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Political coverage of the Virginia City Montana Post August 1864 to July 1867

Penelope Wagner Wilson

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THE POLITICAL COVERAGE OF THE VIRGINIA CITY MONTANA POST
AUGUST, 1864, TO JULY, 1867

by

Penelope Wagner Wilson

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<table>
<thead>
<tr>
<th>CHAPTER</th>
</tr>
</thead>
<tbody>
<tr>
<td>PREFACE</td>
</tr>
<tr>
<td>I. THE MEN WHO MADE THE POST</td>
</tr>
<tr>
<td>II. THE MEN WHO READ THE POST</td>
</tr>
<tr>
<td>III. MONTANA ELECTIONS: IN THE POST AND AT THE POLLS</td>
</tr>
<tr>
<td>IV. A THEORY ABOUT FRANKLIN, THE &quot;ANONYMOUS SCRIBBLER&quot; OF MONTANA'S FIRST LEGISLATURE</td>
</tr>
<tr>
<td>V. MONTANA'S BOGUS LEGISLATURES</td>
</tr>
<tr>
<td>VI. PUNDIT OR PROPAGANDIST?</td>
</tr>
<tr>
<td>BIBLIOGRAPHY</td>
</tr>
</tbody>
</table>
The formation of territorial governments in the Pacific West spurred intense—sometimes raucous—clashes among political factions. Such encounters were frequent and often bitter in the first efforts at government in Montana Territory, for political maneuvers were inspired, in part, by enmities that had been sharpened by three years of what Allan Nevins called the "war for the Union." Moreover, the Civil War had disrupted the unity and organization of the two major parties that vied for power in the northern states and in the new Territory of Montana.

As Montanans created their government, one newspaper recorded and commented on their endeavors, tribulations, successes and failures. The Virginia City Montana Post, the Territory's first newspaper and its only one until November, 1865, had been founded August 27, 1864. This thesis examines the political news coverage and the partisan editorials of the Montana Post from its first issue to mid-1867, when the territorial government had achieved an enduring stability and when, with the war's end, political leaders and party spokesmen had turned slowly from caustic strictures to more tolerant, more respectful criticism.

In 1868 the Montana Post was moved from Virginia City to the more prosperous mining town of Helena. The following year a fire destroyed much of the Helena business community, and the Montana Post was discontinued.

The government, leaders and institutions of early Montana are examined for the insights they provide in interpreting the accuracy and
quality of the Post's political coverage. The study analyzes the controversies of the period in the context of their relationship to the Post.

Specifically, this thesis concerns the following subjects:

Chapter I--The Men Who Made the Post--biographical sketches of the Post's founders, owners and editors with emphasis on their political views and the effects of those views on the newspaper.

Chapter II--The Men Who Read the Post--the political attitudes of the Territory's residents with emphasis on evidence--or lack of evidence--of secessionist sentiment.

Chapter III--Montana Elections: In the Post and at the Polls--a study of the Post's role in the Territory's campaigns and elections.

Chapter IV--A Theory About Franklin, the "Anonymous Scribbler" of Montana's First Legislature--a theory about the identity of the man who covered the Bannack legislature under the pseudonym Franklin.

Chapter V--The "Bogus Legislatures"--the Post's coverage of the issues that led to Republican rejection of the second and third legislatures and their subsequent nullification by the U. S. Congress.

Chapter VI--Pundit or Propagandist?--an examination of the Post's consistency, objectivity and believability as the political chronicler of Montana's territorial government.
CHAPTER I

THE MEN WHO MADE THE POST

There was a good excuse to start celebrating Sunday early, and it
seemed that half the mining camp's population was gathered that Saturday
afternoon in a hot little Alder Gulch cellar.¹

The occasion was the publication of the Territory's first newspaper. News sheets had been issued before, but only sporadically to
mark specific events such as the creation of Montana Territory by divid­
ing the Territory of Idaho.²

John Buchanan, a printer from Ohio and a newcomer to the gulch,
had announced he intended to publish the Montana Post every Saturday.
The gold-hungry inhabitants of the camp town named Virginia City also
were print hungry. They bought out shipments of reading material as
quickly as merchants unpacked them. A local newspaper was more than
they had expected.

Buchanan's excited young apprentice, Marion Manner, who had come
with him from Kalidah, Ohio, turned the handle of the Lowe hand press,
and the miners stood in line to measure out 50 cents in gold dust for
one of the 960 copies of the Post.³

"This begins to look like civilization," they remarked as they
squinted at the closely set lines of type on the crisp, white paper.⁴

¹M. M. Manner, Indianapolis Sunday Star, Nov. 25, 1923.
²Dorothy M. Johnson, "Montana's First Newspaper," Montana Journal­
ism Review, No. 1, Spring, 1958, pp. 9-12.
³Manner, loc. cit.
⁴Ibid.
Miners who sympathized with the South were irritated by the motto on the first page: "My Country, May She Always be right. But My Country, Right or Wrong."¹

It was a trite bit of Union flag-waving by Buchanan. But it pleased the Union (another name for Republican) men who stopped in to buy a paper. And it symbolized the political philosophy that was to characterize the Post for the five years it chronicled the story of the fledgling territory.

The Post had many visitors in the next few days. Some were looking for work, and Buchanan paid them for setting type—$1 for 1,000 ems.²

His first printing job was 200 cards reading, "Good for One Dance and Two Drinks, One Dollar." The price was $12 in gold dust. An order for a full-sheet poster in two colors to advertise a prize fight was his next job. But the fight bill wasn't really poster size. Buchanan's supplies were limited. He had brought 10 bundles of paper, and he had used two to print the first issue of the Post.³

Virginia City was isolated. The nearest newspaper was across the mountains in Idaho, and the most accessible supply of paper was in Salt Lake City. It would be difficult to get more paper before the mountain winter set in, cutting off the shipment of goods via Salt Lake City and Fort Benton.⁴ And it would be risky for a printer to spend the winter in Virginia City without paper.

¹Montana Post, Aug. 27, 1864, p. 1.
²Manner, loc. cit. ³Ibid.
When he left Ohio in April, Buchanan had not planned to publish his paper in that mining camp. A friend had written to him from Gallatin City in a rich farming valley. The letter said the city was offering 50 town lots to the first man who published a newspaper there. The promise of that much real estate in a growing community was lure enough for Buchanan. He and Manner rode a train to St. Louis where they bought type, press, paper and office material. They boarded the steamer Yellowstone for Fort Benton, the last port on the Missouri River, and set out for what they believed to be the "Gold Fields of Idaho."

A prospector whom they met on the boat discouraged them from settling in Gallatin City and urged them to try their luck in Virginia City.

The steamer, caught in a heavy current that pulled it down river, ran aground on Cow Island, about 80 miles from Fort Benton. After waiting for the crew to get the boat afloat, Buchanan and Manner went to Fort Benton where they awaited their freight, which the steamboat company was obligated to deliver to Fort Benton. Buchanan didn't like Fort Benton. He found its inmates, "French, Indians, niggers, lice and rats," revolting, and later advised his readers that the "less you have to do with it the better." Chances are that he

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1Manner, loc. cit.
2Montana Post, Aug. 27, 1864, p. 1.
3Manner, loc. cit.
4Montana Post, Aug. 27, 1864, p. 1.
6Montana Post, Aug. 27, 1864, p. 1.
didn't much care for some of Virginia City's inhabitants either. Fort Benton was an established river port when Bill Fairweather and his companions found "colors" in Alder creek. And Virginia, Central and Nevada cities were still rather primitive settlements when the Ohioans arrived in the gulch in August. The worst rats—Sheriff Henry Plummer and his "Innocents"—had been exterminated by the Vigilantes. Since the hangings in the winter of 1863-64, Alder Gulch was said to be among the safest gold camps.

Manner was shocked by the town's rowdiness on Sunday—the only day the miners didn't work. Fifty years later, he said:

One Sunday I saw as many as 50 or 100 drunk men on the Main Street of Virginia City, fighting. Only the vigilance committee, a corps of the better clan of citizens, preserved order. They would allow them to fight with their fists, but when any person pulled a gun they would take him to the gallows, erected about 200 feet away from the Main Street, and hang him.¹

Buchanan and Manner, like many western immigrants, "soon tired of this rough state of society."² Buchanan grabbed at a chance to return home, richer than when he had left, when it was offered by D. W. Tilton and Benjamin R. Dittes. The men, partners in a stationery and book store, offered to buy the Post less than two weeks after it first was published. Tilton and Dittes had been doing some job printing on a small hand press they had hauled from Colorado. They probably had paper on order. Buchanan accepted their offer of $3,000 in gold dust.³ He

¹Manner, loc. cit.
³Manner, loc. cit.
had published two editions of the Post, and he stayed another two weeks to edit two issues for Tilton and Dittes.1

Because Buchanan was publisher of the Post for such a short time, he usually is slighted in histories of early Montana journalism. But the printer from Ohio established the political postures expressed by the Post through most of its five-year history.

Buchanan said he had set out to "bring a press to the 'far west'" so he could publish a journal devoted to the interests of the Territory.

