

# Before the Newlands Act: State-sponsored Reclamation Projects in Colorado, 1888-1903

DONALD A. MACKENDRICK

In the summer of 1972 citizens and dignitaries gathered in Montrose to celebrate the sixty-third anniversary of the opening of the Uncompahgre Project, a reclamation scheme that diverted water from the Gunnison River to the Uncompahgre River by way of a 5.8 mile tunnel through the wall of the Black Canyon of the Gunnison and distributed the water to nearly seventy thousand acres of semiarid land in Montrose and Delta counties.<sup>1</sup> The Uncompahgre Project was one of the first reclamation projects undertaken by the federal government under the terms of the Newlands Act (1902).<sup>2</sup> The project had originated as a reclamation undertaking of the State of Colorado. In fact, as the United States Reclamation Service was beginning its long and spectacular career in reclaiming arid lands with the opening of the Gunnison Tunnel, the state government of Colorado was terminating its brief and disappointing career in the same field. "Where the states have failed, the federal government has moved in" is axiomatic in recounting the disappointing years between 1888 and 1903, the years of reclamation experimentation in the Centennial State.<sup>3</sup>

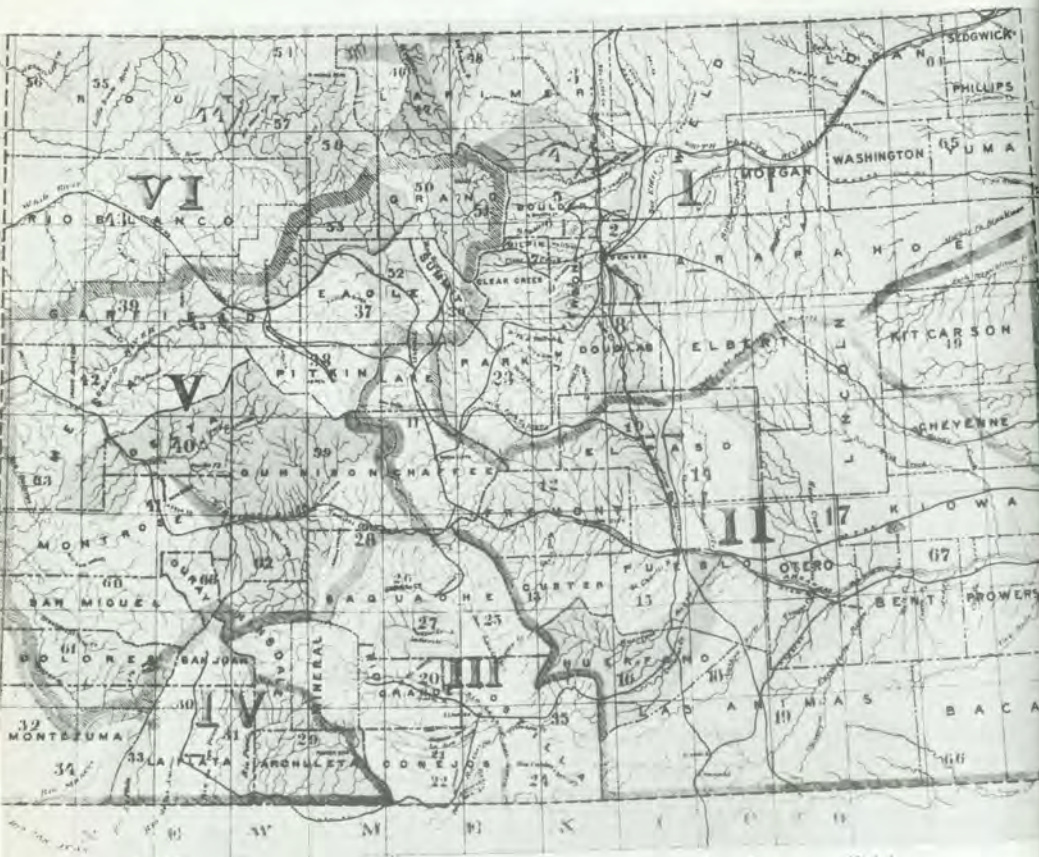
The progenitor of state involvement in reclamation affairs was Alva Adams, who twice sat in the governor's chair between

<sup>1</sup> *Montrose Daily Press*, 14 August 1972; U.S., Department of the Interior, *U.S. Geological Survey, 1902-1903* (Washington, D.C.: Government Printing Office, 1903), pp. 219-35 (hereinafter cited as *U.S. Geological Survey*).

<sup>2</sup> The Newlands Act, 17 June 1902, committed from \$3 million to \$4 million annually to reclaim arid land. The monies were to be derived from the disposal of public lands. Three projects were surveyed in Colorado in 1902: the Gunnison Tunnel (Uncompahgre Project), the Mesa County High Line Canal, also a projected enterprise of the State of Colorado, and the Pawnee Creek Project in the South Platte Basin (*Montrose Daily Press*, 14 August 1972; *U.S. Geological Survey, 1902-1903*, pp. 219-35).

<sup>3</sup> U.S., Department of the Interior, *Reclamation Project Data* (Washington, D.C.: Government Printing Office, 1961), pp. 763-64 (hereinafter cited as *Reclamation Project Data*).





An 1894 drainage map of Colorado, showing the water divisions and the water districts, issued from the State Engineers Office.

1888 and 1903. In the spring of 1888 Adams summoned representatives of water districts, boards of trade, and labor unions to Denver for what the *Denver Republican* referred to as "The Great Reservoir Convention." The convention's job was to grapple with and to recommend solutions to "the water question." Although considerable moisture fell in the Colorado mountains in winter, most escaped in the spring runoff before it could be utilized in watering thirsty lands in the principal river valleys. The solution seemed to be a system of reservoirs to hold back and to preserve spring water surpluses for the oven-hot days of midsummer.<sup>4</sup>

<sup>4</sup> *Denver Republican*, 10 March 1888.

Governor Adams's reservoir convention was convulsed by bickering between forces who wished to see the state make a major reclamation effort (with federal aid but not federal direction) and those who saw the task as being of such magnitude that only the "general government" could cope with it. In the end, the delegates who held the latter view triumphed. Appropriate resolutions were drafted and a lobbying group was dispatched to Washington, D.C. to move the Congress to action.<sup>5</sup>

But the "general government" was not to be moved in haste, for it was not until 1902 that the United States Reclamation Service was created, and through it federal efforts would deal with the West's aridity problems. But Governor Adams did not wait for action in the nation's capital. Tempting him to immediate action was a reserve in excess of \$400,000 in the hands of the state treasurer in the Internal Improvement Fund. This fund had been accumulated over the years from a federal revenue-sharing plan giving the states five percent of the revenue derived from the sale of public lands. The idle funds in the Internal Improvement Fund account, advocated Governor Adams, should be put to work in solving the water problems of the state.<sup>6</sup>

The Colorado General Assembly responded to Adams's urgings and appropriated money to investigate two diversion schemes and to build one state-owned storage reservoir and a state canal. The diversion schemes looked toward increasing the water supplies in the Platte Basin. The reservoir project was to be constructed at the head of Coal Creek in Arapahoe County, and the canal project aimed at drawing water from the Arkansas River near Canon City to irrigate state-owned lands northeast of that town. This canal project was to be constructed utilizing prison labor.<sup>7</sup>

State Engineer J. S. Maxwell issued negative feasibility reports on both the diversion schemes and on the Coal Creek Reservoir, but he recommended construction of the Canon City canal project, referred to in official literature as State Canal No. 1. The State Penitentiary Board had charge of the construction of this project since labor was to be provided by convicts.<sup>8</sup> The

<sup>5</sup> *Ibid.*, 17 March 1888.

<sup>6</sup> Colorado, State Treasurer, *Biennial Report of P. W. Breene, Treasurer of the State of Colorado, to the Governor, 1888*, pp. 34-35 (hereinafter cited as *State Treasurer, Report*); Colorado, Governor, *Biennial Message of Governor Alva Adams to the Seventh General Assembly of the State of Colorado*, p. 9.

<sup>7</sup> Colorado, *Laws Passed at the Seventh Session of the General Assembly of the State of Colorado, 1889*, pp. 46-47 (hereinafter cited as *Colorado, Session Laws*).

<sup>8</sup> Colorado, State Engineer, *Fifth Biennial Report of the State Engineer to the Governor of Colorado, 1889 and 1890*, pt. 1, pp. 599-600 (hereinafter cited as *State Engineer, Report*).



survey of the canal got underway in October 1889, the plan being to draw water from the Arkansas River at a point about one mile south of the Royal Gorge.<sup>9</sup> Work apparently got underway in March 1890. Excluding labor costs, Maxwell believed the project would cost about \$150,000.<sup>10</sup> Since only \$10,000 had been appropriated by the Colorado General Assembly, supplementary appropriations would have to be obtained, or, as an option, the State Penitentiary Board could offer water certificates for sale, as the legislature authorized.<sup>11</sup> Both alternatives were pursued. The board disposed of over \$15,000 worth of water certificates to private buyers, and the legislature made several supplementary appropriations.<sup>12</sup>

The work on State Canal No. 1 began about two miles west of Canon City along the north rim of the Arkansas Canyon. A grade through the canyon was established at about 1.76 feet per mile and a series of short tunnels and two longer tunnels were to be cut. The major construction problem was cutting through the hogback north of the state prison grounds where a 750 foot tunnel would be required. East of the prison hogback the grade was established at 5.28 feet per mile. The canal was to be about thirty miles long. By the end of 1890 State Engineer Maxwell could report that the tunnel through the prison hogback was complete and that the second major tunnel, 390 feet long, in the Arkansas Canyon was nearly complete. As soon as the work through the canyon was complete and a short extension east of the prison hogback was constructed, irrigation of about 3,000 acres of land northeast of Canon City, valuable especially for fruit culture, could commence. Maxwell did not predict when this work would be finished.<sup>13</sup>

The Eighth Colorado General Assembly (1891) continued to view the reclamation future of the state optimistically. In addition to a \$50,000 supplementary appropriation for State Canal No. 1, the legislature authorized a second state canal in Mesa County on the Western Slope and five reservoirs, one each in Custer, El Paso, Saguache, Chaffee, and Las Animas counties.<sup>14</sup>

Like the Canon City project, State Canal No. 2 was to be constructed with prison labor, but unlike its Fremont County counterpart, the canal in western Colorado was not to be financed out of the Internal Improvement Fund. The legislature appropriated no funds for the project but authorized the sale of water certificates to raise the necessary construction monies.<sup>15</sup> This second state canal was to draw water from the Grand (Colorado) River in the canyon above the present town of Palisade. The grade was to be high enough to water virtually all arable land on the north side of the Grand Valley from the mouth of the Hogback Canyon (now called DeBeque Canyon) to the Utah state line.<sup>16</sup>

No sooner had the second state canal bill received the governor's signature than D. H. Nichols, representing the State Penitentiary Board, which had charge of constructing the project, arrived in Grand Junction to make the preliminary arrangements. Nichols asked for and received a \$1,500 appropriation from the Grand Junction city council to pay for expenses pending the sale of the water certificates.<sup>17</sup> The preliminary survey was completed in the spring of 1891, and everything was in readiness to begin the selling of water certificates to local water users—when the Grand Valley leaders began debating the merits of public construction of the project. Two groups of entrepreneurs advanced plans for private construction while another group backed public construction.<sup>18</sup> While Grand Valley citizens debated, the Colorado General Assembly administered the final blow to the idea of public construction. During the 1893 session of that body, State Representative M. V. B. Page from Mesa County met defeat in his efforts to get a legislative recommitment to build the canal.<sup>19</sup> In addition, opposition to state reclamation efforts in general was developing. State Canal No. 1 was rapidly becoming a political storm center. Expenses on the Canon City canal project continued to mount until they reached nearly \$200,000 with no apparent end in sight.<sup>20</sup>

<sup>9</sup> *Canon City Record*, 5 October 1889.

<sup>10</sup> *Ibid.*, 22 February, 8 March 1890.

<sup>11</sup> *Colorado, Session Laws*, 7th sess., 1889, pp. 285-87.

<sup>12</sup> *Ibid.*, 16th sess., 1907, pp. 186-87; *Canon City Record*, 11 April 1891; *Colorado, Session Laws*, 8th sess., 1891, p. 335.

<sup>13</sup> Tunnel Drive, west of Canon City, follows the grade of the canal, and Skyline Drive, north of Canon City, crosses the prison hogback. Both drives are tourist attractions today (*State Engineer, Report*, 1889 and 1890, pt. 1, pp. 813-14; interview with Fred Brackney, Canon City, Colorado, 31 July 1972; on site inspection, accompanied by W. T. Little, Canon City, Colorado, 31 July 1972).

<sup>14</sup> *Colorado, Session Laws*, 8th sess., 1891, pp. 335-38, 345-56.

<sup>15</sup> *Ibid.*, pp. 335-38.

<sup>16</sup> *Ibid.*; *Grand Junction News*, 4 August 1894.

<sup>17</sup> *Grand Junction News*, 2 May 1891, 23 July 1892.

<sup>18</sup> *Ibid.*, 13, 27 June, 4 July, 8, 15 August, 31 October, 5 December 1891; 30 January, 13, 19 March, 9 April, 25 June, 16 July, 10 September 1892.

<sup>19</sup> *Ibid.*, 28 January, 26 March 1893.

<sup>20</sup> *State Engineer, Report*, 1891 and 1892, pt. 1, pp. 402-5; *Colorado, Governor, Inaugural Address of Governor James H. Peabody before the Fourteenth General Assembly of the State of Colorado*, 1903, p. 96.



The Ninth Colorado General Assembly (1893) had made a major effort to get the State Canal No. 1 project completed. In addition to a new supplementary appropriation, the lawmakers had given the project a new board of control, had broadened the scope of the project to include what appeared to be an authorization to build or acquire reservoirs, had authorized the State Land Board to sell alternate quarter sections of state and school land under the canal to raise additional funds for the endeavor, and had given the board of control power to issue interest bearing certificates of indebtedness to pay for contract work. Nevertheless the project was apparently stalled, and remained stalled, despite these efforts.<sup>21</sup>

When the Colorado General Assembly met in special session in 1894 to deal with the economic crisis visited upon the state by the panic of the previous year and by the repeal of the Sherman Silver Purchase Act, the lawmaking body was in an unresponsive mood. New reclamation projects were introduced and old ones were reintroduced only to be brushed aside, including another attempt to revive State Canal No. 2, a new push to finish State Canal No. 1, and proposals to construct reservoirs on Plum Creek near Castle Rock and at Twin Lakes in Lake County. The latter presumably would have provided State Canal No. 1 with a storage facility.<sup>22</sup>

This new antireclamation attitude set in despite Governor Davis Waite's efforts to tie reclamation to his plan for reviving the beleaguered economy of the state. In his call to the special legislative session the governor asked for a vigorous effort to complete the State Canal No. 1 project and for construction of State Canal No. 2 and the Twin Lakes Reservoir.<sup>23</sup> Governor Waite's plan was to utilize these reclamation endeavors as sizeable make-work projects to relieve the critical unemployment situation in the state. Accordingly, a bill was introduced that would have authorized either the contracting or the employing of individuals by the board of control. Contract work, individual work, and materials were to be paid for with noninterest bearing certificates of indebtedness, which might be issued in denominations as low as \$1.00. These certificates could be used

<sup>21</sup> Colorado, *Session Laws*, 9th sess., 1893, pp. 441-47; Colorado, General Assembly, *Senate Journal of the General Assembly of the State of Colorado, Tenth Session*, 1895, p. 751 (hereinafter cited as Colorado, *Senate Journal*).

<sup>22</sup> Colorado, General Assembly, *House Journal of the Extra Session of the Ninth General Assembly of the State of Colorado*, 1894, pp. 93, 114, 286, 309, 467, 584-85 (hereinafter cited as Colorado, *House Journal*); Colorado, *Senate Journal*, Extra Session, 1894, pp. 235-38, 386-94.

<sup>23</sup> Colorado, *Senate Journal*, Extra Session, 1894, pp. 20-31.

to purchase water when the canal began operating or could be converted, after three years, into interest-bearing certificates.<sup>24</sup>

But the lawmakers were in no mood to continue in the reclamation business. Instead of approving the Waite proposals, all reclamation measures proposed during the extra session were referred to a special interim senatorial investigating committee. In doing so, the state legislators made it clear that they felt the whole reclamation effort, especially the costly State Canal No. 1 project, was a failure.<sup>25</sup>

While attitudes toward the state canal projects were becoming increasingly negative, work on the five reservoirs authorized in 1891 progressed. The site for the El Paso County Reservoir was selected at the confluence of Monument and McShane creeks near the town of Monument. The reservoir was to have an es-



*Enjoying Monument Reservoir in August 1972.*

timated capacity of 37,289,400 cubic feet (856 acre feet) of water, and the dam, like all the others undertaken by the state in this period, was to be earth-filled. A public conscription was con-

<sup>24</sup> *Ibid.*, pp. 23-24, 195.

