

*Historical Essays on Montana
and
The Northwest*

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*Edited by
J. W. Smurr
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HISTORICAL ESSAYS ON MONTANA AND THE
NORTHWEST

In Honor of Paul C. Phillips

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- ⁴⁹ Atchison to Hauser, January 13, 1869, *Ibid.* In ensuing years the cost of importing currency fell to one-and-a-half or two per cent of the value of the shipments.
- ⁵⁰ Atchison to Dance, Stuart & Co., May 21, 1869, *Letterbooks*, vol. 6, Records of the First National Bank of Helena, Historical Society of Montana Library.
- ⁵¹ "Day Book" for period April 7, 1866 to May 11, 1867, record book marked "3. Misc. (Tellers), 1866 Box," Records of L. H. Hershfield & Co., Bankers. Included with the records are numerous cancelled checks which clearly demonstrate the varying means of payment. The records of this bank as well as those of the First National Bank of Helena have not been processed as yet so the final location of the above materials may be changed.
- ⁵² "1866 Box," *Ibid.* See also "Deposits Received" record for period June 25, 1866, to September 25, 1872, Records of the First National Bank of Helena.
- ⁵³ *Report of the Comptroller of the Currency, 1872*, pp. 699-700. Little mention is made in the newspapers of the circulation of foreign national bank notes. Reports made by the First National Bank to the Comptroller of the Currency through 1871 show the average holdings of National Bank notes of other banks to be about \$2,200, with a tendency to increase in the latter part of the period.
- ⁵⁴ McClure *Three Thousand Miles Through the Rocky Mountains*, p. 217. McClure reported in July, 1867, that the Territory was drained of one million dollars in greenbacks to pay freight.
- ⁵⁵ *Montana Post*, March 30, 1867. The *Post* reported that thereafter Wells Fargo & Company would ship gold dust eastward at the rate of 5¼ per cent and gold bars at 4¾ per cent of their value.
- ⁵⁶ *Ibid.*, June 29, 1867; and August 10, 1867.
- ⁵⁷ *Ibid.*, August 17, 1867; and September 7, 1867.
- ⁵⁸ *Helena Weekly Herald*, September 30, 1869.
- ⁵⁹ *Helena Daily Herald*, May 4, 1870.
- ⁶⁰ *Daily Rocky Mountain Gazette*, May 22, 1870. See also *Ibid.*, June 26, 1870; and *Helena Daily Herald*, May 26, 1870, for further elaboration.
- ⁶¹ *Daily Rocky Mountain Gazette*, March 30, 1870.
- ⁶² Worden to Hauser, May 23, 1871, Hauser Papers. Without a large gold dust trade to draw greenbacks, Missoula was more susceptible to currency stringency than other towns.
- ⁶³ *Helena Weekly Herald*, October 3, 1872.
- ⁶⁴ *Helena Daily Herald*, January 27, 1871.
- ⁶⁵ *Helena Weekly Herald*, November 13, 1873.
- ⁶⁶ *Ibid.*, October 2, 1873.
- ⁶⁷ *Ibid.*, October 2, 1873. See also *Report of the Comptroller of the Currency, 1873*, p. lxxi. The results of a special report on the condition of National Banks called for by the Comptroller on September 12, 1873, after the Panic began, showed that five National Banks in Montana had cash reserves of 29.8 per cent when a reserve of 15 per cent was required by law.
- ⁶⁸ This is not to deny that from the close of the Civil War to actual resumption of specie payments a hot controversy over the monetary situation raged in Washington.

JIM CROW OUT WEST

by J. W. Smurr

Among many interesting examples of the unoriginality and even sterility of the frontier mind may be mentioned the various attempts to transplant Southern racial bigotry in the Far West, a region held by the prevailing conceit to be far more liberal than any other. That embittered Southerners who turned their backs on defeat after 1865 should write their prejudices into the public law of the Territories where they settled is hardly surprising, and perhaps even to be condoned; but the persistence of such laws into the 1890's is something quite different and requires more than the Civil War to explain it. Montana Territory during this period is a case in point, for Montana segregated Negroes in the public schools.

How is one to account for such a development? The present writer believes that it sprang from the inability of pioneers to determine which of the older American institutions were applicable to the West and which were not. The theory will come as a surprise to some readers, probably, since we have all been taught to believe that adaptability was a virtue characteristic of the frontier movement from its commencement to its close. Others will wonder why an apparently simple case of racial feeling should be explained in so roundabout a way. Let judgment be withheld until we are further along. Our travels will range far beyond the confines of Montana, even past the American spectrum and into Canada.

The immediate object of these remarks is a law passed by the Territorial assembly of Montana in 1872, a pertinent section of which we offer as 'Exhibit A' in the singular episode about to be unfolded:¹

Sec. 34. The education of children of African descent shall be provided for in separate schools. Upon the written application of the parents or guardians of at least ten such children to any board of trustees, a separate school shall be established for the education of such children, and the education of a less number may be provided for by the trustees, in separate schools, in any other manner, and the same laws, rules, and regulations which apply to schools for white children shall apply to schools for colored children.

Before passing on to the social implications of the law it is necessary to consider the constitutional questions involved in it, because Montana was a Territory, not a state, and as such its power to act was far from clear. Whichever way we turn, the constitutional problem confronts us as it confronted our forebears.

In general, the governmental situation was this: Montana had been created in 1864 by an act of Congress which set up the kind of Territorial system common in those days.² By 1864 the Territories enjoyed a large measure of autonomy because they had wrested from the government at Washington a reluctant admission that they were, for all practical purposes, a good deal like the states of the Union. Insofar as they claimed a right to legislate on purely local matters they had a strong claim, but where the power of the Federal government itself came into play they were unlike states in one important regard—their legislation was sub-

ject to annulment by Congress.³ The only written guides of any value were the various Organic acts of Congress which described the structure and powers of the respective Territorial legislatures. In Montana the legislative power was to extend to "all rightful subjects of legislation consistent with the constitution [and laws] of the United States . . ."⁴

With respect to the Federal Constitution, these words imply that anything in the supreme law binding on the states was binding on the Territories as well. A most important part of the Constitution, in terms of civil rights, was the Fourteenth Amendment as ratified in 1868. The first section of that Amendment read as follows:⁵

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the *State* wherein they reside. No *State* shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any *State* deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The first thing that comes to mind is that the limitations expressed in the Amendment are limitations on states and not on Territories, so that it could be argued—as was done—that a Territory could legislate stringently against non-whites and get away with it. The whole question of the place of the Fourteenth Amendment *vis-a-vis* the Territories is so complex that it must be saved for a more thorough investigation;⁶ we satisfy the requirements of the present discussion by observ-

ing that few cases touching the point reached the United States Supreme Court during the period concerned. The supreme court of Montana Territory was quite vexed by the question and never fully settled it, sometimes preferring to rely on the Fifth Amendment as a dodge.⁷ Unfortunately for Negroes, the Fifth Amendment made no mention of "the equal protection of the laws," as did the Fourteenth, and this was the phrase usually relied upon by opponents of segregated schools as a weapon of attack.

Other parts of the Fourteenth Amendment seemingly protected Negroes in one way or another, but the state courts gradually robbed them of their force in a series of decisions which finally won the acceptance of the United States Supreme Court.⁸

We are still confronted with the practical question of what the legislative powers of Montana Territory consisted of. Under the Organic Act the assembly might legislate on "all rightful subjects of legislation"; but what were rightful subjects? By 1864, established practice was to let the Territorial courts decide. Frequently the United States Supreme Court had something to say on the matter, but Territorial powers were usually defined by Territorial courts. Analogy is the life of the law, it is said, and the Territorial courts found their guide in what the states were doing. If the states were passing laws segregating Negro children from white, surely Territories might do the same. Whatever state courts approved of should be given the judicial stamp of approval in the Territories. So ran the argument.

As of 1864 there were a number of cases which seemed to establish beyond cavil that school segregation was valid in the United States. Beginning with the celebrated case of *Roberts v. The City of Boston* in 1849, a Massachusetts action in which Charles Sumner himself appeared for the Negroes;⁹ and ending with the even more famous one of *Plessy v. Ferguson* (1896), which settled the matter insofar as the United States Supreme Court could settle it, the weight of decision had run against the colored people, although significant exceptions must be noted.¹⁰

So far as Montana itself was concerned, a contemporary decision by the California supreme court was very weighty and altogether unfavorable to the Negroes. A law enacted there in 1870 sought to do what the Montana statute did in 1872, and the wording was nearly identical. In *Ward v. Flood* (1874), the supreme court held that the equal-protection clause of the Fourteenth Amendment took state laws as it found them, and provided only that they should be administered in an equitable manner. No new rights were acquired under the Amendment, it said.¹¹ In view of the similarity of the Montana law this holding was perhaps controlling in the Territory, even though Montana was depriving Negroes of rights they had formerly enjoyed, while California had discriminated against them in this way at least since 1866—two years before the Amendment went into effect.¹² The distinction made no real difference because the California court adopted as its own the popular argument that the Fourteenth Amendment left such matters as education to the states.

It was conceded throughout the West that in addition to the limitations expressed in the Territorial Organic acts there were restraints to be found in the ordinary laws of Congress which in any way applied to the Territories. In most Organic acts the power to legislate on rightful subjects was restricted by the proviso that the "laws of the United States" which were "not locally inapplicable" would be in force.¹³ Although the decision as to just which Federal laws were applicable was usually left to the Territorial courts, the United States Supreme Court occasionally took over the task. This was the situation with some Negro rights.

By 1875 the pro-Negro leaders in Congress, despairing of the Fourteenth Amendment because of what the courts were doing to it, took up the matter themselves and passed the Civil Rights Act of that year. If constitutional provisions were being ignored, they would pass a simple law stating their intent in unmistakable terms. Their object was to raise the Negro to full social equality within the states. Civil equality he presumably already enjoyed, and the denial of truly equal education was by then considered a purely social question. In 1883 the United States Supreme Court finally faced the problem of Negro rights in the Territories when the Civil Rights Act came up on appeal in *United States v. Singleton*. Parts of the act were declared void and not binding on the states. Stumped on the Territorial question, the court postponed a decision and contented itself with the assertion that Congress had plenary powers in the Territories; thereby suggesting that the act *could* be made applicable there if not in the states.¹⁴ In other words, it sidestepped the issue. The Montana

act segregating Negro children from white carried over into the period of statehood, from 1889 to 1895. Inasmuch as the Singleton opinion voided the vital parts of the Civil Rights Act which were directed toward states, the attainment of statehood made little difference. The repeal of the Montana law in 1895 disposed of the legal question without solving it.

So, the constitutional issues were not settled at all, and Montana was presumably free to discriminate against Negro children by law. The reader will observe that the Montana act was by no means exceptional for those days, that by implication it passed muster in the courts, and that these facts suggest that Montanans were very much like their fellow countrymen on the question of Negro equality.