The interest of the miner, the agriculturist and the businessman will be carefully looked after. . . . Personalities will not be indulged in, as we believe it to be the province of a journalist to pursue an independent and straightforward course, and while we shall speak freely our sentiments on all subjects, we shall courteously extend to our opponents the same privilege. Believing that political demagogues have well nigh ruined our country, we shall not make our paper the organ of any clique or faction. The enterprise is our own, and as we are under the hire of no man or party, we will labor for the exclusive benefit of none, but shall, as before stated, continue our efforts to the advancement of the interests of the people to whom we look for support. As a journalist we shall independently give our views on all national questions as they affect the American people. This we shall do as an American citizen, whether it please the ear or provoke a frown from the powers that be. And finally, it being our object to publish an independent (not neutral) paper, we shall leave it to our readers as to how we shall fulfill the promise.2

Lest the full significance of Buchanan's remarks is overlooked, it should be emphasized that in 1864, when a man spoke as an "American citizen," he spoke as a citizen of the United States of America; that is, he was a Union man.

Buchanan also indicated his support of the Union in an editorial,
"The Rights of the General Government," in which he asserted that South Carolina and other Southern states did not have the right to secede. He based his argument on a legalistic interpretation of the Constitution.¹

Buchanan took a fighting stance on the Indian situation. He printed hearsay accounts of atrocities and proposed:

Our plan is to let out the Indian war by contract to the lowest bidder. If the Government doesn't understand this business, let her sell out to somebody that does. Our people have looked on these Indian butcheries long enough, and if they don't cease, will soon take the matter into their own hands.²

His proposal was to be echoed and enlarged on in subsequent Post editorials about the troublesome Indian situation.

Buchanan established the Post's policy opposing Mormonism. Purporting to quote a Mormon church leader, the Post suggested that polygamous Mormons would indulge in the most unspeakable sexual practices. The Mormon is allegedly quoted thus:

This war's goin' on till the biggest part'o you male Gentiles has killed each other off, then the leetle hanful that is left, and comes fleelin' to our asylum'll bring all the women of the nation along with 'em so, we shall hev women enough to give every one on 'em, and have a large balance left over to distribute round among God's animals that has been here from the beginning O' the tribulation.³

Buchanan did not say much about territorial politics. Governor Sidney Edgerton recently had returned to the Territory after receiving in Salt Lake City news of his appointment.⁴ But political parties had not been organized formally, nor had an election date been set. In fact, inhabitants of the gold camps along Western Montana's creeks had

learned only recently that the Territory of Montana had been created. President Lincoln had signed the Organic Act establishing Montana as a Territory on May 26, 1864, and news traveled slowly to Montana.

In his account of Edgerton's arrival in Virginia City, Buchanan noted happily that Edgerton's remarks to the welcoming crowd were "conservative--no political harangue was indulged in. The Governor, we think, is the right man in the right place."\(^1\)

In his second edition, Buchanan reprinted the Organic Act that served as the Territorial Constitution. And he cautioned his readers against blind partisanship:

We don't ask our readers to look to this party or to that, but hunt up trustworthy men, don't be carried off by the politician who tells you he belongs to this party or that, thereby intimating that he has a life lease on your suffrage. In other words he expects you to go it blind. . . . It is no evidence that a man is either "honest or capable," from the fact that he belongs to a particular party.

But we presume that party lines will be drawn in the Territories as they are in the States, when the lash of the political whip will be resorted to, to bring in all refractory fellows.\(^2\)

Buchanan's last paragraph was more prophetic than he might have realized. The Post often was to warn against partisanship, but "blind partisanship," as defined by the Post came to mean blind Democratic partisanship.

Buchanan and Manner left Montana near the end of September. Buchanan may have wanted to return to Ohio because he was ill. He died March 27, 1865, in Kalidah, seven months after he had founded the Post.\(^3\)

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\(^1\) Montana Post, Aug. 27, 1864, p. 2.

\(^2\) Montana Post, Sept. 3, 1864, p. 2.

In his valedictory, Buchanan said he had to return to private affairs. But he indicated he hoped to return to Virginia City:

"Expecting to make our home with you yet; with many regrets and a heart full of kindness for past favors, we bid you a brief goodbye." ¹

In its salutatory, D. W. Tilton and Company, the new owner, stated:

The Post will be the unflinching advocate of whatever will contribute to the material prosperity of social order . . . to aid in the development of this vast mineral wealth and to assist in making these valleys teem with rich reward of industry, is our ambition and—as all public journals must—to mould somewhat the public sentiment of the community so that wisdom and justice shall characterize all its actions, is the great task upon which we enter. . . .

We shall avoid all extremes of opinion and try to be governed by views that are just to all. But we comprehend fully the difference between extreme opinions and earnest convictions, and believing as we do that all great causes are subserved by faithful devotees, we do not mean to become amiable to the charge of having turned our backs upon any cause which is commended to us. . . .

One thing we do promise our readers . . . So far as the representations made in the Post of the quality of our mines are concerned, we intend that they shall be truthful.²

Tilton, the senior partner, was a New Yorker who at 25 had spent five years in the Colorado gold fields.³ His "junior," Benjamin Dittes, who was to have a one-third interest in the newspaper, was a 31-year-old German immigrant. Dittes earned his interest in Tilton's business by driving the ox team that pulled the company's wagon, containing stationery and dime novels, from Central City, Colorado, to Virginia City.⁴

¹Montana Post, Sept. 10, 1864, p. 2.
²Ibid.
N. H. Webster, who drove another wagon in the train, said, "Dittes was promised by Tilton that if he got through in good shape he would make him an equal partner in the concern, which he did if I recollect aright."¹

Dittes and Webster arrived in Virginia City October 19, 1863.² Tilton had arrived 11 days earlier by coach.³

Little is known about Dittes before his arrival in Virginia City, except that he was born in Leipsic, Saxony, in 1833.⁴ He was to handle circulation and advertising, and act as sometime correspondent for outlying mining camps served by the Post. He was called the "junior partner" in the Post's columns, and he made his headquarters in Helena in July, 1866.⁵

David Webster Tilton was born at Silver Creek, New York, July 3, 1839, the only son of a Maine house builder who was a Republican and a staunch Presbyterian. He attended public schools in Silver Creek until he was 16, worked for a book and stationery store for two and a half years and enrolled in the Bryant and Stratton Business College in Buffalo, New York. On graduation he returned to Silver Creek, then set out with a $100 grub stake from his father.

He headed west and took a clerk's job in the Hannibal and St. Joseph Railroad office at St. Joseph, Missouri, at $40 a month. When he heard about the gold discoveries at Pike's Peak, he signed on with a

¹Ibid.
²Ibid.
³Miller, loc. cit.
⁴Helena Herald, Nov. 6, 1879.
⁵Montana Post, July 7, 1866, p. 2.
wagon train as mule skinner to get to Colorado. Though he was working his way, the trip cost $35.

There was a labor shortage in the mountain mining towns, and Tilton had a winning way about him. On his first day in Denver, he worked until noon as a hod carrier, then lunched at a hotel where he was hired as clerk and bookkeeper. But that evening he learned his job included a shift as bartender, and he promptly resigned "as he did not like that part of the work."¹

He worked for a year as a messenger on an overland coach. Then he was unemployed for a time, owing to "mountain fever." Despite the illness, he was determined to remain in the West and turned down an offer by his fellow workers to raise money to send him home. When he recovered, Tilton began operating soda fountains in Colorado mining gulches and later added a stationery store.²

By September, 1864, when they bought the Post, Tilton and Dittes probably were well satisfied with their 11 months in Virginia City. The $3,000 in gold dust paid for the Post was a sizable sum even for Montana Territory. Federal district judges made $2,500 a year, and their salaries would be worth half that in gold dust.³

After Buchanan's departure, the Post needed an editor. By October 1, Tilton had found one in Thomas Dimsdale, a puny British schoolteacher. After teaching in southern Canada, he had opened a private school in Virginia City. Dimsdale's manuscript for The Vigilantes of Montana, which was to immortalize the Vigilance Committee, may have led to the

¹Miller, loc. cit. ²Ibid. ³Manner, loc. cit.
Post editorship. He had obvious qualifications for the job, being well educated, eager and available. He had exhibited an interest in the affairs of the lively community. He was a member of the Masonic Lodge, conducted a singing school and went happily to any "ball" in the gulch. He was reputed to have attended Oxford University in England.

Dimsdale's writing best established his qualifications as an editor. He was literate, witty and opinionated. His spirited reporting and comment gave the Post its identity.

Merrill G. Burlingame said in _The Montana Frontier_

Dimsdale was a native of England, which kept him from being unduly partisan, hence the newspaper maintained a middle-of-the-road attitude, which was fortunate, since the northern-southern feeling was very strong in the little settlement.

One wonders if Burlingame read the Post, which under Dimsdale was passionately "Union," the designation used by Republicans to equate their party with loyalty. Politics was highly charged with emotion. And Dimsdale questioned the loyalty of all Democrats who insisted on voting Democratic.