<sup>25</sup> *Ibid.*, pp. 235-38, 277-80, 386-94; Colorado, *House Journal*, Extra Session, 1894, pp. 584-85.



ducted to raise money to purchase the site since no state monies could be used for this purpose. Work began in 1892 on a 30.12 acre parcel conveyed to the state by David McShane. McShane also received the construction contract, and he completed his work in 1893.<sup>26</sup>

Local citizens came to the rescue of the Las Animas County Reservoir after State Engineer Maxwell and the supervisory committee decided that the legislative appropriation was insufficient to cover construction costs. According to the legislative authorization, construction was not to begin unless the project could be completed with the appropriation granted. When local citizens agreed to make up any difference between actual cost and the appropriation, Maxwell allowed bids to be let. The citizens' generosity was not needed, for the low bid was \$13,993, and the Colorado General Assembly had appropriated \$15,000 for the project.<sup>27</sup>

Although the Las Animas County project is referred to as the Apishapa Reservoir in official literature, the dam was actually located in Metote Canyon, near Gulnare, and was designed to draw water from Trujillo Creek, a tributary of Apishapa Creek,

*An August 1972 view of Apishapa Reservoir dam in Metote Canyon.*



by way of a two-mile-long ditch.<sup>28</sup> The reservoir was designed to store 20,000,000 cubic feet of water, and the dam was constructed between 21 November 1891 and 24 June 1892 by the J. R. DeRemer Company. In addition to the dam the contractor built the ditch to divert water from Trujillo Creek into Metote Canyon.<sup>29</sup>

A site near Wetmore was selected for the Custer County Reservoir. This facility was to be located "off stream" and was to be filled by a ditch, drawing water from Hardscrabble Creek.



*The Custer County Reservoir in August 1972.*

The reservoir was designed to have a capacity of 4,253,600 cubic feet, covering an area of 11.74 acres. State Engineer Maxwell and the supervisory board for the project at first wished to reject construction, but "upon the earnest solicitation of interested par-

<sup>26</sup> Whether the conscription raised enough money to purchase needed land is a matter of conjecture. In 1893 the Colorado General Assembly appropriated \$4,000 "for land purchase and rip-rapping." Whether any of this money was used for land purchase cannot be determined (Lloyd McFarling, "Monument Minutes, 1879-1889," pp. 26-28, manuscript, Palmer Lake Historical Society, Palmer Lake, Colorado; Colorado, *Session Laws*, 9th sess., 1893, pp. 447-48; State Engineer, *Report*, 1891 and 1892, pt. 1, pp. 392-97, 1905 and 1906, pt. 1, pp. 25-26).

<sup>27</sup> State Engineer, *Report*, 1891 and 1892, pt. 1, pp. 385-89.

<sup>28</sup> On site inspection, 15 August 1972.

<sup>29</sup> State Engineer, *Report*, 1891 and 1892, pt. 1, pp. 385-89, 1905 and 1906, pt. 1, p. 25.



ties" together with assurances that local citizens would assume the cost of the land and any cost in excess of the appropriation, the board agreed to let bids. The low bid was \$9,250—\$750 under the legislative appropriation for construction. That the local citizens obtained the land for the facility is seriously doubted, for it appears that the dam was constructed on privately owned land that was never conveyed to the state.<sup>30</sup>

After consideration of several sites, the Chaffee County project was located at Boss Lake just under the Continental Divide about two miles above the town of Garfield. During the



*The spillway of the Boss Lake dam in August 1972.*

1880s Chaffee County pioneer Henry Donnell constructed a small dam below Boss Lake creating two small reservoirs. The object of the state effort at Boss Lake was to enlarge Donnell's dam so as to increase the storage capacity of the existing reservoirs by some 3,650,000 cubic feet. Construction to enlarge the dam began in the spring of 1893 and storage apparently commenced in 1894. As in the case of the Custer County Reservoir, the state seems never to have gained title to the dam site nor does it appear that the state held any water rights in connection with the facility.<sup>31</sup>

<sup>30</sup> A thorough search on 2 August 1972 of land transfer records in the office of the clerk and recorder in Custer County turned up no land transfers to the state during the time this project was being constructed; State Engineer, *Report*, 1891 and 1892, pt. 1, pp. 383-85, 1905 and 1906, pt. 1, p. 27.

<sup>31</sup> On site inspection on 2 August 1972; State Engineer, *Report*, 1891 and 1892, pt. 1, pp. 389-91; Colorado, Supreme Court, *Cases Argued and Determined*, 1965, 157: 163-66 (hereinafter cited as Supreme Court, *Cases Argued and Determined*).



*Control house at the Boss Lake dam (1972).*

Construction of the fifth reservoir authorized by the Colorado General Assembly in 1891, the Saguache Creek Reservoir, remains something of a mystery, and official records are of little help in solving it. In his report of 1892 State Engineer Maxwell indicated that he, the Saguache County Surveyor S. E. Kirken-dall, and chairman of the Saguache Board of Commissioners F. M. Hill made a survey of the area searching for possible reservoir sites. Two sites of promise were discussed in his report, one on the Middle Fork and the other on the South Fork of Saguache Creek. The former would have produced a 90-acre reservoir with a capacity of 120,000,000 cubic feet of water and the latter an 82-acre reservoir with a 70,000,000 cubic foot capacity. But it was Maxwell's decision that neither should be constructed for "the quantity of water possible to store . . . would not justify the expenditure of so much money." Thirty thousand dollars had been appropriated for the project.<sup>32</sup>

Then, almost as an afterthought, Maxwell noted that there were two sites nearer to the town of Saguache, but they were not given serious consideration because they were too far from the site specified by the legislation. Besides, the Del Norte Canal was being constructed and would deliver water to a point about four miles below the town of Saguache "covering practically all the state lands, and from which it would seem possible to supply water for land in that locality without additional storage."<sup>33</sup>

It seemed at this point that a reservoir on Saguache Creek would not be built. But apparently other, more influential forces

<sup>32</sup> State Engineer, *Report*, 1891 and 1892, pt. 1, pp. 380-81; State Treasurer, *Report*, 1892, pp. 54-55.

<sup>33</sup> State Engineer, *Report*, 1891 and 1892, pt. 1, p. 382.



intervened, perhaps John Lawrence, who represented the area in the Colorado General Assembly and who seems to have been the primary advocate of the project. Whatever the case, State Engineer C. B. Cramer, who succeeded Maxwell in that post, reported in 1894 that the Saguache Reservoir was nearly complete, without explaining why Maxwell's decision had been reversed.<sup>34</sup>



*Saguache Reservoir dam, photographed August 1972.*

The Saguache dam was located about one mile northeast of the town of Saguache, apparently at one of the sites Maxwell had declared to be outside the range of the legislative authorization. The reservoir was constructed "off stream" and was fed by a three-mile long ditch linking the reservoir with Saguache Creek. In addition, two wells apparently were planned to help fill the reservoir. One was authorized and may have been dug but probably was never functional. State ownership of the reservoir and dam site seems doubtful.<sup>35</sup>

<sup>34</sup> Interview with Fred Curtis, Saguache, Colorado, 2 August 1972; State Engineer, *Report*, 1893 and 1894, pt. 1, pp. 93-94.

<sup>35</sup> Specifications for the Saguache dam are not available (Curtis interview, 2 August 1972; State Engineer, *Report*, 1905 and 1906, pt. 1, p. 28).

The year of decision for Colorado's reclamation experiment came in 1894. The five reservoirs authorized in 1891 were complete, but State Canal No. 1 was stalled, pending the outcome of an investigation by a special interim committee of the state senate. In fact, the whole future of the reclamation effort was now tied to the committee investigation, since the senate committee had been given the responsibility for determining the feasibility of several future projects as well as the Canon City canal venture.

During the summer of 1894 this special reclamation investigating committee toured the state and returned to deliver such a ringing indictment that the reclamation experiment was stopped dead in its tracks. The three-man committee included David Boyd of Greeley and James G. Johnson of Florence, both Populists, and Republican George W. Swink from the Arkansas Valley. The primary purpose of the investigation was to determine the feasibility of State Canal No. 1 in terms of money already spent, future costs, the availability of water for the project, and the necessity and the cost of reservoirs, should they be needed, to make the Canon City project fully functional. In addition, the investigators were to make recommendations on the feasibility of State Canal No. 2, the proposed Twin Lakes Reservoir, and the Plum Creek Reservoir. The committee visited all of these project sites between May and October 1894 and was ready with its report when the Colorado General Assembly convened for its regular biennial session in January 1895.<sup>36</sup>

The viewpoint of the majority of the committee was expressed as an indictment of the reclamation efforts of the legislature, especially in authorizing the supplementary appropriations for State Canal No. 1. If completed, the committee reported, this project would cost upwards to \$1,300,000, an amount the state could not afford. Furthermore, the water in the Arkansas River was fully appropriated, so an expensive series of upstream reservoirs would be required to supply the canal with adequate water. Even if the canal was completed and the reservoir system was successfully created, the state would be forced to charge such high rates for its water that no farmer in Colorado could afford to buy it. Thus, the committee concluded that "in the light of facts bearing on profits from farming in Colorado, it seems to your committee the height of absurdity to

<sup>36</sup> Colorado, General Assembly, *Rules of the Senate of the Ninth General Assembly of the State of Colorado*, 1893, p. 45; Colorado, Senate, Special Committee on State Canal No. 1, *Report*, 1895, pp. 3-6 (hereinafter cited as *Senate, Canal Report*); *Denver Republican*, 18 January 1895.



undertake the construction of a canal so costly as Canal No. 1 must be." The committee recommendation was to scrap the whole project and to postpone indefinitely any new project starts.<sup>37</sup> The committee also could not justify the reservoir on Plum Creek or Canal No. 2 in Mesa County.

Committee member Johnson dissented from the majority positions. The majority, Johnson argued, had exaggerated the costs of completing State Canal No. 1 and its viewpoint generally was "anti-people." "It is the duty of the state," philosophized Johnson in the Populist vein, "to stretch out her hand on every side to help and lend assistance to citizens. To help make homes for the many. To develop her resources and make the barren plains bring forth an abundance."<sup>38</sup>

But Senator Johnson's defense was in vain. The state's reclamation effort was virtually over. The lawmakers accepted the majority report and dropped all the reclamation plans still pending. Reservoir and canal bills continued to be introduced in subsequent years but with little success. Among the projects that most strenuously refused to die was State Canal No. 1, probably because to many it seemed a great waste to lose the \$200,000 investment of the state in the enterprise. But efforts by Governors Alva Adams, Charles S. Thomas, and James H. Peabody to continue with that project all failed.<sup>39</sup> In 1907 the state liquidated its final responsibility in the project by appropriating funds to pay off the water certificates issued by the State Penitentiary Board in the early years of the construction effort.<sup>40</sup>

As further evidence of the complete rejection of earlier reclamation efforts, the Colorado General Assembly refused to appropriate money for the maintenance and the improvement of the reservoirs it had authorized in 1891. For instance, five times the lawmakers turned down appropriations to make the Metote Reservoir in Las Animas County functional, and the maintenance of the other projects was no better. Complaints were lodged with the state engineer from time to time that the reservoirs were not being supervised properly, that valves were broken or clogged, and that leaks had developed and were not being corrected. In his 1898 report the state engineer confirmed that these problems existed and flatly stated that the Saguache Reservoir would not hold water.<sup>41</sup>

The shirking of responsibility by the State of Colorado for the maintenance of its reclamation endeavors reached a new and final phase in 1897 when the legislature assigned responsibility for the Boss Lake Reservoir to Chaffee County and in 1899 handed over control of and responsibility for the remaining state-owned reservoirs to the counties in which they were located. The counties were to have control of the reservoirs, but, also, they were required to maintain them at their own expense and were responsible for any damages done by water discharges from the reservoirs.<sup>42</sup>

Apparently only two of the counties, El Paso and Chaffee, actually assumed responsibility for the reservoirs in their respective jurisdictions. The problems they faced indicate, to some extent, the reason the state wished to abandon the progeny of its earlier reclamation effort.

El Paso County spent \$2,500 repairing the Monument dam only to discover that there were no adjudicated water rights in the project. Nevertheless, the county hired a caretaker and proceeded to dispense water "without regard to priorities" to farms under the dam for "emergency irrigation." How long this service continued is not known, but while it lasted it must have been a significant one. In 1898 E. R. Chew, superintendent of State Water Division No. 2, reported that the reservoir was "a work of large importance and the benefits derived from it during the past season prove the necessity of others of a like kind." At one point during the season, Chew reported, the reservoir was three-fourths full and supplied all ditches under the dam with four days of irrigation water. "At critical periods," Chew carefully noted, "even a day's irrigation is often sufficient to save a crop." In 1902 the state engineer reported that water in the reservoir was released for two emergency "runs," one in May and the other in August. The first run was sufficient to irrigate 3,000 acres and the second, 2,000 acres.<sup>43</sup>

<sup>37</sup> Colorado, *Senate Journal*, 1897, p. 1137, 1899, p. 666, 1903, p. 1263.

<sup>38</sup> Colorado, *Session Laws*, 16th sess., 1907, pp. 166-67.

<sup>39</sup> Colorado, *Senate Journal*, 1899, p. 1028, 1901, p. 902, 1903, p. 405, 1905, p. 717; Colorado, *House Journal*, 1907, p. 1238; Colorado, State Engineer, *Correspondence*, DB:72, W. B. Morgan to H. A. Sumner, 24 April, 25 May, 8 July 1895; Morgan to Governor McIntire, 6 February 1895; H. R. A. to M. H. Rogers, 10 June 1895; K. E. Wright, Jr., to John E. Field, 15 May 1897; Rogers to Field, 22 May 1897, State Archives and Records Service, Denver.

<sup>40</sup> Colorado, *Secretary of State, Revised Statutes*, 1903, 12 vols., 7 (148-17-15): 641-42; Colorado, *Session Laws*, 11th sess., 1897, pp. 119-20, 12th sess., 1899, pp. 350-55.

<sup>41</sup> State Engineer, *Report*, 1897 and 1898, pt. 1, p. 69, 1901 and 1902, pt. 1, p. 77, 1905 and 1906, pt. 1, p. 26.

<sup>37</sup> Senate, *Canal Report*, pp. 7-23.

<sup>38</sup> *Ibid.*, pp. 92-99.





*Clearing the snow off Monument Lake—*

*cutting the ice—*



*using the two-pronged studs—*



*and, pushing the ice cakes to be cut.*

Ice was another useful benefit derived from the Monument Reservoir. Beginning in 1897, the reservoir was leased for ice-cutting during the winter months. The ice was then stored for use during the summer months in cooling "ice-box" type railroad refrigerator cars. The ice lease brought in about \$500 per year to help with maintenance costs.<sup>44</sup>

Yet, these operations in El Paso County rested on the most precarious legal grounds since the reservoir had no adjudicated water rights and all the services offered by the El Paso County Commissioners were dependent upon ownership of water in one form or another, either liquid or solid.

Similar problems were faced by the Chaffee County Commissioners after they assumed control of the Boss Lake Reservoir. The cost of maintenance seems to have been minimal, perhaps because the work was done by the Joseph Lionello family of Salida, who had purchased the land and water rights formerly owned by Henry Darnell, the creator of the first Boss Lake dam. Darnell had two adjudicated rights to water in the lake, which the Lionellos had purchased and retained. But the state had nothing, neither property rights in the dam site nor water rights in the reservoir. And it was this set of uncertainties that the state had transferred to the Chaffee County Commissioners. Nevertheless, the commissioners managed the reservoir, for how long is not known. A watchman was employed and water was discharged to ranches under the dam by order of the commissioners. Later the Lionellos successfully sued to gain full title to their water rights in the project.<sup>45</sup>

<sup>44</sup> Ibid., 1897 and 1898, pt. 1, p. 27, 1905 and 1906, pt. 1, p. 26.

<sup>45</sup> Telephone interview with Joseph Lionello, Jr., Salida, Colorado, 2 August 1972; State Engineer, Report, 1907 and 1908, pt. 1, p. 27; Supreme Court, *Cases Argued and Determined*, 1965, 157:163-66.



