

¹¹ Davis H. Waite, "Woman Suffrage in Practice," *The North American Review*, CLVIII (June, 1894), 737-41.

¹² *Ibid.*, 737.

not only redeem women from political servitude, but also emancipate man and woman from industrial slavery."¹³

During his campaign for re-election in 1894 the governor reiterated his belief in woman suffrage and again affirmed that voting should be based on intelligence, not birth, sex, or wealth. He concluded one campaign speech by saying: "I have faith in man, why should I not have faith in woman?"¹⁴

Waite's faith in woman could not withstand the blows of the election. He was defeated, and he believed the majority of the women had voted against him. The Populist program of moral and political reform had been undermined, it seemed, by a new political force from which he had expected much additional support. He charged that conservative forces had corruptly used an ignorant woman vote to overthrow Populism in Colorado. It now appeared to Waite that women, by choice or circumstance, could not render an independent, intelligent vote. Instead, they became only tools to be manipulated by powerful vested interests seeking to uphold the status quo.

Waite freely expressed his feelings to Ignatius Donnelly, veteran reformer and national Populist leader:

Twenty-five thousand kind girls in the state voted Republican because their employers wanted them to, so badly as to see that they were registered, went with them to the polls, and attended strictly to them. These girls neither knew or cared how they voted. 15,000 gamblers and lewd women in Denver voted Republican as the Populist state administration had stopped public gambling and Sunday dram-drinking.

Equal suffrage in Colorado had brought to the polls at least 30,000 ignorant hired girls, whose votes are purchaseable and at the disposal of the wealthy classes who have hired their services. The right of suffrage should be based on intelligence. Female suffrage I hope will hereafter be opposed by all Populists, although it may be best to say nothing about it in the party platform.¹⁵

Waite also contended that woman suffrage increased the power of the Roman Catholic Church, since many working women in Denver were adherents of this faith. He argued that the vote for women "puts a tremendous power for evil into the hands of the Catholic priests and gives them in almost every city and state the balance of political power, which they will use to destroy the free school system of the United States and to put active Catholic politicians in power."¹⁶ Waite did not substantiate these accusations.



Governor Davis H. Waite changed his mind about the desirability of woman suffrage after his 1894 defeat.

It is important to note that Waite did not become disillusioned about the Populist program or about reform measures in general; quite the contrary, he thought an ill-timed woman suffrage act had created another roadblock to the success of more important reforms. One national Populist spokesman, Eugene V. Debs, counseled Waite against hasty and ill-considered reactions to woman suffrage and disagreed with him about the relation between reform and woman suffrage. He wrote to Waite:

I do not agree with you in regard to woman suffrage, although I have great respect for your views and opinions. You are, doubtless embittered about immediate results and, I confess, not without good cause. I admit the force of your argument, but it seems that with anything like equal chances we would soon have a host of able and courageous women on the rostrum and on the hustings who would more than compensate for the disadvantages you point out.¹⁷

What element of truth there is in Waite's charges is hard to determine precisely. Certainly there were other sources holding the same opinion as the governor. One newspaper commented: "Denver and the large cities went overwhelmingly one way owing, it is believed, to the energetic work of the women."¹⁸ That fraud or corruption existed in elections during Waite's period was common knowledge. A Republican machine which ruthlessly dominated Denver politics had been openly challenged by Governor Waite on the gambling and clean government issues in the Denver Fire and Police Board con-

¹³ *Ibid.*, 741.

¹⁴ Waite campaign speech, no title, late 1894, Waite Papers.

¹⁵ Waite to Ignatius Donnelly, December 11, 1894, Ignatius Donnelly Papers, Minnesota Historical Society, St. Paul.

¹⁶ Waite to C. T. Beatty, national secretary of the American Protective Associa-

tion, April 24, 1895, Waite Papers. The American Protective Association was a nativist and anti-Catholic organization of the nineties. Waite was not a member, but the organization attempted to attract him following his defeat.

¹⁷ Eugene V. Debs, Terre Haute, Indiana, to Waite, December 11, 1896, *ibid.*

¹⁸ *Idaho Springs News*, November 9, 1894.

trovery in the spring of 1894. Such a political machine could only be expected to fight back in ways familiar to it. In any event, Waite's charges must have been grossly exaggerated. Out of the emotion of the moment he had announced that 25,000 to 30,000 votes out of about 85,000 for the Republicans were from "controlled" women. Denver and Colorado Springs were the two strong centers of anti-Populism. Except for these two cities, Waite carried the state by approximately 2,000 votes. But there was no need to blame woman suffrage for the adverse vote in Denver and Colorado Springs. The conservative press and the Republican organizations had sufficiently fanned the flames of hysteria against the Waite Administration over the Cripple Creek strike of 1894, the Denver Fire and Police Board controversy, and the general cry of "radicalism."

Despite the fact Colorado was the only state to extend woman suffrage between the 1892 and 1894 elections, analysis of the results does not indicate any startling differences between Colorado and other states in the western half of the United States in the 1894 election. The Colorado Populist vote in 1894 was 41.37 per cent; Nebraska was the only state to register a higher percentage vote for Populism.¹⁹ Thus it is difficult to charge that Populism in Colorado lost relatively due to the advent of woman suffrage. One observer concluded that "for the most part" the women "voted in harmony with their husbands and male relatives."²⁰ At least there seems to be no evidence to indicate that there was any large scale divergent women's vote.

After the election the defeated governor went on an out-of-state speaking tour. Among the roles he now played was that of serving, in effect, as an agent of those opposed to woman suffrage. Since he could speak as one of the few having experience, his words apparently carried some weight. After his lecture in St. Paul, Ignatius Donnelly wrote to him: "The statements you have made here ended woman's suffrage in the People's Party."²¹

In the few years that Waite continued before the public eye anti-suffrage forces in other states occasionally sought counsel from him. In 1897, Mrs. Elizabeth S. Crannell of Albany, New York, wrote to him asking for methods of repealing woman suffrage.²² She claimed that many Colorado women wrote of

their desire to limit the vote to males and that these women believed such a restriction was necessary for the welfare of the state.

It is true that Waite was not alone in his disillusionment over woman suffrage; even some of the women were unhappy. Mrs. Alice Faulkner of Denver, who had been president of the Woman's Populist League, said that woman suffrage had achieved nothing.²³ And a lady from Durango called woman suffrage the one mistake of Waite's public career.²⁴

Many other women, including Populists, would not have agreed with this estimate. For example, Mrs. Evangeline Hartz, a Denver Populist who was elected to the state legislature in 1896, received credit for several reform laws enacted in the late nineties, and would seem to have confirmed Waite's earlier faith in women.²⁵

In commenting on the outgoing Waite Administration in early 1895, the *Rocky Mountain News* praised Governor Waite and the Populist Party as being mainly responsible for the advent of woman suffrage in Colorado.²⁶ Ironically, despite the later reversal of Waite, it may still be said that the chief legislative accomplishment of the Waite Administration was woman suffrage.

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¹⁹ Hicks, *The Populist Revolt*, p. 337.

²⁰ Brown, *History of Equal Suffrage in Colorado*, p. 27.

²¹ Ignatius Donnelly to Waite, December 7, 1894, Waite Papers.

²² Mrs. Elizabeth S. Crannell to Waite, December 14, 1897, *ibid*.

²³ Mrs. Alice Faulkner to Waite, February 7, 1899, *ibid*.

²⁴ Mrs. Phila Bliven to Waite, November 9, 1894, *ibid*.

²⁵ Elizabeth Cady Stanton, Susan B. Anthony, and Matilda Joselyn Gage, *History of Woman Suffrage, 1848-1900* (Indianapolis: Hollenback Press, 1902), IV, 522-23, 526; Brown, *History of Equal Suffrage in Colorado*, p. 44.

²⁶ *Rocky Mountain News*, January 9, 1895.

THE SUPREME COURT OF COLORADO TERRITORY

BY ROBERT B. MURRAY

The first legislative assembly of the territory of Colorado met in 1861. Among the first laws passed was one which seemed strangely incongruous to the frontier society. It read:

That the common law of England, so far as the same is of a general nature, together with all acts and statutes of the British Parliament, made in aid of or to supply the defects of common law, prior to the Fourth year of James I (excepting the second section of the 6th Chapter of 43 Elizabeth, the 8th Chapter of 13 Elizabeth, and 9th Chapter of 37 Henry VIII) which are of a general nature, and not local to that kingdom, shall be the rule of decision, and shall be considered as of full force until repealed by legislative authority.¹

This statute made the centuries of English case law legal precedent in the courts of the new territory. The English cases and the statutes "in aid of or to supply the defects" therein, were to be the law of Colorado unless the rule in question was applicable only in England to a local condition or a statute fell under the exceptions noted.

How did the Supreme Court of Colorado Territory apply the English common law to this new land? Did the court blindly accept the English common law and rigidly apply it in every situation, or did it bend the law or make new law to fit the unique environment of Colorado?

Frederick Jackson Turner has suggested that man on the frontier created new institutions and a different society as a result of his response to conditions found there. Did the case law of Colorado Territory tend to reflect the development of new institutions and did it reflect differences in social structure from the older societies?

It shall be the purpose of this article to give an indication of the answer to this question and also to present a number of other findings concerning the activities of the Supreme Court of the territory. In order to do this the opinions of the court have been examined and among other statistics and information several cases shall be noted which indicate that the Supreme Court of the territory did not hesitate to create new law as needs dictated. These cases and their importance shall be discussed following a brief consideration of the people and conditions in Colorado Territory and the judicial system which existed there.

The census of 1860 listed 34,277 people residing in the area which was to comprise the new territory. Of the 26,797 people who gave an occupation, 22,086 listed that of miner. This population was centered in the mining towns and camps of the territory. In these areas the business streets were lined with false-fronted wooden structures and even tents. Bars and other places of amusement were numerous. Pedestrians crowded the wooden sidewalks or walked in the often muddy streets where wagons and horsemen were constantly on the move. Always ready to pick up and travel on to the next discovery at a moment's notice, these miners and prospectors did not contribute to a stable society.