In an editorial before the Territory's first election, October 24, 1864, Dimsdale wrote: "With real Democrats we have no quarrel; but the platform of pseudo-Democrats we look upon as the meanest and most...

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1 Barsness, op. cit., p. 139.

2 R. J. Goligoski, "Thomas J. Dimsdale: Montana's First Newspaper Editor" (unpublished Master's thesis, University of Montana, Missoula, 1965), p. 3. Goligoski corresponded with Oxford administrators in an attempt to verify statements that Dimsdale had attended that university. He was told that Dimsdale may have attended one of the Oxford colleges but that general records did not include his name.

heterogenous compound ever foisted on the political world of the 19th Century.\textsuperscript{1} Dimsdale never found a Democratic party member who bore the characteristics of a real Democrat. And though he pleaded with, reasoned with and harangued his readers concerning the rewards of voting the "virtuous" Union ticket, he never converted the electorate to his views.

Why was Dimsdale, a transplanted Englishman in a Territory where politics had little real influence on the life of the inhabitants, so partisan and outspoken? Perhaps he was carrying out orders, writing what Tilton and Dittes told him to write. Certainly his editorials agreed with the politics expressed in earlier and later editions of the Post.

Before Dimsdale was editor, the Post said:

Strictly speaking, political parties are no more. . . . There are only two great divisions; viz: lovers and haters of their country, or in the words of [Stephen A.] Douglas, patriots and traitors.\textsuperscript{2}

Dimsdale echoed that theme in many editorials.

Tilton was probably the more influential of the publishers regarding editorial policy. Dimsdale's successor, Henry Blake, indicated that he was.

Mr. Tilton was kind and forbearing to the printers and all persons who were employed in producing the numbers of the Post. In politics, his principles rested upon the bedrock of Republicanism, and, in the contests that were waged in the dawn of Montana, the flag of the Union waved in the columns when self-interest prompted a contrary course of disloyalty.\textsuperscript{3}

\textsuperscript{1}Montana Post, Oct. 15, 1864, p. 2.

\textsuperscript{2}Montana Post, Sept. 24, 1864, p. 4.

Tilton's Republican, Presbyterian upbringing probably instilled in him the strong beliefs about the evils of slavery that were common among most Protestant Northerners in the mid-19th century. Tilton was active in Union politics in the Territory, and he served as delegate to the Madison county party convention in October, 1864.¹

Tilton was in charge of the newspaper's administration, including policy formation, personnel and purchasing. Dittes was in charge of advertising and circulation in Helena and the outlying mining camps; he also furnished news items from Helena. That division of labor is substantiated by numerous Post stories telling of Dittes' trips around the Territory to sell advertising and subscriptions and Tilton's trips out of the Territory to purchase equipment and supplies.

Blake, who described Dittes' duties in Helena, did not mention his politics.² There are indications, however, that Dittes was not so devoted a party loyalist as was Tilton. In an episode resulting from the Post's feud with the Helena Herald, its rival for the government printing business, it appeared as if Dittes' main concern was the profit-and-loss statement.

In the winter of 1866-67 the Herald had been accusing the Post of disloyalty, charging that it had no true claim to the Union party label if it wouldn't endorse the actions of the Radical Republicans.

The Post retaliated with a bitter, condescending editorial in which it labeled the Herald "a penny-a-liner" and "a conceited hatchling scarcely yet out of the shell." It said:

¹Montana Post, Oct. 8, 1864, p. 3.
²Blake, loc. cit.
We are glad to know that the Herald has at last come out in an avowal of its position, as heretofore the only evidence we had of it was the assertion that the Post was not a radical paper. They talk now of "apostasy" and whiningly beseech the Republicans to transfer their patronage to their journal. There is where the shoe pinches, but they will have more corns than they have now, when they find relief in that manner. We left the field open for perversion, and as we expected the Herald has taken advantage of it, and chuckles over its smartness.¹

The Herald fired back with an "expose" of an alleged conversation between Dittes and James L. Fisk, brother of the Herald's editor, R. Emmet Fisk. Dittes was about to embark on one of his periodic journeys through the mining camps to sell advertising and subscriptions. The Herald chose the occasion to accuse him and the Post of political fraud.

Now we wish our young friend Dittes a pleasant journey and all that sort of thing; but don't tell the people, Ben, that your paper is "unconditionally Union," and a Radical Republican organ, for they will not only not believe you, but you would be stultifying your own positive professions to us—as you will doubtless recollect, on the street, when you declared in loud and unqualified terms—1st. That "radicalism could never win in the Territory." 2d.—That no party advocating that doctrine could ever elect a candidate on that platform in Montana. 3d—That you came here to make money, and you'd be d—d if you were going to tie yourself to any such cause or doctrine, which in your mind "was so certain of failure."

You said you had just been calling on General Meagher, and he authorized you to say several things and that he was very friendly indeed. And didn't you make several threats about cleaning out the Radical party or ticket if one was put in the field at the approaching "special" election?

Certainly you did—and when we cornered you a trifle about there being two parties—the radical Republicans and the Conservative party, which means simply Copperhead Democracy, didn't you—after acknowledging that Conservatism "meant just nothing at all," assert that you—meaning the Post—would get up a third party? Certainly you did. But we need say no further on this point; all we ask is that you will not, while on your "grand tour," undertake to steal our thunder or unlawfully appropriate to yourself any of the benefits arising from that revivication of patriotism and good Republican faith which the Herald by a fearless and straight forward course from the first pulsation

thro' every line and sentence up to the present time, has accomplished in the hearts of the people of Montana.¹

If the Post earlier had been condescending and bitter in its remarks about the Herald, it was furious after that attack. It devoted most of its front page to repudiate each of the Herald's charges.

"What do the Union men of Montana say to the kind of honor that prompted the publishing of a private conversation?" the Post asked.

The Post proceeded to set forth what it termed the correct record of the conversation so Dittes and the newspaper could keep their political loyalty untainted. In defense, it said:

Dittes did not say that Radicalism never could win in the Territory, but that it could "not win in this Territory now, and any sane man knows that to be a fact."

Dittes did not say that no party advocating that doctrine ever could elect a candidate on that platform in Montana, but that the "Radical party will be defeated if they bring out a Radical ticket at that election."

Dittes did not say that he came here to make money and he'd be d___d if he was going to tie himself to a cause doomed to failure. Fisk "concocted an unmitigated falsehood." Dittes said: "The proprietors of the Post were determined to publish a good newspaper, devoted to the interests of the Territory; that they were guided by no clique, faction or sect, and that it was their purpose to go straightforward in the continuance of that determination; that it had won the confidence of the people and would maintain its record."

¹Montana Post, March 2, 1867, p. 5, quoting the Helena Herald of Feb. 21, 1867.
Dittes did say that "he had come here to make money, but in his endeavor to make money he would not barter away his principles."

Dittes did not say General Meagher had authorized him to say several things and was very friendly indeed. He did say that "he called upon General Meagher every day during his illness," spoke very highly of his "eminent social qualities," and concluded that "although opposed in politics to me, he was very friendly, indeed."

Dittes did not threaten to clean up the radical party and "any man that ever knew Ben R. Dittes" would not believe that he said it.

Dittes did not say he would form a third party. "No! James L. Fisk, he never said that."

The repudiation closed with a threat:

It will be in violation of our better feeling to do so, but if this ungentlemanly vilification of Mr. Dittes is continued, we will strip from the hideous deformity that sits enthroned within the Herald office, the glittering tinselry, and boasted honors he wears; if he "assumes the god," and with malicious intent, defames the character of respectable men; perverts and publishes private conversations and mingles perversion with falsehood, that it may answer an infamous purpose, we will publish a record of his public life, so disgraceful that men will shun him like a leper, or the obnoxious odors of the grave.¹

Considering the Herald's motives for attacking Dittes, one must question the veracity of its account. But much of the Post's repudiation also is hard to accept without reservation. It seems unlikely that Dittes would express the Post's purpose with such pompous formality in a sidewalk conversation with a fellow newspaperman. The Herald's version --that Dittes said he'd come to Montana to make money and he was d----d if he would tie himself to a cause doomed to failure--is more believable.

¹Montana Post, March 2, 1867, p. 1.
Dittes was ambitious and hardworking. He spent long days traveling to build up his business, and, in Montana Territory, travel was arduous and dangerous. It seems as if he would have been reluctant to tie himself to a cause doomed to failure.

Unlike Tilton, Dittes did not have strong political ties. Dittes was more pragmatic, more concerned with how politics would affect him in a practical sense.

While Dimsdale's editorials supported the political sentiments of D. W. Tilton and Company, there is no evidence Dimsdale did not believe fervently in what he wrote. If Dimsdale were just another pen-for-hire, he went to most convincing lengths to make his actions suit his words.

Dimsdale was a close friend of Wilbur Fisk Sanders, the first Union candidate for the territorial legislature. After Sanders' uncle, Governor Sidney Edgerton, left the Territory, Sanders was probably the most powerful man in the Union party. One can assume that Dimsdale and Sanders' friendship was based in large part on a common political viewpoint because politics appears to have been the consuming passion of both.