While we are still on the question of law it is well to observe that the problem of the applicability of Federal laws involved more than mere legal procedure. From the date of our first Territory in 1787 Congress was greeted with continuous and clamorous demands that the settlers be permitted to legislate broadly on all matters of immediate concern to them, on the plausible ground that they knew far more of their own circumstances than Congress ever could. The contest for more power was sometimes a discouraging one, but bit by bit the Territories added to their constitutional stock in trade. By allowing Territorial courts to determine which Federal laws were locally applicable, the national government went a long way toward accepting the Western point of view. With that in mind, one next wants to know what use the pioneer made of his power to accept or reject certain laws.

According to current folklore the American frontiersman had a genius for adapting himself to local conditions, accepting or rejecting the practices of the East according to sensible pragmatic norms which governed him in all matters. By examining Federal laws which he repudiated (or state laws which he took to his bosom), we have a yardstick for measuring his thinking on issues of broad public concern. For example, the fact that Montana Territory passed over the Radical Republican theory of Negro rights and adopted instead the attitude popular in the New South tells us, as plainly as anything can, which of these he considered applicable to local conditions.

Having determined his attitude toward Eastern laws in any particular case, we can then get down to brass tacks and see whether such laws were applicable according to *our* standards, regardless of what he said about them; for there is no reason that this writer can see why the frontiersman should not answer at the bar of history just like anyone else. In most cases we may accept his decisions as final, realizing that he was on the ground and understood the times better than we. Where a moral issue was involved, as in the case of minority rights, we should weigh his acts with more care. A failure in this field should be regarded for what it was, with no special dispensation given because the offending party was a pioneer of the American West. To do otherwise is to accept a bygone age at its own evaluation, certainly a peculiar thing for an historian to do.¹⁵ But regardless of the moral question, one should always make some attempt to see whether it was really true that westerners intuitively grasped just

which ideas and institutions were locally applicable and which were not. The only way to come to grips with the problem is to examine individual instances, and it is one of these instances that we now propose to scrutinize.

While the guns were booming at Antietam and the fate of the Federal Union was being balanced on bayonets, adventurers from many places were pouring into what has since become the southwestern portion of Montana; gold hungry, mostly, and out for quick returns, but soon to discover that fortunes were not to be made in a day and that permanent civil institutions were necessary for the fructification of their shabby Babylon. Although Congress responded with the new organism of Idaho Territory, inevitably there were demands to divide it and early in 1864 delegates from the area were to be found in the galleries of the Senate and House in the national capital, closely following the debates over the proposed Territory of Montana. These debates make interesting reading today. Accustomed as we are to suppose that the party of Abraham Lincoln had a fair regard for the colored man and wished him well, we find in the old speeches certain evidence that such was not the case with many important figures of the day. While the Territory was duly created and approved by the President in May of that year, it was only after an ill-tempered debate between the two houses over the question of Negro voting in Montana. The pro-Negro people (and there were many of them) insisted that the Organic Act specify in plain English that Negroes could vote from the first election. The other side could hardly

go to the country with a bill forbidding Negro votes altogether, but they could argue that the question was academic because there were no Negroes in Montana to worry about. Why not leave it to the Territorial assembly to decide the matter?

And how did they know that colored people had not located in Montana? At a critical point in the debates Senator Wilkinson of Minnesota mentioned a friend of his who had moved from St. Paul to Montana, this individual having told him that there were indeed Negroes in Montana, and that "one of the most respectable men in the Territory was a negro worth over fifty thousand dollars." His informant was "Mr. Langford, a very respectable gentleman now living in Montana."¹⁶ Nathaniel Pitt Langford was certainly qualified to speak on the subject, as the future author of *Vigilante Days and Ways* had seen the gold rushes, but if he ever said any such thing he quickly saw that it was unwise to repeat it under present circumstances. From his vantage point in the gallery he could sense the need for quick action.

Introducing himself to Senator Doolittle of Wisconsin, he got the latter to present one of those clarifying amendments so indispensable to the exercise of high statesmanship, and the story now was that "at one time" there had been a Negro in Montana, and "he was the fortunate discoverer of a mine estimated by some to be worth \$50,000"; but he had since passed into the Great Beyond, and there was not "one single person of African descent in the proposed Territory of Montana."¹⁷ The Senate permitted itself to be convinced, Ben Wade summarizing with the flat statement that "There are no

negroes in the Territory."¹⁸ If Wade believed it, others could be pardoned for believing the same.

Langford certainly knew better. The river town of Fort Benton, high on the Missouri river, was practically an appendage of the state of Missouri and had long been the headquarters of Missourians associated with the fur trade of that area. Negroes had been there before the gold rushes began and one was still listed on the census list of 1870.¹⁹ If Langford was ignorant of that fact it is inconceivable that he did not know there were Negroes in Bannack and Virginia City.²⁰

He nevertheless won his point and with it the Territory. Under prevailing constitutional law Congress had ample power to regulate the franchise in Montana, and could even have forbidden the local legislature to establish a system of separate schools. We must not be too hard on Langford, however, or assign the failure to forbid segregation solely to his private collection of census statistics: Congress was even then fashioning a separate school system for Negroes in the national capital.²¹ In addition to that, and surprising though it may be, the solons were bemused by the famous Dred Scott case of 1857, the Supreme Court's ingenious attempt to prove that Negroes were not citizens of the United States. It had yet to be overruled. Until it was, a Negro remained something less than a citizen, one who might be entitled to equality with the whites, and then again, might not.²² The Radical Republicans (as the pro-Negro wing of the party came to be called) were to close their accounts with the Supreme Court another day. The Fourteenth Amendment and the Civil Rights Act were yet to come.

What the debates of 1864 meant to Negro schoolchildren is best expressed by a portion of a law passed at the first session of the Montana legislature. It is presented without comment:²³

Every *white* male inhabitant over the age of twenty-one years, who shall have paid or be liable to pay any district tax, shall be a legal voter at any school meeting, and *no other person* shall be allowed to vote.

Langford was no better prophet than he was statistician. By 1870 there were 183 Negroes living in Montana Territory, and through the years they continued to come in. In 1880 there were 346 of them and by 1890 the number had risen to 1,490.²⁴ The "Negro problem" had arrived, like it or not.

Nearly two-thirds of the first installment came from the Southern states, and of these four-fifths came from only four states: Missouri, Kentucky, West Virginia, and Virginia. The others originated in many places in the North, a third of this number coming from Pennsylvania and New York.²⁵ In other words, the early comers were largely from places where slavery had been slipping for years, and they may be presumed to have set out with at least a vague notion of improving their position in life.

With the second wave there was a considerable change. Now it was the non-Southern states which carried the day, and nearly three-fourths of the new arrivals were from western states and Territories.²⁶ By 1890 a renewed spurt from the South had raised the Southern proportion to forty-eight per cent. The non-Southern increment, of which about half were from the

Old Northwest, had tumbled to twenty per cent, but if to that number is added the thirty-two per cent born in Montana it is obvious that we have a new situation entirely.²⁷ It is no longer the hapless field-hand from the South who dominates the scene, but a colored man long accustomed to seeing democracy in action.

From the first it was clear that they would need all their courage in order to achieve a respectable standing in Montana society. We find one editor in the year 1866 relating the story of a colored man in California who sought to marry the daughter of his former white mistress, and frankly wondering "if they have no rope in San Francisco strong enough to support the weight of a negro," a "lecherous old African."²⁸ Not long afterwards he commented on a proposed bill forbidding whites to cohabit with Indians, Chinese, or "persons of African descent." He noted with approval that the bill had been amended to exempt Indians (a typical Montana twist), but wondered if the words "Chinese persons of African descent" should not be added. You could not be too careful. Marriage or cohabitation of whites with "blacks" or Chinese was "an evil and disgusting violation of natural law."²⁹

Southern editors, as this one was, had long talked like that. Perhaps a better example of what the colored man was up against can be found in the Helena election riot of 1867. The Territory's leading city and future capital had decided to experiment with Negro voting in city elections, somewhat encouraged to do so by the Republican administration in Washington, and it is pretty clear from what evidence we have that the Republican element, struggling hard to overcome a stronger party,

freely solicited Negro votes. Gangs of Democratic roughs circulated through town warning Negroes from the polls and threatening violence should they attempt to vote. "Nigger" Sammy Hays, a well-known local colored man, was ruthlessly slain by a white bully, and the Marshal who tried to jail the assassin had to fight his way through a hostile crowd. The murderer and his friends were Irish, by the way.³⁰ When a repeat performance was attempted in the same city in 1875 the Negroes were forced to defend themselves, and this they did.³¹ One would give a good deal to know the provenance of those Negroes.

Generally speaking, newspaper accounts and other sources show the whites regarding Negroes as inferior people who might be admired as individuals in some cases, but usually were not. All the stereotypes of folklore were applied to them, including that old favorite, the genial but dumb domestic.³² In places where Southern influence was strong from the first, as in Helena, contempt for colored people could take a sinister turn. The millionaire stock plunger of later years, William Boyce Thompson, always remembered the "colored boy in Virginia City whom the gang took delight in trouncing at intervals."³³ While Thompson's mother was from a Missouri family associated with the famous rebel general Price, his father hailed from the Middle Border, and if—as an enlightened Northerner—he ever rebuked his son for such conduct, there is no record of it.

When Professor H. V. Hayden toured Montana in the 1870's he innocently noted that Chinese were doing most of the domestic work in the homes of Butte and Helena because it was almost impossible to get white

servants at any price. It failed to occur to him that there were Negroes in both places who would probably have jumped at the chance of employment.³⁴ Colored folk were used as domestics in both North and South. Were they second-best in Montana? W. C. Handy, the Negro musician, passed through in 1897 and described an incident in a music hall in Helena which suggests that friendly contempt was the prevalent attitude toward Negroes there, and doubtless elsewhere.³⁵

Under the circumstances one might well ask why colored people came to Montana at all. The Territory had but one industry, mining, and for a Negro to take out a homestead claim and work it was probably to isolate himself in the midst of an unfriendly white population.³⁶ Census statistics appear to show that he urbanized himself as quickly as possible, even though it meant accepting the least desirable forms of labor,³⁷ and so it is permissible to say that Montana offered him nothing in an economic way that he could not find elsewhere. There is some significance in the fact that thirty-five per cent of the Negroes born in Montana before 1900 were living in other states that year. Evidence of that nature is inconclusive, however, because approximately eighty-five per cent living in Montana in the same year had been born in other states.³⁸ Since the proportion of Negroes to whites never exceeded 1.1 per cent during our period we can at least say that Montana was not regarded by colored people as heaven on earth.