Only 10 of the residents of the new territory admitted that teaching was their occupation. Only 11 clergymen resided in the entire territory. Of all the residents, only 107 were native to the territories. Most of them came from the States or the District of Columbia; one was born "at sea" and 2,666 had arrived directly from foreign shores. Possibly somewhat indicative of the people on the frontier was the fact that 297 citizens did not know where they were born or were not willing to state their place of birth.²

When Colorado Territory was organized, the judicial sections of the Organic Act were taken nearly word for word from the Organic Act which established the Territory of Wisconsin.³ The Wisconsin Act was passed in 1836 and since that date the judicial portions thereof had been considered a model for the Organic Acts of all new territories. Section 9 of the Colorado act pertained to the judiciary; it was later suppl-

¹ "An Act Adopting the Common Law of England," October 11, 1861, *General Laws, Joint Resolutions, Memorials, and Private Acts, Passed at the First Session of the Legislative Assembly of the Territory of Colorado* (Denver: Thos. Gibson, Colorado Republican and Herald Office, 1861), p. 35. Hereafter referred to as *General Laws*.

² Joseph C. G. Kennedy (comp.), *Population of the United States in 1860: Compiled from the Original Returns of the Eighth Census, under the Direction of the Secretary of the Interior* (Washington: Government Printing Office, 1864), p. 549.

³ *Beery v. United States*, 2 Colo. 190 (1873).

mented by statutes passed by the legislative assembly of the territory.

These statutes taken together divided the territory into three judicial districts and provided for a District Court in each. The Supreme Court of the territory was to consist of a chief justice and two associate justices. The term of office of the justices was four years. Each justice was assigned one of the judicial districts, and between sessions of the Supreme Court, they presided over the District Courts which held sessions in each of the county seats of the seventeen counties in the territory.

This arrangement made it necessary for the Supreme Court justices to "ride the circuit." It has been reported that the arrival in one of the county seats of the judge and his retinue, which included his clerk, a reporter, often an interpreter, attorneys, clients of the attorneys, and even prisoners, was cause for great celebration.⁴ After a trip which usually lasted a number of days and more likely than not included travel over mountain passes and through cold streams, the often gay reception was probably welcomed by the court officials.

Court was held in these District Courts in any available location. On at least one occasion it was held in a bar and the bar owner apparently did not deem the occasion weighty enough to close to regular customers.⁵ In another instance, court was held in the open on a ranch after the judge carefully selected the spot on a map as the designated location of the future county seat.⁶

Each of the territory's counties was given a Probate Court. Smaller civil and criminal matters were handled by Justice of the Peace Courts. Depending upon the amount involved and the type of case, the Justice of the Peace Courts, the Probate Courts, and the District Courts all had original jurisdiction to hear cases. Appeals from the District and Probate Courts were taken directly to the Supreme Court. Appeals from the Justice of the Peace Courts were taken first to the District Court, and then to the Supreme Court.

⁴ LeRoy R. Hafen (ed.), *Colorado and Its People* (New York: Lewis Historical Publishing Co., 1948), II, 374.

⁵ *Ibid.*

⁶ John C. Bell, "Territorial Day Courts," *Dicta*, XI (December, 1933), 45-46.

⁷ *Revised Statutes of Colorado* (Central City: Printed by David C. Collier, at the Register Office, 1868), p. 38.

⁸ "Attorneys at Law," *ibid.*, 68.

⁹ "An Act to Provide a Temporary Government for the Territory of Colorado," February 28, 1861, sec. 11, *ibid.*, 34.

Originally the Justice of the Peace Courts and the Probate Courts had jurisdiction to hear cases involving sums of less than \$100; they did not have jurisdiction to hear any case which concerned the title to or boundaries of land. On March 2, 1863, this was amended so that the Justice of the Peace Courts could hear cases involving sums up to and including \$300 and Probate Courts up to and including sums of \$2,000.⁷ Probate Courts had the additional jurisdiction of handling deceaseds' estates to which the monetary limit did not apply. The judges of both the Justice of the Peace Courts and Probate Courts were popularly elected and usually they were not legally trained.

When Colorado became a territory there were approximately eighty-nine lawyers within its borders. An attorney was admitted to the bar by meeting the statutory requirements of being a member of the bar of another state or territory and by submitting to the Supreme Court proof of his license, or by submitting a "satisfactory voucher" showing his admission.⁸

The chief justice and associate justices of the Supreme Court were nominated and appointed by the President of the United States with the advice and consent of the Senate as provided by law.⁹ On March 25, 1861, President Lincoln appointed Benjamin F. Hall of New York as the first chief justice of the court. He followed this appointment with the appointments of Allan A. Bradford, a Colorado resident, and Charles Lee Armour of Maryland as associate justices of the court.

Chief Justice Hall has the whimsical distinction of leaving posterity no opinions rendered on behalf of the court, although he served as its chief justice for nearly two years. Apparently never formally resigning, he left the court before its first case term was held. He was replaced on July 10, 1863, with Stephen S. Harding, who served until December 31, 1865. On April 10,

Benjamin F. Hall



Stephen S. Harding



1866, Moses Hallett was appointed chief justice of the court. He served in this capacity until Colorado became a state with a unique ability which is largely unrecognized by most historians.

In addition to Associate Justices Bradford and Armour mentioned above, eight others served in the capacity of associate justice: Charles F. Holly, William H. Gale, William R. Gorsline, Christian S. Eyster, James B. Belford, Ebenezer T. Wells, Andrew W. Brazee, and Amherst W. Stone.

Associate Justice Charles F. Holly



Amherst W. Stone was appointed an associate justice shortly before Colorado became a state.

The opinions of the court were preserved by Moses Hallett and appear in the first three volumes of the *Colorado Reports*¹⁰ and in Volumes 21 and 22 of the *Pacific States Reports*.¹¹ In a prefatory note to the reports, Chief Justice Hallett stated that he had faithfully reported all of the cases of the territory from the beginning except a few, not exceeding ten, "of little interest

TABLE I

CHIEF JUSTICES AND ASSOCIATE JUSTICES
SUPREME COURT, COLORADO TERRITORY

JUSTICES	APPOINTED	TERMINATED	TERMS ATTENDED	OPINIONS WRITTEN
CHIEF JUSTICES				
Benjamin F. Hall	March 25, 1861	1862 or 1863	0	0
Stephen S. Harding	July 10, 1863	Dec. 31, 1865	1	6
Moses Hallett	April 10, 1866	-	10	102
ASSOCIATE JUSTICES				
Charles Lee Armour	March 28, 1861	March 28, 1865	1	0
Allan A. Bradford	June 6, 1862	March 3, 1865	1	5
Charles F. Holly	June 10, 1865	May 25, 1866	0	0
William H. Gale	June 10, 1865	July 19, 1866	0	0
William R. Gorsline	June 18, 1866	June 18, 1870	3	11
Christian S. Eyster	Aug. 11, 1866	March 2, 1871	5	4
James B. Belford	June 17, 1870	March 1, 1875	5	53
Ebenezer T. Wells	Feb. 8, 1871	March 1, 1875	3	39
Andrew W. Brazee	March 1, 1875	-	2	15
Amherst W. Stone	March 1, 1875	-	2	17
Opinions by the court as a whole <i>per curiam</i>				21
Total opinions				273

¹⁰ Moses Hallett, *Reports of Cases at Law and in Chancery Determined in the Supreme Court of Colorado Territory to the Present Time* (Albany, N. Y.: Weed, Parsons and Co., 1872); Moses Hallett, *Reports of Cases at Law and in Chancery Determined in the Supreme Court of Colorado Territory to the Present Time* (Albany, N. Y.: Weed, Parsons and Co., 1876); L. B. France, *Reports of Cases at Law and in Chancery Determined in the Supreme Court of the State of Colorado* (Albany, N. Y.: Weed, Parsons and Co., 1878).

¹¹ Moses Hallett, *Reports of Cases at Law and in Chancery Determined in the Supreme Court of Colorado Territory to the Present Time*, Vols. XXI and XXII of *Pacific States Reports* (Chicago: Callaghan and Co., 1911).

to the profession and some in which the facts cannot be obtained."¹²

The first term of the Supreme Court was held in January, 1864. The court functioned thereafter on the basis of one term per year except for the years 1865 and 1866 when no terms were held. During this period the court considered appeals in 273 cases.

The man who wielded the most influence on the court was Moses Hallett. He continued as chief justice of the court from the day of his appointment on April 10, 1866, until Colorado became a state. He attended ten terms of the court and prepared somewhat in excess of ten opinions per term. Of the associate justices, James B. Belford attended five terms of the court and wrote fifty-three opinions.

Of the aforementioned 273 appeals, 117 opinions of the court affirmed the trial court's decision and 118 opinions reversed the lower court. The remaining 38 cases were disposed of by other means.¹³ The 273 appeals further broke down into 252 appeals in civil law and 21 in criminal law. Of the civil cases considered, 215 were concerned in part and sometimes wholly with procedural problems, 56 with the methods of appealing, and 159 with the mechanics of trial practice and procedure.

The typical appeal before the court was concerned with one or more procedural problems. Moreover, a number of findings were made in the substantive law. These are categorized in Table II as to the primary concern of the cases. Many of these

TABLE II
CLASSIFICATION OF CASES CONSIDERED AS TO SUBJECT MATTER
IN THE SUBSTANTIVE LAW

SUBJECT	NUMBER OF CASES
Ownership of property	29
Negotiable instruments	20
Possession of property	18
Creditor's rights	16
Agency and partnership	14
Jurisdiction of the courts	12
Contracts	9
Negligent acts	8
Corporations	7
Damages	7
Status of women	6
Government powers	6
Judgments	4
Taxation	4
Mechanics' liens	4
Statutory interpretation only	3
Descent and distribution	2

Total 169

cases had findings in the substantive law of lesser importance in other fields than the primary concern; these are not classified in Table II.

The overwhelming concern of the court was with trial and appeal procedures. This can be explained by the fact that the justices of the court were newly appointed, forming an appeals court over two types of courts where the judges were popularly elected and where there were no requirements that they be legally trained. Also, the bar was comprised of 89 attorneys who were originally admitted to practice in many other jurisdictions of differing laws.