Dimsdale was a vigorous and frequent spokesman for the Union party at Virginia City political rallies. Almost every Post account of such rallies concludes with "Professor Dimsdale talked."

Campaigning for Sanders in 1864, Dimsdale pleaded for Union votes as a personal favor to him.

Professor Dimsdale then talked--a Loyalist under the British flag "and he intended to be one under the stars and stripes." . . . After describing the many fired banner of the southern sympathizers in Montana Territory, the Professor wound up with a stirring appeal to the spirit and patriotism of the citizens.
of Virginia, and added that the sight of them at the polls, on
the 24th, supporting the Union cause would be the most valuable
recompense they could award him for his sincere but feeble
services.¹

That brief account provides a clue to the Professor's affinity
for the Union party. He had been a loyalist in Britain, and the Union
cause was the loyalist cause in the United States.

Dimsdale's friends were Unionists. Sanders, Tilton and William
Chumasero were young and well-educated. They had a strong sense of
civic and territorial responsibility.

Sanders was the Vigilante prosecutor and Dimsdale was the Vigil­
lante historian, whose book would be published by Tilton.

The very nature of the editor's job forced Dimsdale to have
opinions and express them. Newspapers were not neutral in 1864—
particularly frontier papers. Their readers expected strong opinions
—even name-calling. They wanted topics for "cussin'" and discussion,
and a good frontier editor satisfied that want.

Dimsdale's Unionist loyalties were in keeping with his national
origin. The British government originally was in sympathy with the
Confederacy, but that was for trade and tariff purposes. The strong
abhorrence of most Englishmen to slavery was one reason Britain did not
recognize the Confederacy.² When Lincoln issued the Emancipation Proc­
lamation, he gave the North a holy cause; it could not be ignored by a
man like Dimsdale.

Dimsdale was more than the hired mouthpiece of his partisan bosses.

²J. G. Randall and David Donald, The Civil War and Reconstruction
He wrote what he believed; that his beliefs and the owners’ were compatible was a happy coincidence.

Dimsdale’s perspective and objectivity can be criticized, but it is difficult to question his sincerity. He found no fault with the Vigilance Committee or with Colonel Sanders, Governor Edgerton and other Union party leaders. Although he decried the practices (or alleged practices) of Mormons, Chinamen and Democrats, he occasionally said something good about them. Dimsdale’s prejudices were not based on hatred or a refusal to understand. They usually were the result of his loyalties. He opposed the Democrats because he believed so strongly in the Union party. He opposed the Mormons because he believed in monogamy as dictated by his brand of Christianity.

When the Mormon-edited Salt Lake Telegraph gave Dimsdale a friendly chiding for his avid anti-Mormonism, Dimsdale printed its comments:

Friend Tilton, proprietor of the Montana Post, called in upon us yesterday, blooming in health and smiling in success. Tilton has been very successful with his paper, has an excellent editor in Professor Dimsdale, a clear-headed gentleman, sound on nearly everything but Utah. Brother Dimsdale, come down and see us. We are not half as bad as we are colored, and we have excellent peaches.

Dimsdale’s reply showed his earnestness, his prejudice and his wit:

Should we visit Utah, we shall speak truly of what we see, without fear, favor or affection, and try to look at all things with an unprejudiced eye—as in honor and conscience bound. We have an honest and profound regard for the whole female race, and confess that Abraham, Jacob, Ekanah and Co. were good men, and had more wives than one. . . . For our own part, we are not supposed to be very nervous or given to bodily fear, while there

1Montana Post, Oct. 28, 1865, p. 2.
is any show for self defense, or a creditable end to a quarrel; but to openly make love to half a dozen bright-eyed houris in the same house, and to let them know it—wheugh! We perspiringly admit that we could not come to the scratch, and that, in such a case, a back door, with well oiled hinges and a snap lock, would be the most valued article of furniture in our house.

This much of the customs of Utah, as at present advised, we cannot sanction; but the patient industry which has made an Eden out of a desert we cannot but admire. We owe the Mormons much for their pioneer labors, hardy endurance and brilliant achievements, in the face of almost insuperable obstacles. We are of the opinion that this practice of polygamy will soon give way before the light of reason. Time will tell.¹

Dimsdale suffered from tuberculosis or, as it was called then, consumption. In the spring of 1866, he was forced to rest in the country.

An item in the July 7 Post indicated he was in the editor's chair through June.

Professor Dimsdale, editor of this paper, has been very ill during the past week, and is at present away from his post on a trip to the country, where we hope a change of diet and exercise may improve his health.²

According to subsequent Post items, Dimsdale made some gains the following week,³ and the August 18 Post reported that he "has so far recovered from his late illness as to enable him to once more assume the duties of the editorial department of the Post." But the September 1 issue reported that Dimsdale "left here on Monday last, for the country, where he expects to remain for a few weeks, or until his health will improve so as to allow him to again resume his editorial labors. We are glad to announce that on the morning of his departure he was feeling so well that he could ride on horseback."

¹Ibid.

²Montana Post, July 7, 1866, p. 5.

³Montana Post, July 14, 1866, p. 5.
Dimsdale died September 22, 1866, having spent his last days writing. The Post said:

His labors upon the Post and exertions to develop the resources of the Territory will be cherished by its inhabitants and perpetuated by the historian. His interest in the press never ceased, and in the intervals when his sufferings relaxed, he composed upon his couch articles for our columns. The member of the Post that was issued on the last Saturday in August, contained the final leader from his pen. About two weeks previous to his decease he wrote the preface to his history of the Vigilantes. He brought to the editorial chair a wonderful versatility of talent and ample stores of knowledge which had been derived from the perusal of a large number of books.¹

Henry N. Blake had taken over Dimsdale's pencil, paste pot and scissors in August, but his name did not appear on the Post masthead as editor until September 15. Blake, a lawyer, had no newspaper experience. His main qualification for the job, he later said, was his New England background.

I have observed that it is sometimes an advantage for a politician in Montana to possess alien blood, but my Puritan nativity on this occasion was a source of strength. I had no practical knowledge of the duties of an editor, had recently arrived in Virginia City, and was properly classified by pioneers of two years standing as a "tenderfoot."

I was informed by Mr. Daniel W. Tilton that I had been selected for this responsible position upon the presumption that having been born and educated in New England, I must be capable of thinking for myself and expressing in correct English an opinion on public affairs.²

Tilton may have thought Blake's background would insure the expression of correct opinions on public affairs—and, by correct opinions, Tilton meant Republican opinions. He was right about Blake's literacy and his politics.

¹Montana Post, Sept. 29, 1866, p. 2.
²Blake, op. cit., p. 253.
Blake later said:

In 1866, there was no partisan campaign and my editorials were not composed of hot or inflammable matter. A controversy arose regarding a legal question which is worthy of a slight consideration. The first legislative assembly convened at Bannack, Dec. 12, 1864, and failed to pass a law for the apportionment of the Territory as required by the Organic Act. The Republicans contended that no valid election for the choice of members of the legislature could be held until Congress provided a remedy. General Meagher, the secretary of Montana, and acting governor, published a letter expressing this view but suddenly changed his opinion. In 1865 and 1866, the Republicans refrained from voting and the Democrats elected the 2nd and 3rd assemblies.

Congress in 1867 nullified the acts of these bogus legislatures and made a new apportionment.

Under the circumstances, it was a difficult task for the Post to appeal to the voters or discuss with effect the issues agitating the whole country. ¹

The Post did its best, however. The tangled question of the validity of the two legislatures and constitutional convention called by the "Acting-One," as the Post referred to General Meagher, provided ample topics for Blake's editorials. "To legislate or not to legislate" became the leading partisan issue of territorial Montana. The name-calling centered on the unfortunate Thomas Francis Meagher, an Irish patriot who had been a Union Army Civil War officer. The federal government had appointed him Territorial Secretary, and when Edgerton left Montana he became acting governor.

Montana Republicans expected the Republican-appointed Meagher to be one of them. He was for a time. He followed the Union party's advice when he refused to call a second legislature. He maintained that he could not because the first legislature had expired without providing for a second.²

¹Ibid.
²Montana Post, Feb. 3, 1866, pp. 2, 3.
Meagher, however, was a political pragmatist or opportunist. The Democrats, in the majority in the Territory, wanted action. It was a lure that the activist Meagher could not resist.

Within a month after Meagher refused to call a legislature, he issued a proclamation calling for a convention to consider the "wants" of the Territory and another assembling the legislature which, he said, was in existence all along.1

The Union men considered such heresy unforgivable. Even more galling was Meagher's abrupt reversal. They regarded him as an unprincipled and opportunist turncoat. They never forgave him.

In an editorial calling on "fairminded" men to appeal to the courts, the Post said:

The truth is that about three score Democratic politicians want office. Their organ, last week, intimated that a Democrat put out of office is "slaughtered," and hence, we may presume, that office is life, and everything desirable, to one of the party. . . . In a very few weeks, as things now shape themselves, this Territory will be so hopelessly involved in debt--civil, military and "miscellaneous"--that a piece of its scrip would act as a scarecrow to sane white men, warning them to keep out of Montana.1

When Blake was editor, the Post seldom had a neutral comment about Meagher. A scathing editorial attack by Blake infuriated the General.