In Montana it has been the custom to explain the general situation by calling attention to the strong Southern influence in the Territory from earliest days,

and while the theory is not without appeal the plain fact is, it is false. At least, it is false if we confine our attention to numbers only, for there is no denying that certain Southern states exercised great authority in Montana through their westernized sons and daughters, and of these Missouri is easily the first. It is almost impossible to pick up an historical work on the Trans-Mississippi West and not find strong evidence that the Missouri influence in the area being described was widespread and deep. While some attempt has been made to evaluate the factor for Montana, so much remains to be done that only the sketchiest presentation can be made.³⁹

Early opinion was unanimous in attributing the heavy immigration of Missourians to the defeat of General Sterling Price in 1864. Many of his supporters were left stranded when he beat a retreat through Missouri to the south that year, and it was known that the Union army was anxious to get them moving toward the West.⁴⁰ So many Missourians of this class came up the Missouri in early days as to be the subject of jest.⁴¹ While most of them could not have arrived in the Territory in time to figure in the earliest anti-Negro legislation, they quickly formed a strong faction and became the most vociferous leaders of the Democratic party. Their leader was a recusant Union-Democrat named Thomas Francis Meagher, then the acting-governor, and the struggles of his group with the ultra-patriotic or Republican group deeply impressed contemporaries and influenced all later commentators. A more pervasive aspect of Missouri influence, perhaps, is to be found in Missouri legislation adopted by the Montana legisla-

ture.⁴² After politics had settled down and the Civil War was less of a factor we find Missourians flocking into the state with the same zeal as before, and even planning to plant colonies.⁴³ For unemployed Joplin miners, the rising city of Butte was full of opportunities in the 1880's and 1890's.⁴⁴ Two years before the segregation statute was passed, Missourians formed the second-largest single element in the native population of all the counties in the Territory. In 1880 they were in first place in six of eleven.⁴⁵

It is therefore clear that Missouri was well represented in Montana, but what of the Southern population generally? In the year 1864, fifty per cent of the total population of Montana had been born in non-Southern states. Twenty-eight per cent had been born in foreign lands, and only twenty-two in the South.⁴⁶ In 1870 the South contributed only fifteen per cent to the total, the foreign-born showing a rise to forty-three per cent.⁴⁷ Here is the generation that passed the segregation law of 1872.

By 1880 the South was barely holding on with its fourteen per cent. Other categories had likewise dropped, and a new factor emerged with the nineteen per cent born in the Territory during preceding years.⁴⁸ As a social factor the Montana element would absorb the local standards and perhaps ought to be ruled out of consideration. If these figures do not carry conviction it is to be observed that in every census but one, New York had greater numbers in Montana than did Missouri, and other populous Northern states completely outnumbered their closest competitors from the South.⁴⁹ In other words, the legislature of 1871-72 was

ected by a predominately non-Southern electorate, and if the South is to be charged with the offense of foisting segregated schools on Montana Territory some other evidence for it must be found.

Montana was, in truth, a Border State. Just as in Oregon, Southerners arrived in sufficient numbers to enliven politics and reinforce anti-Negro ideas, but not in such strength as to reproduce a bit of the Old South in the New West.⁵⁰ As is well known, Border State thinking on the Negro problem has always been peculiar, neither Northern nor Southern, but tending toward the latter. A student of school segregation writing in 1943 noted that seventeen Southern states had separate school systems that year, while in the Border States and others of like composition the policy was "varied and uncertain."⁵¹ A policy of variation and uncertainty is a poor showing almost a century after these same states were described as by no means favorable to slavery. It appears, therefore, that in a Border State one may expect a Negro to enjoy some civil rights but often to suffer the deprivation of equal school facilities. It would also seem logical to expect segregation to lose ground as the Negro-Southern element dwindled; in other words, as a state became more nearly "Northern." That, at any rate, was the course of events in Montana. Are we therefore justified in concluding that anti-Negro prejudice among Northerners living in Montana Territory was weak? It hardly seems so.

The legislature that passed the segregation law convened in December of 1871. It was a non-Southern body in composition and the committees on education for the Council and House were likewise non-Southern.⁵²

The bill was signed by a non-Southern governor. It was carefully thought out and carefully considered because the system in force had grown up helter-skelter and badly needed an overhaul.⁵³

The model followed by the Legislature was the California law already referred to. In that state Negroes and Indians were alike segregated, and where there were less than ten of them in any district their education could be provided for "in separate schools, or in any other manner."⁵⁴ If the law were liberally construed it might permit any number less than ten to attend white schools without restraint, or perhaps to attend and be educated in special rooms in the same schools. The Montana law permitted Indians to attend school with the whites, but by striking out the word "or" the segregation of Negroes was made mandatory, regardless of how many there were. It was this clause which caused all the trouble. Although the evidence available for studying the bill in passage is not altogether satisfactory, these changes tell us pretty much what we want to know.

The bill was introduced in the House by Daniel Searles of New York one week after the assembly convened. As a result of teaching experience in Wisconsin and Montana he had been made chairman of the House committee on education.⁵⁵ It is noteworthy that the leading Republican newspaper, the *Herald* of Helena, supported his bill from the first, even though it finally grew cool toward him personally because he was obviously a devoted Democrat.⁵⁶ From later events it appears that the editor did not scrutinize the bill very

closely. Be that as it may, the section of the California law relating to segregation, with the amendments noted above, formed part of Searles' original bill.⁵⁷

In the Council the most important figure in the segregation affair was the noted frontiersman and individualist, Granville Stuart. Described by an anonymous contributor to the *Herald* as a man now safely past a siege of the "lost cause" virus, the former West Virginian was said to be the ideal person to change the "present burlesque" of a school law.⁵⁸ His committee thoroughly amended the House bill but did not alter the section on segregation, except to re-punctuate it. Stuart had married an Indian woman by whom he became the parent of several half-blood children.⁵⁹ If Searles had introduced the California bill with its original segregation section intact, would Stuart have deprived his own children of a public education by excluding Indian children from the schools? Hardly likely, and even less likely that his fellows would fail to support him.⁶⁰

The two newspapers already cited are the only available sources of opinion on the education bill. Neither one specifically mentioned the segregation clause, section 34. Both thought the bill a good one and believed it would help attract immigrants to Montana Territory, at that time a matter of deep interest.⁶¹ The law was signed by Governor Potts on January 12, 1872. It lasted in various forms until 1895, through fifteen sessions of the legislature and five educational revisions or codifications of the law, surely a suggestive set of circumstances in an area where Northern influence prevailed.⁶²

With due regard for the small number of colored children in the Territory, it is obvious that when only seventeen of them were attending school during 1873 the segregation law was doing its deadly work. Only three counties out of the six which probably had Negro children in residence reported any colored boys and girls enrolled.⁶³ Possibly more would have attended had there been no stigma attached to the act.

This, then, was the situation when Miss America Turner (colored) received the following notice early in August of that year:⁶⁴

You are hereby notified that under the Montana School Law your child is not entitled to a place in the public school. And you are hereby notified to cease sending him to school, as he will not be admitted.

Thomas B. Irvine
Thomas Aspling
Granville Stuart
Directors School District No. 1

Such an action, said the *Helena Herald*, "summons our attention to the Montana School law."⁶⁵ It was about time.

Now, the curious thing about the Deer Lodge school where the issue came to a head was that it was used for children of Indian-White descent, and the young colored boy whose attempt to enter set off the fireworks was himself of "copper color."⁶⁶ In fact, he was so indistinguishable from his classmates that his teacher resolutely refused to eject him, and had to be coerced.⁶⁷ No doubt she felt little danger of barbarian inundation in a county where the census for 1870 showed only fifteen colored residents.⁶⁸

Faced with so brazen an attack on alleged Republican principles, the editor of the *Herald* denounced the Deer Lodge miscreants responsible for it. He was somewhat uncertain, however, as to just who they were. Obviously the famous Granville Stuart could not have been the villain; that poor fellow simply had to obey the law.⁶⁹ Stuart's obligation in this regard was indeed strong, as he had voted for the law in the first place,⁷⁰ but it seems unlikely that he suffered from his action very much, because his own (half-Indian) children were safe. In any case, thought the *Herald*, it was a crying shame:⁷¹

There is triumph for the Caucasian, and blue blood has got full satisfaction. The little colored boy is ousted from the public school, and Deer Lodge will now go on her way to glory.

It remained for the Territorial superintendent of public instruction to pin the tail on the donkey. Lest anyone think from *Herald* editorials that a group of private malcontents had produced the sorry situation in education, Cornelius Hedges took up his pen to put the editor straight:⁷²

The prejudice that invoked the action of the Deer Lodge Trustees and has glutted itself in the petty triumph of excluding from school privileges an inoffensive little boy because he is guilty of the awful crime of carrying in his veins a tincture of African blood, is not one iota more unreasonable, more unjustifiable or more hateful than the spirit that dictated the 34th section of our school law. To my mind the deliberate action of men selected to make laws for a free state and people from their supposed superiority and fitness for such high duties,

seems infinitely worse. And I would simply ask that all the indignation so justly aroused be directed against those who are most responsible.

Hedges' opinion was very telling because he was given his post by the legislature itself after a deal made with the solons by Governor Potts in the previous session.⁷³ Plainly he did not lack for nerve. In his report to the legislature for 1874 he struck at the law again, but by that time he knew he was up against something worse than the bigotry of a scattered few. He told the legislature frankly that he feared for the very future of public education in Montana if a controversy grew up around the Negro question. It would not be long, he hoped, "before all classes of our people will concede the injustice and impropriety of excluding from the public schools any one who is to become an American citizen, enjoy its honors and privileges, discharge its high trusts and duties, and affect in some degree the nation's character."⁷⁴ It was apparently his last public pronouncement on the issue. He left office in 1878 and the "moderates" took over.⁷⁵ Segregation could proceed with all deliberate speed.

While Governor Potts endorsed the superintendent's views in his own message, the reaction of the press suggested that the law was there to stay, at least for a time.⁷⁶ If the editors did not choose to make an issue of school segregation they could not deny that the governor had described it fully, for he himself regarded it as an exclusion law.⁷⁷

Reports from the superintendent from 1875 to 1879 show that at no time were there as many as fifty colored children in the Territorial schools, and usually considerably fewer than that.⁷⁸ Evidence for what was happening outside Helena is missing, but in that city a reorganization of the schools resulted in the segregation of Negro children in a separate school. At the behest of the whites—how many it is impossible to say—a trial school was operated for three months during 1875. According to the *Herald* the result was very expensive to taxpayers, an average cost of \$50 per colored student to \$10 for the whites.⁷⁹ It was continued, all the same.

Although the *Herald* labored mightily to show that there was no widespread demand for segregation in Helena there is oblique but convincing evidence that it existed in the Territory in general. In the legislative session of 1876 a petition protesting section 34 was presented to the assembly by a member from the county in which Helena was located, signed by 106 citizens. They complained that the law requiring ten students to the district effectively barred them from an education, something they were anxious to get because of the prejudice against their race.⁸⁰ As there were nineteen colored children above the age of four years residing in Helena that year,⁸¹ the petition seemed to say that outside of that place it was almost impossible to get an education if one were a Negro. The committee reported that the argument was sound, but that so much prejudice existed against mixed schools that the only solution was to amend section 34 to permit local school authorities to decide the matter for themselves, instead of enforcing segregation throughout the Territory as

was then done.⁸² A committee bill containing such a provision passed the House but died in the Council.⁸³ The affair aroused little attention outside the assembly.