As we have seen, of the 273 appeals considered by the court, 215 civil appeals were concerned in some manner with procedure. Add to this fact that all 21 of the criminal appeals concerned procedure as a matter of course, and we have the rather astounding fact that the court considered only 37 cases which did not present problems in the field of trial or appellate procedures.

As an example, but not necessarily typical, of what confronted the court in this field, there is the case of *Dunton v. Montoyo*. This case was decided by the court at the July, 1868, term. Joining Chief Justice Hallett on the court during this term were Associate Justices Christian S. Eyster and William R. Gorsline.

Christian S. Eyster



William R. Gorsline



The litigants in this case were residents of Las Animas County. The subject matter of their dispute has been lost; apparently Montoyo sued Dunton in the Probate Court of that county for a sum of money he believed owing to him and recovered a judgment. Montoyo was of Spanish-American descent, and it may be that the judge and jurors were also. What was more natural than to conduct the trial in Spanish?

Dunton was confused and appealed to the Supreme Court, pointing out as an item of error that the pleadings in the case were in the Spanish language. Justice Eyster, who rendered the opinion on behalf of the Supreme Court, had his Anglo-American fur ruffled by this event. He stated:

It is not to be tolerated in this country, that judicial proceedings should be in any other than the adopted language of the nation. To argue this proposition would be useless, and for this reason, the judgment of the court below is reversed.

In a remedy that has been ordered in only this instance in the history of Colorado, Justice Eyster went on:

The whole record and proceedings are so utterly at variance with the known rules of practice, that the entire proceeding be dismissed from the docket of the probate judge, and judgment will be so entered.¹⁴

The file was removed from the records of the Probate Court of Las Animas County.

A court's concern with procedural problems in its judicial system is evidence of the court's attempts to guarantee rights of its citizens both to access to the courts and to justice when they are before the courts. With the multitude of other problems before it, it is notable that the Supreme Court of Colorado Territory concerned itself to the degree it did with a set of problems the solution of which greatly enhanced the individual rights of the territory's citizens.

In its decisions concerning matters of substantive law, the court attempted to follow the legal guide set for it and apply the English common law. In the majority of classifications set out in Table II the court was able to do this. But when the English common law did not fit the Colorado environment, did the court create its own law? The attitude of the court on this is illustrated in a simple and unimportant case decided during the February term of 1874.

¹² Hallett, *Reports of Cases at Law and in Chancery* (1872), Preface.

¹³ Twenty were terminated by a motion being denied, six by a motion granted, the appeal itself was denied in seven, one appeal was continued, one was reversed in part and affirmed in part, two decrees were modified and one motion was reversed.

¹⁴ *Dunton v. Montoyo*, 1 Colo. 100 (1868).

The case is *Eldred v. Malloy*. On May 20, 1870, Stephen Eldred made a wager with J. A. Remington that the railroad then under construction to Golden City would not be running to Table Mountain by February 20, 1871. Eldred made a note to Remington for \$500, payment being contingent on the railroad actually running to Table Mountain by the specified date. Remington then sold the note to one Gorman who in turn assigned the note to Malloy.

February 20, 1871, arrived and the train was in fact running to Table Mountain. Malloy approached Eldred to collect his money; Eldred had second thoughts about the whole thing at this point and refused to pay. Malloy sued Eldred for the amount of the note in the Probate Court of Jefferson County. There the judge followed the English common law which held such a note to be valid and presented Malloy with a judgment for the amount. Eldred appealed to the Supreme Court.

Associate Justice Belford gave the opinion of the court. Without hesitation he parted from the English common law:

Appreciating the regrets of English judges over the establishment of a wrong rule in Great Britain, we are in favor of



Following his terms on the territorial Supreme Court, James B. Belford served as a representative to the United States Congress.

making a correct start here, and accordingly hold that no wagering contract is enforceable.¹⁵

The associate justice elaborated upon his reasons for not following the English law by saying:

The courts of this territory have enough to do without devoting their time to the solution of questions arising out of idle bets made on dog and cock fights, horse races, the speed of ox trains, the construction of railroads, the number on a dice or the character of a card that may be turned up. If we enter upon the work of settling bets made by gamblers in one case . . . we may despair of ever finding time for the dispatch of those weightier matters which affect the personal and property rights of the respectable people in this territory.¹⁶

A "weightier matter" of great importance to the territory's inhabitants was the method of staking and holding mining claims. It should be recalled that when the territorial government was initiated nearly two-thirds of the citizens of Colorado were miners. Yet there is a dearth of mining cases before the Supreme Court. Cases affecting mining property came before the court only when property was being attached, foreclosed upon, or conveyed. There was only one case before the court in its twelve-year existence which concerned the manner of locating mining claims. In a society where mining and miners predominated this would at first appear to be an unusual fact.

The miners came to the area of Colorado Territory prior to the time that effective laws concerning mining existed. The miners' affairs had to be regulated, so like miners around the globe in the years and centuries before them, they organized their own mining districts.¹⁷ They passed rules within each district which regulated the staking of claims and the manner in which they should be worked. They had their own courts to enforce the rules and their own appellate procedures.

When the judicial system was created in the territory, the miners still found it more efficient to abide by their own district laws. They settled disputes rapidly and inexpensively in this manner and therefore did not resort to the statutory courts, thus accounting for the aforementioned lack of cases before the Supreme Court of the territory.

By an act approved on November 7, 1861, the legislative assembly attempted to validate the claims made under the mining district rules by stating that all rights acquired in the public domain prior to the act should be determined by the

¹⁵ *Eldred v. Malloy*, 2 Colo. 322 (1874).

¹⁶ *Ibid.*, 321-22.

¹⁷ *Hafen* (ed.), *Colorado and Its People*, II, 467.

law of the district in which the land was located on the day when the right was claimed.¹⁸ This law was put to test in the case of *Sullivan, et al. v. Hense, et al.*¹⁹ The question of the legality of a mining claim staked according to the rules of the Illinois Central District in 1860 was brought before the court and thus the legal standing of the districts themselves was brought into question.

Although there was basis in the English common law to recognize district rules (this had been done with the Cornwall miners in the seventeenth century),²⁰ a recognition of the districts by the Supreme Court of the territory would have been a break with the English tradition. In England the miners had entered the public lands under charter grants from the king; they paid royalties to the king or to the other noble owners of the lands. In Colorado the miners entered the public domain with no legal authority, and agreed among themselves how it should be appropriated. There was no English common law to justify this.

Chief Justice Hallett gave the opinion of the court in the case. He recognized and gave legal effect to the rules and regulations of the mining districts by stating that a claim to be valid must comply with the regulations of the mining district where it was located when it was staked. He pointed out that the United States Congress and Supreme Court had already recognized the district rules in earlier instances.²¹

This recognition of the mining districts was one of the earliest, if not the first, by a state or territorial court.²² It was also recognition of the democratic individualistic approach that the miners made to the public domain. The English tradition would have dictated as a minimum requirement for recognition that the miners have some grant from Washington permitting them to be on the public domain in the first instance.

Water rights represented another area of major concern. In the arid portions of Colorado water was a rare and needed substance and it was not unusual that litigation involving it found its way to the court. The seventh term of the court which was held in 1872 considered the case of *Yunker v. Nichols*. Moses Hallett was chief justice of the court at that time and the

¹⁸ "An Act Declaratory of the Rights of Occupants of the Public Domain Except as Against the United States," November 7, 1861, *General Laws*, 168.

¹⁹ *Sullivan, et al. v. Hense, et al.*, 2 Colo. 424 (1874).

²⁰ Charles Howard Shinn, *Mining Camps: A Study in American Frontier Government* (New York: Charles Scribner's Sons, 1885), pp. 27-28.

²¹ *Sullivan, et al. v. Hense, et al.*, 424.

²² Shinn, *Mining Camps*, p. 280.

*A Civil War veteran,
Ebenezer T. Wells
served in the territorial
legislature before
assuming his position
on the bench.*



associate justices were James B. Belford and Ebenezer T. Wells.

The facts which gave rise to the case are important. In the spring of 1871, a man by the name of Yunker cooperated with men named Bell and Nichols in building a dam in Bear Creek. From a diversion point adjacent to and above the dam, they built a mile-long irrigation ditch across the land of two others connecting with the parcels owned by the three. The ditch then proceeded through the land of Nichols, Bell, and to that of Yunker.

The three raised crops and had an informal oral agreement to share the water in thirds. As often occurs in Colorado, 1871 was a dry year. Nichols, owning the parcel first reached by the water, diverted enough water for his needs, leaving none for Yunker to use further on. When Yunker's crops were damaged he sued Nichols in the District Court of Arapahoe County.

The judge of that court held that by the English common law the right to conduct irrigation waters over the land of another was an interest in real estate. Because of this, such an interest, it was held, must be reduced to writing to comply with the sixteenth-century Statute of Frauds. Because Yunker's interest was created orally, the court and jury found that it was not an interest at all and therefore Yunker could not recover any damages from Nichols. Yunker appealed his case to the Supreme Court of the territory.

Again the court did not hesitate to part with the hundreds of years of English law. Chief Justice Hallett asserted:

²³ *Yunker v. Nichols*, 1 Colo. 553 (1872).

²⁴ *Ibid.*, 555.

The principles of law are undoubtedly of universal application, but some latitude of construction must be allowed to meet the various conditions of life in different countries. The principles of the decalogue may be applied in the conduct of men in every country and clime, but rules respecting the tenure of property must yield to the physical laws of nature, whenever such laws exert a controlling influence.

In a dry and thirsty land it is necessary to divert the waters of streams from their natural channels, in order to obtain fruits of the soil, and this necessity is so universal and imperious that it claims recognition of the law.²³

Chief Justice Hallett concluded his opinion by stating that in Colorado all lands were held in subordination to the dominant right of others who must necessarily pass over them to obtain a supply of water to irrigate their own lands, "and this servitude arises, not by grant, but by operation of law."²⁴ He held that the decision of the District Court should be reversed and that Yunker should be given an opportunity for a new trial where he could prove up his damages.