In stories telling about the arrival of the new governor, Green Clay Smith, Blake remarked: "General Meagher, who has brought disgrace upon himself, his race, the Territory and the country generally, has been superseded." He said:

T. F. Meagher, we understand that this notorious individual is en route to Virginia City. Since the arrival of Governor Smith, no one makes any inquiries regarding him, and the

1 Ibid.  2 Ibid.
Democrat has not published any of his addresses in the last two numbers. General Meagher will find that he is not the most important member of the community, and the flattering demagogues who made him think that they heard his footsteps echoing in the vestibules of the Senate chamber in Washington, will pass by him, and be interested in something upon the opposite side of the street. Instead of pressing invitations, "cash down," our terms, "clean dust," and similar harsh terms will be uttered in his presence.1

Blake said the reception for Smith had been pleasant because there were "no allusions of a partisan character to mar (Meagher) the harmony that prevailed."2

Blake's insults, with Meagher's rapid drop in rank after Smith's arrival, so galvanized the proud Irishman that he challenged the editor to a duel.

Blake replied that he didn't know why Meagher was so upset; he mentioned a recent issue of the Virginia City Montana Democrat that quoted Meagher's comments about his political opponents. Blake said:

The refined and accomplished orator described them in the following pure and elegant terms: "scurrility of the blackguards," "depraved and distempered natures," "viciousness with which they were malignantly diseased," "jackrabbits," "paltry skunks," "vermin," "pimps and blackguards," "spit their venom," "genteel and lame paltroons," "despotic Radicals of Congress," "discordant blowers," "palsied politicians." We have learned the elements of General Meagher's style and he has no right to protest if the same phrases are cast at his head.3

Blake pointed out that Montana law forbade dueling, and he asserted: "The recent conduct of General Meagher in sending the communication which we published on the 20th last, has been condemned by nearly every person in our midst. . . . We have taken the proper course to secure the inves-

1Montana Post, Oct. 6, 1866, p. 4.
2Ibid. Meagher is pronounced "mar."
3Montana Post, Oct. 27, 1866, p. 2.
tigation of this matter, and ascertain the criminality, if any, of General Meagher. 1

In his formal reply to Meagher, Blake said:

I desire to inform you that I cannot comply with any of the requests or demands which you have made. As the editor of the Montana Post, it is my right and duty to criticize the official conduct of public men. I always act in pursuance of the most upright motives, and, if you are negligent in the performance of your tasks as the Secretary of our Territory, you can not escape censure.

I notify you formally . . . that I regard a duelist as a murderer, that the miscalled code of honor is a relic of barbarism and ignorance, that it is contrary to the spirit of republican institutions, and that I could not stultify myself by attempting to take the life of a man against whom I have no feelings of enmity. 2

Blake generally was more detached and objective in his coverage of politics than were his predecessor, Dimsdale, or his successor, James Mills. One senses that Blake wrote most of his political editorials facetiously. He thoroughly enjoyed stirring up a lively scrap, but he didn't take it too seriously. He substituted a sly wit for Dimsdale's painful earnestness and Mills' pompous wrath.

Of the Democratic territorial delegate, Samuel McLean, Blake said:

We do not wish to circulate painful rumors, but if we are not mistaken Hon. S. McLean is dead. He departed for Washington several months since, carrying in his pocket credentials as a Delegate to Congress from Montana, and has not been heard from by his constituents. The Indians may have his scalp, the Republicans may have destroyed him, but this is mere conjecture. 3

Blake was pleased, he said, with the makeup of the third legislature, but he couldn't resist a jab at the editor of the Democratic Helena

1 Ibid.  
2 Ibid.  
3 Montana Post, Nov. 10, 1866, p. 5.
Rocky Mountain Gazette, E. L. Wilkinson, whom Blake pictured as a buffoon at every opportunity.

Viewed as a whole, we are highly pleased with the appearance of the law-makers, and do not think that they will ruin the Territory by their legislation. Most of them are Democratic in politics, and this is the chief objection that would be raised against them. The only black sheep in the flock is Wilkinson of the Council, but his calibre is so limited that he is of no account in the Legislature or out of it. He has the royal blood of King Log in his veins.¹

On another occasion, poking fun at Wilkinson's attempt to banish the hurdy-gurdies, Blake described Wilkinson as "the nervous pen of the nervous editor of a nervous paper, which is printed weekly somewhere within the environs of Helena." Wilkinson worked hard to dream up things to write about, Blake said, but "the latent poetry of his soul is smouldering for lack of subject matter to satisfy the obscenity of thought which is native to his mind." Blake added:

In his dream was pictured a bevy of hurdies, and amidst the group the Post's editor chatting, gaily chatting, with one and the other, and anon, whirling away in the "mazy dance" to the "lascivious pleasings" of the hurdy-house minstrels. How he longed to be there.²

Years later, Blake made a confession rare among editors—though the sin he confessed was rather commonplace.

In violation of the rule of physics, something was manufactured out of nothing to fill a vacancy when facts were lacking. Any maiden, who was married, blossomed by the art of cold type, into a lovely and accomplished bride. . . . all stump speakers were metamorphosed by the same process into eloquent orators and profound statesmen.³

Blake complimented his opponents more frequently than did Dimsdale

¹Ibid.
²Montana Post, Dec. 1, 1866, p. 2.
³Blake, op. cit., p. 260.
or Mills. But the compliments often were backhanded. He appeared to be searching for something nice to say when he complimented General Meagher, then boasted about the Post's impartiality:

"Having had occasion to censure General Meagher so frequently, we think it is our duty to employ different language regarding his conduct in preparing appropriate halls for the House and Council. His arrangements and decorations have been marked by good taste and the convenience of members, spectators, and others, have been amply provided for. . . . It affords us much pleasure to state that no Territory so distant from civilization as this, has been furnished with legislative facilities superior to those of Montana. The thanks of both branches of the Legislature were most properly tendered to the General, who had labored so faithfully to comply with the desires of the members. In uttering these sentiments, we are confident that every person will support us, and we cheerfully place our opinions in the columns of the impartial Post."^1

Many years later Blake explained that his feud with Meagher had been resolved with mutual forgiveness.

The conduct of General Meagher was criticized in caustic terms by Republican speakers and writers, and some of the sentences in my compositions induced him to send me a challenge to fight a duel. The feeling of enmity or resentment arising from this dispute on the part of my comrade in the Army of the Potomac vanished, and in May, 1867, I was appointed Colonel and Assistant Adjutant General by Thomas Francis Meagher, Acting Governor, Commander in Chief. No stronger proof of my pardon can be offered or suggested.^2

Blake resigned as editor December 29, 1866, to return to his law practice. He edited the Virginia City Montanian from 1874 to 1875. He was named associate justice of Montana Territory in 1875.

In his valedictory in the Post, Blake said:

"I vacated the editorial chair of the Post upon the 29th ult. During the last four months, in which I endeavored to wield the "pen and scissors" for the benefit of its readers, I have been treated with uniform courtesy, and kindness by all parties with

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^1Montana Post, Nov. 10, 1866, p. 5.

^2Blake, op. cit., p. 257.
whom I have been associated, and I cheerfully express in this public manner those sentiments of gratitude which I inwardly cherish. With my best wishes for the prosperity of all who are connected with the publication of this journal, and trusting that my successor may enlarge its sphere of usefulness to satisfy the demands of its patrons, I enter the new year with the intention of resuming the practice of my legal profession.  

The new editor, James H. Mills, greeted his readers in the same issue:

In assuming the position left vacant by the retirement of Capt. Blake from the editorial chair of the Post, we make our best bow to our readers and extend the hand of amity to the brother knights of the "quill and scissors" with a sincere desire that your intercourse will be pleasant and fraternal. Coming among you a stranger, "with malice towards none," we feel assured that "our lines will be cast in pleasant places," and that the true proverbial hospitality of the mountain Territory will include us in its "charity for all." To present you with a live Union paper, devoted to the interests of Montana, independent of partisan or sectarian feeling--to uphold the right and oppose the wrong, wherever it may be found, and to present a paper containing the latest and most reliable news from all sections, shall be our aim and effort while we remain in charge of these columns.

Mills was born in New Lisbon, Ohio, December 21, 1837. He began teaching school before he was 18 and, for a time, worked in the lumber business. He fought in the Civil War with the 11th Regiment, Pennsylvania Reserves.

After the war, Mills "found life in the older states too narrow for his broadened views, too circumscribed for growth" and he headed west. He mined in Emigrant Gulch in 1866, arriving in Virginia City in November.

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1 Montana Post, Jan. 5, 1867, p. 1.
2 Ibid.
Mills, though he denied vehemently it, verged on radicalism in many of his editorials. The name of Andrew Johnson ranked next to that of Jefferson Davis in his opinion.