During the following year the *Herald* denounced the old law and suggested that if the people of the respective school districts unanimously nullified the law by ignoring it, and escaped the expense of a dual system by doing so, "no body would be hurt and no body would be punished."⁸⁴ Apparently the sentiment to ignore the law in Helena was far from unanimous. The only argument used by the *Herald* which had any appeal was the financial one, and even that failed to work. When the schools were faced with a shortened term in 1877 because the school fund had run dry, and it was again suggested that segregation lay at the bottom of it, the people of Helena voted a new levy but did not discontinue segregation.⁸⁵ They were even willing to maintain a separate school for only nine pupils, the number enrolled in the South Side School during the 1879-80 term.⁸⁶

Sometime during the month of September, 1881, a colored servant of the United States Marshal entered an eating place in the rising city of Butte, and from that presumably chance circumstance emerged a legal contest that came close to making constitutional history in Montana and perhaps in the nation. Although the immediate issue was not one of school segregation, the arguments employed in court by William Woodcock were such that they might equally well have been used in a powerful collateral attack on segregation in the schools or segregation in general. It appears that Marshal Bot-

kin took Woodcock into the restaurant with him, and when he saw that there was no room at his own table he advised the Negro to find another. As luck would have it, Woodcock chose a table where a man of Southern views was eating, and that worthy strenuously objected to his presence. At this point the stories diverge, one side saying that the proprietor endeavored to get Woodcock to sit elsewhere in the room, while Woodcock seems to have thought that he was compelled to leave the establishment immediately.⁸⁷ He sued for damages in a civil action under the Civil Rights Act of 1875. The cause was continued term after term, and finally was decided in December of 1883.

The reader must understand that for the decision to enjoy wide application it should have been appealed to the Territorial supreme court, and preferably even beyond that to the United States supreme court, neither of which was done. Judicial districts in Montana were large. An unpopular decision in one district might easily be ignored in the others until a court of superior jurisdiction forced them all into lockstep. While it is surprising that Woodcock won his case, and with it an award of \$500 (the minimum sum under the Civil Rights Act), it is not so surprising that the press failed to drive home the significance of the decision. While the cause was in process the leading newspapers of the area accurately described the action as one involving the applicability not only of the Civil Rights Act but of the Fourteenth Amendment itself, and one might expect that the sensational result—so obviously foreign to expectations—would provoke expressions of surprise and concern.⁸⁸ But had that happened Negroes all over the

Territory would likely have instituted similar suits with the possibility that one such case would get to the supreme court and there be affirmed. By playing down the result and privately discouraging appeal (as must have happened), the single white victim would be the unhappy restaurant proprietor. If this line of reasoning is sound we should not expect to see the newspapers do more than record the decision, and so avoid stressing the constitutional issue. And that is how it went.⁸⁹ It must be admitted that it is impossible to prove a conspiracy of silence. In the case of the *Butte Miner* the evidence is possibly better than for the others, since its editor was one Daniel Searles. Apparently the only paper to point out the importance of the decision was the Republican *New North-West*, whose editor showed that the Singleton case (recently decided) had failed to determine whether the Civil Rights Act was in force in the Territories or not. He drove his point home in italics. The judge who rendered the Woodcock opinion apparently held that it was in force.⁹⁰

The Woodcock case therefore stands alone; nothing ever came of it. It is possible that the anti-segregation action of the 1883 legislature (to be described shortly) helped produce that result. The fact remains that during the segregation disputes before 1883 it sometimes happened that one side would challenge the other to settle the constitutional issue at once by taking it into court, but for one reason or another that was never done. Inasmuch as the colored people rarely had sufficient funds to finance court actions of that kind the implication is that the whites themselves did not desire a legal termination. This in turn suggests that whites

living in Montana believed that the Fourteenth Amendment gave more protection to Negroes than the Federal courts were later to admit.

Only in Fort Benton did the Woodcock affair attract serious attention, and that was because the queen city of the upper Missouri was having troubles of its own. These troubles might easily have been settled by recourse to the courts, but again no such appeal was made. In the closing days of 1881 the local board granted permission for a colored boy to attend the public school, and at once the fat was in the fire. He was one of two children belonging to a colored woman of the town, and this pair and one other were described as being the only ones of school age among the city Negroes.⁹¹ White parents remonstrated with the three board members, all Democrats, but the board lectured them on the evils of prejudice, said it would rely on the Fifteenth Amendment, and stood firm. The whites began to withdraw their children from school, perhaps a dozen or so by the time things settled down.

A number of prominent citizens then petitioned the board either to reverse itself or to resign, but the petition was refused because of its insulting tone. A second petition from a smaller group urged that a separate school be started for colored children, but this was denied on the ground that the city could not bear the expense. It seems that the board might have been willing to compromise to the extent of putting Negroes in separate rooms, and there was talk that it was even considering a surrender on the separate school proposal. What it did was to present a counter-proposal offering a separate school if eight additional Negro children

could be found, in order to provide the statutory ten. If it was really true that only four colored children lived in the city the sincerity of the offer is questionable.

After several weeks of bickering the opinion of the Territorial superintendent was solicited, and his answer was that under the statute Negroes could not be admitted into the public schools. The attorney-general endorsed his opinion. Apparently these gentlemen were ignored, for the progress of the Negro children in school was being described some weeks later. It is quite possible that the colored children were being instructed in separate rooms in the white school, under that part of the law which provided for the education of a lesser number than ten; although if the law is taken literally it permitted no such thing.⁹²

Assuming that Negroes were somehow incorporated into the public school system of Fort Benton, the result looks rather like a distinct victory for the forces of equality and fair play. The very *Democratic Weekly Record* never denied, for example, that race prejudice was wrong, and from the first it argued that the Montana law violated the Fifteenth Amendment. It said it had never used such terms as "nigger" and never would; all it asked was that society not be convulsed because of an abstraction, as a fight over a handful of colored children would certainly be. It also thought it unbecoming in the board to defy Territorial statutes and to lecture the public on civic duty. One might conclude from the evidence that only a minority really denounced integration in the schools. There was, for example, the amusing instance of a white boy who had been pulled

out of school by an irate parent being seen deep in play on the river with a colored lad of decidedly dark hue. There was the excellent academic record made by the two original Negro matriculants. Finally, the well reasoned constitutional arguments employed by the *River Press*, which quickly perceived that the Fourteenth Amendment, not the Fifteenth, was at issue, were matched by scattered comments from private citizens who also denounced race prejudice.

The other side of the ledger must also be looked at. For one thing, it is not certain that Negroes remained in school—the evidence plays out at the critical point. For another, the greater part of the pro-Negro evidence comes from a newspaper which was engaged in an uphill fight against a rival and well-entrenched sheet in an age when journalistic hyperbole was commonplace and profitable. The *River Press* itself was influenced by the fact that the two colored students were seven-eighths white. Even so, racial prejudice undeniably received at least a temporary check in Fort Benton, and the newspaper that led the fight must be given credit for it. It is hard to question the sincerity of an editor who can print an editorial like the following, when he learned that two subscribers had just discontinued the paper because of his defense of Negroes:⁹³

That's the policy, gentlemen. It shows what broad and liberal minded citizens you are. If there are any more of the same kind we hope they will walk up to the captain's desk and do likewise. We are pronouncedly in favor of free speech, a free press, free schools (for the benefit of every American citizen), and have no apologies to make.

The segregation squabble in Meagher county, beginning about the same time as the troubles in Butte and Fort Benton, ran a more normal course. Here as elsewhere, the number of Negroes was so small as to be ludicrous as the subject of any real dispute. Only eighteen colored people were living in the county in 1880,⁹⁴ and only four colored children were registered in the county schools.⁹⁵ These children were not to be found in the schools of White Sulphur Springs, however, for nearly one-third of the good Aryans of that city threatened to withdraw their children when a colored boy asked to enter the public school in December of 1881. The school board prevailed on him to withdraw "until other arrangements could be made," and the other three "Africans" in town were held at arm's length on the same terms.⁹⁶ The local newspaper was in touch with developments elsewhere, and presented the winning argument that if Negroes were admitted the public school system would be rent asunder.⁹⁷ For all we know it may have been true. Whether the colored children were fully integrated before 1895 cannot be ascertained, as the practice of listing "children of African descent" in the school returns ended in 1882, but the White Sulphur Springs experience was cited by a contemporary Helena newspaper as proof of the existence of segregation in other places, so the presumption is that the board refused to budge for a time.⁹⁸

The public school system of Helena was regarded during Territorial days as the showpiece of Montana education, and the segregation principle had been part of it for seven years when the last and greatest battle over Negro schooling was fought. The contest began

with a move by the local board to discontinue the use of one school building as a purely Negro school, and to transfer white children into it from overcrowded buildings elsewhere. During the previous year sixteen colored children had been registered in the county schools, how many in Helena itself we do not know.⁹⁸ By January of 1882 a Helena group of five had been reduced to two because of illness and "withdrawal." Under the proposed arrangement the white teacher of the former Negro school would spend most of her time with twenty offspring of the master race, "and there [would] still remain time enough to instruct the two or three colored children" who might continue to attend.¹⁰⁰

It is tempting to think that the plan was part of a larger scheme to undermine the segregated system, inasmuch as Cornelius Hedges was at that time chairman of the local board and probably still had the ear of the *Herald*.¹⁰¹ To incorporate Negroes into white schools to any degree was to make inroads on the entire system of segregation. Perhaps that is why we find the *Herald* making the surprising statement that "Elsewhere in this Territory no objection that we have ever heard of has interposed to prevent the attendance of children of colored parentage at the public schools," a falsehood on such a scale that one can only bow in humility before it.¹⁰² One day later the Fort Benton papers were circulating in town with news of the conflict there and it was obvious that the fortress of prejudice would have to be taken by assault. The *Herald* praised the *River Press* editor to the skies for his courage and singled out Helena as a place requiring educational reform.¹⁰³ There

is also evidence that the local colored people were once again standing on their rights and demanding integration in the schools.¹⁰⁴ They, too, could read the press exchanges.

In March, Hedges printed in all the local papers a notice to the effect that the schools of the city would have to close down one month early unless a new source of income were voted by the citizens.¹⁰⁵ The *Herald* then adopted the old strategy of arguing that the cause of the monetary shortage was the cost of the separate Negro school, and that integration would solve it.¹⁰⁶ The local board favored an election which would allow the voters to approve an increased local tax. Unwilling to see the segregation issue confused with the tax problem, the Democratic *Independent* set out to defend segregation and to prove that there was no necessary connection between the two, especially under the new arrangement whereby the same teacher would instruct both whites and Negroes in the same school.¹⁰⁷ The board's proposal finally went to the voters in the form of a double proposition: for or against the tax, for or against segregation.¹⁰⁸

While the results are interesting they are not nearly so interesting as the comments of the *Independent*, that emporium of anti-Negro thought. Although it started out by saying that prejudice was prejudice and would have to be accepted, presumably with reluctance, it quickly came round to its real sentiments. A few samples may help to indicate what the anti-segregation people were up against. In one editorial it described racial intermarriage in Latin America and drew the following conclusion:¹⁰⁹

Were all race distinctions abolished, amalgamation would inevitably result in the end. It would begin first among the poorer whites [obviously deprivileged], who would intermarry with the wealthier Negroes, and would afterwards extend among all classes. We believe that the Caucasian race is superior to the African, and that such amalgamation would have a tendency to degrade our nation to a level with the Mexican and South American races. In fact, the Mongrel-Mulatto breed, which results from amalgamation is inferior to both the black and white races . . . It is a wise law of nature that monsters never breed.