*Moses
Hallett was
twenty-eight years
old when this
photograph was
taken in Denver
in 1862, four years
before his
appointment as
chief justice.*

At first reading the holding of the court that the transportation of irrigation waters in this manner was outside of the Statute of Frauds was not a substantial finding. The importance of the case was only to be seen in later years. The fact that the court had pointed out the extreme differences in climate and held that these differences *in themselves* were enough to vary the English traditional common law concepts, made Chief Justice Hallett's opinion one of the most important legal opinions in the West up to that time. From this seed, the western courts, both state and federal, constructed the doctrine of appropriation water law. This doctrine differs greatly from the English riparian doctrine and has been adopted by a majority of the states and provinces in western United States and Canada. These appropriation theories are studied in other areas of the world where water is in short supply.

In conclusion, this study is only an outline of greater research to be done on the subject. These findings are therefore only tentative. However, it can be said that although the first legislative assembly in Colorado Territory made the English common law the rule of decision in the territory, the Supreme Court of the territory refused to follow the English common law where differing conditions justified a different solution to the problem before it.

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DENVER'S CABLE RAILWAYS

BY GEORGE W. HILTON

The short period in which the cable car was the most economic means of street transportation coincided with the great silver boom of the 1880's. As a consequence, Denver received two large installations of cable traction which, between them, gave Denver one of the most complete coverages of any city. Denver's experience with the cable car is particularly instructive, partly because the problems of adapting two systems to one another on the street illustrate the inflexibility of this form of transportation, and partly because the city's policy perpetuated the cable car in Denver until a date when its disadvantages relative to the electric car were painfully apparent.

The cable car was invented in San Francisco in 1873 by Andrew S. Hallidie, but for nine years was considered a special case because of San Francisco's straight streets, extreme grades, and mild climate. Although a cable car could climb a grade well over twenty per cent at the same speed at which it traveled a

Cable car at Fifteenth and Lawrence

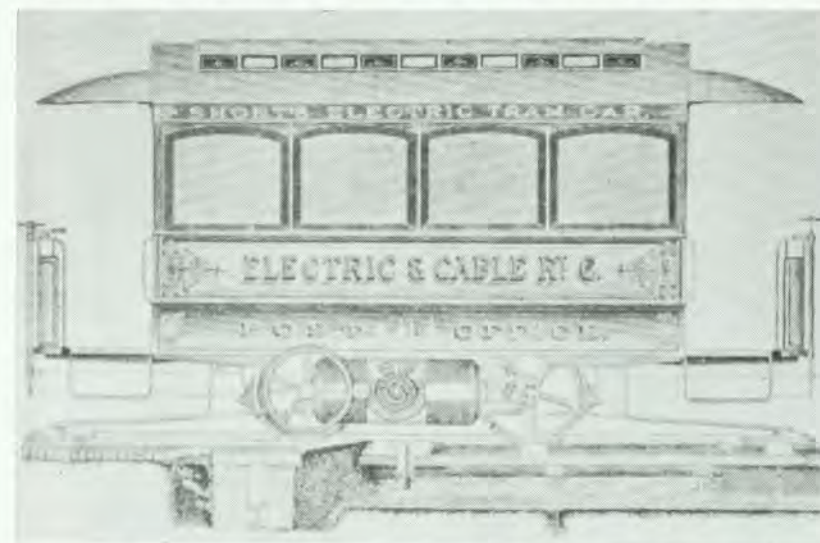
level street, it was originally thought a cable car was incapable of traversing a curve at all. In 1880 the Union Street line in San Francisco was built with a curve in which the cars let go the cable approaching the intersection and picked it up again on the other side, and in 1882 the Larkin Street branch of the Sutter Street Railroad was reconstructed with a curve in which the cars held the cable throughout. On a so-called "pull curve" the cable turned the curve on a series of horizontal pulleys, in front of which was a chafing bar designed to hold the grip a few inches away from the pulleys as it held the cable tightly. To avoid lateral pressure on the cable, which might damage it, the gripman had to hold the cable as firmly as he could. This meant that a cable car had to round a curve at the highest speed of which it was capable. It need hardly be said that this was dangerous and unsatisfactory, but the fact remains that in the early 1880's the cable car was improved to the extent that it could negotiate the usual right-angle curves of street car lines. Also in 1882 cable traction was installed on the lines of the Chicago City Railway on the south side of Chicago. This installation had a great many pull curves, no grades at all, and operated in a severe climate. The old fears that accumulation of ice and snow would foul the conduit and that the slot would expand and contract excessively with changes in temperature both proved unfounded. Further, the Chicago cable cars moved people at about half the cost of horse cars per mile, and at double the speed.¹

Thus, by 1882 the technological problems that would have made cable traction difficult in Denver had been resolved. The horse car was universally despised, and the cable car was unquestionably the most promising substitute. Steam dummies were loud and dirty, compressed-air and battery cars were limited in speed and range, and the electric car was rudimentary and inadequate. This situation changed in 1888, when Frank J. Sprague perfected the electric street car in Richmond, Virginia. Thereafter, for about five years the cable car and electric car were competitive, with the cable car thought to have the advantage on heavily traveled lines, on systems with heavy grades, or in situations where overhead wires were undesirable. Such situations were rare, since a cable car line involved an invest-

¹ On the technology of cable traction generally, see J. Bucknall Smith, *A Treatise upon Cable or Rope Traction applied to the Working of Street and other Railways* (London and New York: Wiley & Sons, 1887). On the Chicago installation, see George W. Hilton, *Cable Railways of Chicago* (Chicago: Electric Railway Historical Society, 1954).

ment about seven times that of an electric line. After 1893 the superiority of the electric car was so obvious that the cable car remained economic only in cities with really enormous grades, in excess of twelve per cent, notably San Francisco, Seattle, and Tacoma. In most American cities the cable car was replaced between 1895 and 1897, even though it had been installed only in the middle or late 1880's.

Denver was one of several cities which experienced experimental installations of pre-Sprague electric cars, but rejected them in favor of cable systems. The Denver Electric & Cable Railway Company, which had been formed in 1885 by John Evans and some other Fifteenth Street property owners, installed a conduit electric line on Fifteenth with a technology invented by Professor Sidney H. Short of the University of

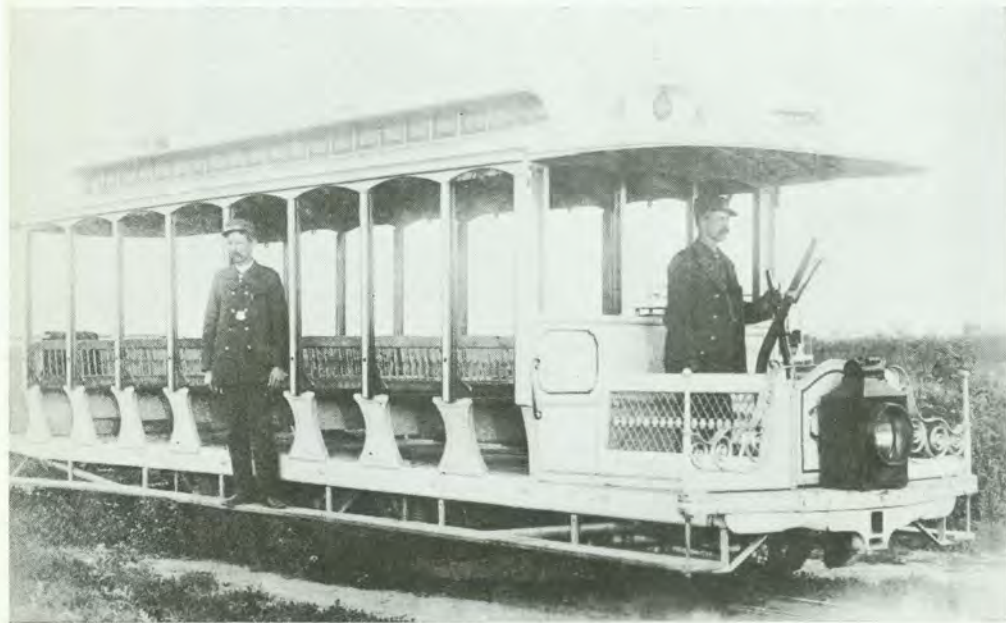


Denver, but found it uneconomic and gave it up in 1887. Meanwhile, the company had changed its name to the Denver Tramway in 1886. The company's charter empowered it to operate either electric or cable cars, but when it endeavored to substitute horse cars for the electrics, a local court enjoined the action as *ultra vires*. The Tramway was, consequently, little short of driven to cable traction.

A company planning a cable system was confronted with a choice between licensing the patents of Hallidie and the other leading San Francisco cable engineers from a patent trust

which they had formed, or taking the cheaper but riskier course of using a set of non-trust patents. The Denver Tramway chose the latter course and contracted to install the system of Henry M. Lane of Cincinnati, who had designed the Mount Adams & Eden Park and Vine Street lines in his native city.² The basic element in any cable system was the grip, the mechanism whereby the car held the cable. Lane used what was called a single-jaw side grip; that is, it held the cable between a stationary bottom jaw and the movable upper jaw which closed down upon it. Lane's grip held the cable from the right side, bore it with a pair of carrying pulleys at the front and rear to cut friction during partial releases for stops for passengers at intersections, and had a pair of ejection spools which rose to expel the cable at powerhouses or other points where it had to be cast out completely. The Lane grip was mounted in the center of the car, but operated from the front platform by a lever and a set of connecting rods.

The Tramway's rolling stock was of a type unique on American cable railways. The company used four-wheeled cars, rather on the order of large horse cars, but fitted with an ample front platform for the gripman. At each side of the gripman were three seats for passengers, facing the curb at a very low



level. Colfax cars were painted white and Broadway cars maroon. All were built by the Woeber Brothers Carriage Company of Denver.