When Congress passed the military reconstruction bill over Johnson's veto, the Post applauded, saying Johnson was "by bloody accident a traitor to his party, and the principles upon which he was chosen chief assistant to him whose name will be ever sacred in the hearts of loyal Americans accustomed to that position which his vulgarity, usurpation and defection has disgraced."\(^1\)

In another tirade against Johnson, Mills said:

We defy any Democratic paper to show to the contrary of the assertion that within the last year the President has been champion and sympathizer of the South against the measures proposed by the representatives of the loyal States. . . . courtesans had procured pardons by the score for the most unworthy rebels. It is a notorious fact that Mrs. Cobb, whose reputation as a "fair but frail" female is world-wide, did, when all others had failed, procure pardons from the President for more than twenty proscribed rebels, and that in this business of pardon-procureess she has, during the last year, amassed a handsome fortune.\(^2\)

The Post sided with the Congress in the controversy as to whether the legislative or executive branch should direct the restoration of the South. Like Ohio's Congressman James M. Ashley, whose work for the Territory had endeared him to Montana Republicans, Mills wanted to humiliate rebels.\(^3\)

The Montana Democrat, the rival Virginia City newspaper edited by Major John P. Bruce, supported Johnson. Mills and Bruce debated the

\(^1\) Montana Post, March 9, 1867, p. 1.

\(^2\) Ibid., March 23, 1867, p. 2.

\(^3\) Randall, op. cit., p. 568.
best plan for reconstruction, though the Territory's residents had no direct influence on reconstruction plans because its delegate to Congress had no vote. Reconstruction had no direct effect on Montana; the national debate did. The more Congress became embroiled in the controversy, the more inclined it was to neglect the western territories and to view each issue in terms of pro-South and anti-South.

When the Republican minority in Montana went to Washington to seek nullification of the second and third legislatures, it was mention of the "rebel Democrats" who had controlled the legislatures that won it for them. By then the Radical Republicans, with the help of Johnson's obstinacy and tactlessness, had won the support of moderate Republicans. Republicans were eager to stamp out southern sympathy anywhere—even in the remote mountains of Montana.

Mills' attitude toward the territorial Democrats was one of distrust and hostility. The Democrats of 1867 weren't really Democrats, he said. They had been controlled by a disloyal faction since the Charleston convention, but the possibility remained that potentially loyal men were blindly voting Democratic. Mills considered it his mission to win them over.

One of the strangest articles in the Post was one apparently authored by Mills. He described a Democratic meeting as though the party members finally were experiencing patriotic conversion. The article, so unlike anything Mills had said about the Democrats, may have been written in jest.

Reporter attended promptly at the hour, and was surprised to see so large and intelligent an audience. The room was crowded and the utmost harmony and good feeling prevailed... It struck us as rather strange that the Democratic meeting should
commence by singing the "Star Spangled Banner," and "My Country 'Tis of Thee;" and yet it did so, and all joined in those glorious anthems of Liberty. The American Flag was displayed upon the center table, bearing in its folds the Constitution and the Bible, and during the meeting a score of men gathered around them, and pledged their lives, their fortunes, and their sacred honor to defend and protect them. It appears that at some previous meeting all who were present had made the same pledge, and now welcomed the new comers as brothers. We must admit that at this phase of the proceedings, our hostility toward the Democratic party faded into thin air.

...we shook hands with all the Democrats present, and there were dozens whom we knew to be such. We apologized for any feelings we had expressed against the party, and felt truly sorry that we had so misunderstood them. We do not see how the Democrat and the Gazette can pursue the course they do when the party entertain [sic] such principles, and we have taken the liberty of calling the attention of Senator Wade ... to this article as proof that we have never heard more thorough loyalty expressed than at this meeting, and state that those present included some of the best men in the Territory. After the meeting adjourned, several patriotic songs were sung and the audience quietly dispersed, to meet again on next Saturday evening. We bid every loyal Democrat come; you will meet with a hearty welcome. It is pure democracy revived from the lethargy of the last four years, and will become an irresistible power in the land.¹

In the next issue, Mills wrote an anti-Democratic editorial in his typical style.

To be a Democrat today does not necessitate a man to be less loyal or patriotic than in the days of Jackson. There does exist a parasite party, claiming the name of Democracy, that has been disloyal and is yet. Major Bruce admits this, so will every Democrat. They assume the name of Democrats, act with them, and in fact have controlled them since the day the Charleston Convention broke up in a row. To be one of that faction is to be actively disloyal, and in this Territory they have been in the ascendant since its discovery. There have been assertions made in the Legislative Halls of Montana as arrantly treasonable as ever were uttered in the Richmond Senate. ... In calling the Democratic party of this Territory disloyal, it has been done because a disloyal element, acting under the name, controlled it. To have been less delicate and more truthful, the name of copperhead might have been substituted; but loyal Democrats who have permitted themselves to be passively led by the nose along the slimy trail of this serpentine faction, deserved that the stigma of disgrace should rest upon the name they revere. There

¹Montana Post, April 27, 1867, p. 2.
are scores and hundreds of loyal Democrats in Montana. We ask them to measure the loyalty of the dominant party in the Territory for the last four years, and say if the crimson of shame does not mantle their cheeks at the remembrance of their connection with them, and the vow come on their lips, "we will be numbered with them no more."\footnote{Montana Post, May 4, 1867, p. 1.}

Mills remained with the Post until it was discontinued in May, 1869, in Helena, after moving from Virginia City in the spring of 1868. The move was made when Dittes purchased Tilton's interest.

Mills went to Deer Lodge and founded a newspaper, the New Northwest. He was an organizer and the first president of the Montana Press Association in 1885.

John Buchanan started the Post, but the five men who made it were Tilton, Dittes, Dimsdale, Blake and Mills. They had much in common. They were good Union men who shared a distrust of Democrats and branded them rebels and rebel sympathizers. Their politics made them members of a tough, resilient minority that stuck by a losing ticket in election after election. They were men in their late twenties and early thirties, all adventurers and all intent on building a permanent, civilized society from the temporary, chaotic settlement they found in Montana.

All five remained in the state, which is remarkable since they had come to the mining camp with gold-seekers whose sole purpose was to make "a pile" and get out.

Because they intended to make Montana their home, they had high individual stakes in the future of the Territory. That unanimity of interest was reflected in the Post's devoted promotion of the development of the Territory. They became the spokesmen for the agricultural, mining and business interests of Montana. In the 1860's those interests were Montana's interests.
CHAPTER II

THE MEN WHO READ THE POST

Governor Sidney Edgerton hummed a tune in anticipation of a significant victory in the raucous political in-fighting that preceded Montana's first legislative assembly. He had considerably more experience in the political arena than did his antagonist—that foolish young Missourian who had admitted fighting for the rebels. And Edgerton had learned enough about politics to know that all victories are not won at the ballot box.

Captain John Rogers was about to learn that same lesson. The 26-year-old Missourian had fought with General Sterling Price to protect his home state from occupation by the Union Army. But when Price had taken the militia into the Confederate Army, Rogers resigned his commission, packed his valise, and headed for the gold fields of Colorado. He had

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1 Montana Post, Dec. 24, 1864, p. 2.
2 Edgerton was elected prosecuting attorney on the Free Soil ticket in Akron, Ohio, in 1852 and 1856. In 1856 he was a delegate to the first convention of the Republican party, and in 1858 and 1860 he was elected Representative to Congress from the 18th Ohio District on the Republican ticket. Edgerton subsequently used his political connections to wrangle an appointment as first chief justice of Idaho Territory, to win approval of the creation of Montana Territory and to obtain appointment as the Territory's first governor. See Mrs. M. E. Plassman, "Biographical Sketch of the Honorable Sidney Edgerton," Contributions to the Montana Historical Society, Vol. III (Helena: State Publishing Co., 1900), pp. 331-340.
decided to quit Price's army because "he would not bear arms outside his state against other citizens of his own country."¹

Rogers had been in the first wave of gold seekers at Alder Gulch in the summer of 1863, and thus was an old-timer in the mining camp. He was "warmhearted and friendly" and was popular among the Madison county miners who had elected him to the Territory's first Legislative Assembly as a member of the House of Representatives.²

The Territory's first election had resulted in a Democratic victory, which the Republicans—particularly Governor Edgerton—found difficult to accept. He had campaigned hard against the treasonous dangers he foresaw in a Democratic victory; and he had a personal interest in the outcome. Edgerton's nephew and protegé, Wilbur Fisk Sanders, was the Union party's candidate for territorial delegate.

The Democratic victory would embarrass Edgerton in Washington and Ohio when his political cronies learned he had been unable to convert fewer than 7,000 voters to the Union ticket.

And it would complicate the already-difficult task of getting appropriations from the Republican-controlled Congress when the territorial delegate was a Democrat and the territorial legislature was controlled by Democrats.

What had gone wrong? The Territory's only newspaper, the Montana Post, had enthusiastically supported the Union cause, claiming a Democratic vote would be "an insult to the government, treason to my country, and treason against God and my own soul."³

¹Ibid. ²Ibid., p. 18. ³Montana Post, Oct. 22, 1864, p. 2.
The only reason for the Democratic victory, Edgerton concluded, was the influx of secessionist traitors into the Territory.