The adverse report of the state senate investigating committee in 1895 did not, however, end the Colorado reclamation era completely. One other project was authorized by the Colorado General Assembly after the devastating report was rendered. Designated officially as State Canal No. 3, a plan was adopted in 1901 to tunnel through the canyon wall that separates the Gunnison and Uncompahgre valleys in Montrose County in western Colorado. The purpose of the project was to divert water from the Gunnison River into the watershed of the Uncompahgre River.<sup>46</sup>

The legislation authorizing this last reclamation endeavor by the state in the early 1900s incorporated features no doubt derived from experiences with projects undertaken in the 1890s. Instead of attempting to control the project with state officials, State Canal No. 3 was to be governed by a three-man local board selected from residents of Montrose and Delta counties. Selected to serve in this capacity were John J. Tobin of Montrose County and George E. Dodge and State Representative C. M. Hammond of Delta County. Hammond had sponsored the bill authorizing the project.<sup>47</sup>

The use of convict labor was authorized, but the board of control could contract work to private construction companies as well. To pay for construction, the board of control was authorized to issue interest-bearing (three percent) certificates of indebtedness and water certificates; the latter, however, could be issued only to persons owning land under the proposed canal. Indications are that the legislature wished to commit itself to no more than \$25,000, the initial appropriation, in getting the project completed. The project was, in effect, to be self-liquidating, an innovation in state administration of such endeavors. Accordingly, the enabling legislation specifically stated that the state would not be liable for certificates of indebtedness issued by the board of control in excess of the \$25,000 initial appropriation.<sup>48</sup>

The board of control hired civil engineer J. A. Curtis and work commenced in the fall of 1901 at the Montrose end of the tunnel. There is no evidence that the board of control issued any certificates of indebtedness or that prisoners were brought to Montrose County to work on the project. The canyon wall proved to be of shale formation, requiring timbering of the tunnel. The

plan was to replace the timbers with concrete or brick at a later date. By the end of 1902 the state engineer reported that 835 feet of tunnel had been driven and 350 feet had been timbered.<sup>49</sup>

By this time the project was being constructed under a new statute, enacted by a special session of the Colorado General Assembly in March 1902. The new legislation was of the most sweeping nature. In addition to having supervisory control over construction of the project, the board of control was given the power to acquire lands, water power, mineral, stone, coal, and timber rights; to purchase water rights, canals, ditches, reservoirs; and to sell or lease any property it came to control. The power to issue interest-bearing certificates of indebtedness was renewed, but the interest rate authorization was increased from three to six percent, presumably to make the certificates more marketable. Once again, the legislation specifically excused the state from any liability for these debts. Curiously, the provision allowing use of convict labor was revoked.<sup>50</sup>

But, 1902 proved to be a fateful year. Congress passed the Newlands Act, creating the United States Reclamation Service and launching its own career in reclaiming arid lands. Simultaneously, the United States Geological Survey completed a second survey of the Gunnison Tunnel project, deciding it was the kind of endeavor the new reclamation service might want to undertake.<sup>51</sup>

These events were catastrophic for the State Canal No. 3 project. With the possibility that the "general government" with its vast financial resources would undertake the project, interest in pursuing the state-sponsored venture, with its precarious financial arrangements, collapsed. The Colorado General Assembly responded accordingly, and in 1903 authorized a transfer of all the state's "rights, title and interest in and to State Canal No. 3 and all rights and privileges acquired in connection therewith" to the federal government. It was State Representative Charles M. Ryan of Montrose County who introduced the measure, signaling grass-roots support for the transfer. By 1904 the transfer had been completed and construction of a new tunnel by the United States Reclamation Service was underway, and by 1909 the project was completed. The State Canal No. 2 project was also revived and eventually built

<sup>46</sup> State Engineer, *Report*, 1899 and 1900, pt. 1, p. 45.

<sup>47</sup> *Ibid.*, pp. 45, 396.

<sup>48</sup> Colorado, *Session Laws*, 13th sess., 1901, pp. 370, 372.

<sup>49</sup> State Engineer, *Report*, 1901 and 1902, pt. 1, p. 45.

<sup>50</sup> Colorado, *Session Laws*, Extra Session, 1902, pp. 20, 164-69.

<sup>51</sup> State Engineer, *Report*, 1901 and 1902, pt. 1, p. 8; *Reclamation Project Data*, p. 762; *U.S. Geological Survey, 1902-1903*, p. 219.





*A flashlight view of the night force working in the west end of the Gunnison Tunnel on 3 July 1905.*

under the official designation, the Colorado River Project in Mesa County.<sup>52</sup>

The release of the State Canal No. 3 facility to the United States Reclamation Service ended the experiment of the State of Colorado in the field of reclamation. By most any measure, the experiment must be regarded as a failure. Philosophic opposition to state-financed endeavors in competition with private enterprise and poor planning of the projects were among the chief causes for failure. Appropriations for the undertakings almost always preceded feasibility studies, the State Canal No. 3 project being the one exception, thanks to the United States Geological Survey. In addition, financing was probably a crucial factor in the failure, for construction of the reservoir and the canal facilities came just as the state was beginning to give major attention to construction of roads for wagons. Lawmakers seem to have realized quickly that the state was unable to finance internal improvements on a large scale. In addition,

state revenues fell drastically during the economically depressed 1890s.

Thus, a combination of inadequate planning, philosophic opposition, and financial difficulties produced the reaction that brought the reclamation experiment of the State of Colorado to an abortive end and paved the way for the era of federal government activity, which was anticipated by Governor Alva Adams's "Great Reservoir Convention" in 1888.

*DONALD A. MAC KENDRICK received his B.S. from Colorado State University in 1949 and his M.A. from the University of Colorado in 1955. Presently a history instructor, he is chairman of the Division of Social Science of Mesa College in Grand Junction and also a member of the Rocky Mountain Social Science Association, the Western History Association, and the State Historical Society of Colorado.*

<sup>52</sup> Colorado, *Session Laws*, 14th sess., 1903, pp. 292-93; U.S. Geological Survey, 1905, pp. 261-62; Reclamation Project Data, pp. 762-64.



## "Me and Mr. Finch" in Denver

CHARLES J. BAYARD

For all too brief a time in 1906 and 1907, a delightful episode relieved the intensity of the Progressive revolt in Denver. The region's reformers, like those elsewhere, used a variety of means to mobilize the electorate behind their causes, ostensibly aimed at ousting privilege from positions of power. In Denver, the *Rocky Mountain News* joined the issues during the earliest stages of the protest; its owner Thomas M. Patterson and its staff proved to be major forces in the broad movement to make politics respond to the unsettled conditions in rapidly changing Colorado.

During his career, Patterson affiliated with the Democratic party, siding with the liberal rather than the conservative party wing. As a United States senator from Colorado from 1901 to 1907, Patterson fought continually against corruption. That he was a man of some wealth doubtless enabled him to fill public offices without those persistent economic distractions that arise from any need to incur debts with outside sources. He fought many battles in the name of the people, as so many politicians and journalists before and since have perceived their fight. A prevailing contemporary characterization described him with sympathy and admiration as a man whom Denverites either loved or hated. A fighter with deep convictions, Patterson led his paper through the deep national depression of the 1890s, the strenuous political battles of the period, and the journalistic revolution of the quarter of a century preceding World War I.<sup>1</sup>

Turn-of-the-century political, social, and economic conditions in Denver and Colorado promised fertile fields for the *Rocky Mountain News* staff that Senator Patterson collected.

The region suffered from the familiar problems of rapid growth and fundamental changes within the society; an unresponsive political system and an aloof leadership contributed to the resulting disorder. The miners, farmers, cattlemen, and small businessmen, who originally opened up Colorado, awakened during the 1890s to discover that they constituted only part of a much more complex community. Further complicating the issues, Denver's rapid growth spawned many of the troublesome problems that sprouted in most of America's new municipalities, including the necessity of extending the public services required, such as lights, gas, water, communication, and transportation. Introduced on a large scale in the age of private enterprise, these public services gave rise to major businesses whose influence infiltrated many aspects of life. During the tumultuous 1890s, Denver's population also tripled, passing the one hundred thousand mark, and by the end of the next decennial period, its population nearly doubled again.<sup>2</sup>

Denver government suffered severe growing pains too. One easily isolated manifestation of its problems was financial, particularly that related to public services. Even before 1900, city officials found themselves threatened with a mounting debt. One possible source of relief for this exigency was to tap the rich profits of the public utilities. Servicing companies had sought and had obtained initial privileges essentially unencumbered by fees or restraints. Indeed, shortly after 1900, a Denver judge agreed with the water company that its franchise was not assessable property. This issue fueled a heated argument through the first years of the new century; at one point, spokesmen for the public hinted that the company contrived shortages and provided shoddy service to coerce the public into accepting its terms.

Mayor Robert Speer, more willing than most to negotiate with the utility magnates, found himself caught between the press and big business on the recharter issues. The tramway company and its leader, William G. Evans, were both favorite targets having predictable negative public images. Critics charged the company with cavalier and negligent service occasionally involving bodily harm and manslaughter. Evans, they fumed, used a heavy (and effective) hand in politics, allegedly

<sup>1</sup> *Biographical Directory of the American Congress, 1774-1971* (Washington, D.C.: Government Printing Office, 1971), p. 1518; Robert L. Perkin, *The First Hundred Years: An Informal History of Denver and the Rocky Mountain News* (Garden City, N.Y.: Doubleday & Co., 1969), pp. 381-95; for additional information on Patterson's career in the Senate, see Robert E. Smith, "The Antiimperialist Crusade of Thomas M. Patterson," *The Colorado Magazine* 51 (Winter 1974):28-42.

<sup>2</sup> For a review of Denver's problems in this period, see Roland L. DeLorme, "Turn-of-the-Century Denver: An Invitation to Reform," *The Colorado Magazine* 45 (Winter 1968):1-15; J. Richard Snyder, "The Election of 1904: An Attempt at Reform," *ibid.* 16:26. See also Carl Abbott, "Boom State and Boom City: Stages in Denver's Growth," *ibid.* 50 (Summer 1973):207-230.



reaching down to the precinct level. Although it is difficult to determine, quite likely the Denver Gas and Electric Company attracted the most critical attention. The *News* characterized it as "an unmitigated hog." Profits were high, production and distribution costs appeared low, and customers were charged four times the estimated cost of production. Like other large businesses servicing the public, the company worked diligently on various political levels. When all ran together, which appeared to be the case by 1900, public leaders, who were highly visible in the press with the *Denver Rocky Mountain News* in the forefront, looked for complicity, graft, and corruption in government, which they frequently reported finding. By 1907 the *News*, outraged by the recent gubernatorial election, particularly flayed the winner, Henry A. Buchtel, chancellor of the University of Denver and alleged captive of the utilities.<sup>3</sup>

Also, during the two decades around the turn of the century, Denver's newspapers underwent the same journalistic changes noted throughout the nation. Some established papers terminated publication, unable to make the transition to reformist reporting. New ones replaced them, some succeeding and some foundering. Others barely survived the changes that came with radical renovation and the ultimate attainment of notoriety. In Denver the *News* had been the yardstick of success since the town was organized. Three others, the *Republican*, the *Times*, and the *Post*, entered the new century with uncertain prospects. Within two years, Patterson bought out the *Times*, which had been owned by David Moffatt and the banking interests of Denver. The *Republican*, Senator Nathaniel P. Hill's paper, still functioned and, as its name indicates, represented Patterson's political adversaries, whom the Denver Progressives increasingly attacked as their movement burgeoned. The remaining paper, the *Post*, was just beginning to develop out of undistinguished origins in the 1890s. In essence, by the middle of the first decade of the twentieth century, Denver had three newspapers, one of which, the *Republican*, maintained the staid image of the defender of the status quo.<sup>4</sup>

The *Post*, after a halting start, began attracting subscribers in the mid-1890s when Frederick G. Bonfils and Harry H.



Thomas M. Patterson



Frederick G. Bonfils



Harry H. Tammen

Tammen enlivened it. Their story, recorded by Gene Fowler forty years ago in *Timber Line*, reveals the extraordinary temper of the leadership and the tone of the paper itself. Bonfils and Tammen offered Denver readers sensationalism, whether the readers approved of it or not. The paper, while not particularly committed to political party lines, pursued startling stories from public exposés, through criminal acts of violence, moving in any direction that seemed worth exploiting. George Creel called the paper "the Coney Island of journalism." Via alleys, questionable improvisations, and improbable promotions, the owners succeeded until they clearly threatened, if not overtook, the preeminence of Patterson's *News*. Out of hard and sometimes ruthless competition grew deep antagonisms that caused even President Theodore Roosevelt in Washington, D.C. to choose sides in Denver's newspaper war.<sup>5</sup>

Apparently competition in a business sense was not enough. The *Post* reportedly used unorthodox pressure to force Denver businessmen to file their advertisements in its columns. Responding to both the resultant economic pinch and the ethical issue involved, the *News* editorialists charged its antagonist with blackmail, occasionally depicting Bonfils and Tammen in cartoons and columns as hucksters, clowns, monkeys, or pirates. At one point in 1907, on the day after Christmas, the ebullient Bon-

<sup>3</sup> J. Paul Mitchell, "Municipal Reform in Denver: The Defeat of Mayor Speer," *The Colorado Magazine* 45 (Winter 1968):42-60.

<sup>4</sup> A discussion of the changing styles of American journalism is found in Frank Luther Mott, *American Journalism: A History of Newspapers in the United States through 250 Years, 1690 to 1940* (New York: Macmillan Co., 1941), pp. 411-610; Perkin, *The First Hundred Years*, pp. 383-85, 396, 401, 404-5; Gene Fowler, *Timber Line: A Story of Bonfils and Tammen* (Garden City, N.Y.: Garden City Books, 1933), p. 95.

<sup>5</sup> Perkin, *The First Hundred Years*, pp. 401-7; Fowler, *Timber Line*, pp. 319-23. A brief sketch of Bonfils and Tammen is found in Mott, *American Journalism*, pp. 566-70.



files struck back—literally. On that morning as the elderly Senator Patterson walked to his office he heard someone greet him. As he turned, he was hit several times, causing him to fall to the ground with his upper dental plate broken and his mouth cut. Frederick Bonfils, more than twenty years the younger, was the assailant, righting a journalistic wrong. Three days later in formal proceedings, which could hardly be termed solemn, the court judged Bonfils guilty, fining him modestly for the attack. But that seemed to be the point where justice to the righteous abandoned Patterson. He returned to his struggle with the *Post*, needing more than public exposure of his opponent's character.<sup>6</sup>

Patterson gathered an able group of professionals in his newspaper offices. Edward Keating, his managing editor from 1906 to 1911, became a United States senator from Colorado who cosponsored the Keating-Owen Child Labor Act.<sup>7</sup> George Creel, who subsequently sparked Denver's crusade for social justice and headed up the public information arm of President Woodrow Wilson's crusade to make the world safe for democracy, also passed through the editorial offices of the *News*.<sup>8</sup> Gene Fowler, too, gained experience there.<sup>9</sup> These men ably kept Denver informed of its serious faults. While they and others lighted searchlights and prodded consciences, Keating began to realize that one of the "others," a young man raised in southern Colorado, named Alfred Damon Runyon, had talent for composing light stories; he had not yet polished his literary tools but his wit and his imagination were intuitive.<sup>10</sup> Perhaps he could bring lost subscribers back to the *News*.

Runyon came from good Western origins. His father had fought with George Armstrong Custer and, although only a private, he had written a denunciation of "Hardbacksides" published in the press. Runyon, born in Kansas, shifted westward with his parents and sisters as their father tried his hand at journalism in several Kansas towns, ultimately settling farther up the Arkansas River in Pueblo, Colorado, where Runyon grew up. In his early teens the young Runyon wrote bits for the *Pueblo Chieftain*, which, if nothing more, made him

cognizant of the varieties of life around him. Serving briefly in the Spanish-American War, he returned home to find the old ruts partially covered over. By 1902 he had been East to work as sports editor for the *Saint Joseph* (Mo.) *Gazette*, and then he returned to Colorado where he worked for several papers and even managed a baseball team. In 1905 he moved to Denver to work for Bonfils and Tamm on the *Post*. In this capacity Runyon, his talent yet undeveloped, remained relatively unknown. Shortly, he drifted over to the *Rocky Mountain News* as it sought to retain its leadership by also resorting to sensationalism (a bit less outrageous than its competitor), promotions, and other measures designed to appeal to the popular mind. While the young writer-reporter was experimenting with forms and styles and teaming with a photographer in graphic news items, into the *News* circle came Frank Finch from Indiana via Saint Joseph, Missouri.<sup>11</sup>

Those who knew Frank Finch agree that he was the ideal partner for Damon Runyon. Physically, Finch was a slightly built man who was not particularly conscious of his clothes. As Edwin Palmer Hoyt wrote in *A Gentleman of Broadway*, his biography of Damon Runyon, "Finch was almost a caricature himself. He was nearly as thin as the bird figure he drew" for his signature. Although Finch's job was originally cartooning, he soon revealed real talent for drawing caricatures. In personality he was genial, enabling him to develop a flare for appearing before informal gatherings. He, like Runyon, had a solid acquaintance with liquor, the abiding interest that kept them together during their waking hours between public appearances.<sup>12</sup>

On Finch's arrival in Denver, editor Keating assigned the cartoonist to various conventions and gatherings in Denver to sketch likenesses of those who stood out in the crowd. Increasingly known as "Doc Bird" after his signature that he claimed was a finch, his drawings had just the right balance between cartoon and pleasing reality.<sup>13</sup> During the same period, Finch rarely missed including, on the editorial page, a penetrating political cartoon or a sequential cartoon strip or panorama, which he called "Finchographs," and quite frequently he had drawings printed elsewhere, such as the sports pages or the

<sup>6</sup> *Denver Rocky Mountain News*, 27, 28 December 1907; Fowler, *Timber Line*, pp. 229-45; Perkin, *The First Hundred Years*, pp. 426-28.

<sup>7</sup> Edward Keating, *The Gentleman from Colorado: A Memoir* (Denver: Sage Books, 1964), pp. 178, 350-55.

<sup>8</sup> George Creel, *Rebel at Large: Recollections of Fifty Crowded Years* (New York: G. P. Putnam's Sons, 1947), pp. 96-119.

<sup>9</sup> Will Fowler, *The Young Man from Denver* (Garden City, N.Y.: Doubleday & Co., 1962), pp. 38-49.

<sup>10</sup> Keating, *The Gentleman from Colorado*, pp. 211-12.

<sup>11</sup> Edwin P. Hoyt, *A Gentleman of Broadway* (Boston and Toronto: Little, Brown & Co., 1964), pp. 8-44.

<sup>12</sup> *Ibid.*, p. 44; Keating, *The Gentleman from Colorado*, p. 216.

<sup>13</sup> For examples, see *Denver Rocky Mountain News*, 13, 14, 15 September 1906.



Runyon (1880-1946), labeled "Colorado's Kipling" by contemporaries, produced hundreds of newspaper stories, books, and dramas, including *Guys and Dolls*, *Money from Home*, and *Take It Easy*. Always writing in the present tense, his bristling style displayed a new and colorful jargon, full of slang, which became known as Runyonesque or Americanese.