The gesture against racial prejudice in the first part of the editorial, feeble though it was, was too much for C. C. Cullen, M.D., a resident of a nearby town, who rang all the changes on amalgamation and added the authority of science:¹¹⁰

Therefore, [taking into account the horrible experiences of other lands], any law, constitutional or legislative, that will authorize, or permit to be introduced an alien race into the domestic or social structure of any people is, not only unnatural, but, most productive of evil, and it may be called a weak attempt to remove the law of race antipathy, which is natural, by substituting in its place an abortive law of race amalgamation, which is unnatural, because it has a tendency to weaken the ties of consanguinity, whereby the purity of a race is preserved and its original strength and vigor maintained—as shown in the cases of Mexico and Peru.

"The great underlying question," concluded the *Independent*, "is, whether we are in favor of amalgamation with the colored race? If not, then we must preserve race distinctions. But where shall we begin? If

the black race is admitted to the same public school, why not admit them to our parlors and tables? After this, what next?"¹¹¹

The election was favorable to the Negroes and segregation was ended in Helena. The vote was 195 against the system to 115 for it. It was a smaller turnout than regular municipal elections usually evoked, but larger than any school vote previously held in the district.¹¹² The *Independent* explained the outcome by saying that Negroes turned out in force, and that the tax issue caused many to vote against the separate school system when they probably wanted to keep it.¹¹³ It is difficult to get at the real meaning of the election. There is evidence of disregard for Negroes in Helena many years later, if the incident related by Handy means anything.¹¹⁴ In 1894, when William A. Clark and Marcus Daly were spending large sums in order to get the state capital placed in the respective cities of their choice, the Daly newspapers flayed Helena as a sink of racial prejudice, obviously in order to convince Helena Negroes that they should vote against their own town; and these charges were met as best they could be by a new newspaper which seems to have been created for that purpose. The *Helena Colored Citizen* lasted only two months—just long enough to lay out "proof" that Helena Negroes were well treated and really ought to vote for the city as capital. The situation as described by the editors was so favorable to Helena that it is hard to accept it.¹¹⁵ It did tend to show that Helena Negroes occupied a higher place in society than they had in early times.

To the most dedicated bigot it must have been obvious that after the events of 1882 the old school law would have to be amended. It was simply too expensive, aside from the inhumanity of it. In his report for that year Superintendent Howey said it did nothing but keep prejudice alive, and ought to be repealed because it had become "a dead letter through the decision of the people when they [had] occasion to pass upon the question . . ." ¹¹⁶ The so-called repeal law of 1883 seems to have been passed principally because of the financial situation, regardless of what the electors were doing or had done, for the peculiar turn-about by certain Southerners who voted for a change is hard to explain otherwise. ¹¹⁷ Certainly the constitutional situation had not altered. The new law was passed in March, well before decisions were announced in the Singleton and Woodcock cases.

In the course of debating a general education bill an amendment was offered which read: "Providing, That no child shall be refused admission to any public school on account of race or color." ¹¹⁸ To the *Herald's* frank surprise the bill passed with the proviso intact, this showing, it said, "a breath of intelligence and an elevation above party and creed that was delightful to notice." ¹¹⁹ As two of the proviso's warmest supporters hailed from Maryland and Missouri there was reason for surprise, and not less welcome was support from Searles' paper, the *Miner* of Butte. ¹²⁰ It followed, the *Herald* concluded, that the old law was "virtually repealed," and the people were forever free of a "relic of a past age." ¹²¹ As can be seen, the *Herald* refrained from looking a gift-horse in the mouth, and so should

we, except that in the *Revised Statutes* of 1887 that "burdensome and invidious distinction," that old war horse, section 34, appears in all its glory, absolutely unchanged. ¹²² It is nevertheless fairly clear that the old system evaporated rapidly after 1883 and was repealed in fact if not in law.

With the successful issue of the anti-segregation fight in 1883 our small but significant episode in the history of mean-mindedness comes to an end. If segregation was responsible for keeping Negroes in ignorance the following figures will be found interesting. In the year 1900, or about the time the old system could be expected to show results, the rate of illiteracy for adult Montana Negroes was nineteen times greater than for whites. It even exceeded the rate for foreign born whites, a most telling fact, since many of these had come from European nations where free schooling of any kind was sometimes not to be had. ¹²³ According to a later count the highest rate for the Territory was in the county dominated by Helena—the former stronghold of the segregated system. ¹²⁴ The legislature of 1895 that definitively repealed the old law was so busy with electing a United States Senator, recodifying the statutes, and arguing over which textbook lobby should receive its blessing, that it had no time to reflect on such matters. The press was also indifferent. ¹²⁵

There was a time when colored people might very well have expected to see the end of this sort of thing. For one brief moment in his long and tragic history, the Negro had been a hero to whites. The Civil War, he was told, had been fought in his behalf; that is how

much they thought of him. It was indeed a noble concept, and it has often obscured the hard fact that after a few years he relapsed into his normal status as an inferior being. There is little value in studying political movements of the time with the idea of showing how Negroes were regarded after the war. Politicians said a good many things about Negro rights which they plainly did not believe. When we get down to the treatment of Negroes in non-political matters we find the true measure of white dislike for them. Many years ago John Herbert Nelson showed that in the literature after 1870 Negroes rarely appeared as heroes.¹²⁶ After examining material for the theater, that mirror of society, Richard Moody concluded that a Negro with any other status but that of a menial was "apparently inconceivable on the stage . . ."¹²⁷ How much education does a menial need?

In treating Negroes and their children as untouchables Montana was only following a longstanding prejudice of the nation. Today we find the Plessy case and others like it interesting and well worth reading: in 1896 the leading newspapers of the nation ignored it.¹²⁸ For them the Negro issue was settled; the colored man was sinking in the South and elsewhere to his natural level, and wise men would not interfere. As early as 1890 the Southern novelist, George W. Cable, could say that nowhere in the United States could the black man get himself accepted without a discount for his alleged racial disabilities.¹²⁹ By 1907 the admired President Eliot of Harvard was seriously thinking of segregating Negroes in his institution, for no better reasons than those given years before in the wild-and-wooly Terri-

tory of Montana.¹³⁰ "The white man in the South has disfranchised the negro in self protection," said William Jennings Bryan in 1908, "and there is not a Republican in the north who would not have done the same thing under the circumstances."¹³¹ All this in fifty years.

As for the West during that unhappy period for Negroes, it is interesting to see that schemes for dumping Southern Negroes in some sparsely populated part of the frontier area were given attention by Congress. The best known plan, that of Senator Windom, a Republican of Minnesota, looked to an all-Negro Territory, possibly one with its own colored Territorial officers. Logan points out that this champion of Negro rights avoided mention of Idaho, Montana, North Dakota, South Dakota, Utah, Wyoming, and other such areas, because they were too close to Minnesota; and that he seemed to prefer places like Arizona, New Mexico, or Indian Territory (early Oklahoma).¹³² Quite interesting. One perceives that none of these others was yet saturated with the culture of the great and wonderful Anglo-Saxon race. The first two were Spanish and Mexican, to a considerable degree; and the last one, Indian. Ironically, the red men of Indian Territory did receive some Negroes and treated them well, although one regrets to have to record that there was a good deal of intermarriage and the racial purity of the future citizens of Oklahoma was largely destroyed.¹³³ It seems that Federal aid for Negroes was no more popular in Montana than elsewhere in the West.¹³⁴

Evidence of this kind makes little impression on an American public that has for years been fed on the idea that the frontier movement produced a love of equality

and fair play. Serious scholars know that to be false, if the Negro is considered a fit subject for inclusion into so sweeping a claim. The American frontier movement was a White Man's movement from first to last. The same writer who did the most to establish the popular attitude toward the pioneer was forced to remark that the Far West had certainly failed to attract colored people.¹³⁵ In one of his most admired pronouncements, however, he offered the following as his considered view of the general situation:¹³⁶

This, at least, is clear: American democracy is fundamentally the outcome of the experiences of the American people in dealing with the West.

It is impossible to manipulate his formula in such a way as to exonerate the frontier movement from either aiding or failing to check the spread of racism in the United States, but it is surprising how hard some writers try. The motivation is doubtless unconscious, a product of education. In the introduction to a book on frontier violence one historian says that because of space limitations he must confine himself to "those forms of conflict that grew out of frontier conditions," so we hear hardly a word about offenses against innocent Negroes, for these are among the "other discriminations" which "have no place in his book." As it is common knowledge that the advancing cotton frontier brought slavery to the Southwest it should require no great skill to see that the low position of Negroes in Texas after the Civil War was somehow a product of that same frontier.¹³⁷ A recent writer on Montana history finds it surprising that Fort Benton had a segregation controversy. "Many towns in the Far West suf-

fered from anti-Chinese sentiment," he tells us, "but Benton was one of the few which bore the burden of anti-Negro racism."¹³⁸ Examples could be multiplied. Let the reader search his own memory: in the books he has read on the American frontier movement, how many references has he found to the mistreatment of minority groups? Having now thought about the matter, how many examples of mistreatment does he think he *could* find?

Oftentimes the only way to test the validity of a generalization on the frontier movement within the United States is to measure it against a similar development in some other nation. In the present instance Canada at once comes to mind. Was there anti-Negro feeling in Canada, and did the frontier have something to do with it? Professor Fred Landon, the authority on that branch of the subject, thinks that there was little discrimination against Negroes who fled to Canada from the States in the period before the Civil War. While he found some demands for segregation in the schools, and a few systems actually operating in Upper (western) Canada, he believes that British law and sentiment impeded the development because it was hostile to such things.¹³⁹

That is all very flattering to our Canadian cousins, and it should not be denied that there is much in their history which we could wish had been part of our own; but, as in the case of Indian-White relations, there were differences between the two nations which rob the conclusion of some of its implications. Upper Canada was the first British colony to abolish slavery, and since that event took place before the American Negro immigra-

tion became large, from the start conditions were quite dissimilar. In the United States constitutional law developed alongside slavery and was influenced by it; in fact, the Constitution itself protected it. There had been slavery in the Southern colonies for 168 years before the Constitution was written. As a contemporary Canadian Negro put it:¹⁴⁰

We are sorry to be compelled to admit that along the frontier we have to contend with Yankee prejudice against colour, although unlike that which is so formidable in the United States. There it is bolstered up by law— here it has no foundation to stand upon and we can live it down.