John J. Rogers was typical of those "secesh traitors." Rogers, of Independence, Missouri, even had the audacity to admit he was a disaffected member of General Sterling Price's army and had fought against the boys in blue. Yet, he had been elected. Edgerton and his Union party colleagues took Rogers' election as final, galling evidence that Montana was overrun with Confederate rebels.

The Union men were convinced that Rogers should not be seated in the House. How could they prevent it? One method had worked for the Republican party elsewhere—the requirement of a loyalty oath. Edgerton could require the oath before the first assembly could win his official recognition.

The oath, dubbed the ironclad oath because it was guaranteed to prevent office-holding by southern subversives, pledged a man to uphold the Union and its constitution and to swear that he had never borne arms against the government.

Obviously, Rogers could not take the oath. So he rewrote it, omitting the clause about bearing arms against the government, but vowing to support the United States and the Organic Act of the Territory.

The revised version was approved by the House. But Edgerton would not compromise. When a joint committee waited on the governor to inform him that both houses were ready for business and would be happy to receive his communications, Edgerton replied that he had nothing to communicate to a house organized improperly.

Franklin, the Post's anonymous correspondent who was a Republican member of the Council, remarked that "here began the most ridiculous farce enacted in many years."\(^1\)

Washington J. McCormick and Alexander Mayhew, Democratic attorneys elected to the House from Madison County, had visited Edgerton to persuade him to accept Rogers' version of the oath. But Edgerton was adamant. The visits of McCormick and Mayhew, Franklin reported, "did not move the Governor into a state of uneasy nervousness, even."\(^2\)

Finally, Rogers announced he would visit the governor. A confident Edgerton awaited him. Herbert M. Peet, many years later, gave this account of the confrontation.

Rogers told the governor why he would not sign the iron-clad oath. He would not perjure himself. But he had other reasons. It was an oath originally designed, as Edgerton knew, by the abolitionist congress to capture for themselves all political offices. Even President Lincoln whom Edgerton professed to support, had opposed it and had said it was both unprincipled and un-Christian. Further, the governor had known in the campaign, as had all Madison County voters that Rogers had been an officer in General Price's army. Rogers never denied it. . . . Edgerton had sent him a certificate of election. Therefore, said Rogers, the insistence that he now sign the "iron-clad oath" was nothing but partisan politics.

The governor, however, refused to engage in any discussion with Rogers. Instead he interrupted him to crack jokes. When this didn't squelch the younger man, the governor tried to confuse him by humming and whistling tunes, and being as insulting as possible.

But Rogers insisted on concluding his remarks. He would resign his seat in the house, he said, not in the spirit of yielding to a stubborn abolitionist who now had the upper hand, but as the best way of serving the citizens who had elected him. It would be unjust to them, he pointed out, to have their property and interests jeopardized for another year because no laws had been enacted to protect them.\(^3\)

\(^1\)Ibid. \(^2\)Ibid. \(^3\)Peet, op. cit., p. 19.
Rogers resigned. Edgerton had won. Said Franklin: "The buzzards who were after such pickings as a faithful Democratic Legislature is wont to regale its votaries with, swore horribly." But William L. McMath, a Democratic lawyer who, Franklin said, "aspired to be the Thurlow Weed of Montana," predicted that the victory would be: "Dead Sea fruit that tempts the eye, / But turns to ashes on the lips."

John Rogers was to be re-elected to the 1866 legislature, later annulled by the Radical Republicans in the U. S. Congress, and to the 1872 legislature. He served as Speaker of the House in 1873 and 1874.

When Rogers died in a wagon accident in 1874, Henry N. Blake, former editor of the Montana Post which had supported Edgerton in his demand for Rogers' resignation, said:

At the last two sessions of the Legislature he was chosen speaker of the House, which position he filled with marked dignity and to the entire satisfaction of that body. As a legislator, he was remarkable for the breadth and clearness of his views, and ever discharged the duties of his office with the strictest fidelity to the interests of his constituents.

Rogers had been one of the men named by Edgerton and Sanders as a "for instance" in their diatribes about the "left wing of Price's army . . . skulking in the gulches of Montana inciting treason." Edgerton, Sanders and the radical Republican minority that followed created the legend that Montana was settled by rebels from the "left wing of Price's army." The Montana Post propagated the legend, later given credence in Montana history books.

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1 Montana Post, Dec. 24, 1864, p. 2.
2 The Weekly Montanian (Virginia City), July 30, 1874, p. 5.
3 Peet, op. cit., p. 19.
Colonel A. C. McClure in an article entitled "Wilbur Fisk Sanders," said:

... Montana had received its first large accession of white population when Governor Price's Confederate force in Missouri had been compelled to leave the state for safety. The Civil War was still in progress and Col. Sanders was one of the best and most defiant supporters of the Union cause.¹

In an article entitled, "The First Territorial Legislature in Montana," Robert L. Housman, citing a speech by Republican Judge H. L. Hosmer as his authority, says:

The political majority in Montana in those days was immediately referred to as Daddy Sterling Price's tatterdemalion left wing; these Missouri Confederates came "disbanded and broken; and thousands of sympathizers with the rebellion glad to escape the terror and turmoil of the war as well as the dread of the draft fled to the mountains."²

Larry Barsness, in his study of Virginia City, describes the residents of Alder Gulch and says:

This was the populace which Mr. Edgerton was to weld into a Territory loyal to the Union.

He had his work cut out for him, because, of the native-born gold-seekers, a slight majority were Confederate sympathizers. The largest group of them was from Missouri, dubbed "the left wing of Price's Army" because they had left it far behind, and because they were far to the left of it. Kentuckians and Virginians were also numerous. New York State and Pennsylvania furnished the two largest groups of Union men, with Ohioans, Indianians and Illinoisians also plentiful.³


²Robert L. Housman, "The First Territorial Legislature in Montana," Pacific Historical Review, Vol. 4, 1935, p. 376. His quote was from H. L. Hosmer's Montana, an address before the Travellers Club of New York City in 1866. The bound copy of the address is in the Historical Library at Helena.

Mrs. Martha Edgerton Plassman, a daughter of Governor Edgerton, is often cited as a source for the story about the rebellious Missourians. Mrs. Plassman obviously was relying on her father's recollections; she would have been a youngster when the family was in Virginia City. In her "Biographical Sketch of Sidney Edgerton" for the Historical Society, Mrs. Plassman said:

It was not an easy position which the new governor was called upon to fill. . . . He represented the United States Government in a territory many of whose citizens had renounced allegiance to the Union. Any signs of wavering on the part of the Governor, any concessions to those who were disloyal to the United States would have been looked upon as marks of cowardice, and he would have gained the contempt of the very men who were loudest in denouncing him for upholding the law of the land.

Threats had been made that any one would be shot who dared to raise the star spangled banner. My father heard of this, and out flew the old flag from the staff above the house which sheltered his wife and children. The threats proved to be mere bravado; but drunken horsemen galloping by at night often fired random shots at the red, white and blue target while hurrahing lustily for Jeff Davis.¹

Mrs. Plassman impeaches herself as a scholar in the same article with her erroneous account of the Rogers controversy. She says:

A more serious trouble arose in the first legislature when John Rogers, formerly of the Confederate army, sought to gain admission to that body without taking the required oath. This caused a deadlock which was only broken when a new oath had been framed which could fit so delicate a case, and Mr. Rogers was admitted.²

In From Wilderness to Statehood, James M. Hamilton said Edgerton had trouble working with the first legislature because in his message to that body he

¹Plassman, op. cit., p. 339.

²Ibid.
ended with a severe condemnation of those who were in rebellion against the Federal Government, and their sympathizers and prophesied that victory for the Union arms would soon be achieved. This aroused a bitter feeling against him, and he never was able to secure the cooperation of the many members of the legislature who sympathized with the South.  

The Post assisted Edgerton and Sanders in "waving the bloody shirt" whenever it could and added bits to the legend. Before the first election in October, 1864, the Post said:

A party is organized in this Territory under the assumed name of Democrats, whose object is to oppose the government of the United States; to place in our council men disaffected toward the nation, under the shadow of whose banner they rest unmolested, and to send to Congress a Delegate whose election as the nominee of the party, could they but succeed in their scheme, would render him as utterly unable to fulfill his mission, as a Feejii [sic] Islander or a Minnesota Sioux. We denounce the attempt as unworthy of any man, more especially of a soldier, and many such we know are here.  

To the Post, Northern Democrat was synonomous with Copperhead.  

To the Copperhead who sets his foot down square against the land of his birth, we hold other language. Does he think the southern people care for Him? Yes, as much as the true soldier does for the deserter. The Union, they hate, but the Copperhead they use and despise. . . .

The Post quoted and paraphrased large portions of the campaign oratory of the Union men who invariably charged that the Democrats were rebels. But the Democratic campaign oratory was summarized briefly and unfavorably.