Sunday classified advertisements.<sup>14</sup> To promote "Doc Bird's" popularity further, Finch, in early 1907, fabricated a delightful convention of cartoonists' animal signatures at the Albany Hotel in Denver. Finch's brother cartoonists across the nation from Los Angeles to Philadelphia sent their stylized drawings with greetings attached. These appeared along with "Doc Bird's" daily contributions in the columns of the *News*, so that by spring all of Denver had come to know about the paper's talented artist.<sup>15</sup>

When warm weather arrived in the foothills of the central Rocky Mountains, Denverites began to gather outside in many places. Frank Finch joined them with his sketch board. Keating soon dispatched Damon Runyon, whose by-line had disappeared months earlier from the *News's* stories, to write filler for the caricatures. While sketching, Finch carried on conversations with those around him; Damon Runyon circulated, throwing barbs at "Doc" and gathering ideas that he molded into public interest commentaries for the next day's edition. The resulting composition entitled "Me and Mr. Finch" proved so appealing that by summer Keating turned the team loose on the state.<sup>16</sup>

"Doc Bird" and Damon Runyon were much more flexible than the *Post's* competing, grand scale, Barnum and Bailey-like

<sup>14</sup> His Finchographs covered a variety of subjects. Some examples include John D. Rockefeller in the *Denver Rocky Mountain News* (19 March 1907); theatrical shows (19 April 1907); Emma Goldman's appearance in Denver (23 April 1907); and Boise, Idaho, during Bill Haywood's trial (15 May 1907).

<sup>15</sup> *Denver Rocky Mountain News*, 28, 31 January, 15 February 1907; Hoyt, *A Gentleman of Broadway*, pp. 44-45; Keating, *The Gentleman from Colorado*, p. 216.

<sup>16</sup> *Denver Rocky Mountain News*, 9 June 1907; Hoyt, *A Gentleman of Broadway*, p. 45.



Finch (1879-1950), known as "Doc Bird" to thousands of early twentieth-century Rocky Mountain newspaper readers, used the little "weather bird" as his personal symbol. Without resorting to bitterness, his humorous cartoons ribbed many sides of Denver's social and political life. Employed by the *News* and the *Post*, he also worked for Indiana, Ohio, and Missouri newspapers before retiring to the family farm in Elkhart in 1940.

shows. The team easily reached many smaller communities, although schedules and alcoholic digressions did not always mix. "Me and Mr. Finch" attracted crowds, good-naturedly panned local dignitaries, and expanded their personal knowledge of Colorado's liquor outlets.

Their earliest efforts were somewhat tentative and relatively modest. In early July 1907 Runyon and Finch set out in a red, open touring car to help celebrate Independence Day in Berthoud and Boulder, small towns not far northwest of Denver. Large crowds met the two journalists, according to the reports Runyon filed. So did the bands of the towns, while community leaders entertained them at places like the Elks Club or their own homes. They served alcohol and sociability in about equal portions, which the *News* team soaked up graciously.<sup>17</sup> As time passed, Finch and Runyon continued to travel the state, even crossing the Rockies to such places as Montrose, where "Doc Bird" appeared on the Chautauqua program the same day Senator Champ Clark of Missouri spoke and a week or two before Governor Albert B. Cummins of Iowa was billed.<sup>18</sup> The team mixed at the State Fair in Pueblo,<sup>19</sup> with soldiers at the National Guard camp in Golden,<sup>20</sup> and at events throughout the state as well as at Cheyenne, Wyoming, during its historic and occasionally riotous Frontier Days.<sup>21</sup> All the while, the "Me and

<sup>17</sup> *Denver Rocky Mountain News*, 30 June, 5, 6, 7 July 1907.

<sup>18</sup> *Ibid.*, 22 July 1907.

<sup>19</sup> *Ibid.*, 8, 9, 11, 12 September 1907.

<sup>20</sup> *Ibid.*, 16 July 1907.

<sup>21</sup> *Ibid.*, 25, 26, 27 July 1907.





Teddy's Mount as Seen by Bryan



WITH HIS BACK TO THE WALL

Mr. Finch" items occupied several columns prominently located in the paper. The *News's* circulation and advertising held up in Denver during this period, and reportedly the paper sold quite well in the locales where the team made its stands. This was the heyday of the barnstormers.

By autumn 1907 imperceptible fractures were weakening the solidarity of the partnership. Damon Runyon, in the moments spared from public appearances and periods of drinking and sobering, continued to try his hand at verse and short stories. In effect, he gained experience for future use; more immediately, he sold some of his work in Eastern markets. That "Doc Bird" had already reached the limit his talent permitted was one of the realities no one yet felt impelled to consider. "Doc" did write a characterization of Damon Runyon,<sup>22</sup> but cartooning along with drinking, not writing, were his talents. The team still operated together. They reported the season's opening of a Denver theatre and the opening of a new roller skating rink, which had its riotous moments.<sup>23</sup> But Runyon, beginning to develop a reputation, received assignments like interviewing United States Vice-president Charles Fairbanks during his visit to Trinidad and presidential candidate William Howard Taft in Denver.<sup>24</sup> Runyon was on his way to becoming an important staff political reporter rather than the color-man for a cartoonist. But the team did, as of old, cover such events as the Longmont Pumpkin Pie Day, which featured ten thousand pies,<sup>25</sup> and the Denver and Rio Grande Railroad's "Seeing the Valley" special tour of southeastern Colorado.<sup>26</sup> On each weekend during the fall, Keating assigned them to the state's major college football games, which they covered as none had done before or have done since.<sup>27</sup>

By Thanksgiving what had been a slight fissure in the team became a clear crack. Damon Runyon went on a drinking spree, which necessitated assigning "Doc Bird" another reporter who lacked Runyon's flare. Dutifully "Doc" covered the Japanese



community's celebration of the Mikado's birthday in Denver's Eagle Hall,<sup>28</sup> interviewed a sun worshiper-cum-butler,<sup>29</sup> reported on two scandalous trials,<sup>30</sup> grieved for the closing of saloons on Sundays,<sup>31</sup> and many other happenings, while his former partner performed erratically, occasionally drinking himself into insensibility, disappearing to reappear later at Mattie Silks's establishment in the tenderloin or under the protection of one of his many friends.<sup>32</sup>

The end of 1907 marked the end of "Me and Mr. Finch" but not without the greatest escapade of their career. Despite the notoriety the team had brought the *News*, Senator Patterson's paper still lost ground to the *Post*. As Christmas approached, Finch and Runyon carefully planned a seasonal promotion. If all went well, on the day before Christmas, "Doc" was to meet Santa Claus at Denver's Union Station. He was then to escort Santa through downtown Denver to the offices of the *News*, where they would distribute hundreds of half-pound boxes of candy to the kids and turkeys to needy families. For weeks before the great event, Damon Runyon promoted contributions to the cause and reminded the kids of the free presents. Senator Simon Guggenheim, Denver bankers, and heads of major industries, whom the *News* had attacked, contributed time and money. All preparations came off without a hitch.<sup>33</sup>

<sup>22</sup> Ibid., 16 September 1907.

<sup>23</sup> Ibid., 20 August, 20 September, 1 November 1907.

<sup>24</sup> Ibid., 29, 30 August 1907.

<sup>25</sup> Ibid., 12, 13 September 1907.

<sup>26</sup> Ibid., 8, 9 October 1907 for "Doc Bird's Scrapbook."

<sup>27</sup> See, for example, ibid., 20, 28 October 1907.

<sup>28</sup> Ibid., 4 November 1907.

<sup>29</sup> Ibid., 11 November 1907.

<sup>30</sup> Ibid., 15, 23 November 1907.

<sup>31</sup> Ibid., 9 December 1907.

<sup>32</sup> Hoyt, *A Gentleman of Broadway*, pp. 60-61.

<sup>33</sup> *Denver Rocky Mountain News*, 8, 10 December 1907.



On the morning of Christmas Eve, "Doc Bird," stunningly dressed for once with a huge headdress of a giant beaked bird, transported in a forty-horsepower Jackson touring car with full escort, headed for the station. As he passed an estimated ten thousand kids lining the streets, "Doc" waved his hands and nodded his beaked headdress. By the time he arrived at the station he was having some trouble standing in the back of the car; "Doc" had carefully fastened a bottle of rye in the beak of his mask in such a fashion that when he nodded, he received a shot of whisky. Nonetheless Santa, who was of course Damon Runyon, clambered (also unsteadily) into the car with "Doc Bird." Santa, drunker than his cartoonist teammate, settled into what appeared to be a deep sleep. "Doc" made the trip back to the *News* offices only occasionally bowing to the crowd. But by the time they arrived, both were unable to help with the distribution of the presents.<sup>34</sup> Their inability to complete their thoroughly publicized mission did not prove to be the serious mistake that it might have been. Perhaps the season was too busy to permit Keating or Patterson to consider the implications of Runyon and "Doc's" behavior to the business. Actually other crises superseded this event. For one thing, the day after Christmas was the morning of Bonfils's attack on Patterson. In that same week the team of Finch and Runyon broke up professionally.

New Year's Eve marked the last edition of the *News* in which "Doc Bird" appeared. Finch accepted Bonfils's more lucrative offer to work for the *Post*. At "Doc's" departure Keating assigned another cartoonist to the *News* who was quite competent. Runyon and Finch, who had not devoted many hours to actual work previously, still saw each other. But things were different. Damon Runyon, a political expert, on the board of directors of the Denver Press Club, and living in refined quarters was not like the writer of the "Me and Mr. Finch" team. Runyon's defenders try to dramatize the parting of the ways by stating that "Doc Bird" changed; several of them report that he soon began drinking quantities of straight alcohol, which seems unlikely since he had a long and distinguished career in cartooning.<sup>35</sup> For the next few years Finch stayed in Denver working

<sup>34</sup> Ibid., 25, 26 December 1907; Keating, *The Gentleman from Colorado*, pp. 222-24; Hoyt, *A Gentleman of Broadway*, pp. 64-66.

<sup>35</sup> Keating, *The Gentleman from Colorado*, pp. 224-25; Hoyt, *A Gentleman of Broadway*, pp. 67-69, 72.

<sup>36</sup> Joe E. Finch to Charles J. Bayard, 14 February 1974; *Elkhart (Ind.) Truth*, 10 January 1944, 2 September 1960.

with such people as Creel and Fowler until Bonfils and Tammien transferred him to the staff of their *Kansas City Post* for four years. By the summer of 1916 Finch returned to the *Denver Post* to enliven its pages on into the years of the Great Depression. By World War II he was back home in Elkhart, Indiana, where he died in 1950.<sup>36</sup> In the interim Damon Runyon left for the East and fame.

Estimates of the "Me and Mr. Finch" team cannot dogmatically incorporate expansive claims, such as restoring the prestige of the *News* or shaking Denver and Colorado out of their lethargy in the manner of Lincoln Steffens. If anything lasting came from the interlude, it is that Damon Runyon continued to gather ideas and to try his writing; both Edward Keating and Frank Finch gave him opportunities for by-lines. Indeed, if a comparative judgment had to be made, "Doc Bird" was a much more significant contributor to the *News* of that era than the young Runyon. Perhaps also pertinent are the facts that not only did Colorado vote for William Jennings Bryan in 1908, as it had twice previously, but Denver also hosted the Democratic National Convention, which nominated Bryan in that year. Denver did renovate its municipal charter, introduce notable political changes, bear a significant Progressive revolt, oust the "rascals" from office, and nourish a citizens' movement to fruition. The "Me and Mr. Finch" team hardly accomplished all of this singlehandedly, but the cartoonist and the writer certainly reminded Denver that it had its faults as well as a sense of humor.

A previous contributor to THE COLORADO MAGAZINE, CHARLES J. BAYARD has been teaching in the Department of History at Colorado State University in Fort Collins since 1959. He graduated from Indiana University with his Ph.D. in 1956 and has published articles in the PACIFIC HISTORICAL REVIEW and the KENTUCKY HISTORICAL REGISTER.





## The Conejos Land Grant of Southern Colorado

PURNEE A. McCOURT

On 5 June 1967 a citizen's arrest was attempted in a small village in northern New Mexico. The next day headlines across the nation carried the improbable story of a shoot out in Tierra Amarilla, a small village in Rio Arriba County, New Mexico. For many Americans it was their first introduction to Hispano "land grants," Reies Tijerina, and the Chicano movement.

It is significant that the event, focusing national attention on Hispanos, stemmed from a dispute over land ownership, for concern with land is an overwhelming theme in the Hispano history of northern New Mexico and southern Colorado. The Chicano movement, while deeply concerned with social and political inequities, educational neglect, and urban problems, is acutely sensitive to the land question. Land is a persistent and recurrent theme in the rhetoric of the movement—land that was given, land that was worked, land that was loved, land that was passed on, but most important, land that was lost. To the uninitiated and even the more knowledgeable, the idea of land being lost is puzzling. The question must be asked: how valid is the belief that land was lost and, more pertinent, how was this land lost, if indeed it was?

The Hispano claim to land ownership is rooted in the Spanish and, later, the Mexican occupation of the American Southwest. This sovereignty was ended in the Mexican War of 1846-48 when the United States acquired from Mexico a wide band of land that stretched from Texas to the Pacific Ocean. Included in this land area were present-day New Mexico and part of Colorado. A substantial number of Mexican citizens resided in the conquered territory. At the end of the war the two governments entered into an agreement known as the Treaty of Guadalupe Hidalgo.

ARTICLES 8 and 9 of this treaty dealt specifically with the citizens of the area, promising them full liberty and property protection. The last paragraph of ARTICLE 8 declared that "in the said territories, property of every kind, now belonging to Mexicans not established there, shall be inviolably respected. The present owners, the heirs of these, and all Mexicans, who may hereafter acquire said property by contract, shall enjoy, with respect to it, guarantees equally ample as if the same belonged to citizens of the United States."<sup>1</sup> De facto land ownership was given de jure recognition by the United States government. How then was the land lost?

A recent work on the Chicano movement alludes to unscrupulous lawyers involved in land grant work who took land in lieu of payment.<sup>2</sup> Earlier observers noted the Anglo practice of squatting on seemingly vacant land.<sup>3</sup> Inadequate legal protection by the government, complicated procedures for validating land ownership, and outright greed by individuals also have been offered as examples of how the land was lost.<sup>4</sup> The question is made more complex by the obvious condition that time and circumstance have combined to dim the historical record. Land tenure has been irrevocably altered; a new generation has come to maturity; the older one has passed away; documents have been misplaced or lost; and ownership of land has changed many times.

The historical question of lost land is indeed fraught with difficulties and lack of evidence. Hopefully, however, some historical perspective can be gained by examining a specific land grant in southern Colorado known as the Conejos land grant. Of great size, the Conejos grant comprised a land area covering the present-day southern Colorado counties of Conejos and Rio Grande and portions of Saguache and Alamosa. It was one of five major land tracts granted to individuals by the Mexican government.<sup>5</sup> Two of these grants, the Las Animas and the

<sup>1</sup> U.S., Executive Document No. 50, House of Representatives, 30th Cong., 2d sess., cited in Ralph Emerson Twitchell, *The Leading Facts of New Mexican History*, 2 vols. (Cedar Rapids, Iowa: Torch Press, 1912), 2:455.

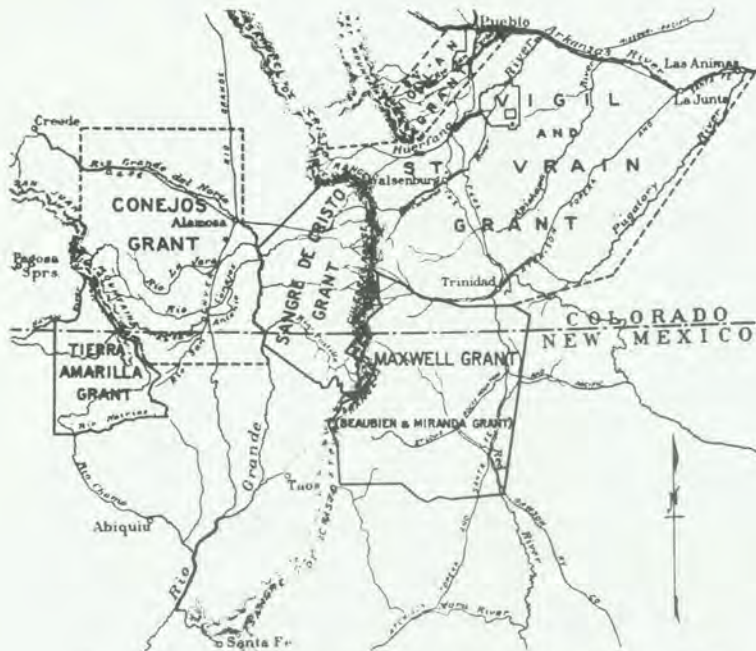
<sup>2</sup> Stan Steiner, *La Raza* (New York: Harper & Row, 1969), p. 58.

<sup>3</sup> Wilbur F. Stone, *The Only Court of Its Kind in the World*, cited in Report of Miguel A. Otero, Governor of New Mexico, to the Secretary of the Interior, 1903, in *Annual Reports of the Department of the Interior for the Fiscal Year Ended June 30, 1903*, p. 378 (hereinafter cited as *Report of Governor of New Mexico*, . . . 1903).