The Denver Tramway's original system was almost ideal considering the limitations of the technology of the cable car. The Tramway established its powerhouse at the southwest corner of the intersection of Fifteenth Street, Colfax Avenue, and Broadway. Lines radiated in three directions, straight down



The Denver Tramway Company's powerhouse was located at Colfax and Broadway on land that is now part of Civic Center. At a ceremony held June 3, 1950, a bronze plaque commemorating the passing of the street car in Denver was dedicated near the site of the powerhouse.

each of the three streets. The main line ran up Fifteenth through the central business district, across the South Platte River to a loop on Mary Street (now Umatilla), Fay Street (Thirtieth Avenue), Gallup Avenue (Zuni), and Ashland Avenue (Twenty-ninth). South, the Tramway built on Broadway to a balloon

² John H. White, Jr., "Mount Adams & Eden Park Inclined Plane Railway, 'The Kerper Road,'" *Bulletin of the Historical & Philosophical Society of Ohio*, XVII (1959), 243-76.



loop at Alameda Avenue. East, the company laid track on Colfax to a loop on Cleveland Place (Filmore Street), Park Boulevard (Seventeenth Avenue), and Detroit Place. None of the lines had any curvature, except on the terminal loops. Gradients, by cable-car standards, were all moderate. The Colfax line climbed



Colfax looking west from Lafayette after the cable line was completed.

Capitol Hill on a grade of eight per cent, but Broadway was almost perfectly flat. The Fifteenth Street line descended very gradually to the river, and then climbed the western slope of the valley at grades between five and six per cent. Both the Fifteenth Street and Broadway lines had the odd characteristic of widely spaced tracks, with an existing horse car line of the Denver City Railway in the center. This placement allowed a unique arrangement for the turning of the Broadway cars on Fifteenth Street between Lawrence and Larimer. Colfax cars were intended to run through from City Park to the loop at the end of Fifteenth Street, but the Tramway wanted to reverse the Broadway cars near Fifteenth and Larimer, which was near what was then the center of the business district. Lane designed a turntable for the middle of Fifteenth Street whereby the northbound Broadway cars dropped the Fifteenth Street rope,

rolled onto the turntable, were turned 180° and rolled backward onto the southbound cable.³

The Denver Tramway's original lines opened December 22, 1888. The powerhouse had been equipped with four sets of winding machinery, the fourth of which was intended for a line running out Stout Street to Downing and returning on California Street. Apparently because the rival Denver City Railway was building cable lines out Seventeenth Avenue and Welton Street, the Tramway changed its plans and decided to build its fourth line from Fifteenth Street up Tremont to Eighteenth Avenue, terminating in a loop on Humboldt Street, Twenty-sixth Avenue, and Lafayette Street. This line neatly covered the territory between the City Railway's Welton and Seventeenth Avenue routes, and served a rapidly growing part of the city. Cable was laid on October 23, 1889, and on November 2 the line was reported to have been in service for several days.⁴ The new line brought the Tramway's investment in the cable system to about two million dollars.

Except for an extension of the Broadway line from Alameda to a loop on the west side of Broadway between Dakota and Alaska in 1890, the Eighteenth Avenue line brought the Denver

The South Broadway station, showing the Tramway's cable line (foreground) and electric line, running south from the end of the cable line.



Tramway's cable system to its full extent. The original lines were 12.6 miles, the Eighteenth Avenue line 5.34 miles, and the 1890 extension .67 miles of single track. The Tramway made some effort at a fifth line, but quickly gave it up. In December, 1889, the Tramway built four blocks of cable track from Fifteenth to Nineteenth Streets on Lawrence. The line was intended to run straight out Lawrence to its intersection with Thirty-fifth and Downing Streets. The cable was to be powered from a separate powerhouse to be built at the outer terminus.⁵ Possibly because of dissatisfaction with the newly-built Eighteenth Avenue line, the Tramway did not pursue the project.

While the Denver Tramway was completing its system, the rival City Railway was building an even more comprehensive network about the city. The company signified its intentions by reincorporating itself as the Denver City Cable Railway Company on May 19, 1888. This company, unlike the Tramway, chose to license the patents of the San Francisco trust, and paid \$30,000 for the exclusive rights in the Denver area.⁶ To design the system, the Cable Railway hired Robert Gillham, the most prominent cable engineer of Kansas City. Gillham had designed the pioneer Ninth Street line in Kansas City, which included a grade of 18.5 per cent, and eventually designed four other roads there, plus cable lines in Cleveland and Omaha. Gillham was thirty-four, a few years older than Lane. Gillham, being free to draw on the trust's patents, had more scope than Lane, and he proposed to build a more substantial system. While Lane

⁵ The Tramway's physical plant is described in the *Street Railway Journal*, IX (1893), 135 ff. See also *Denver Times*, December 15, 1888.

⁶ *Denver Times*, October 23, 1889, and November 2, 1889. The former of these accounts states that the Eighteenth Avenue line contained a second loop on Washington Street, Twenty-second Avenue, Marion Street, and Twenty-fourth Avenue. This account found its way into Jerome C. Smiley's *History of Denver* (Denver: The Times-Sun Publishing Co., 1901), p. 859, and some later accounts. The existence of this loop is most improbable on either economic or technological grounds. Cable systems were so expensive to install—about \$100,000 per mile—that no company would endeavor to saturate a neighborhood to this extent. The curvature of a cable on both these loops would have been unbearable, and we know the powerhouse had only four sets of winding machinery. *The Report of the City Engineer of the City of Denver from April 10, 1889, to December 31, 1890* (Denver: Smith-Brooks Printing Co., 1891) on its map of the city's cable system following page 38 fails to show this loop. From this and the absence of any subsequent mention of it in newspaper accounts, we seem justified in concluding it did not exist.

⁷ *Denver Republican*, December 16, 1888.

⁸ *Denver Times*, July 2, 1888. Henry Root, one of the principal figures in the San Francisco patent trust, promptly came to Denver to sue the Tramway for infringement. *Ibid.*, July 5, 1888. Root stated with some justification that the Lane system was essential to Asa Hovey's technology on the Sutter Street Railroad, which the trust controlled. Lane's grip held the cable directly below the slot (thereby losing one of the principal advantages of side grips), whereas Hovey's held the cable to the right of the slot. The difference was hardly significant. Root appears not to have proceeded with his suit, possibly because the trust suffered an extremely adverse court decision in 1889 when all of its patents on the conduit were held invalid.

had used iron conduits lined with wood, Gillham designed iron-and-concrete conduits of the sort used in most cities. Gillham, as was his custom, used a double-jawed side grip. It operated on the same principle as Lane's, but was able to hold the cable from either side. Gillham's grip also had carrying pulleys, but it had no ejection spools. The grip was unable to eject the cable at the will of the gripman, and Gillham depended on lateral deflections of the cable to pull it out of the grip at specified points.

The Denver City Cable Railway's system was particularly large and complicated. It was, in fact, the largest ever run out of a single powerhouse. It was so extremely complicated that not all of its properties are clear even today. The entire system radiated from a powerhouse at the north corner of Eighteenth and Lawrence. Initially, the system consisted of three lines, operated by a total of five cables. The first, opened October 16, 1889, was a line mainly on Larimer Street, running northeast from Colfax and Greenwood (Tennyson) Avenues to Market Street and Fortieth Avenue. The line was operated with two cables, both of which ran from the powerhouse to Larimer under Eighteenth Street. The second line ran from Goss (Tejon) and Humphrey Streets (Forty-first Avenue) south and east along Goss, Sixteenth Street, Court Place, and Seventeenth Avenue to York Street. This was powered by two cables which ran from the powerhouse through a blind conduit south along Eighteenth Street and Arapahoe to Sixteenth Street. The third line was a branch of the Sixteenth Street line which ran northeast up Welton, Thirtieth Street, Twenty-eighth Avenue, and Gaylord Street to Thirty-eighth Avenue. Both the Sixteenth Street and the Welton branch were opened about November 1, 1889. The Welton line is of particular interest as it had a cable of 36,850 feet, which at the time of its installation was the longest in America. Only the Lexington Avenue cable in New York, 43,700 feet, ever exceeded it. The Welton cable also issued from the powerhouse by the blind conduit on Arapahoe Street; thus, it had three consecutive right-angle curves before cars took it at Sixteenth and Welton. Given the difficulty of running cables around curves, it is really remarkable that the company was able to run a cable of this length in reasonably satisfactory fashion. The company's other ropes made three wraps around the driving machinery, but the Welton cable made four.

The Denver City Cable Railway's powerhouse was reported to have space for machinery for thirteen cables, but only two

beyond the original five were ever strung. On December 22, 1891, the company opened a line from the Union Station at Wynkoop Street up Seventeenth Street to a junction with the Seventeenth Avenue line at Court Place and Broadway. This was operated by a single cable of 11,850 feet, which also ran from the powerhouse out the Arapahoe Street blind conduit. Laying the cable was extraordinarily difficult because of the absence of a slot on Arapahoe; the company had to have a small boy crawl through the conduit with a hemp rope, with which the cable was then hauled into position. Finally, on June 6, 1892, the company opened a line from Seventeenth Street south along Curtis and Eleventh (Kalamath) Street to Fourth Avenue to serve the West Denver area. This cable was about 28,000 feet, bringing the total run from the powerhouse to approximately 30 miles. The entire system ran at 10 miles per hour.⁷

The City Cable Railway's system was notable for its bridges. The west end of the Larimer line and the north end of the Sixteenth Street line both had to cross the South Platte River and extensive railroad yards along the banks. One of the minor disadvantages of cable traction was the difficulty of bringing steam locomotives over cable track. The great weight of the drivers tended to bend the top of the conduit and to close the slot. Accordingly, cable engineers endeavored to provide trestles over railroad track whenever possible. The Sixteenth Street line, which crossed major railroad facilities at Union Station, had a viaduct of 3,400 feet, provided with a roadway and sidewalks. The city compensated the company for the roadway by contributing a portion of the \$180,000 cost of the viaduct. The Larimer viaduct was 3,600 feet, with a marked angle toward the west end. Since it was fitted for use only by the cable cars, the company bore the entire cost of \$125,000.



The City Railway's equipment was of the most orthodox sort: open grip cars with single trailers, open in the summer and closed in the winter. The original equipment consisted of fifty-four grip cars and fifty-four closed trailers from the Lac-lede Car Company in St. Louis, but later the company added eight grip cars, eight closed trailers, and fifty-eight open cars from Woeber Brothers.