If Canada was such a haven, why did so many Negroes leave it and return to the United States when the Civil War was over?¹⁴¹ From this and other evidence so ably mustered by Landon it is possible to argue that colored people went to Canada, not because Canada was attractive but because the United States was unattractive. Had Negroes continued to enter in large numbers the problem might have become acute, even to the point where Canada could have been classified as a Border State! It is pretty clear that the Canadian Negro was a folk hero in Canada before the Civil War as he was in the Northern states. Canadians apparently grew bored with the idea, just as we did.

Says Landon:¹⁴²

The interest of white people in [his] welfare tended to die out and for the last half century the coloured people in Canada have been a small racial group, enjoying the rights of citizenship but discriminated against in minor respects by their fellow-Canadians.

As for the area west of the Lakes, that vast and magnificent country now such an important part of the Canadian patrimony, one turns for enlightenment to Clifford Sifton, the man who did as much to settle it as any single person could. In summarizing the Sifton policies his biographer says:¹⁴³

Settle! That was the keyword of the whole programme. If a man would settle on the land and seriously devote himself to the business of production, the whole department of the Interior, from the Minister [Sifton] down to the youngest office boy, was at his service. If he was a white man, *in both senses of that word*, he could come from anywhere in the world and he was made welcome, and put to work with no questions asked as to his race, his religion, his language or his previous condition of servitude.

Canadian scholars have been consulted on the possible meaning of the phrase, "in both senses of that word," (which the present writer has italicized in the quotation), and they doubt that it shows a tendency toward prejudice against colored settlers.¹⁴⁴ There is still room for speculation. When Sifton addressed Queen's College on receiving the LL.D., in 1927, he spoke as follows:¹⁴⁵

You are Canadians. This is a distinctively—perhaps the most distinctively—Canadian University. What does that call to your mind? That you are one of nine million people to whom Providence has committed perhaps the greatest heritage that has ever been given to an equal number of people. Nine millions of white people. No negro problem; no yellow problem; no slum problem.

Notice the interesting disjunction between "white people" and those who produce problems: Negroes, orientals, paupers. It reads a good deal like master-race dogma of nineteenth century United States. If these do not represent Sifton's true sentiments they were the ones attributed to him by at least some of his contemporaries. In an immigration study prepared for wide distribution in 1914 the Negro population of Canada was discussed briefly, and the author closed with some pertinent words:¹⁴⁶

Whilst no one will deny that there are many upright and respected citizens among the number, there are few thoughtful Canadians who would care to see the present number increased by fresh arrivals . . . At no time has the immigration of this race been encouraged by the government, and it must be with regret that students of the immigration problem view the movement of coloured persons from Oklahoma to the western provinces which commenced during the year 1911. The negro problem which faces the United States, and which Abraham Lincoln said could be settled only by shipping one and all back to a tract of land in Africa, is one in which Canadians have no desire to share. It is to be hoped that climatic conditions will prove unsatisfactory to those new settlers, and that the fertile lands of the West will be left to be cultivated by the white race only.

Perhaps it is unfair to treat isolated quotations in this way; in any event, Negroes have not come to western Canada on any scale and broad conclusions cannot be sustained without further study, unless the mere absence of Negroes is considered presumptive evidence.

It is risky business to erect a mighty pile of historical generalizations upon a foundation consisting of only one state out of forty-eight, but the writer confidently appeals to the historical profession to say whether it is not absolutely predictable that a prejudice existing in an established area of settlement will be found, in one form or another, in adjacent areas crossed over by a moving frontier. In the case of Montana, one may boldly assert that had there been no system of segregated schools in the Territory there would have been discrimination at least in "minor respects," as happened elsewhere, and if that is true for Montana it is true for the whole West. We must keep in mind that no outside force imposed Negro segregation upon Montana; no pressure was brought to bear, no rewards were held out; the pioneers made a free choice. For those who sympathize with the South in its present plight and reflect on the large numbers of colored people in that area, let it be remembered that Montana tried to put Negro children in one building and whites in another when there were probably less than two-hundred colored people of all ages in a population of twenty thousand. If there ever was a time for the newly-arrived settler to pick and choose eastern laws and institutions with nice discrimination, it was when he faced the meager number of "Africans" around him and tried to decide whether to treat them as citizens or subjects.

In the history of attitudes the frontier movement of the Far West has been nothing but a conduit with a very coarse screen. It is to the credit of that master historian, Frederick Jackson Turner, that he made no attempt to conceal the brutalizing effects of frontier

existence, and his ablest followers have displayed the same honesty. Indeed, among the popularizers the crudities and savagery of pioneer life seem to overshadow everything else. For Turner, as for these others, the cultural deficiencies of the frontier were more than made up for by its alleged agency in the spread of democracy. Yet, it is not the sophisticated democracy of the present day which they seem to be thinking of, but the "grass roots" sort of thing, a form of behavior known for its vigor more than anything else. The pioneer never did solve the problem of minority rights on the frontier, not with the Indians, not with the Chinese, not with the Mormons, and apparently not with the Negroes either. It is notorious that he had few twinges of conscience with the first three; what his attitude toward the last one was may be surmised. He did not solve the problem in the West because he did not solve it in the East. No American has solved it. The frontier permitted him to be pretty much the same kind of man in both places. It was a passive instrumentality, a chute.

The early West may have made Americans out of Englishmen, as Professor Turner said, but the Far West was Americanized by Americans who came with social attitudes already formed. The people who went west after 1848 were not very far removed in time from the pioneers of their own homeland. It was as certain as anything can be in this world that when the sons and grandsons of the early frontiersmen passed beyond the Mississippi they would exploit Indians and discriminate against Negroes.

In the old days it used to be said that the North loved the Negro collectively and hated him individually,

while the South loved him individually and hated him collectively. The Far Westerner might have exercised that much-talked-about adaptability of his to devise some better attitude. If it is true that the frontier movement produced American democracy, and American democracy included racial prejudice, he really had no choice, for democracy decreed that he degrade himself by degrading his black brother, and degrade he did.

¹ "An Act to provide for a system of common schools," January 12, 1872, *Laws, Memorials, and Resolutions of the Territory of Montana* [7th sess.] (Deer Lodge: "New North West," 1872), section 34, p. 627.

² "An Act to provide a temporary Government for the Territory of Montana," May 26, 1864, ch. xciv, 13 *Stat.* 85.

³ Not specifically said in the Montana Organic Act, but understood. Formalized later by general law: *Rev. Stat.* sec. 1850 (1875).

⁴ Section 4 of the Organic Act. See note 13, below.

⁵ This is section 1 of the Amendment. (Italics mine—J.W.S.)

⁶ The writer has in preparation a study of the constitutional law of the organized Territories covering the period 1787-1900.

⁷ The Montana statute on school segregation was never construed by the Territorial supreme court or the state supreme court while it was in effect.

⁸ Well discussed by opposing counsel in *Corry v. Carter* (1874), 48 Ind. 327; and *People, ex. rel. King v. Gallagher* (1883), 48 N. Y. 438. Also in a note following *United States v. Buntin*, 10 Fed. 730 (6th Cir. 1882). Many of the important state cases, but by no means all, were considered by the United States Supreme Court in *Plessy v. Ferguson* (1896), 163 U. S. 537. The reader is directed to the *Century Digest* under the title "Schools" for a convenient summary of others.

⁹ *Roberts v. The City of Boston* (1849), 5 Cush. [Mass.] 198. The Plessy case and others alluded to may be located through note 8, above.

¹⁰ See note 8, above. According to Alfred H. Kelly and Winfred A. Harbison, *The American Constitution* (NY: W. W. Norton & Co., Inc., 1948), it was another case which decided that "laws establishing separate schools for whites and blacks were also valid, so long as equal accommodations were provided for both races."—p. 492. Justice Harlan denied that this point was before the court: *Cumming v. Board of Education* (1899), 175 U. S. 543, 544, 545. See also Edward S. Corwin (ed.), *The Constitution of the United States of America* (Washington, D. C.: 1953), p. 1161.

- ¹¹ *Ward v. Flood* (1874), 48 Cal. 36. (Pertinent sections of the California law are reprinted in the opinion.) In *Marion v. Territory*, 32 Pac. 116 [Okla.] (1893), the supreme court of Oklahoma Territory upheld an Oklahoma segregation statute of 1890. I believe this was the leading Territorial precedent. The law was sustained, although the constitutional issue was evaded. The Marion case came too late to be of much use to the Montana bar and it seems to have left little trace in the public law of the day.
- ¹² "An Act to Provide for a system of Common Schools," *The Statutes of California* [6th sess., 1865-66], particularly sections 57-59, p. 383.
- ¹³ By an oversight this phrase was omitted from the Montana Organic Act, but the hole was plugged by Congress later and was never regarded as an escape.—*Rev. Stat. sec. 1891* (1875).
- ¹⁴ *United States v. Singleton* (1883), 109 U. S. 3.
- ¹⁵ After discussing the Credit Mobilier scandals Riegel has this to say: "The morals of a succeeding generation should not be held as a standard for earlier generations."—Robert Edgar Riegel, *The Story of the Western Railroads* (NY: The Macmillan Co., 1926), p. 80. I should like to know why not.
- ¹⁶ *Congressional Globe*, 38 Cong., 1 sess., p. 1745.
- ¹⁷ *Ibid.*, p. 1843.
- ¹⁸ *Ibid.*, p. 2348. The final conference committee not only reported that there were no Negroes in the Territory but predicted that there "probably would not be any colored persons actually resident in the Territory who, by any possibility, could vote on this occasion . . ."—*Loc. cit.*
- ¹⁹ Historical Society of Montana *Contributions*, X (1940), p. 281, note 135.
- ²⁰ Thomas J. Dimsdale, *The Vigilantes of Montana* (Butte: McKee Printing Co., 1949 ed.), p. 148; Robert George Raymer, *Montana* (Chicago: 1930), I, p. 170; Mable Ovitt, *Golden Treasure* (Dillon, Mont.: 1954), p. 131.
- ²¹ Horace Mann Bond, *The Education of the Negro in the American Social Order* (NY: Prentice-Hall Inc., 1934), p. 44.
- ²² For the continuing influence of the Dred Scott case see William Winslow Crosskey, *Politics and the Constitution in the History of the United States* (Chicago: University of Chicago Press, 1953), II, pp. 1083ff.
- ²³ "An Act establishing a common school system for the Territory of Montana," February 6, 1865, *Bannack Statutes*, sec. 16, p. 433. (Italics mine—J.W.S.)
- ²⁴ *Ninth Census*, I, p. 46; *Tenth Census, Statistics of Population*, p. 400; *Eleventh Census, Report on Population*, I, p. 420.
- ²⁵ *Compendium of the Ninth Census*, pp. 388-91.
- ²⁶ *Compendium of the Tenth Census*, pp. 476-81. This source gives 1,374 Negroes as having been born in Montana, an impossible figure contradicted by other census evidence, printed and otherwise. There were not enough colored females in Montana in 1870 to have produced such a progeny: "1870 Census Population Schedules," Microfilm Roll No. 208 (Montana), National Archives.
- ²⁷ *Compendium of the Eleventh Census*, III, pp. 32-37.