<sup>4</sup> Twitchell, *The Leading Facts of New Mexican History*, 2:460.

<sup>5</sup> The five grants in Colorado were: Las Animas (also known as the Vigil and St. Vrain), Sangre de Cristo, Baca No. 4, Conejos, and Nolan. Parts of the Tierra Amarilla and the Maxwell grants also fitted into the state. All grants in Colorado came during the Mexican period (1820-46). No grants were ever given in Colorado during the Spanish period.





The solid black lines are the approximate boundaries of the confirmed Mexican land grants as surveyed and marked. A broken line marks the approximate boundary of the unconfirmed Conejos Grant.

Sangre de Cristo, were the scene of land speculation, financial intrigue, and questionable political influence.<sup>6</sup> The sheer size of the grants (several were over one million acres) and their unique legal status attracted various entrepreneurial personalities, and schemes for grant development abounded.<sup>7</sup>

The Conejos grant, in contrast to its more famous neighbors, experienced an uneventful, almost dull development. Land speculators passed over the Conejos. Neither Dutch nor English financiers planned European immigrant colonies to the Conejos, as they did to the Sangre de Cristo. Political manipulation on a national level did not occur on the Conejos as it probably did on the Las Animas. Colorful and powerful men, such as Territorial Governor William Gilpin and famous land surveyor of the West F. V. Hayden, were not associated with the Conejos.<sup>8</sup> The seemingly placid and quiet appearance of the Conejos probably accounts for its cursory treatment by historians; however, the

history of the Conejos does not warrant such neglect, for it ended with several unique distinctions among Colorado's land grants. The Conejos was the only grant not considered by the surveyor general's office for title confirmation, and when considered by the Court of Private Land Claims many years later, it was the only grant whose validity was completely rejected.<sup>9</sup> Secondly, it was the only tract given directly to a group of persons rather than to an individual.<sup>10</sup> It is also important to note that the Conejos grant was settled by a substantial number of Hispano communities.

The Conejos tract was granted to forty families in 1833 by Francisco Serracino, the Mexican governor of the province of New Mexico.<sup>11</sup> The grant was never officially surveyed so its actual boundaries were not determined. However, the translated Spanish land description read "on the north the Garita Hill; on the south, the San Antonio Mountain; on the east, the Rio Grande; and on the west the Sierra Montosa which extends along the length of the tract."<sup>12</sup> An attempt at settlement was made in 1833 but apparently the presence of hostile Indians in the area proved an effective barrier, and the original settlers were forced back to their departure area—Taos, Rio Colorado, and Abiquiu in the province of New Mexico.<sup>13</sup> In 1842 Jose Maria Martinez, Antonio Martinez, Julian Gallegos, and Seledon Valdez, all original grantees, transmitted the land donation document of 1833 to the prefect of their district, Don Juan Andres Archuleta, and petitioned him to revalidate their grant.<sup>14</sup> They also informed Prefect Archuleta that they wished to substitute new families for those who had died and to add others who wished to join the colony. The petition was approved by

<sup>6</sup> The Las Animas (Vigil and St. Vrain) and the Nolan grants were cut down in size but not rejected (LeRoy R. Hafen, "Mexican Land Grants in Colorado," *The Colorado Magazine* 4 [May 1927]:86-88; Ralph Carr, "Private Land Claims in Colorado," *ibid.* 25 [January 1948]: 10-30).

<sup>7</sup> The Sangre de Cristo grant is referred to as a colony grant also. However, the Sangre de Cristo grant was given to two individuals who in turn granted portions to others (Brayer, *William Blackmore*, 1:61, 209; Hafen, "Mexican Land Grants in Colorado," pp. 83-87).

<sup>8</sup> Crescencio Valdez et al. v. United States; The Conejos Tract, case no. 109, p. 2, reel no. 45. *Records of Private Land Claims Adjudicated by the Court of Private Land Claims, New Mexico Land Grant Microfilm Collection*, Denver Public Library, Denver (hereinafter cited as CPLC, case no. 109). Part of the same records are on microfilm in the Los Conejos file no. 80, reel no. 31, *Records of Private Land Claims Adjudicated by the United States Surveyor General, New Mexico Land Grant Microfilm Collection*, Denver Public Library, Denver (hereinafter cited as CSG, file no. 80).

<sup>9</sup> CPLC, case no. 109, p. 3.

<sup>10</sup> *Ibid.*, p. 98.

<sup>11</sup> Revalidation was needed because grants had time requirements that had to be met. Normally the stipulation was that settlement must take place within two years of the donation. The failure to make a permanent settlement in 1833 meant that grantees had to have an official of the government regrant the land (Hafen, "Mexican Land Grants in Colorado," pp. 90-91).

<sup>6</sup> Herbert O. Brayer, *William Blackmore: A Case Study in the Economic Development of the West*, 2 vols. (Denver: Bradford-Robinson, 1948), 1:59-145.

<sup>7</sup> *Ibid.*, pp. 59-129.

<sup>8</sup> *Ibid.*, pp. 73-74.



Archuleta and the justice of their district, Cornelio Vigil, was ordered to put the land into the possession of the grantees.<sup>15</sup> Eighty-three families (some were represented by attorneys), two witnesses, and Justice Vigil proceeded to the Conejos River on 12 October 1842. There Justice Vigil informed them of the following legal conditions:

That the place shall be occupied and never abandoned; and that he who shall not cultivate within twelve years<sup>16</sup> or who shall not live on the land shall lose his right, and the land that has been assigned to him will be given to another person . . . that the pastures and watering places shall be in common for all the inhabitants; that said land is donated to all the inhabitants to be well cultivated and for the pasturing of all kinds of livestock and therefore, owing to the exposed frontier situation of the place, the grantees must keep themselves equipped with firearms and bows and arrows . . . that the towns they may build shall be well walled around and fortified.<sup>17</sup>

Justice Vigil then put the grantees in possession of their land by asking them if they agreed to all of the conditions. When all unanimously replied their agreement, he declared "in a loud and intelligible voice that, in the name of the sovereign constituent Congress of the Union, and without prejudice to the national interest or to those of any third party, I led them over the tract and granted to them the land; and they plucked up grass, cast stones, and exclaimed in voices of gladness, saying 'Long live the sovereignty of our Mexican Nation' taking possession of the said tract quietly and peaceably without opposition."<sup>18</sup> In order that each family have an equal frontage along the river, land was measured off in long, narrow strips between the San Antonio and the La Jara rivers. Each strip was 200 *varas* wide<sup>19</sup> and varied in length from ten to twelve miles.<sup>20</sup>

Unfortunately, this attempt at settlement also failed due to Indian harassment,<sup>21</sup> for in 1846 the interim governor of the



Seledon Valdez



Charles Bent

territory of New Mexico, Charles Bent,<sup>22</sup> received a letter from three of the original grantees asking for permission to try and resettle the Conejos grant. Bent replied that he had no legal right to give them possession but that by virtue of their former claim they should go and settle on the Conejos if they chose to do so.<sup>23</sup> Again the people went to the Conejos and again they were driven back. Finally in 1854 the long struggle to settle was realized. Guadalupe was founded on the banks of the Conejos River. The settlement prospered. Other settlers soon followed and new plazas were founded. Water appropriations, later confirmed by court decrees in Colorado, show that the Conejos settlers were digging irrigation ditches soon after their 1854 arrival. In 1855 a decree was granted to Lafayette Head for a ditch on the Conejos River, for a mill, and for irrigation. The same year a decree was given for the El Coda ditch on the San Antonio River and thirteen additional decrees were granted in 1856 and 1857.<sup>24</sup> In 1858 the first government township survey was made in the area by A. P. Wilbar.<sup>25</sup> The survey was ordered by the then surveyor general of the territory of New Mexico, William Pelham. In his field notes Wilbar referred to the numerous Mexican settlements along the creeks.<sup>26</sup>

<sup>15</sup> CPLC, case no. 109, p. 98. There was some uncertainty among local officials that regranting could occur. Several letters passed between the prefect and the governor's secretary over the question. Finally the decision was made to regrant the land.

<sup>16</sup> The original document shows the word *dos* (two) changed to *dose* (twelve).

<sup>17</sup> CPLC, case no. 109, p. 99.

<sup>18</sup> *Ibid.*

<sup>19</sup> *Vara* is a measurement of width, roughly equal to 33 inches. Thus, 200 *varas* would be 550 feet.

<sup>20</sup> The Hispano in the Southwest employed the system of land division based on proximity to a river or an irrigation canal. This system assured all owners access to water. It was known as the long-lot system and reflected an approach to land use quite different from the American rectangular system. For a discussion of this system in the Conejos area, see Alvar Ward Carlson, "Rural Settlement Patterns in the San Luis Valley: A Comparative Study," *The Colorado Magazine* 44 (Spring 1967):115-19.

<sup>21</sup> The site of the grant was part of the hunting territory of the Ute. After the acquisition of the area by

the U.S. government, Fort Massachusetts was built in 1852. That fort was later moved to Fort Garland. Southern Colorado was not permanently settled until these forts were built.

<sup>22</sup> The Mexican War of 1846-48 had begun. General Stephen W. Kearny had taken possession of New Mexico and had appointed Charles Bent as interim governor (LeRoy R. Hafen, *Colorado and Its People: A Narrative and Topical History of the Centennial State*, 4 vols. [New York: Lewis Historical Publishing Co., 1948], 1:113).

<sup>23</sup> CPLC, case no. 109, p. 101.

<sup>24</sup> Alvin T. Steinel, *History of Agriculture in Colorado . . . 1858 to 1926* (Fort Collins: State Agricultural College, 1926), p. 30.

<sup>25</sup> This was an exterior survey of Townships 33N, 34N, 35N, and 36N, Ranges 10E and 11E, New Mexico Prime Meridian (U.S., Department of the Interior, Bureau of Land Management, *Rectangular Survey Index* [Ranges East of New Mexico Principal Survey] *Field Notes of Book "A"* [San Luis Valley], book 62, p. 19, deposited in Bureau of Land Management, Denver).

<sup>26</sup> Forbes Parkhill, "Colorado's First Survey," *The Colorado Magazine* 33 (July 1956):178-79.



The picture that emerged by the mid-eighteen sixties was one of numerous plazas clustered almost exclusively along the well-watered river bottoms in the southern and eastern portions of the grant. Most were nestled along the Conejos and the San Antonio rivers, though an early map of the area shows a small cluster of plazas on the northwestern reaches of the Rio Grande near the present-day city of Del Norte, Colorado.<sup>27</sup> The first crops grown in the settlements were wheat, corn, and peas. A mill was probably built in the late 1850s and the wheat and corn were milled to an acceptable grist. The settlers also brought with them horses, oxen, cows, sheep, goats, and chickens.<sup>28</sup> The spiritual needs of the growing community were acknowledged with the erection of a Catholic church in Guadalupe, and later the grant became the location for Colorado's first Catholic parish. Priests came from northern New Mexico to serve the small plazas of the grant.<sup>29</sup>

The United States, in the treaty of Guadalupe Hidalgo, had pledged to respect the property of Mexican citizens. However, no specific manner of adjudicating land ownership was enunciated. The earliest method had been through the court systems, though the surveyor general of a given territory was, by virtue of his occupation, drawn into the settlement disputes. This was not always a satisfactory solution. California had also been the location of extensive Spanish and Mexican land donations. The movement of American miners, prospectors, and settlers into that area in the early 1850s made the adjudication of land grant titles an urgent priority, and in 1851 Congress established a three-man commission to handle the California claims. Unfortunately New Mexico and southern Colorado did not receive such a specific legal body for some forty years after California was given the commission. To deal with cases in New Mexico Territory in 1854, Congress created the Office of Surveyor General. On 1 August 1854 the appointment of William Pelham to that office was announced.<sup>30</sup>

It is significant to note, in view of Pelham's later complaints of being understaffed and overworked, that the responsibility of

adjudicating land grants was only one of his many duties. John Wilson, commissioner of the General Land Office, wrote various letters to Pelham outlining Pelham's duties as surveyor general of the territory of New Mexico. In August 1854 Wilson wrote Pelham that his first surveying duty was to determine the location of a principal base and a principal meridian line to govern the public surveys in the territory.<sup>31</sup> A meticulous man, Wilson informed Pelham that he was also sending "two pole chains of true standard measure that must be kept in the office at all times." Instructions were included for the hiring of a deputy surveyor general and attention was given to how a line field book was to be compiled. Besides notations on geology, streams, and topography, the field journal had to be "free of blots, and blurs for the book is a permanent record."<sup>32</sup>

Other matters were commented upon by Commissioner Wilson, but it was SECTION 8 of the 1854 Surveyor General Act that dealt specifically with land grants. The proper form for adjudication of these grants was carefully outlined by the commissioner to his surveyor general. The surveyor general was "to ascertain the origin, nature, character and extent of all claims to lands under the laws, usages and customs of Spain and Mexico; and for this purpose may issue notices, summon witnesses, administer oaths and do and perform all other necessary acts in the premises. He shall make a full report on all such claims as originated before the cession of the Territory to the United States by the treaty of Guadalupe Hidalgo of 1848."<sup>33</sup> The surveyor general was to submit his own decision as to the validity or invalidity of each case under the laws of Spain and Mexico to the secretary of the interior. The secretary would then report the final recommendation to Congress, who would confirm or reject each grant.<sup>34</sup>

Commissioner Wilson was a methodical man, and he carefully acquainted his surveyor general with the historical background of land grants as well as the legal precedents relating to them. "The treaty of 1848 between the United States and Mexico, United States Statutes at large, Vol. 9, p. 922 expressly stipulated in the 8th and 9th articles for the security and protec-

<sup>27</sup> "Interviews Collected during 1933-34 for the State Historical Society of Colorado, by C.W.A. [Civil Works Administration] Workers: Alamosa, Conejos and Costilla Counties, Pamphlet 349, Doc. 1-49," interviewer Charles E. Gibson, Jr. (typescript), see maps of San Luis Valley in 1855, 1870, and 1880, pp. 72-74, Documentary Resources Department, State Historical Society of Colorado, Denver (hereinafter cited as "Interviews . . . by C.W.A. Workers, pamphlet 349").

<sup>28</sup> Steinel, *History of Agriculture in Colorado*, pp. 30-31.

<sup>29</sup> Patrick C. Stauter, *100 Years in Colorado's Oldest Parish* (Alamosa, Colo.: Ye Olde Print Shoppe, [1958?]), pp. 4-7.

<sup>30</sup> Hafen, "Mexican Land Grants in Colorado," pp. 81-83.

<sup>31</sup> Surveyor General File, p. 15, reel no. 60, *Correspondence of the Surveyor General, New Mexico Land Grant Microfilm Collection*, Denver Public Library, Denver (hereinafter cited as *Correspondence of the Surveyor General*, reel no. 60).

<sup>32</sup> *Ibid.* A detailed account of Pelham's instructions is found in Twitchell, *The Leading Facts of New Mexican History*, 2:457-61.

<sup>33</sup> *Correspondence of the Surveyor General*, reel no. 60, p. 4.

<sup>34</sup> *Ibid.*



tion of private property. . . . The terms there employed in this respect are the same in substance as those used in the treaty of 1803 by which the French republic ceded the province of Louisiana." He then cited examples of such cases and encouraged Pelham to review the California experience as well. In a later letter Commissioner Wilson detailed the procedures Surveyor General Pelham should use in the settlement of the land grants in New Mexico Territory. He should begin by placing an announcement in the "largest newspaper of the area" with "English and Spanish readings" on the procedures claimants were to follow in filing for grant confirmation. It is obvious that Wilson had given much thought to the possible problems that could arise. Anticipating the legal snarls and the personal feelings of the claimants, he insisted that every claimant present an authenticated plat of survey, if a survey had been executed, or other evidence indicating the precise locality of the claimed tract. This would not only simplify the process for claimants but would make Pelham's task much easier. It would also "promote the welfare of the country" because private property could be ascertained from public land and surveys could be promptly completed.<sup>35</sup>

Title papers to the grants also seriously concerned Wilson, for they were, obviously, the ostensible proof of land ownership and Wilson stipulated to Pelham how they should be handled. "In all cases of course, the *original* [Wilson's italics] title papers are to be produced or their loss accounted for and when copies are presented, they must be authenticated and your report should also state the precise character of the papers acted upon by you whether originals or otherwise." The question of land ownership was a major concern of Surveyor General Pelham. One of his duties was to donate government land to American citizens. Equally important was his obligation to confirm the land granted by Mexico and Spain to their citizens. It was essential, therefore, to identify the granted land and the government land. Commissioner Wilson's opinion on this subject was stated carefully to Pelham. "All lands covered thereby shall be reserved from sale or other disposal by the government and shall not be subject to the donations granted by the previous provision of this act."<sup>36</sup>

On 18 January 1855 Surveyor General Pelham issued a notice to the inhabitants of New Mexico Territory regarding the filing

of claims for land grant validation.<sup>37</sup> Nine months later Pelham reported that fifteen claims had been filed. He also stated at the time that the difficulty and expense involved in filing claims had inhibited persons from filing.<sup>38</sup> In 1860 Congress confirmed the first group of private land claims recommended by the surveyor general. Among those confirmed were two Colorado grants—the Sangre de Cristo grant (confirmed completely) and the Vigil and St. Vrain grant (reduced to eleven square leagues each). The Conejos grant was not considered because prior to 1860 no claim had been filed. However, on 3 July 1861 Hispanos filed a claim for the Conejos grant with the surveyor general's office. Supporting their claim were letters, lists of settler names, and affidavits from Cornelio Vigil, the first justice of the peace of Taos District, Juan Archuleta, prefect of the first district, and Carlos Beaubien, land owner and at one time dean first councilman of the Taos District. The resort to sworn testimony by Mexican officials that the grant had been made and confirmed was due to a very unfortunate circumstance—the loss of the original land donation document.<sup>39</sup>

The application for confirmation was made by Jose Martinez, Antonio Martinez, Julian Gallegos, and Seledon Valdez on behalf of the settlers. Their attorney Joab Houghton of Santa Fe commented on the loss of the document in a letter included in the filing. He wrote that the men were owners of the grant, that they had lost their original title paper, and that they wished to present oral proof. In support of their claim they offered affidavits and letters from the officials involved in the original land donation. These men all clearly stated their participation and witnessed support for the claimants.<sup>40</sup> Surveyor General Pelham apparently did not consider the Conejos claim, for no record exists of his recommendation on the grant. This lack of action must have been unsettling for the claimants, though their case was not unique. Twenty years later in 1880, the secretary of the interior in his annual report said: "After the lapse of nearly thirty years, more than 1,000 claims have been filed with the surveyor general of which less than 150 have been reported to Congress, and, of the number so reported, Congress had finally acted upon only 71."<sup>41</sup>

<sup>35</sup> Twitchell, *The Leading Facts of New Mexican History*, 2:459.