Thus, by 1891 Denver was covered comprehensively by two rival cable systems. The question immediately arises as to how they managed to cross one another. For no other form of transportation would it be sensible for an author to launch into a discussion of this subject, but one of the principal manifestations of the inherent inflexibility of cable traction was the characteristic difficulty of getting one line across another. One cable had to be brought over the other, and, obviously, the car on the lower cable was required to drop rope and pick it up again on the opposite side of the street. Failure to drop the cable could damage the grip, break either or both cables, and injure the passengers. It was, of course, desirable to have the top position at a crossing. Most cities, beginning with San Francisco, allocated relative positions on the basis of seniority, but unfortunately, seniority resulted in some thoroughly irrational situations. Notably, it was highly undesirable to have a rope drop at the top of a steep grade. An upbound car might release the cable too early, lose momentum, and roll back down hill. Similarly, a downbound car might miss the pick-up point and roll ahead. Since cable lines were typically built with grades so steep that cars could not hold themselves with brakes alone, losing the grip on a heavy grade was something to be avoided if at all possible.

⁷ The Denver City Cable Railway's system is described in the *Street Railway Journal*, IX (1893), 144-47; *Colorado Exchange Journal* (October, 1889, clipping in the Denver Public Library Western Collection); *Denver Times*, January 1, 1892.





Although the gradients in Denver were modest, the City Council required that when lines of two companies crossed, the line on the heavier grade should have the top position.⁸ Only Kansas City among the cities with major cable networks had a similar requirement. Lane and Gillham conferred, and arranged that the Tramway should be superior to the Cable Railway on Fifteenth at Larimer and Curtis. The Tramway was probably also superior at Sixteenth and Tremont, an almost flat crossing at which it was the senior road. The Cable Railway crossed its own cables at four points, but the ordinance left the company free to determine its relative positions. It put Sixteenth over Larimer and Curtis, but when the Seventeenth Street line was built, the cable was threaded under the Welton cable. The crossing at Seventeenth and Larimer is uncertain.⁹

It was a problem of cable crossings that precipitated the first abandonment in the Denver system. Late in 1891, the Cable Railway was bringing its Seventeenth Street line to completion, and was eager to avoid the crossing at Tremont Place, where it would have been inferior to the Tramway. Meanwhile, the Tramway had thoroughly soured on the Eighteenth Avenue line, which because of its excessive curvature was possibly the worst placed cable route in the country. The Tramway wanted to convert the line to electricity, but preferred to relocate it. The existing route was only one block from the Cable Railway's Seventeenth Avenue line, and the Tramway preferred to move north to Nineteenth. The Cable Railway's franchise, however, gave it the right to build on any streets not covered by the Tramway's existing lines. It was obviously a situation in which the two companies could negotiate a solution to their mutual advantage, and they promptly did so. The Eighteenth Avenue cable was killed on November 28, 1891, and the Tramway began electric service on Nineteenth Avenue the following day.¹⁰

The remainder of the Tramway's network lasted only until 1893. That date represents the year in which the cable car's attractions in a relatively flat city began to disappear. In 1893, General Electric introduced a control mechanism for street cars

⁸ Ordinance No. 18, March 18, 1889, Office of the City Clerk, City and County Building, Denver.

⁹ Two principles conflicted at that crossing. Seventeenth Street was on a steeper grade than Larimer (although both were moderate), but placing Seventeenth on top would have involved more revision in existing vaultwork, plus the interruption of service on the Larimer line. On the accompanying map, Larimer is tentatively shown above Seventeenth on the tenuous evidence that Seventeenth is known to have run under Welton, and that newspapers indicate no suspension of service on Larimer. The author will be most grateful to any reader who can provide more solid evidence on this question.

¹⁰ *Denver Times*, November 28, 1891.

known as the type-K controller, which so improved the electric car that most American cable systems were gone within four years. The Tramway was one of the first firms to respond to the new incentive to electrify. The decision was hastened by the city's demand that the Broadway and Fifteenth Street lines be relocated from the sides to the centers of the streets. First to go was the Broadway line, which was converted on May 1, 1893.¹¹ The Colfax and Fifteenth Street lines were converted on July 6. President Rodney Curtis of the Tramway stated that the conversion was tentative, and that cable service might be restored, but he added that Denver's dry climate was ideal for electric cars.¹² He also stated that the conversion implied no shortcoming of cable traction, but merely reflected the Tramway's desire for a consistent electrical technology throughout its system. He may have believed this, but it is more likely that he wanted to avoid spoiling the market for his moderately new cable equipment. The company's cable equipment was offered for sale in trade journals, but apparently found no takers.¹³ It was proposed to convert the powerhouse into an auditorium, but the building became a general commercial property.

The conversions of the Tramway's cable lines were effected under a general authorization granted the company by the City Council on April 9, 1891.¹⁴ Accordingly, the conversions were carried out quietly and without controversy. The Denver City Cable Railway had no such authorization, and in consequence had inordinate difficulty in its conversion. Initially, the Cable Railway showed no interest in converting. In May, 1893, while the Tramway was in the midst of its conversion, the Cable Railway spent \$15,000 on new gearing for its powerhouse.

The Cable Railway's history in the 1890's was dominated by two financial failures and a belated decision to convert its lines. Like many street railways, the company went bankrupt as a consequence of the depression of the early 1890's. The receiver was appointed on November 10, 1893, and the company was sold under foreclosure on September 10, 1895. It was reorganized as the Denver City Railroad in August, 1896.¹⁵ By

this time, conversion of cable lines was all but universal in American cities; presumably the dropping of "Cable" from the corporate title indicated the company's intentions. In 1898, the company made a major effort to secure an ordinance allowing it to convert. In September, the company secured council approval over the mayor's veto of a franchise to convert, but the Board of Supervisors exercised its power to reject it.¹⁶

Opposition to the conversion was based mainly on an obligation of \$29,117 which a contractor, the Barber Asphalt Company, held against the city for repaving along the cable tracks in 1897. The company was so badly off financially that it was unable to repave the streets it used in the central area. The city ordered the repaving, but under the company's franchise, it had the right of recovery of the expenditure. The company contended that it could have done the work for \$18,000 and refused to pay the bill.¹⁷ The city brought legal action against the company at the end of September, and promptly drove the railway bankrupt for the second time. The company had been barely able to meet its operating expenses for five years. A receiver was appointed on October 3, 1898,¹⁸ and the railway was sold at the powerhouse on December 16, 1898, to interests allied with the Tramway. By this late date, the disadvantages of cable lines relative to electric streetcars were so enormous that perpetuation of the former Denver City Cable Railway was almost inconceivable. The Tramway hoped to effect the conversion by merging with the cable company and the latter's electric affiliate, the West End Street Railroad, and then taking advantage of the Tramway's blanket authority to convert its lines enacted in 1891. The Tramway effected the merger on March 3, 1899, and thus again became the proprietor of a cable system.¹⁹ The company lost no time in trying to convert, but in April was told by the city's Board of Public Works that its authority of 1891 did not extend to conversion of the newly acquired cable lines.²⁰

The Tramway now found itself in a situation which seems to have been unique in American experience. Every municipal government recognized the superiority of the electric car by

¹¹ *Ibid.*, May 1, 1893.

¹² *Ibid.*, July 6, 1893.

¹³ *Street Railway Journal*, IX (1893), 135, 567.

¹⁴ Ordinance No. 45, April 9, 1891, *Ordinances of the City of Denver and Adjoining Towns and Cities, Granting Franchises for and Affecting the Operation of the Street Railways Owned by the Denver City Tramway Company up to and Including October 15, 1899* (n.p., n.d.), p. 71.

¹⁵ *Poor's Manual of the Railroads of the United States*, Twenty-eighth Annual

Number (New York: H. V. and H. W. Poor, 1895), p. 1090; *Poor's Manual of the Railroads of the United States*, Twenty-ninth Annual Number (New York: H. V. and H. W. Poor, 1896), p. 1075.

¹⁶ *Denver Times*, September 9, 1898.

¹⁷ *Ibid.*, June 10, 1899.

¹⁸ *Ibid.*, November 4, 1898.

¹⁹ *Poor's Manual of the Railroads of the United States*, Thirty-second Annual Number (New York: H. V. and H. W. Poor, 1899), p. 931.

²⁰ *Denver Republican*, April 26, 1899.

the mid-nineties, but only Denver endeavored to extract a fee from the street railway for the conversion. This is actually an application of the normal economic theory of taxation; the company was about to reap a very considerable benefit from an act of the City Council, and the city could confiscate the gain by demanding a fee for it. The city's opportunity for exacting a fee was increased greatly by the merger of 1899. The former Cable Railway was barely surviving, but the Tramway had a large and reasonably profitable network of electric lines, from the proceeds of which it could pay a heavy fee. Accordingly, the city ceased its efforts to recover the \$29,117 expended on paving, and strove for greater things.

The problem of conversion gave rise to a local political controversy. Essentially, no one wanted to see the cables perpetuated. The cable car was a dangerous form of transportation, partly because of the necessity of passing around pull curves at top speed, and partly because of the danger of a car becoming fouled in a loose strand of the cable and running uncontrollably down the street. The safety experience in Denver had been fairly favorable, relative to other American cities. In possibly the worst accident, a Tramway car in 1889 became entangled in a stray strand and rushed headlong into two Denver and Rio Grande boxcars.²¹ Public dissatisfaction centered about the intersections of Seventeenth and Curtis and Sixteenth and Welton, where cars dropped the cables and rolled around long curves at high speeds to pick up the diverging cables. The *Denver Times*, which was strongly in favor of the conversion, argued that ninety per cent of the population was in favor of the change and that all labor unions involved were favorable to it; it predicted that conversion would increase property values along the cable lines by ten to twenty-five per cent.²² The *Rocky Mountain News* and the *Denver Post* wanted to see the cable lines converted, but objected to the Tramway's efforts to tie an indefinite franchise to the conversion. The *News* particularly objected to the Tramway as a monopoly.²³

While the controversy progressed, the Tramway was having a hard time keeping the lines running. It was unwilling to make any major investment in facilities it intended to remove. The Seventeenth Street cable wore out in April, 1899, and the

²¹ *San Francisco Evening Bulletin*, July 5, 1889. As a consequence of this accident, Cable Railway cars for a time carried signs advertising that their company had no grade crossings with railroads.