- ²⁸ *Montana Post*, March 17, 1866.
- ²⁹ *Ibid.*, March 24, 1866.
- ³⁰ Nathaniel Pitt Langford, *Vigilante Days and Ways* (NY: D. D. Merrill Co., 1893), 2-vols-in-one, II, pp. 324-25; *Helena Weekly Herald*, September 5, 1867; Helen Fitzgerald Sanders and William H. Bertsche, Jr. (eds.), *X. Beidler: Vigilante* (Norman: University of Oklahoma Press, 1957), pp. 147-49. In its present form the Beidler book is almost useless as evidence.
- ³¹ *Helena Weekly Gazette*, August 6, 1873.
- ³² Albert D. Richardson, *Beyond the Mississippi* (NY: 1867), p. 488.
- ³³ Hermann Hagedorn, *The Magnate* (NY: Reynal and Hitchcock, 1935), p. 16.
- ³⁴ F. V. Hayden, *The Great West* (Philadelphia: Franklin Publishing Co., 1880), p. 234. See also; *Helena Weekly Record*, August 18, 1881; *Fort Benton Weekly Record*, September 8, 1881; *Ibid.*, September 22, 1881; *Rocky Mountain Husbandman*, December 8, 1881.
- ³⁵ W. C. Handy, *Father of the Blues* (NY: The Macmillan Co., 1944), p. 41.
- ³⁶ There were very few Negroes listed as miners in 1870, although a good many Chinese. It seems that the prejudice against Negroes was greater: "1870 Census Population Schedules," Microfilm Roll No. 208 (Montana), National Archives.
- ³⁷ *Loc. cit.*; Bureau of Census, *Negro Population 1790-1915*, p. 92.
- ³⁸ *Ibid.*, p. 71.
- ³⁹ Article on "Missouriana," *Missouri Historical Review*, XXXIV (October, 1939), pp. 71-80; same (April, 1940), pp. 357-61.
- ⁴⁰ "Society has been plunged into a fearfully distracted state by the advent of Price. Very many of the resident rebels must speedily show works meet for repentance or emigrate where their sympathies lead them."—(General Fisk to General Rosecrans, December 8, 1864, *War of the Rebellion*, ser. I, XLI, part 4, p. 814.) The Far West was considered a suitable place for redemption:—*Ibid.*, pp. 562, 829, 905, 947. For the attitude of Montana Republicans toward these refugees see George Mc-Q[.....?] to Lyman Trumbull, June 10, 1866, "Territorial Papers of the United States Senate," Microfilm Roll No. 10, National Archives and Records Service, 1951; Governor Potts to Secretary of Interior, March 4, 1877, "General Records of the Department of the Interior; Territorial Papers, Montana," Roll No. 2.
- ⁴¹ Ovitt, *Golden Treasure*, p. 25.
- ⁴² *Carrhart v. Montana Mineral Land and Mining Co.*, 1 Blake [Mont.] 246.
- ⁴³ *Fort Benton River Press*, February 15, 1882.
- ⁴⁴ [William A. Burke], *Copper Camp* (NY: Hastings House, 1945), p. 133.
- ⁴⁵ *Compendium of the Ninth Census*, pp. 423-24; *Compendium of the Tenth Census*, p. 518.
- ⁴⁶ Figures abstracted from material collected in James U. Sanders (ed.), *Society of Montana Pioneers, Directory* (Helena: 1899).

- ⁴⁴ *Compendium of the Ninth Census*, pp. 378-82, 392. The foreign-born were of the usual type for the period, British Islanders, Germans, Canadians, and so on. The frontier movement apparently did little to liberalize the thinking of these pioneers. Perhaps they were not so liberal to begin with.
- ⁴⁵ *Compendium of the Tenth Census*, pp. 332, 464-69.
- ⁴⁶ See references in notes 45, 47, and 48, above.
- ⁴⁷ Robert W. Johannsen, *Frontier Politics and the Sectional Conflict* (Seattle: University of Washington Press, 1955), pp. 15ff. and 91. In compilations for the years 1864, 1870, and 1880, the states of Missouri, Kentucky, and the two Virginias supplied an average of three-fourths of the Southern immigrants into Montana: see references in notes 46, 47, and 48, above. On the historical position of Border States see: Edward Conrad Smith, *The Borderlands in the Civil War* (NY: The Macmillan Co., 1927).
- ⁴⁸ Charles S. Johnson, *Patterns of Negro Segregation* (NY: Harper and Brothers, 1943), p. 12.
- ⁴⁹ Southern-born legislators were outnumbered by roughly two-to-one in both houses.—From records kindly put at my disposal by Dr. E. E. Waldron of Montana State University, compiled for his projected "Biographical Directory of the Montana Legislature." The only recorded vote took place in the Council, on passage. The single member to vote against the bill was from Louisiana (S. J. Beck).
- ⁵⁰ Before the appointment of Cornelius Hedges as superintendent of public instruction in 1872 the Territorial school records were badly kept. Historical sources are consequently thin. County superintendents were largely independent of superior control and the entire situation was generally deplored.
- ⁵¹ Section 56, reprinted in *Ward v. Flood*, 48 Cal. 36. A lawyer could still argue that the California law segregated Negroes in any number. Section 53 read: "Every school, unless otherwise provided by special law, shall be open for the admission of all white children between five and twenty-one years of age residing in that school district . . ."—*Loc. cit.*
- ⁵² *Weekly Montanian*, December 21, 1871.
- ⁵³ *Helena Daily Herald*, December 14, 1871; December 27; December 30; January 5, 1872. See also the *Weekly Montanian*, December 7, 1871; December 28.
- ⁵⁴ The bill as submitted by Searles is found in a box labelled "Sorted Bills" on Shelf 74, sub-basement 6, office of the Secretary of State, Helena. The room index says the box contains vetoed bills of the 1876 session, obviously not true with respect to this bill. In the same container are other education bills of no assigned date. They differ from one another considerably but all contain the provision on Negro children.
- ⁵⁵ *Helena Daily Herald*, December 1, 1871.
- ⁵⁶ On Council action see the *Helena Daily Herald* for January 11, 1872. On Stuart's Indian wife and family see W. J. Ghent, "Granville Stuart," *Dictionary of American Biography*, XVIII, pp. 168-69.
- ⁵⁷ The marriage of white men to Indian women was a heritage of the fur trade in Montana, more important there than in California. Strong disapproval of such unions came with the gradual elevation of society into

the polite form. Since Montanans were so racial minded it is strange that the bill spared the Chinese. There were better than ten times more of those than of colored people in 1870: *Ninth Census*, I, p. 46. Pronounced dislike for Chinese seems to have dated from the Helena fire of 1874. Some people held them responsible for it. See Helena newspapers for January, 1874.

- ⁵⁸ See newspaper references in notes 55, 56, 58, and 59, above.
- ⁵⁹ In the *Revised Statutes* of 1879, section 34 became section 1120. In the *Compiled Statutes* of 1887, section 1120 became section 1892. There is no mention of it in the *Code* of 1895 because the code commission incorporated the changes in the laws made by the legislature of that year, including repeals.
- ⁶⁰ *Biennial Report of Hon. Cornelius Hedges, Superintendent of Public Instruction* [1872-73] (Cincinnati: Robert Clark & Co., 1874), p. 6.
- ⁶¹ *Helena Daily Herald*, August 18, 1873, letter by "Justice." There was no explanation as to why the mother was called "Miss" rather than "Mrs."
- ⁶² *Helena Daily Herald*, August 19, 1873.
- ⁶³ *Ibid.*, August 18, 1873.
- ⁶⁴ *Ibid.*, August 19, 1873.
- ⁶⁵ *Ninth Census*, I, p. 46.
- ⁶⁶ *Helena Daily Herald*, August 19, 1873.
- ⁶⁷ *Council Journal*, p. 11. One wonders what he thought when the Turner woman pleaded for her child and asked why Chinese and Indian children might go to school at the taxpayers' expense, but not hers.—*Helena Daily Herald*, August 18, 1873.
- ⁶⁸ *Ibid.*, August 18, 1873.
- ⁶⁹ Letter to the editor, August 19, 1873. Hedges had close contacts with the *Herald*, for whom he often wrote editorials: Michael A. Leeson (ed.), *History of Montana, 1739-1885* (Chicago: 1885), p. 328.
- ⁷⁰ Or so said the *Helena Daily Herald* for January 5, 1872. There are various reasons for accepting the story, the principal one being that under the Territorial form of government—where the executive was often an outsider from a different political party—no business between the governor and legislature could be transacted except through logrolling.
- ⁷¹ *Biennial Report of Hon. Cornelius Hedges* [1872-73], p. 20. Hedges ran a letter in the *Helena Daily Herald* summarizing changes in the school law after the session was over, and castigating the legislature for parsimony, but he did not attack it for failing to repeal section 34. He did not even mention it. (Issue of January 19, 1874.)
- ⁷² He must have been a person of dignity and presence. In spite of his criticisms of legislators and other important people he was praised as an able man and a good school organizer. See *Helena Daily Herald*, January 14, 1874; *New North-West* [Deer Lodge], January 17, 1874.
- ⁷³ The *Missoulian* was one of few papers to even note that the governor had specifically attacked section 34. Possibly it was the only one.—Issue of January 15, 1875.