<sup>36</sup> *Ibid.*, p. 460.

<sup>37</sup> CPLC, case no. 109, p. 160.

<sup>38</sup> *Ibid.*

<sup>39</sup> U.S., Secretary of the Interior, *Report of 1880*, cited in Twitchell, *The Leading Facts of New Mexican History*, 2:461.

<sup>35</sup> *Ibid.*, p. 8.

<sup>36</sup> *Ibid.*, p. 9.



In 1867, six years after the creation of Colorado Territory, all documents relating to grants in that territory were forwarded to the surveyor general of Colorado Territory from the surveyor general of New Mexico Territory. The Conejos documents were received, but again no action was taken on the grant by the surveyor general. In 1883, some sixteen years after the transfer of documents, the Conejos case surfaced briefly in a letter written by Albert Johnson, the surveyor general of Colorado Territory, to the surveyor general of New Mexico Territory:

General: An examination of the papers on file in this office transferred from your office (original and translations) connected with the Los Conejos grant in Colorado shows the original grant to be missing from the files and no translation thereof—I find an affidavit by J. Houghton alleging the loss of original grant among the papers but nothing to show in whose possession it was when lost—Will you cause an investigation of the papers if any, in your office connected with the said grant and advise me of the result. If not found, please give me all information obtainable.<sup>42</sup>

Meanwhile the Hispano plazas on the Conejos grant continued to prosper and to grow in population. The fertile and well-watered grant, while never attracting major speculative ventures such as had occurred on the Sangre de Cristo grant, caught the eye of an English financier, William Blackmore, who became a prominent figure in the land grant intrigues of New Mexico and southern Colorado. On 3 November 1873 Blackmore visited the village of Guadalupe on the Conejos River. Later in the same day he rode out to the ranch of Seledon Valdez.<sup>43</sup> According to the diary of William Blackmore and verified in letters to Blackmore from his agent John Dunn, Seledon Valdez, one of the original grantees, had become a substantial landowner on the Conejos grant.<sup>44</sup> Blackmore was interested in obtaining Valdez's shares in the grant.<sup>45</sup> The initial meeting between the two men apparently resulted in a preliminary agreement for a future business arrangement.<sup>46</sup> Such plans, however, came to nothing, for Blackmore's financial empire was beginning to crumble around him.

The Conejos lands by the 1870s had attracted the interest of

more people than just William Blackmore. In response to the growing number of homesteaders in the area, the United States government in 1875 opened a land office in Del Norte. The homestead entry books for the years 1875 through 1877 record entries on the Conejos grant. These entries were noted as being in Townships 31N through 45N, Ranges 6E through 11E,<sup>47</sup> an area that corresponds roughly to the boundaries of the Conejos grant as put forth in the Spanish land description. In view of these entries and of later ones made in the 1880s, it is interesting to recall Commissioner Wilson's instructions to Surveyor General Pelham concerning the granted lands: "all lands covered thereby shall be reserved from sale or disposal by the government and shall not be subject to the donations granted by the previous provision of this act."<sup>48</sup> Of even more interest is the fact that in a survey of the last names recorded in the Del Norte books a fair number are Spanish surnames. It is obvious that Spanish surnamed families were taking out homestead applications and that their entries were prominently clustered in three townships—Townships 32N, 33N, and 34N, Ranges 8E, 9E, and 10E. These entries are almost all located in the area where the original land donations were made by Justice Vigil in 1842. Among the names listed in the entry books is that of one of the original grantees on the Conejos, Seledon Valdez.<sup>49</sup>

In 1854 Commissioner Wilson had addressed himself to the question of land grantees receiving land donations from the federal government. He wrote to Surveyor General Pelham: "You are hereby apprized that it is the opinion of this office that parties holding lands under claims from the former government of Spain or New Mexico are not entitled also to receive a donation of land under the 22 July 1854 act."<sup>50</sup> Becoming more specific, he continued: "The 4th section expressly excluded from the provisions of this act certain lands of which you will take proper notice. Further, holders of valid claims under the Mexican or Spanish grants cannot be entitled to a donation under this law, neither can they or holders of donations be entitled to pre-emption . . . nor can such settlement and cultivation be made by the holder of Mexican or Spanish grants within the in-

<sup>42</sup> CASG, file no. 80, p. 31.

<sup>43</sup> Brayer, *William Blackmore*, 1:207-10.

<sup>44</sup> This was substantiated by the reminiscence of Epifanio Valdez, grandson of Seledon Valdez ("Interviews . . . by C.W.A. Workers, pamphlet 349," p. 52).

<sup>45</sup> Brayer, *William Blackmore*, 1:210. Valdez had apparently obtained interests in some of the individual holdings on the grant and had taken deeds and mortgages on other pieces of land.

<sup>46</sup> Ibid. In his diary Blackmore recorded in detail the documents filed with the surveyor general in 1861. His source of information was Seledon Valdez.

<sup>47</sup> U.S., Department of the Interior, Bureau of Land Management, Land Claims Office, *Del Norte Homestead Final Certificate Books, Del Norte Cash Entry Book*, Federal Archives and Records Center, Building 48, Denver. See entries from 1875-88 (hereinafter cited as *Del Norte Cash Entry Book*).

<sup>48</sup> *Correspondence of the Surveyor General*, reel no. 60, p. 4.

<sup>49</sup> *Del Norte Cash Entry Book*, 4 April 1876.

<sup>50</sup> *Correspondence of the Surveyor General*, reel no. 60, p. 19.



tent of this act until he relinquishes such a grant." There is no concrete evidence that Seledon Valdez relinquished his claim to the grant. Three years prior to his homestead entry he and Blackmore had discussed a business arrangement based solely on his grant ownership. Certainly his son and heir did not believe that he had given up his interest and, in fact, filed a claim before the Court of Private Land Claims based on ownership in the grant.<sup>51</sup> The indication is that Seledon Valdez, and perhaps others as well, were resigned by 1876 to the idea of governmental inaction on the Conejos grant and were determined to secure land ownership. This meant formal entries on the so-called public domain land.

The situation in the Conejos area was reflected on a larger scale in New Mexico. By 1880, the unconfirmed status of grants had approached a minor national scandal. The appointment of George W. Julian as surveyor general, an Easterner whom New Mexicans believed was prejudiced to their interest, aroused deep resentment in the territory.<sup>52</sup> Stories of land frauds abounded. The practice of land grants being treated as public domain and having entries filed upon them was common knowledge, and the practice was noted by the prominent Colorado judge Wilbur F. Stone.<sup>53</sup> The coming of the railroads complicated the situation and even those who were squatting on unconfirmed grants complained. One reader of the *Denver Daily Tribune* wrote irately to the editor that "to deprive actual settlers from their homes which were located and settled upon prior to any confirmation is unfair. The officers of the government appointed to execute these laws seem doubtful and uncertain, and their dilatory action in the matter indicates that they are desirous of shirking the responsibility of the adjudication of claims arising under the law."<sup>54</sup> Acknowledgment of the situation finally came from President Benjamin Harrison in 1889. In his annual message to Congress he described the situation in the territories of New Mexico and Arizona. Legislation was needed for the prompt settlement of land claims based upon Mexican grants. He urged the establishment of a judicial tribunal or commission. Congress responded to the message and finally on 3 March 1891 a special tribunal was created under a bill entitled "An Act to Establish a Court of Private Land Claims in Certain States and Territories."

The Court of Private Land Claims opened formally in Denver, Colorado, on 1 July 1891. The court, composed of five justices fully qualified for their duty, had sole jurisdiction over the adjudication of lands claimed to be derived from Mexico and Spain.<sup>55</sup> The five-man tribunal moved throughout the area, taking testimony in remote plazas, visiting old ruins, and talking to Indians and Hispanos. Witnesses were colorful in dress, lawyers were brilliant in tactics, and the cultural milieu in which the court operated caused Judge Wilbur F. Stone to comment at length on the "history and romance attached to the settlement and holding of these lands."<sup>56</sup>

In February 1893 the Court of Private Land Claims accepted a petition for confirmation of the Conejos land grant. The petitioner was Crescencio Valdez, son of Seledon Valdez.<sup>57</sup> In his petition Valdez included a description of the papers filed with the surveyor general in 1861.<sup>58</sup> He reviewed the sequence of events beginning with the original donation, the persistent trouble with Indians, and the revalidation petition of 1846. The loss of the original paper was noted with the added comment that diligent search by the claimant and others had turned up nothing. A sketch map of the tract was filed.<sup>59</sup> The petitioner stated that the land grant had not been considered or acted upon by the surveyor general or by Congress or by any other authority constituted by law for the adjustment of land titles in Colorado. The petitioner claimed that he was the owner in fee of an undivided interest in the said land grant from his father Seledon Valdez, one of the original grantees, and that the title of the grant was complete and perfect at the date when the United States acquired sovereignty. The court was further informed that a large number of persons amounting to some thousands were now in occupation and in de facto possession of portions of

<sup>51</sup> "Its function being, primarily, to determine the validity of title as between the United States and the grantee claiming under a foreign nation, it involved:

"First, a legal interpretation of the terms of the treaties between the two governments.

"Second, a consideration of international law, the civil law of Spain founded upon Roman civil law; the edicts, ordinances, and decrees of the Spanish crown, reaching back two or three centuries, relating to the crown possessions of the Indies.

"Third, the laws and statutes, federal, departmental, and state, of Mexico subsequent to the independence of that government in 1820.

"Fourth, the restrictive provisions of the act of congress creating the court.

"Fifth, the decisions of the federal courts of the United States in the review of cases involving similar question" (Twitchell, *The Leading Facts of New Mexican History*, 2:468-69).

<sup>52</sup> Stone, *The Only Court of Its Kind*, in *Report of . . . Governor of New Mexico*, . . . 1903, p. 382.

<sup>53</sup> *CPLC*, case no. 109, pp. 2-5.

<sup>54</sup> *Ibid.* Judge Stone had the surveyor general's office send the documents to the Court of Private Land Claims. They were so noted and marked as exhibits by the plaintiff, Crescencio Valdez.

<sup>55</sup> Unfortunately, this sketch map is missing from the microfilm collection.

<sup>51</sup> *CPLC*, case no. 109, pp. 2-5.

<sup>52</sup> Twitchell, *The Leading Facts of New Mexican History*, 2:462.

<sup>53</sup> Stone, *The Only Court of Its Kind*, in *Report of . . . Governor of New Mexico*, . . . 1903, p. 378.

<sup>54</sup> "Letters to the Editor," *Denver Daily Tribune*, 14 July 1871.





Wilbur Stone



Crescencio Valdez

the land included within the limits of the grant, not by lease or permission of the petitioner.<sup>60</sup> Valdez ended his petition by asking the court to consider the validity of the grant and to confirm the title of the petitioner and that of the heirs, assigns, and legal representatives of the original grantees.

The position of the United States attorney for refusal of validation rested firmly on the undeniable fact that no paper denoting ownership could be produced by the petitioner. The petitioner, through the affidavits collected from the Mexican officials and through the testimony of witnesses who actually went to the grant in the 1840s, hoped to show that repeated attempts at settlement strongly implied a belief in ownership. The United States attorney also dealt at some length on the Hispano homestead entries on the disputed land. In the cross-examination of the witnesses and of the plaintiff, the point was repeated several times that Hispanos, by virtue of their filing on public domain land, acknowledged that the land was indeed public domain land.<sup>61</sup> Attorneys demanded of the plaintiff, early in the proceedings, that he must inform each and every individual holding land on the grant that they were defendants in his action. The plaintiff was, in fact, strongly criticized for not informing such individuals. Half-way through the proceedings, the attorneys for Crescencio Valdez filed a waiver with the court for claims in Townships 39N, 40N, Ranges 7E through 11E.<sup>62</sup>

The question of whether the disputed area was grant land or public domain land was the crucial consideration of the case.

The defendant's position was, of course, firmly related to the public domain status as the following excerpt from a cross-examination by Valdez's lawyers illustrated:

Q. How do you claim your lands up there?

A. Government land.

Q. Got a patent from the government?

A. Yes.

Q. That is inside of this land they used to claim as grant land isn't it?

U.S. Atty. Objection. To any proof as to any of these lands that have been sold by the government or disposed of by the government as not being proper.<sup>63</sup>

In August of 1900 the opinion of the Court of Private Land Claims was delivered on the Conejos grant. It read:

In this case there will be a judgment rejecting the claim and dismissing the petition. The ruling is based upon the ground that we have no competent or satisfactory evidence that a grant was made. These parties relied very largely upon the proceedings of 1842 which was a petition to the Prefect in which in 1832 or 1833 they allege that the land had been given to them and that they had been prevented by hostile Navajoes from occupying it, and based upon that petition the Prefect directed the Alcalde to give them possession, the Prefect having corresponded with the Governor to ascertain whether or not he had the power to do so, and he was advised by the Secretary to the Governor that the matter had been submitted to the Governor, and that he was in doubt as to whether or not there was any authority to put them back in possession.<sup>64</sup> We have no evidence that a grant was made to them in 1833 except their own declarations contained in their petition to the Prefect, and his action in which he assumed that was correct. In the absence of any competent evidence of the grant, we feel ourselves constrained to deny all relief.<sup>65</sup>

And so some sixty-seven years after it was allegedly granted, the history of the entity known as the Conejos grant came to an end.

Was the land lost? In the case of the Conejos grant it is difficult to argue against the lack of evidence in the form of a donation document. It is quite likely that had the surveyor general considered the case in 1861 this lack would have constituted a major obstacle to confirmation. On the other hand, consideration of the grant at that time may have produced a different result, because Commissioner Wilson had stated in his discus-

for choosing to waive the claim rather than serve summons to each individual.

<sup>60</sup> CPLC, case no. 109, p. 197.

<sup>61</sup> Ibid. This point of legal authority was argued back and forth. The plaintiff's position was that a three-man commission had reviewed the situation and had ruled for the grantees. The defendant believed that a strict interpretation of Mexican law would show such action to be illegal.

<sup>62</sup> CPLC, case no. 109, p. 127.

<sup>63</sup> According to the Spanish land description, the boundaries of the grant would have included the counties of Conejos, Rio Grande, and parts of Saguache and Alamosa. These counties, with the exception of Conejos, were the site of heavy Anglo homestead entries in the 1870s and 1880s (see *Del Norte Cash Entry Book*).

<sup>64</sup> CPLC, case no. 109, p. 205.

<sup>65</sup> Ibid. In their waiver the lawyers for Valdez listed the "enormous expense involved" as the reason



sion on proof of land ownership that "in all cases of course, the *original* [Wilson's italics] title papers are to be produced or loss accounted for."<sup>66</sup> The statements by Mexican officials could very well have constituted an accounting for the loss. The question of repeated abandonment of the grant due to Indian harassment also presented a serious problem. Thus, the surveyor general could possibly have rejected the claim on these grounds.

It is quite apparent, however, that in the minds of those who originally settled the Conejos grant, there was the belief that they had a right to the land. There is no other way to account for the repeated attempts to colonize the area in the face of extreme danger to their lives. And they did try to settle. Not only are there affidavits to such intent and fact from the Mexican officials as well as letters of the grantees themselves, but in the testimony of witnesses before the court, many stated they had been told by parents and relatives of finding on each renewed attempt to settle, old acequias covered with weeds, broken down corrals, and jacals—evidence of prior occupation attempts.