²² *Denver Times*, September 17, 1899.

²³ *Rocky Mountain News*, October 13, 1899.

company had to resort to horse cars while a new cable was ordered from a maker in Chicago. President Curtis had to deny that the company intended to string electric wires over Seventeenth Street without permission.²⁴ Only a month later, however, Judge Frank T. Johnson of the District Court issued a temporary injunction to prevent the Tramway's stringing wires over its cable track.²⁵

The controversy went on into 1900, until in March the Tramway and the city hit upon mutually agreeable terms. The Tramway was to pay a total of \$102,000 for the conversion, \$30,000 immediately, and an additional \$72,000 over a twelve-month period. The terms were enacted by the Board of Aldermen on March 21, 1900.²⁶ The Board of Supervisors approved the ordinance by a vote of four to one. The negative vote was cast by Supervisor Benton Cannon, who argued that the company would reap a benefit of some \$480,000 from the conversion, and could thus be forced to pay a much higher sum.²⁷

Naturally, the Tramway made immediate preparations for conversion. To relieve the safety problem at Seventeenth and Curtis, the West Denver cable was scheduled for the earliest removal. The succession was remarkably rapid; the entire thirty miles of cable were killed in only seven days and four hours. An electric car ran experimentally on the West Denver line on March 25, and the cable was killed on March 28. Welton went the following day, Seventeenth Avenue on March 30, and finally Larimer at about 1:00 A.M. on April 1, 1900.²⁸

So ended the cable era in Denver, both later and more acrimoniously than in most cities. More memorials of the cable car survived in Denver than in most cities, also. Most of the cable slots remained in the streets until 1906, when the Tramway began removing them systematically.²⁹ The electric car inherited the old cable gauge of 3' 6". The Denver City Cable Railway's powerhouse is extant as a garage, and the site of the Tramway's powerhouse in Civic Center is imperfectly memorialized by an inaccurate plaque.

Withal, the experience in Denver was probably more favorable, rather than less so, than in most American cities. All of the Denver routes were built to serve existing populations,

²⁴ *Denver Republican*, April 20, 1899.

²⁵ *Denver Times*, May 30, 1899.

²⁶ *Ibid.*, March 21, 1900.

²⁷ *Ibid.*, March 16, 1900.

²⁸ *Ibid.*, March 26, 1900, April 1, 1900.

²⁹ *Denver Republican*, May 18, 1906.

rather than speculatively to develop new areas.³⁰ Thus, the end of the boom conditions of the 1880's left the Denver lines still with respectable traffic densities. Insofar as the Denver experience appears particularly unfavorable, it is because of the city's adamancy in requiring continuance of the City Cable Railway lines long after cable traction ceased to be economic. It was a common statement after 1888 that the electric car was as much an improvement over the cable car as the cable car had been over the horse car.³¹ The survival of the Denver lines until almost the end of the century serves well to demonstrate the truth of that judgment.

GEORGE W. HILTON, *professor of economics at the University of California, Los Angeles, is writing a book-length study of the cable car in America.*

³⁰ This point was made by the *Denver Times* in an editorial of December 18, 1888, in anticipation of the opening of the Tramway's cable lines.

³¹ E.g., "In closing I would say it has been stated that electricity as a motive power is as far ahead of the cable as the cable was an advance over horses." Thomas C. Barr, "The Conditions Necessary to the Financial Success of Electricity as a Motive Power," paper presented before the annual meeting of the American Street Railway Association, quoted in *Motive Power for Street Cars* (New York: John Stephenson Co., Ltd., 1889), p. 14.



BIG SNOW ON ROLLINS PASS

BY EDWARD T. AND ALICE BOLLINGER

Sixty-two winters ago Joe Culbertson was chief dispatcher for a new railroad, the Denver, Northwestern and Pacific. Born in Chariton, Iowa, in 1878, Culbertson began learning to telegraph by spending his evenings at the railroad station. He was only sixteen when he held his first job as a telegrapher on the Burlington and Missouri River Railroad at Roggen, Colorado. At the age of eighteen he was promoted to dispatcher at McCook, Nebraska. In 1903 the Burlington superintendent advised him to get in on the ground floor of a new line that the mining king of Colorado, David Moffat, was daring to build straight west of Denver. This he did.¹

Joe Culbertson's office at Utah Junction was in a very unpretentious frame building, so ordinary that no one ever considered photographing it. An air of great expectancy swept off the mountains as man after man spoke of the very durable road-bed being drilled and blown out of the walls of South Boulder

¹ Interviews with J. B. Culbertson, July 10, 1948, March 31, 1966, and many other occasions.

Canyon. Riding in the cabs of work trains, the new dispatcher watched the progress of the construction crews. He knew that when fall came, he would have seventy-six miles of railroad to operate. The rails climbed steadily through thirty tunnels, then out through the ribs of South Boulder Canyon. Beyond Tolland there was a giant ladder which became a temporary line to get over the divide, making possible the drilling of a main-range tunnel from both ends.

These miles were spectacular as well as magnificently beautiful. The summer of 1904 ended one late August day, when a storm broke over the mountains with such fury that the bridge carpenters had to seek shelter to avoid being swept off the spindly timbers of a bridge trestle hundreds of feet above the stream bed of Middle Boulder Creek. The storm warned the engine crews what winter would bring in Rollins Pass, a half-mile further on. These crewmen were veterans of the mountain railroads of Colorado. J. B. Culbertson leaned heavily on their experience, for he was not a mountain man.

When 11,671-foot Rollins Pass was finally conquered and the construction train slowly came down the west side, J.B.C., as the men called their dispatcher, determined that the last mile of line would be called Arrowhead, because of its outline on the map. Climbing into the cab of the engine, Joe rode down the steep four per cent grade which twisted this way and that, dropping quickly into the forest where the construction crews were slowly cleaning all the trees from the right-of-way. Snowsheds were frantically being built at locations where deep drifts had piled during the mild winter before.²

September brought plenty of Indian summer glory. There was one bad storm in October, but according to the records, October's snowfall indicated a mild winter.³

But to the veteran mountain enginemen and trainmen, Rollins Pass was "a blowing, freezing hell" in December in

² The winter before, grading had been underway over this route, but work had to be given up in January at several locations. Chief Engineer H. A. Sumner recognized that a detailed study of how and where the snow drifted would be invaluable to help locate snowsheds. Twice he called for measurements of every foot of the right-of-way. All of his letters have been carefully preserved in thirty-three volumes of letterpress books (1902-1911) in the Denver and Rio Grande Collection of the State Historical Society Library. For the final measurements see Sumner's letter to General Manager A. C. Ridgway, April 11, 1904, with a copy of C. F. Womeldorf's report as division engineer at Baltimore, Colorado, *ibid.*, VIII, 418-21.

³ Weather Bureau records for the winter of 1904-05 indicate a mild winter in Denver, with only 48.5 inches of snowfall. A weather station operating at Ward that year told a similar story: October, 10 inches of snow; November, less than a inch; December, 11 inches; January, 15 inches; February, 16 inches; and March, 19 inches. All of these were below normal amounts until April's record 76 inches.

spite of the fact that the winter was mild elsewhere. Time and again J. B. Culbertson sat in his warm office after a brisk ride on his "bike" feeling helpless as his men battled Old Lady Winter, whose blasts were a little colder than usual even though they were not laden with snow.

There was a challenge, a very great challenge, to his job on the morning of February 10, 1905. The snow on Rollins Pass had drifted twenty-four feet deep, leaving Corona under a sea of snow.⁴ A very short snowshed covered a short passing track and the wye where the engines were turned around. Both east and west of Corona the snow was from two to twelve feet deeper than the world's largest and most powerful rotary could handle. Rotary 10200 had a twelve-foot cutting wheel; when the snow got deeper, she started tunneling and choked up. The only way to operate was to keep the snow thrown out of the cuts.

Gandy dancers rest after lowering the snow depth to twelve feet so the 10200, nicknamed the "Red Devil," could chew out the cut.



On this particular morning there was no snow on the ground in Denver. Joe pedaled his bike to the north outskirts of Denver to Utah Junction. As he leaned his bike against the three-room frame building, he was eager to warm up his fingers so that he could telegraph the operators at Tolland, Corona, and Arrowhead to learn if more snow had blown into the cuts.

"We've had a rough night," said the operator at the top of the world. "The section men say it's a blowing hell that freezes them. The bridge carpenters are adding more braces to our snowshed." The report from Arrow was that it was a fair morning for winter. The agent was R. M. McConnell, master of the big job of handling freight and messages at the end of the railroad. He was concerned that two cars of merchandise be forwarded. The saw mills and construction camps were depending on their contents. The two cars were on a siding at Tolland along with several cars of other materials.

Joe consulted the trainmaster, W. M. Edgar, about the possibility of running the plow train and including the two cars of merchandise with it. This was agreed upon and the train was called. The beautiful new red rotary would be in the lead. Engines 20 and 21, up-to-date moguls, would furnish the motive power, as the rotary's boiler had all she could do to turn the great cutting wheel. A tool car was necessary so that if the easily-derailed rotary got into trouble, the crew could re-rail her. If the worst happened, there would be picks and shovels to dig the train out. An extra cabooses was added to take care of the fifteen section men that would be picked up along the way. The total crew was twenty-six, anything but a cheap train to operate.

The chief dispatcher wrote out the orders, signing them with his initials, J.B.C. These orders gave the train the right to run as far as Jenny Lake, just four miles from the top. Here she would take water and wait for the passenger from Denver to overtake her and couple in behind. This precaution was taken so that in the blowing snow of that high altitude, she would not ram into the rear of the plow train. Also, if the passenger train should be delayed and the storm increased in intensity, she might find the track drifted too deep. J.B.C. did not expect any trouble. The equipment and power were not only new but the best. The engine and train crews were men in their late forties who had been trained in the highest mountain passes of

the state. The trainmaster was new to the mountains. He was thirty-two, but experienced with prairie blizzards only.⁵

Back in Denver, J.B.C. went about his chores. The passenger train stayed on time. She had only one car, a combined mail, baggage, and coach hauled by Engine 300, the largest type of that day. Finally, the plow train reported that she had arrived at Jenny Lake, having had an easy trip. It was not long until the passenger also was reported at Jenny Lake on time. Her conductor was George Barnes, who had spent thirteen years on the Rio Grande as trainmaster working out of Salida. He was in his early fifties and most highly respected.