- " . . . I cannot believe that any considerable number of our citizens are willing that any child shall be excluded from the privilege of an education at the public expense on account of color."—*Message of the Governor of Montana Territory* [1874] (Virginia City: Montanian, 1875), p. 14.
- ⁷⁸ *Biennial Report of Hon. Cornelius Hedges, Superintendent of Public Instruction* [1874-75] (Helena: Independent, 1876, p. 4; Same [1876] (Helena: Independent, 1877), p. 7; *Report of the Superintendent of Public Instruction* [1877-78] (Helena: Independent, 1879), p. 10; *Ibid.*, p. 12.
- ⁷⁹ *Helena Daily Herald*, April 3, 1876; August 26; August 28; August 29; August 31; December 20; *Helena Daily Independent*, February 8; April 8; Laura C. Ballou, "Glimpses of Montana in Territorial Days as seen in Helena, the Capital," (manuscript 379, H36, "Helena Schools," Historical Society of Montana library, Helena)—dates given here for the inauguration of segregation in Helena are erroneous.
- ⁸⁰ *House Journal of the Ninth Session* [1876] (Helena: Helena Weekly and Daily Herald), p. 305; *New North-West*, February 11, 1876.
- ⁸¹ *Helena Daily Herald*, December 20, 1876.
- ⁸² *House Journal*, p. 340.
- ⁸³ *New North-West*, February 8, 1876; *Rocky Mountain Husbandman* [White Sulphur Springs], February 17, 1876; *Helena Daily Herald*, February 9, 1876.
- ⁸⁴ *Ibid.*, August 24, 1876.
- ⁸⁵ *Ibid.*, March 22, 1877; April 12.
- ⁸⁶ *Catalogue of the Helena Graded Schools* [1879-80], p. 8.
- ⁸⁷ *Butte Inter-Mountains Freeman*, December 18, 1881; *Butte Weekly Miner*, December 20, 1881; *Weekly Record*, December 29, 1881.
- ⁸⁸ *New North-West*, December 7, 1883; and references in note 80, above.
- ⁸⁹ *Billings Daily Herald*, December 8, 1883; *Butte Semi-Weekly Miner*, December 8; *Virginia City Madisonian*, December 15. The *Helena Daily Independent* of December 25 carried an editorial entitled "Civil Rights" which did not mention the affair.
- ⁹⁰ *New North-West*, December 7, 1883. I regret that I did not have time to consult the original papers of the case.
- ⁹¹ *The Report of the Superintendent of Public Instruction* [1877-78], p. 12, tells of twelve colored children in school in the county for that year, the last such mention in the official lists. In 1880 the county had 71 Negro residents: *Tenth Census, Statistics of Population*, p. 400.
- ⁹² The controversy is best studied chronologically through the newspapers—*Weekly Record*: December 29, 1881; January 4, 1882; *River Press*: January 4, 1882; January 11, 1882; *Weekly Record*: January 12, 1882; *River Press*: January 16, 1882; January 18; January 25; February 1; *Weekly Record*: February 2, 1882; *River Press*: February 8, 1882. From an editorial in the *Weekly Record* for June 23, 1881, it seems that there had been no trouble of any kind in the schools for at least a year prior to the December outbreak.

- ⁹³ *River Press*, January 16, 1882. Various county superintendents of schools were asked by the author to search their files for evidence of segregation in Territorial days. Records were found to be incomplete and little positive evidence of any kind came out.
- ⁹⁴ *Tenth Census, Statistics of Population*, p. 400.
- ⁹⁵ *Annual Report of the Superintendent of Public Instruction* [1881], p. 46.
- ⁹⁶ *Rocky Mountain Husbandman*, January 5, 1882; *New North-West*, January 13, 1882.
- ⁹⁷ *Rocky Mountain Husbandman*, January 12, 1882.
- ⁹⁸ *Helena Daily Independent*, February 4, 1882. In 1892 four colored children from a Negro family residing in town were in school and two were graduated in later years.—Letter to author by Ethel G. Knight, county superintendent, May 20, 1957.
- ⁹⁹ *Annual Report of the Superintendent of Public Instruction* [1881], p. 44.
- ¹⁰⁰ *Helena Daily Herald*, January 19, 1882; January 20. In the *Catalogue of the Helena Graded Schools* [1881-82], p. 9, one James Robinson seems to have been the only Negro from the former term who carried over.
- ¹⁰¹ *Helena Daily Herald*, March 21, 1882.
- ¹⁰² *Ibid.*, January 20, 1882.
- ¹⁰³ *Ibid.*, January 21, 1882.
- ¹⁰⁴ *New North-West*, January 27, 1882.
- ¹⁰⁵ *Helena Daily Herald*, March 21, 1882.
- ¹⁰⁶ *Ibid.*, May 12, 1882.
- ¹⁰⁷ *Helena Daily Independent*, February 4, 1882.
- ¹⁰⁸ *Helena Daily Herald*, May 14, 1882.
- ¹⁰⁹ *Helena Daily Independent*, February 4, 1882.
- ¹¹⁰ *Ibid.*, February 19, 1882.
- ¹¹¹ *Ibid.*, May 13, 1882.
- ¹¹² *Helena Daily Herald*, May 15, 1882.
- ¹¹³ *Helena Daily Independent*, May 14, 1882. The paper said it accepted the result but preferred the old system. Integration had failed in Chicago and would fail in Helena.
- ¹¹⁴ See note 35, above.
- ¹¹⁵ W. A. Clark frequently picked up papers during the capital campaign and sold them back later. He may not have controlled the *Colored Citizen*. It was very Republican and anti-Populist. Clark was a Free-Silver Democrat, one of the substantial contributors to Bryan in 1896. In other respects the paper suited his purposes so well that it is difficult not to see his hand in it. Later, if not at this time, he was more than willing to buy Republican votes. Why not Republican newspapers?

- ¹¹⁶ *Fourth Annual Report of the Superintendent of Public Instruction of the Territory of Montana* [1882] (Helena: Daily & Weekly Independent, 1883), p. 29.
- ¹¹⁷ From Dr. Waldron's files it appears that the Southern members of the 1883 legislature were also outnumbered by roughly two-to-one.
- ¹¹⁸ "An Act to Amend the Montana School Law," March 8, 1883, *Laws, Resolutions and Memorials of the Territory of Montana . . .* [1883] (Helena: George E. Boos, 1883), p. 57 (proviso).
- ¹¹⁹ *Helena Daily Herald*, February 28, 1883.
- ¹²⁰ *Loc. cit.*; *Semi-Weekly Miner*, March 17, 1883.
- ¹²¹ *Helena Daily Herald*, March 10, 1883.
- ¹²² It was renumbered as Section 1892. The only other writer to mention segregation in Montana, Monsignor Emmet J. Riley, thought the act of 1883 was the final one on the subject. The error is not material. See his *Development of the Montana State Educational Organization, 1864-1930* (Washington, D. C.: Catholic University of America, 1931), pp. 55-6.
- ¹²³ *Negro Population 1700-1915*, p. 428.
- ¹²⁴ *Ibid.*, p. 819.
- ¹²⁵ The repeal measure was introduced as Senate Bill No. 39. Its history can be traced in the *Senate Journal of the Fourth Session of the Legislative Assembly of the State of Montana*, pp. 8, 30, 31-32, 44, 92, 157, 158, 167, 169, 169-71, 183, 290, 325. The superintendent of public instruction designed it after reading the laws of the states. The board of education warmly recommended it to the governor, and he to the legislature: "Minutes" of the State Board of Education, December 3, 1894, pp. 120-21 (in the office of the Superintendent of Public Instruction, Helena); *Third Biennial Report of the [State] Superintendent of Public Instruction* [1894] (Helena: State Publishing Co., 1895), p. 258.
- ¹²⁶ John Herbert Nelson, *The Negro Character in American Literature* (Bulletin of the University of Kansas, *Humanistic Studies No. 1*, 1926), p. 128. His conclusions are accepted by Rayford W. Logan in *The Negro in American Life and Thought: The Nadir, 1877-1901* (NY: The Dial Press, 1954), pp. 239-74.
- ¹²⁷ Richard Moody, *America Takes the Stage* (Bloomington: Indiana University Press, 1955), p. 61.
- ¹²⁸ Logan, *The Negro in American Life and Thought*, pp. 208-09.
- ¹²⁹ George W. Cable, *The Negro Question* (NY: Charles Scribner's Sons, 1890), p. 3. Cable was a good deal unlike a certain Southern novelist of today whom one might mention.
- ¹³⁰ "At present, Harvard has about five thousand white students and about thirty of the colored races. The latter are hidden in the great mass and are not noticeable. If they were equal in numbers or in a majority, we might deem a separation necessary."—quoted in Bond, *The Education of the Negro in the American Social Order*, p. 375.
- ¹³¹ Quoted in Charles A. Beard's *Contemporary American History, 1877-1913* (NY: The Macmillan Co., 1914), p. 13.
- ¹³² Logan, *The Negro in American Life and Thought*, pp. 128-31.

- ¹³³ *Ibid.*, p. 134. See also William Christie Macleod, *The American Indian Frontier* (NY: Alfred A. Knopf, 1928), pp. 47-8. Indians of the South Atlantic and Gulf states practiced Negro slavery. This shows that they could learn frontier ways as quickly as whites, and is very creditable to them. See Cyrus Thomas, "Negro and Indian," *Handbook of American Indians North of Mexico*, edited by Frederick Webb Hodge (Bulletin 30, Bureau of American Ethnology, Part II, 1912), pp. 51-3.
- ¹³⁴ It is difficult to know precisely what the West thought on such questions. Large parts of it were organized into Territories which had no vote in Congress, and so voting records are not available for checking. For a general Western reaction see Logan, *The Negro in American Life and Thought*, pp. 68-9; and for Montana, p. 96 of the same work.
- ¹³⁵ Frederick Jackson Turner, *The Significance of Sections in American History* (NY: Henry Holt & Co., 1932 ed.), p. 237.
- ¹³⁶ From *The Frontier in American History* (NY: Henry Holt & Co., 1950 ed.), p. 266.
- ¹³⁷ The quotations are from Wayne Gard's *Frontier Justice* (Norman: University of Oklahoma Press, 1949), p. vi.
- ¹³⁸ Paul F. Sharp, *Whoop-Up Country* (University of Minnesota Press, 1955), p. 170.
- ¹³⁹ I derive most of my knowledge of the early Canadian situation from Mr. Fred Landon's articles, copies of which he generously sent to me following an inquiry. They are "Social Conditions Among the Negroes in Upper Canada," *Ontario Historical Society Papers and Records*, XXII (1925), reprint; "Negro Colonization Schemes in Upper Canada Before 1860," *Transactions of the Royal Society of Canada*, Third Series, XXIII, Section II (1929), reprint; "Agriculture Among the Negro Refugees in Upper Canada," *Journal of Negro History*, XXI (July 1936), reprint; and "Wilberforce, an Experiment in the Colonization of Freed Negroes in Upper Canada," *Transactions of the Royal Society of Canada*, Third Series, Section II, XXXI (1937), reprint. See also his *Western Ontario and The American Frontier* (Toronto: The Ryerson Press, 1941), pp. 204-15.
- ¹⁴⁰ Landon, "Social Conditions," etc., p. 10.
- ¹⁴¹ Landon, "Negro Colonization," etc., p. 79.
- ¹⁴² *Ibid.*, p. 80.
- ¹⁴³ John W. Dafoe, *Clifford Sifton in Relation to His Times* (Toronto: Macmillan Co., 1931), p. 136.
- ¹⁴⁴ As there was no time to submit this essay to the scholars in question, for comment or possible correction, I omit their names.
- ¹⁴⁵ Dafoe, *Clifford Sifton*, etc., p. 529.
- ¹⁴⁶ W. D. Scott in *Canada and Its Provinces*, Adam Shortt and Arthur G. Doughty, eds. (Toronto: Glasgow, Brook & Co., Archives Edition, 1914), VII, Section IV, Part II, p. 531. For a contemporary account of anti-Negro prejudice in British Columbia in 1865 see S. D. Clark's *Social Development of Canada* (Toronto: University of Toronto Press, 1942), p. 360. Information concerning Negro status in other parts of Canada is scattered throughout the book.