The settlers on the grant had no reason to worry seriously about their land titles until the 1870s. With the discovery of placer gold in the San Juan Mountains in 1870 and the lode strikes the following year, the influx of Anglos into the area began in earnest. The Del Norte office was opened in 1875 and homestead entries were filed. The available evidence indicates that the Conejos land grant was filed upon as a public domain land when, in fact, its legal status had not yet been determined. Judge Wilbur F. Stone on the Court of Private Land Claims found this legalized squatting to be a regular occurrence:

The claimants and possessors of lands under such titles were constantly hampered by refusal of new settlers to recognize their claims. Colorado and New Mexico had begun to settle up rapidly by an invading army of immigrants—mostly Americans from the old western states and the east who knew nothing of "grants" and in their eagerness to "git to take up a 160 acres of land like they could back in Kansas and the laway" were disposed to treat all the country as belonging to Uncle Sam since the war with Mexico and disregard the rights of claimants.<sup>67</sup>

The undetermined status of the Conejos grant and others like it opened up the door for "illegal" entry, speculative attempts, and a period of uncertainty for the Hispanos. The role of public officials in encouraging illegal entries was attested to by Judge

Stone also. Local land offices encouraged entry and not through ignorance, for most grants were notoriously well known, but for the fees of office. The judge observed that this practice was particularly notable in southern Colorado and New Mexico. Congress added to the injustice of the situation by confirming the grants only on the stipulation that "squatter entries, although illegal when made, should be excepted from the confirmation." The grantee was then allowed to select a similar piece of land where he could find it in the public domain.<sup>68</sup>

The question of lost land is essentially and unfortunately moot. The United States government in its failure to adjudicate land grants quickly displayed a strong disregard for the treaty obligations it had pledged to uphold in 1848. Based upon the evidence, the government failed to uphold the property rights of those Mexican citizens on the Conejos grant in the spirit of the treaty. The fact that those claims were finally handled in the Court of Private Land Claims does not excuse the government's failure to bring justice and prompt relief to the former citizens of Mexico. Of the five Colorado grants, the Conejos grant was the only one not considered by the surveyor general and also the only unconfirmed grant in Colorado. The parallels that exist between confirmation and development of the other grants by entrepreneurial Anglos strongly suggest that where political influence and pressure were brought to bear, action was taken by the government. In the other Colorado grants, this influence was predominantly Anglo-American. The Conejos was a colony grant, heavily populated by Hispanos and ignored by grant developers. When the influx of Anglos into the area made governmental action imperative, the validity of the grant was finally considered. The land grants in general, and the Conejos in particular, offer strong evidence of the expansive, aggressive, and sometimes arrogant attitude of the United States in its westward movement. It is unfortunate that many Hispanos experienced only the darker side of the movement.

*PURNEE A. McCOURT received her B.A. in 1970 and her M.A. in 1974 from the University of Colorado in Boulder. A Phi Beta Kappa graduate, she is a wife and a mother of five children and is a member of the Colorado Mountain Club and the Denver Botanical Gardens.*

<sup>66</sup> Correspondence of the Surveyor General, reel no. 60, p. 4.

<sup>67</sup> Stone, *The Only Court of Its Kind*, in *Report of . . . Governor of New Mexico*, . . . 1903, p. 378.

<sup>68</sup> *Ibid.*



# William J. Hardin: Colorado Spokesman for Racial Justice, 1863-1873

EUGENE H. BERWANGER

William Jefferson Hardin resided in Denver for ten years from 1863 through 1873. During that time he served as a political spokesman for the Black community; he led a protest against the denial of Negro suffrage in the territory of Colorado and was active in the move for school integration. Yet, when one Denver newspaper in 1890 sought to identify important Negroes in the history of Colorado, its editor listed Edward Sanderlin, Lewis Price, William H. Green, Henry O. Wagoner, Barney L. Ford, and William A. Winship and quite ignored Hardin.<sup>1</sup> Colorado historians in succeeding years have given only brief mention to Hardin. One writer, Forbes Parkhill, has assigned Hardin's role as a civil rights leader to Barney Ford, owner of the Inter-Ocean Hotel in Denver during the Reconstruction Era.<sup>2</sup> Why has William J. Hardin received so little notice? This essay will attempt to clarify his role in Colorado postwar politics and, further, will examine the vagaries of his character which, in time, would lessen his effectiveness as a Black leader and bring him personal disclaim in the Denver community.

William Jefferson Hardin's educational training and wide travel experience contributed to his success as an orator and a leader; his background differed from that of most of his Black contemporaries. Born the son of a free quadroon and a white father in Russellville, Kentucky, in 1831,<sup>3</sup> Hardin claimed

<sup>1</sup> *Denver Republican*, 17 March 1890.

<sup>2</sup> Frank Hall, *History of the State of Colorado . . . from 1858 to 1890*, 4 vols. (Chicago: Blakely Printing Co., 1889), 1:376-77; Forbes Parkhill, *Mister Barney Ford: A Portrait in Bistre* (Denver: Sage Books, 1963), pp. 127, 129-30, 134-36, 159.

<sup>3</sup> To my knowledge, Hardin gave no mention of his birthdate; however, the 1870 census lists him as a mulatto, age 39, with a personal estate of \$1,500 (U.S., Department of the Interior, Census Office, *Population Schedules of the Ninth Census of the United States, 1870, Colorado*, "City of Denver," entry no. 15, p. 46, microcopy 593, roll 94, National Archives Microfilm Publications).



Barney L. Ford

Henry O. Wagoner

kinship to one of the most prominent families in the Bluegrass State.<sup>4</sup> He was raised and educated by Shakers in South Union, Kentucky, and was thus given academic exposure and contact with the larger community, an experience afforded few Blacks in the antebellum period. He became a teacher for "free children of color" in Bowling Green, Kentucky. Too restless to remain in the classroom, dissatisfied with living in a slave society, Hardin left his native state. He traveled and lived in a number of free states and in Canada. Finding none of these areas congenial, he settled in Denver at the age of thirty-two, where he engaged in occupations ranging from stock speculation to poolroom management and finally barbering.<sup>5</sup>

Many Blacks in the North, preferring anonymity, lived quietly in their communities and avoided bringing attention to themselves. Hardin, instead, sought local fame and used his ability as an orator to acquire it. In his first lecturing endeavors in Denver and nearby mining towns, Hardin discussed the accomplishments of Toussaint L'Ouverture in Haiti. His talks, advertised well in advance, drew large crowds and indicated to the editor of the *Black Hawk Daily Mining Journal* "that under proper culture blacks may be redeemed."<sup>6</sup> Hardin felt that it was his memorial address upon Lincoln's assassination that firmly

<sup>4</sup> According to Hardin, his father was the brother of Benjamin Hardin, a well-known Kentucky politician and congressman, but he never substantiated proof of his claim (*Cheyenne* [Wyo.] *Daily Sun*, 9 November 1879).

<sup>5</sup> Ibid.; *Denver Daily Rocky Mountain News*, 23 July 1873; Samuel S. Wallihan and T. O. Bigney, eds., *The Rocky Mountain Directory and Colorado Gazetteer, for 1871* (Denver: S[amuel] S. Wallihan & Co., [1870]), p. 276.

<sup>6</sup> *Black Hawk Daily Mining Journal*, 20 October, 11, 15, 16, 18 November 1864.



established his reputation.<sup>7</sup> His renown as a public speaker commanded an eager following as he began to press for equal rights for Blacks.

The 1861 law establishing qualifications for voters in Colorado Territory, if interpreted literally, was very broad-minded for its time; it permitted all males over twenty-one years of age to cast ballots. The territorial legislature amended the law in 1864, specifically disfranchising Negroes and mulattoes.<sup>8</sup> Simultaneously, a group of prostatehood men undertook to frame a state constitution and to secure admission into the Union. In order to avoid controversy over equal suffrage, the constitutional convention of 1865 provided that a referendum be held on Negro enfranchisement along with the public vote on the constitution itself. Enfranchised Coloradans accepted the constitution by a mere 155 majority but soundly denied Black suffrage by a vote of 4,192 to 476.<sup>9</sup>

*Election by Counties for Delegate to Congress, State Constitution, and Negro Suffrage.*

	Costilla	Conchos	Huerfano	Pueblo	Fremont	El Paso	Douglas	Arapahoe	Weld	Larimer	Boulder	Jefferson	Clear Creek	Gilpin	Park	Summit	Lake	Agate
December, 1861. Delegate.....	360	306	141	129	378	154	73	2,646	167	38	391	534	404	2,287	737	408	307	81
October, 1862. Delegate.....	467	540	138	130	73	93	114	2,347	161	38	196	345	340	2,240	833	453	497	81
September, 1864. Delegate.....	536	464	325	136	55	92	99	1,032	32	100	205	265	149	1,806	171	198	165	81
Under Congressional Enabling Act, September, 1864																		
Votes on adoption of constitution.....																		1,412
Votes on rejection of constitution.....																		81
Aggregate.....																		1,493
Majority against constitution.....																		31
Popular Movement.																		
September 5, 1865. For constitution.....	26	1	98	57	87	47	7	852	38	4	136	117	167	1,068	110	127	105	30
Against constitution.....	563	465	257	44	31	25	32	242	6	23	42	78	64	897	33	36	30	24
Aggregate.....	589	466	355	101	98	72	39	1,094	42	27	178	195	231	1,965	145	163	135	54
Majority for constitution.....																		31
September 5, 1865. Against suffrage.....	445	396	0	95	64	55	39	899	38	26	120	168	175	1,375	112	151	119	42
For suffrage.....	1	0	0	5	2	12	1	130	11	1	62	23	21	165	35	7	10	10
Majority against negro suffrage.....																		310

EXECUTIVE DEPARTMENT, COLORADO TERRITORY, DENVER, December 31, 1865.

I hereby certify that the within paper is correctly and accurately transcribed from the official record on file in this office, and that it correctly shows the separate population of the Territory under the census of 1861, and the whole number of votes cast in the several years named.

D. A. CHEVER, Clerk Executive Department Colorado Territory

Understandably, Blacks in the territory were resentful and sought to reverse both legislative and public decisions. It was Hardin's reputation as "Colored Orator of Denver" that brought

<sup>7</sup> *Cheyenne Daily Sun*, 9 November 1879.

<sup>8</sup> Colorado, *General Laws* . . . Passed at the First Session of the Legislative Assembly of the Territory of Colorado . . . 1861, pp. 72-73; Colorado, *General Laws*, 3d sess., 1864, pp. 79-80.

Hardin insisted that Negroes had voted in Colorado between 1861 and 1864; however, Governor John Evans denied this assertion in a memorial on the subject to Congress in 1866 (*Denver Daily Rocky Mountain News*, 8 February 1866; Harmon Mothershead, "Negro Rights in Colorado Territory [1859-1867]," *The Colorado Magazine* 40 [July 1963]:218-19).

<sup>9</sup> U.S., Congress, Senate, *Congressional Globe*, 39th Cong., 1st sess., 1866, 38, pt. 2:1351-53, contains

him to the fore. He took to the podium, challenging James M. Cavanaugh and John M. Chivington, candidates for Congress, to a public debate on equal rights held 7 November 1865. Refuting his opponents, Hardin first criticized their advocacy of Irish suffrage and chastened them for characterizing Negroes and Indians alike as uncivilized. According to the *Denver Rocky Mountain News*, he then launched into an "eloquent" lecture on the accomplishments of Blacks. So effective was his speech that his predominantly white audience, although not favoring suffrage for all Negroes, concluded that Hardin had proved his own right to the ballot. Even Cavanaugh reversed his stand and announced his support for impartial voting.<sup>10</sup>

Hardin's speeches on behalf of equal suffrage grew in popularity. In 1866 he delivered major addresses commemorating the Emancipation Proclamation and Independence Day. Recalling that Fourth of July address years later, Hardin referred to it proudly as one of his best efforts. His listeners had tears in their eyes as they heard his portrayal of the horrors committed during the 1866 race riot in Memphis; he moved his white audience to shame as he described the ill treatment of Blacks in the South.<sup>11</sup>

Unrelenting in his campaign, Hardin turned from local speechmaking to direct national appeal. By letters, telegrams, and petitions, he protested the suffrage restriction and denounced the lack of public education for Black children. He directed one of his first letters to the editor of the *New York Tribune*, Horace Greeley. In it Hardin reported that Barney Ford and Edward Sanderlin were subject to taxes on property valued at \$30,000 and \$40,000, respectively, but were obliged to send their children to private schools in the East. As to the question of Negro franchise, Hardin asked Greeley outright to use his influence against Colorado's admission, then being considered by Congress, because the Colorado Constitution denied equal suffrage. To the relief of the prostatehood faction in the territory, Greeley balked, maintaining that every state and territory should stipulate its own voting qualifications.<sup>12</sup> Hardin's subse-

a table for Colorado Territory's "Election by Counties for Delegate to Congress, State Constitution, and Negro Suffrage" (hereinafter cited as *Cong. Globe*); *Denver Daily Rocky Mountain News*, 19 September 1865; U.S., Department of State, *State Department Territorial Papers, Colorado Series*, 2 vols., 1 no. 74, folio 135, microcopy 3, National Archives Microfilm Publications (hereinafter cited as *Colorado Territorial Papers*). (The figures on Negro suffrage in Mothershead, "Negro Rights in Colorado Territory [1859-1867]," p. 218 were printed incorrectly.—Ed.)

<sup>10</sup> *Denver Daily Rocky Mountain News*, 4, 8 November 1865.

<sup>11</sup> *Ibid.*, 28 December 1865, 29 June 1866; *Cheyenne Daily Sun*, 9 November 1879.

<sup>12</sup> William J. Hardin to Horace Greeley, 15 December 1865, and Greeley's reply, in *New York Tribune*, 15 January 1866.



quent plea to Senator Charles Sumner of Massachusetts elicited the opposite response. From the time that Sumner read Hardin's telegram to the Senate until Congress passed the law granting equal suffrage in the territories, Sumner worked diligently to achieve Hardin's goal.<sup>13</sup>

I have alluded to the message of the Governor. I now cite another authority, which is a telegraphic dispatch from a colored citizen of Colorado, which has traveled over the wires a very long distance, as follows:

DENVER CITY, COLORADO, *January 15, 1866.*

The law adopted by the Territorial Legislature in 1861 allowed all persons over twenty-one to vote, without distinction of color. The law passed in 1864, signed by Governor Evans, deprived colored citizens of the right at the very time when appealing to them to help save the country. The admission of Colorado under her present constitution makes that law permanent. If not admitted now, this can be corrected.

WILLIAM J. HARDIN,  
A colored citizen.

Public speeches and appeals to individual lawmakers notwithstanding, Hardin's strongest thrust came in the form of petitions that, incidentally, brought the greatest disfavor among Colorado's prostatehood men.<sup>14</sup> The first petition, sent to Congress in December 1865, decried limited suffrage and requested that Congress deny Colorado statehood "until the word *white* be erased from her State Constitution." The document had 137 Black, male signatories, indicating that Hardin had achieved unity among Colorado Negroes.<sup>15</sup> He addressed a second petition to Alexander Cummings, territorial governor, in January 1866 in which he questioned both suffrage and

educational restrictions and asked for the governor's help in eliminating them. Blacks found a sympathetic audience in Cummings, for he began to press for impartial suffrage and educational opportunities, even though his efforts were without success.<sup>16</sup>

Negroes in all of the territories, including Colorado, received the right to vote from Congress in January 1867, three years before the Fifteenth Amendment became effective. Radical Republican support for the federal territorial suffrage law was prompted by several factors, among them President Andrew Johnson's refusal to push Black suffrage in the Reconstruction process and the denial of equal suffrage in the Nebraska Territory. But the protest of Colorado's Blacks also influenced the passage of the federal territorial suffrage measure. During consideration of the bill in the House of Representatives, Congressman William Allison of Iowa offered support only when assured that the measure would apply to Colorado too. In a letter to a friend after the bill became law, Sumner shared his jubilation on the success of his work to achieve Black suffrage in both Nebraska and Colorado.<sup>17</sup>

White Coloradoans accepted equal suffrage without opposition.<sup>18</sup> The editorial reaction of the *Denver Rocky Mountain News*, expressed by William Byers, made it apparent, nevertheless, that Hardin's aggressiveness in the matter had created antagonism for him. While Hardin's verbal appeals had been reported favorably in 1865, editorial sympathy completely disappeared in 1866 when news of the petitions to Congress and to the territorial legislature became known. Refusing to recognize that Blacks alone were responsible for the documents, Byers saw them as directed by antistatehood forces or by the struggling Democratic party in the territory. It was difficult to understand why Blacks should wish to frustrate statehood, which, according to Byers, was the main goal of Union Republicans. Republicans had always defended Negroes' in-

<sup>13</sup> *Cong. Globe*, 39th Cong., 1st sess., 1866, 38, pt. 3:2138, 2180. Hardin's name was misspelled "Harding" in the *Globe*.

<sup>14</sup> Henry O. Wagoner also played an important role in the petition movement; his signature, along with Hardin's, appeared on the two petitions and all pertinent correspondence. Other Black citizens who signed one of the two cover letters include J. G. Smith, Albert Arbor, A. C. Clark, and W. E. Randolph. See notes immediately following for citations.

<sup>15</sup> "Petition of colored citizens of Denver and Colorado to Congress" [1865], *Colorado Territorial Papers*, 1: no. 77-78, folio 140-41.

Copies of the petition were also sent to Horace Greeley and to Allen Bradford, Colorado's delegate in Congress (*New York Tribune*, 15 January 1866; *Denver Daily Rocky Mountain News*, 23 February 1866).

<sup>16</sup> "Petition of colored citizens [Hardin, Wagoner, Arbor, Clark, and Randolph] to Governor Cummings," 20 January 1866 and "Special Message of Gov. Cummings to the Legislative Assembly on Negro Suffrage," *Colorado Territorial Papers*, 1: no. 92, folio 192.