Of course, everyone was concerned that this combined train would not have such a battle that she would be low on water when she pulled into Corona just four miles above. That winter, no water line had been built up to Corona. Moreover, the grade down the other side was very steep, requiring an expert with brakes. In such a storm there could be several miles of deep snow to be thrown out.

The real drama began when this combined train tested her brakes and whistled off, heading south of Jenny Lake. As usual, there was some five feet of snow for several hundred feet. There was no trouble in the Boggen Cut snowshed, except that the structure was leaning in the gale. When the train left the shed, she was headed north. The experienced engineers kept their Johnson bar as high as they could so they would not use too much water. The three engines easily romped up to Tunnel 32. Then they closed their throttles a little so that the plow would cautiously hit the usual big drift on the north end of this tunnel, which curved to the left. If the plow derailed in this drift, she could roll seven hundred feet down to Yankee Doodle Lake. The engineers heard the plow pilot whistle for more steam for his rotary. Somewhat anxiously, they held hands on both throttle and brake valve, so they could stop if there was trouble.⁶ When no high-pitched whistle came from the pilot of the plow, everyone breathed easier. They were beyond this danger. They began to face north and headed directly into the hurricane. The line was wind-swept here, but the first side bridge trestle was ahead. This trestle crossed a crevice on the south wall of Middle Boulder Canyon just a thousand feet

⁵ Interview with George Barnes, first conductor and one-time superintendent of the DNW&P, February 10, 1948; interview with Leclair Daly, original employee and later trainmaster, March 26, 1948.

⁶ Interviews with engineers involved, William Rush and Bob Bishop, March 29, 1948, and Sterling Way, January 7, 1948.

⁴ Interviews with J. B. Culbertson, July 10, 1948, and March 31, 1966.

above the creek bed. They crawled onto the trestle, which curved a little to the north.

The plow pilot called for his big blades to start slicing as they approached the cut. Once in it, he called for full throttle, so that his great termite quickly ate the snow out of the cut, hurling it three hundred feet out into the canyon. With nervous fingers the engineers adjusted their throttles when they thought the plow was out of the cut and onto the second trestle. All went well. Then came the pilot's call for a full throttle again. The big wheel of knives was in ten feet of snow. There was no letup the entire mile. The snow got deeper. The rotary's boiler furnished all the steam needed for that mile.



10200's cutting wheel hurled snow and rocks from the tracks. The original blades were soon chewed up and replaced with special "V" blades.

It had taken an hour and twenty minutes to chew this snow out. As the train stopped in the Corona shed, the fireman had to keep up steam, which meant no end of smoke and gas would be inhaled as the men measured the water in their ice-topped tanks. Each man called out the few remaining inches of water. "Too low on water," reported Conductor Barnes.

The general manager had instructed Edgar to always consult Barnes. But the trainmaster said, "High ball. If we run out of water, we can shovel snow." Snow could be shoveled into the tender through the manhole. It would then melt into water for the steam pipes which lined these tenders to keep them from freezing solid; this way they could make water. It had worked on the prairies. Edgar had great determination, or was it stubbornness? The men all growled behind his back and said such things caused their engine boilers to heat faster.

The train crawled out of the gaseous shed into twelve feet of snow that had been blown into the cleaned-out cut the afternoon before. The snow plow pilot whistled for full throttle. As the train slowly cleared the shed, the cars trembled under the hurricane that was polishing off the mountain top. For a mile there was no letup of deep snow. A half mile ahead was Ptarmigan Point, beyond which the track could be blown clean. The train picked up speed. No one could tell if they had gone the half mile or not in the terrific gale. Then the wail of an engine whistle stabbed their hopes. No brakes were needed, for they were still in snow.

The section men put on their coats and mufflers and prepared to freeze to death. They spread out over the icy tops of the tenders, slipping as they lifted their shovels. Not a flake of snow would stay on the shovels as they attempted to fill the empty tenders.

They crawled back to their caboose. The trainmaster, fleeing through the plow-made ravine, found himself gasping in the high altitude. The storm roared over the snow banks above him and drifted in as he struggled back to Corona to call for the help of the two heavy consolidation engines down at Tolland.

When he finally panted into the telegraph office, his story was already known. Conductor Barnes, who always carried a telegraph instrument and some wire, had learned to sling lightning as a young lad. J.B.C. was already asking someone to try to shake awake the exhausted crew of the two engines down at Tolland.

Before Barnes had sent his report he had investigated the line ahead of the train. He returned to his seven rugged passengers, who were unafraid of winter jobs in the mountains.

⁷ Interview with William Rush, Bob Bishop, and George Barnes, who had gathered together to double check this incident, March 30, 1948.



Following Barnes' directions, the passengers fled through this cut.

"Hit the cinders," he commanded. He explained that in a few hundred feet the line would be found blown clean, and that there were construction cabins all along the line, extra gang cars at Loop, and a saw mill camp at Fawn Creek.⁸ If they left immediately, before new snow was added to the wind, they would be at Arrow for a hot supper.

Barnes' next concern was for the crew. What could he feed them? He consulted the plow train conductor. Together they read the waybills of the two merchandise cars and excitedly came upon one which read: "Provisions for Billy Wood's Commissary. Canned goods, potatoes and beef."

Lighting lanterns, for the wind was now filled with new snow, they broke the seal on the boxcar door. It was frozen shut from steam from the engines, but with the help of the hungry engineers they broke it loose. Naturally, the potatoes had frozen en route. They could be thawed in the kettles on the caboose stoves. But how could the quarters of beef be

butchered? No one had anything bigger than a pocket knife. One of the men stumbled over a crate. In anger he kicked it, and in so doing revealed axes sharp enough to have cut his toes off. He promptly turned meat cutter.

An engineer by the name of Sterling Way⁹ saw a piece the shape of a roast come off. "Let me have that," he said. "I'll put it in the engine's ash pan." Another hogger put in his request. "I want that thick steak. I'll clean the fireman's scoop in the snow bank and fry her in the low fire of the fire box." Now it sounds like fun. But remember, at this time the wind was blasting all the snow out of Fraser Valley and it was a long way between courses, engine to caboose. When George Barnes thought he had everything under control, he returned to the coach compartment. Snow, infinitely fine snow, was sifting into it. He gave up and moved with the mailman, baggageman, and brakeman to one of the cabooses. With the crews of three engines and the plow, the cabooses were crowded with thirty men.

Each caboose had bunks for three, but there were four times that number. Time and again the stoves backfired in the gale. The men took their turns sleeping and cautiously firing the engines so no water would be wasted, and so they would not freeze solid. The one absent man was damned to a seventy-below-zero hell.

In the morning Barnes heard that the two engines had not gotten up the pass, that the papers said the men were starving, and that an engineer, who had not come along, was missing. In the evening J. B. C. reported that the engines had gotten up to Corona, but were too low on water.

As Barnes played poker that night he heard a noise on the roof. Then the caboose stove began to smoke very badly. "Why those such and such have taken our stovepipe," a brakeman swore. The snow had completely buried the stovepipe of the caboose.

The second morning Barnes realized that the DNW&P was helpless. All her crews except two men were either at Corona or in this train. The road would have to borrow power from other lines and get a Colorado Midland rotary. Since the wind had gone down a little, he proposed to walk to Denver, get some sleep, and to be ready to operate the new power. Eight men were willing to go with him.

How could they keep from getting lost in the icy blasts

⁸ Interview with William Wood, Sr., June 12, 1946.

⁹ Interview with Sterling Way, January 7, 1948.

of the storm? He asked that the bell rope be cut from the engine bell. At that time it ran from the engine bell, over the tender, and through the baggage compartment into the coach. With plenty of rope, he tied it around him and led the way with his arm over the telegraph wire.

At last the wires disappeared under the snow. There was great danger now. But he smelled wood smoke and as he kicked around, he found a stovepipe sticking out of the snow. This must be the bridge carpenter's cook car. They found the mole-like hole down through twelve feet of snow and entered the car through the skylight.

Back in Denver J. B. C. received a message: "Nine Extras East Light." George Barnes still had a sense of humor. And his men had a sense of loyalty. They carried scoops along to trench out the cuts so that a "V" plow would not derail.

At Needles Eye Tunnel, engineer Sterling Way looked down at Jenny Lake, thinking of the long weary walk to get



This panoramic view greeted Sterling Way from Needles Eye Tunnel. There, then he jumped on his scoop and descended the five hundred feet before the men's hearts missed a beat. No one followed. They knew he was conservative but fearless.

The train arrived in Arrowhead fifteen days late. After one such blockade after another, J. B. C. knew he was not on the ground floor of something great but in the cellar. Even then he never dreamed it would be twenty-three years crowded with such stories before they could use the big tunnel.

Thus Joe was no stranger to big snows and trouble. This included being fired with all of the other officials (except Barnes, who had union rights), after the death of Moffat when a change of management occurred. Joe then found a job with the Rio Grande as dispatcher at Helper, Utah, later at Grand Junction, and finally at Salt Lake City. Here the vice president of the Oregon Short Line convinced him that his road offered greater opportunity. So he went to Nampa and later became chief at Pocatello, Idaho, with ten dispatchers under him. After three years he was called back to the DNW&P. He held this job until hot-tempered President William Freeman fired him in 1933. Meanwhile, the Rio Grande bought the controlling interest in the Moffat and Wilson McCarthy, president of the Rio Grande, fired Freeman and put Joe back to work with full rights. He carried on through World War II, helped smooth out the operational aspects of the merger with the Rio Grande, and lived to enjoy the sixtieth anniversary of the first train he dispatched to Corona.

EDWARD T. and ALICE BOLLINGER are enthusiastic railroad history buffs. Mr. Bollinger co-authored *The Moffat Road* with Frederick Bauer, which won an Award of Merit from the American Association for State and Local History.

Co-author Edward T. Bollinger (fifth from left) looked on as this photograph of Joe Culbertson was taken in 1964.