Cummings's motives were complex. While sympathetic to Blacks, he used the denial of their rights, along with other arguments, to work against Colorado's admission into the Union. A succinct explanation of the governor's role is found in Howard Roberts Lamar, *The Far Southwest, 1846-1912: A Territorial History*, Yale Western Americana Series, No. 12 (New Haven and London: Yale University Press, 1966), pp. 226-64.

<sup>17</sup> *Cong. Globe*, 39th Cong., 2d sess., 1867, 39, pt. 1:398; Charles Sumner to Francis Bird, in W. E. B. DuBois, *Black Reconstruction . . . in America, 1860-1880* (New York: Harcourt, Brace & Co., 1935), p. 331.

<sup>18</sup> *Denver Daily Rocky Mountain News*, 1, 3 April 1867.



terests and the petitions could only be considered "an act of treachery and ingratitude rarely exceeded." Byers characterized Hardin as an opportunist seeking national attention but without regard to the effects of his actions on Colorado's welfare. During the ensuing months, the editor mocked the Black leader by suggesting his nomination for Denver mayor in the 1866 municipal election; further, he factitiously lamented Governor Cummings's failure to nominate Hardin for an appointive office.<sup>19</sup> Blacks were expected to play a passive role at best in public affairs, and Hardin's refusal to subdue his voice created resentment, eventually making him persona non grata to many of his white contemporaries.

Whereas Hardin's abrasive behavior on behalf of equal suffrage caused consternation among whites, his readiness to chastise Negroes for improprieties in their behavior irritated the Black community as well. Feelings were perhaps intensified because Hardin used public media to reprimand transgressors rather than doing so privately. For instance, a fight broke out on 1 August 1867 among Negroes celebrating emancipation in the West Indies. Instead of choosing a more tactful recourse, Hardin complained openly of the affray in a lengthy letter to the *Denver Rocky Mountain News*. Labeling the participants as "utterly depraved and degraded," he asked Denver citizens to heap "just condemnation" upon the fighters for their "niggerdly" conduct. He then lectured Blacks on proper manners, suggesting that they deserved segregation or exclusion from public places if they failed to observe expected decorum.<sup>20</sup>

Certain Blacks regarded Hardin's racial slurs as demeaning. In a letter of reply to the *Denver Colorado Tribune*, they demanded a public apology. Refusing to make verbal amends, Hardin described their request as absurd. An attempt by one signer to reduce the Black leader's public stature was countered by Hardin with the statement that "among those who signed the article is the name of a man whom my friends have often pointed out to me as one of my most inveterate enemies; a man of whom it is said never loses an opportunity to vilify and belittle me, although he is as sneaking about it as a snake in the grass."<sup>21</sup> Public name calling seldom has a positive outcome and, in this case, the repercussions of Hardin's retort remain unknown.

Denver newspapers refused to print further correspondence on the issue. More than likely those Blacks reprimanded in 1867 snickered over the circumstances that caused Hardin to flee Denver in 1873, and they may well have regarded his downfall as just retribution for his past intemperateness.

Black leaders in Denver may also have been disturbed by Hardin's failure to acknowledge their contributions to the cause of Black freedom, for Hardin tended to draw praise toward himself while overlooking others. The school integration controversy is a case in point. It is true that Hardin had referred to the lack of public education for Black youth while pursuing the greater cause of equal suffrage, but the struggle for integration was precipitated by Lewis Douglass, not by William Hardin. Frederick Douglass's sons, Lewis and Frederick, Jr., had arrived in Denver during 1866 and immediately had become involved in the quest for equal rights. Lewis directed his efforts toward education. After Congress granted equal suffrage in January 1867, he established a night school for adults, intent upon giving Blacks the rudiments of government and politics. The following June, Douglass demanded education at the public's expense for the Black youth as well. In a letter to the *Denver Rocky Mountain News*, he questioned the radicalism of certain Colorado Republicans because of their refusal to push integration. He implied that unless their support for equalized schooling was forthcoming, the Republican party could expect the loss of Black votes.<sup>22</sup> Hardin became involved in this struggle, but not before August, when he and Sanderlin requested a meeting with the Denver Board of Trustees for Schools and demanded integration. They failed to achieve their full objective immediately; Black children were educated in segregated facilities for several years before integration came to Denver in 1873.<sup>23</sup>

Hardin's recollection of the integration controversy—in a political biography published in a Cheyenne newspaper in 1879—is curious for its omissions and changes in fact. He failed to mention Douglass or Sanderlin. As he recalled it, the principals in the dispute were himself and George W. Miller, a white segregationist. At the board meeting Miller spoke first, characterizing Blacks as degraded and beyond education. Hardin described the ensuing debate to a reporter as follows:

<sup>19</sup> Ibid., 15, 23, 30 January, 7 February, 15 March 1866.

<sup>20</sup> Ibid., 2 August 1867.

<sup>21</sup> *Denver Daily Colorado Tribune*, 6, 8 August 1867.

<sup>22</sup> *Denver Daily Rocky Mountain News*, 16 January, 6 June 1867.

<sup>23</sup> *Ninth Annual Report of the Board of Education, District No. 1, Arapahoe County, Colorado, August 1, 1883* (Denver: Tribune Publishing Co., 1883), p. 17, in *Denver District No. 1, Reports 1875-1892*.



Miller, born into a Southern family in Missouri in 1833, migrated to Colorado Territory in 1864. A Denver lawyer and Arapahoe County judge, he was an advocate of the Democratic party and was elected to the territorial legislature in 1867, becoming speaker of Colorado's house in 1869.



When Miller took his seat it was evident from the applause he received that he had made considerable impression on the meeting in favor of non-admission. Then Hardin rose to reply; his best friends feared that he was not equal to the occasion. But they were mistaken. His opponent had aroused all of his latent powers, and in a speech of one hour, full of facts, logic, sarcasm and eloquence he completely and successfully refuted Miller's arguments. During the delivery of Hardin's speech Miller changed colors and positions and squirmed and twisted like a worm in hot embers. Republicans and Democrats who were present at the meeting said they never before saw Miller so badly used up on the rostrum or at the bar as on that occasion.<sup>24</sup>

Hardin distorted events, knowingly or unknowingly, and took full credit for achieving integration. He stated that this struggle occurred just before he left Denver in 1873. Yet, the Arapahoe County educational report states that integration came about in 1873, apparently without incident.<sup>25</sup> A check of Denver newspapers from September 1872 to June 1873 shows no discord over public education. The *Denver Rocky Mountain News* in particular gave wide coverage to school matters during those months but did not mention any controversy over integration. Conceivably, both the *News* and the *Denver Daily Colorado Tribune* might have ignored a conflict in 1873, but such an oversight hardly seems likely considering their coverage of the school struggle in 1867. At that time they had given detailed accounts of the Black effort to achieve integration.<sup>26</sup>

Hardin overemphasized his role in political affairs as well. Noting that he reluctantly spoke to the Republican territorial

convention in 1872, he recalled that the "Denver press pronounced his speech the speech of the convention." Again, the *News* and the *Tribune* contain no mention of Hardin's speech. The Democratic *Denver Times* noted Hardin's address but hinted that it was an unimportant aspect of the meeting. Colorado Republicans considered Hardin's orations at their conventions amusing but of little political consequence.<sup>27</sup>

Despite Hardin's tendency to exaggerate his importance, his leadership was instrumental in the quest for equal suffrage and education for Blacks. His role, in fact, had made him one of the most well known, if not one of the most highly respected, Blacks in Colorado. After 1867 Hardin began to champion the causes of the Republican party more and the rights of Blacks less. He urged Blacks to be content with their achievements and to support the Republican party. He revealed his new approach, for example, in his address commemorating the promulgation of the Fifteenth Amendment in 1870. Referring to the amendment as "one of the greatest and grandest events ever recorded in the annals of American history," he praised the Republican party for its successes during the past decade. Clearly, Hardin considered equality before the law the furthest advance Negroes could hope to realize. More realistic, if less polished, was Henry Wagoner, Jr.'s, observation on Negro suffrage. He warned Blacks that legal equality could be maintained only by constant vigilance.<sup>28</sup>

It was the apparent satisfaction of Blacks with their gains and Hardin's own desire to advance in politics that dictated his change in emphasis. From 1867 he attended most Denver, Arapahoe County, and territorial Republican conventions, serving mainly as a speaker. Recognition came in 1872 when he was named delegate-at-large to the Republican national convention in Philadelphia.<sup>29</sup> The year 1873 seemed particularly auspicious for him. Through the influence of Jerome B. Chaffee, Colorado's territorial delegate in Congress, Hardin received an appointment as weigher at the United States Mint in Denver. Soon after, he married Nellie Davidson, a young, white, well-established milliner in Denver. Fortune smiled on Hardin; unfortunately, he had not reckoned with his past.

On the morning of 22 July 1873 a light-skinned Negro lady arrived in Denver and immediately proceeded to police head-

<sup>24</sup> *Cheyenne Daily Sun*, 9 November 1879.

<sup>25</sup> *Ninth Annual Report of the Board of Education*, . . . August 1, 1883, p. 17.

<sup>26</sup> *Denver Daily Rocky Mountain News*, 3, 15 October 1867; *Denver Daily Colorado Tribune*, 3, 4 October 1867; *Daily Denver Tribune*, September 1872-June 1873.

<sup>27</sup> *Cheyenne Daily Sun*, 9 November 1879; *Denver Times*, n.d., in Elmer Ellis, *Henry Moore Teller: Defender of the West* (Caldwell, Idaho: Caxton Printers, 1941), p. 88.

<sup>28</sup> *Denver Daily Rocky Mountain News*, 3 May 1870.

<sup>29</sup> *Cheyenne Daily Sun*, 9 November 1879.



quarters. She introduced herself as Mrs. Caroline K. Hardin and presented evidence indicating that her husband, William, was guilty of bigamy and adultery. Caroline Hardin possessed substantial evidence to support her charge—a family Bible in which William had recorded their wedding date in Bowling Green and numerous letters from Hardin over the previous twenty-three years acknowledging himself as her husband and the father of her daughter. For good measure, she added that he had fled Omaha in 1863 to avoid the draft. The sheriff summoned Hardin to headquarters, where the sheriff and the district attorney interrogated the Black leader. Upon Hardin's return to the mint that afternoon, he was called into Director Chambers C. Davis's office and summarily dismissed.<sup>30</sup> The man who had so desired attention and fame became the object of gossip in Denver for the next six weeks.

Never at a loss for words, Hardin defended himself convincingly. He admitted being a draft dodger but denied that his marriage had legal standing in Kentucky because he was a minor and Caroline a slave when the ceremony had been performed in 1850. Mrs. Hardin denied his allegation, but the district attorney decided to investigate the 1850 Kentucky marriage laws before taking action. As a result, he did not immediately prefer charges.<sup>31</sup>

The *Denver Daily Rocky Mountain News*, always antagonistic toward Hardin, was caustic in its coverage of his personal troubles. Perhaps Hardin had not violated written law, said Byers, but he was still guilty of a moral crime—adultery. He had recognized Caroline as his wife until his marriage to Nellie Davidson. Further, Byers asked whether the Republican party could “afford to carry into important position a man who pleads guilty to the charge and openly admits that he ran away from Omaha to avoid the draft?”<sup>32</sup>

Undoubtedly Hardin's moral indiscretion shocked some Blacks, but his dismissal from the mint without a hearing angered others. Meeting at the African Baptist Church, they passed resolutions criticizing Director Chambers C. Davis for releasing Hardin merely on the basis of Caroline's charges. At that, Davis publicly replied that Hardin had been fired for incompetence; Davis had no use for a “weigher” who could not do

even simple mathematics. Hardin's shortcomings had become evident soon after he had assumed the position, and Davis had requested and had received permission from Washington, D.C. before 22 July to release him. Hardin's questionable moral conduct only encouraged Davis to terminate Hardin's employment immediately instead of at the end of the year as planned.<sup>33</sup>

Hardin replied to the accusations in the *Daily Denver Tribune*, the one newspaper that had been consistently sympathetic to him in the past. Denying his incompetence, Hardin leveled the charge of racial prejudice against the officials of the mint and the leading Arapahoe County Republicans. “The highest officials” at the mint, he said, had indicated their dislike of having “a nigger on an equal footing” with white men. Had Hardin been willing to accept a more humble, watchman's position, for instance, they would have continued to employ him. They had contrived false charges in order to dismiss him. Turning to local Republican leaders, Hardin noted their willingness to call him the “Hon. Mr. Hardin” as long as he gave acceptable speeches and delivered the Black vote. Now because of rumors of a Black revolt against the party, the same men referred to him as “Hardin, the Bigamist.” Hardin then accused white Republicans of having used him until he had become their equal; then they exhibited “all the old hatred of the days of slavery.” Indeed, Hardin believed that his Republican political enemies had purposely brought Caroline to Colorado in order to embarrass and belittle him.<sup>34</sup>

Hardin's denunciation of white Republicans may have been prompted by their nomination of Barney Ford as a candidate for the territorial legislature.<sup>35</sup> But his remarks about his first marriage encouraged Caroline Hardin to seek public sympathy. She had not come to Denver to punish Hardin, Caroline wrote, but merely to regain her husband. Both William and his second wife rejected her appeals. Nellie informed Caroline that she had known of Hardin's previous marriage but still intended to continue living with him. Having taken every recourse open to her, Caroline announced her intention to seek an investigation unless her husband returned to her.<sup>36</sup>

Faced with Caroline's threat to take legal action, Hardin fled Denver in September. Two months later he returned only to

<sup>30</sup> *Denver Daily Rocky Mountain News*, 23 July, 2 September 1873; *Daily Denver Tribune*, 23 July 1873; *Denver Times*, 23 July 1873.

<sup>31</sup> *Denver Daily Rocky Mountain News*, 23 July, 2 September 1873.

<sup>32</sup> *Ibid.*, 23, 24 July, 28 August 1873.

<sup>33</sup> *Ibid.*, 23, 31 August 1873.

<sup>34</sup> *Daily Denver Tribune*, 23 July, 27, 30 August 1873.

<sup>35</sup> *Denver Times*, 26 August 1873. Ford failed to secure election to the legislature.

<sup>36</sup> *Denver Daily Rocky Mountain News*, 2 September 1873.



depart quickly again with Nellie, "his coat . . . buttoned up closely about his face, as though he desired to avoid attraction."<sup>37</sup> In a letter to friends he promised to "settle with everybody" at a later date.<sup>38</sup> That occasion presented itself at a territorial Republican convention in 1875. There Hardin fully exposed his former enemies, and he said that his entire denunciation was reported in the Denver newspapers. Once again he had exaggerated; neither the *Denver Daily Rocky Mountain News* nor the *Daily Denver Tribune* reported his speech. The *Tribune* alluded to it in a warning to Republicans to ignore those individuals who sought to destroy the party. Only Henry Wagoner referred directly to Hardin's remarks. He seemed confused, however, about the personal criticism heaped upon him by "that Mr. Harding."<sup>39</sup>

After Hardin's departure from Denver he took up barbering once more in Cheyenne. In 1879 and 1882 he served in the territorial legislature, and he holds the distinction of being the only Black to have served in the Wyoming territorial or state legislature. He was well respected as a legislator but chose not to continue in politics. For reasons unknown he left Wyoming. One descendant believes that he lived in Park City, Utah, for a time and then may have moved to Leadville, where he died in 1889 or 1890.<sup>40</sup>

Hardin's role as a civil rights leader has been, for the most part, forgotten. In a sense he caused his own undoing. His aggressiveness on behalf of Negro suffrage left a bitter taste among his white contemporaries; his lectures to Blacks on seemly conduct appeared a sham in light of his own life style; his quest for personal recognition encouraged him to exaggerate his own contributions or to ignore those of other individuals. His domestic indiscretions, while amusing to gossipmongers, were a breach of moral etiquette, and his marriage to a white woman surely stigmatized him within the white and Black communities alike. Despite his faults, Hardin's achievements deserve recognition. Even the *Denver Rocky Mountain News*, scarcely

pro-Hardin, did as much. In 1873 Byers declared that Hardin's "accomplishments have completely eclipsed his fellows in this city who have hung spell-bound on the hooks of his eloquence and been led by his counselings."<sup>41</sup> William Jefferson Hardin may not have been the most exemplary of individuals, but in the immediate post-Civil War years he served as an unquestioned voice of Denver's Black community.

*EUGENE H. BERWANGER received his B.A. and M.A. from Illinois State University in Normal and his Ph.D. from the University of Illinois in Urbana. Presently a professor of history at Colorado State University in Fort Collins, he has published two books THE FRONTIER AGAINST SLAVERY (1967) and AS THEY SAW SLAVERY (1973) and several articles.*

<sup>37</sup> Ibid., 5 November 1873.

<sup>38</sup> *Daily Denver Tribune*, 8 October 1873.

<sup>39</sup> *Denver Daily Rocky Mountain News*, 14 September 1875; *Daily Denver Tribune*, 14 September 1875.

<sup>40</sup> Marie H. Erwin, *Wyoming Historical Blue Book: A Legal and Political History of Wyoming, 1868-1943* (Denver: Bradford-Robinson Printing Co., [194?]), pp. 298-99, 305; *Laramie (Wyo.) Sentinel*, 15 November 1879; *Cheyenne Daily Leader*, 16 December 1879; William H. Morris to Clerk of Records, House of Representatives, Wyoming State Legislature, July 1956, in William Jefferson Hardin file, Wyoming State Historical Society Library, Cheyenne.

<sup>41</sup> *Denver Daily Rocky Mountain News*, 23 July 1873.