In the issue before the 1864 election, the Post carried a long account of Governor Edgerton's speech to a "great Union meeting."

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2 Montana Post, Oct. 8, 1864, p. 2.

3 Ibid.
The Governor's trumpet gave no uncertain sound. He plainly and unmistakably laid down his platform to be entire and unyielding devotion to the Union and the government. He declared that there were but two parties, one for the country and one against it. . . . He stated that this year's emigration was an improvement on the last year's, and next year would bring thousands of loyalists, from the army, who would show small favor to secessionists. He would warn young and old to leave the ranks of treason before taking the fatal step which should brand them as enemies of their country. He solemnly warned the leaders that if any outrage took place at the polls . . . that they should answer for it to the last cent they possessed. The Union men should give them a fair and equal chance at the polls, but they should not surrender any of their own privileges; on the contrary they should maintain them to the last.

In the October 29 issue, the *Post* had not conceded the Democratic victory, though it was apparent. The newspaper carried this account of what it called Election Day antics by the secessionists:

... surely the most insensible and careless, having yet one spark of patriotism remaining, must have sighed to witness the length to which fanaticism could carry men calling themselves Democrats. "Dixie" called for at all hours, and applauded with will; Sterling Price cheered to the echo; Yankee Doodle groaned and greeted with "that tune's played out"; "Hurrah, boys, another Secesh vote"; "Walk along, gentlemen, vote for Dixie's land! Here are your papers! Straight Democratic ticket! No damned Union about it!" etc. etc. But why follow further the disgusting details of such flagrant violations of common decency. How can the rank and file be blamed, when the leaders proclaim their willingness to vote for the Devil, if his name were on the Democratic ticket?

That statement, however, loses validity when compared with another *Post* comment in the same issue:

One thing cannot and will not be denied, and that is the absence of all packing and coercion. Every man who wanted to vote, voted, so far as all know, and the slightest disturbance was immediately quelled. The numbers and relative proportions of the parties are widely different from last year's, and, in all probability, within a few short months of the election of Abraham Lincoln, the parties will change places numerically, on

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a fair poll, in this neighborhood . . . physical demonstrations were omitted.¹

The Post and Sanders still were waving "the bloody shirt" in 1866, when it should have been obvious there was no movement to bring the Territory into the Confederacy or keep it out of the Union.

In 1866, on the eve of Sanders' departure for Washington, D. C., he said:

He never had any sympathy with men who professed that they were forced into the rebellion; that their fathers were oldline whigs, etc. They were "snakes in the grass," but those who admitted that they had fought and done their best for the South; that they had been defeated, and that they would stand by the Government for the future—he would trust them. If any man said that Sanders called them all a pack of rebels, let them prove by their conduct that Sanders was a liar, or else (which was more likely) that the fellow who said so was a liar himself.²

In its comment on the close of the second legislature, the Post said, "The two Union flags which have been hobnobbing in melancholy patriotism across the street, got down on Sunday morning, probably not liking to play the hypocrite on the Lord's Day."³

In 1867, the Post still was trying to lure Democrats to the G.O.P. camp on the basis of loyalty. In a jubilant account of a poorly attended Democratic meeting, the Post said:

The day of supremacy for the Missouri wing is passing away, and the hosts of loyal men in the Democratic ranks will no longer be made tools of by that element which has heretofore ruled this Territory. They still assume the pre-eminence, will be the loudest mouthed and officious in their meetings, and will make more Republican votes than all the Union leagues in Montana. Organize, Major [Bruce, publisher of the Democrat], organize; our ranks are open for the truly loyal who will desert you by scores.⁴

¹Ibid.
²Montana Post, Feb. 24, 1866, p. 2.
³Montana Post, Apr. 21, 1866, p. 2.
⁴Montana Post, Apr. 20, 1867, p. 8.
And the Post still was claiming that Montana Democrats were disloyal.

"There does exist a parasite party, claiming the name of Democracy that has been disloyal, and is yet . . . and in this Territory they have been in the ascendant since its discovery."\(^1\)

An essentially false image of the political milieu of early Montana and the makeup of its population has emerged from such accounts. One writer says the story about a large number of southern sympathizers in the Territory is "one of the most persistent legends in Montana history."\(^2\)

The census of 1870—the first year a federal census was taken in the Territory—showed that of the white population of 18,306, only 1,584 were from states that had seceded. Had that group wanted to cause trouble, it could have; but many of those who arrived in the Territory in the early years were fleeing from political strife. That applied particularly to Missourians such as Captain Rogers.

Missouri had been the unfortunate battleground for north-south controversies long before the Civil War, and the state was agonizingly ambivalent in its political posture at the outbreak of the war. General Price's much-abused left wing, for instance, did not march into battle for the Confederacy; rather, it fought against Union military occupation of the state.

To understand the political attitudes of those Missourians who came to Montana, one must understand what happened in Missouri just before and after Fort Sumter.

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\(^1\) Montana Post, May 4, 1867, p. 1.

\(^2\) James L. Thane, Jr., "The Myth of ConfederateSentiment in Montana Territory" (Typed manuscript, Seminar paper, History Department, University of Montana, Missoula), p. 1.
Missouri, with the other border states of Maryland, Tennessee and Kentucky, was a prize sought by the Confederacy. The Union was just as determined to maintain its hold on the state.

Missouri's Democratic governor, Claiborne Jackson, had strong southern sympathies, but he had supported Stephen Douglas, nominally, because Missouri Democrats were Douglas men. Jackson tried to take Missouri out of the Union when the first southern states seceded early in 1861. He had called a state convention for that purpose, but the Missouri voters had defeated the governor's plan by electing a majority of Union delegates to the convention.¹ When Lincoln issued his appeal to arms, Jackson refused to contribute Missouri troops to the Union cause. The governor began conferring secretly with the Confederate government about a plan to capture the federal arsenal in St. Louis with the help of the state militia. Using the arsenal as a headquarters, Jackson planned to bring Missouri into the Confederacy. But his scheme was to be secret until the arsenal had been captured.

Union elements in Missouri also were plotting and were suspicious of Jackson's public display of neutrality. Missouri's Republican Congressman Francis P. Blair organized four regiments of home guards from the pro-Union German population in St. Louis and had his abolitionist friend, Captain Nathaniel Lyon, put in charge of the federal army in the St. Louis area.

When Jackson organized a state militia and quartered it at Camp Jackson in St. Louis, Lyon and Blair began plotting to seize control of

¹Catton, op. cit., p. 371.
the militia. Meanwhile, federal troops had moved the huge stores of ammunition from the St. Louis arsenal to Springfield, Illinois.

Lyon forced the state militia to surrender May 10. It surrendered peacefully to two companies of regular soldiers and several thousand home guards. But trouble broke out as Lyon's troops, many of them German immigrants, marched the state militia men, many of them from Missouri's finest families, through St. Louis. A crowd gathered, and it included Missourians outraged at the presumptuousness of a federal Army officer seizing the state militia. Onlookers began menacing the federal troops with weapons. The regular troops ignored them, but the German homeguards, who were amateur soldiers, were rattled by the threats and began drawing their weapons. Shots were fired, and at least 28 persons—most of them civilian bystanders—were killed. That incident triggered widespread hostility to the federal forces and to the Union cause.1

The state legislature had defeated a secessionist proposal in favor of "benevolent neutrality." But when news of the St. Louis encounter reached the capital, pro-Confederate sentiment swept the legislature. It could not remove the state from the Union because it had delegated that prerogative to the state convention. But the legislature passed a bill giving Governor Jackson $2 million to repel invasion by federal troops, authority to draft able-bodied men into the state militia and personal command of the militia's officers.

Bruce Catton described Price's conversion to the anti-Union cause:

All across the state men were choosing their sides, and many who had been tacitly supporting the Union went over to the Confederacy; among them, most importantly, Sterling Price, the

1Catton, op. cit., pp. 370-381.
state's leading citizen, former Congressman, former governor, soldier in the Mexican war, a high-minded man of lofty ambitions—one of the "conditional Unionists" who found the conditions imposed by Frank Blair too much to stomach. He called the St. Louis affair "an unparalleled insult and wrong to the state" and pronounced for the Confederacy, and Governor Jackson promptly commissioned him a brigadier general and put him in charge of the state militia.¹

Even Congressman Frank Blair's brother, Postmaster General Montgomery Blair, cautioned him against such harsh martial rule in Missouri. He wrote

that it was "not so much disunion as hostility to the Republicans" which gave Governor Jackson most of his support, and warned his brother "not to arrest the Union feeling by making it too visibly your property."²

With the failure of a final attempt at negotiations between federal and state officials, Jackson issued a proclamation telling his people that the Republicans were threatening to impose on Missouri the same martial law that the Union government had forced on Maryland. He said Missouri was still in the Federal Union, but he called out 50,000 militia men to repel "military despotism" in the state.³

Rogers and other members of the famed "left wing of Price's army" were among those militia men. They believed they were fighting to protect their state from martial law and to preserve its neutrality. When Price took his army into the Confederacy, many, like Rogers, left Missouri rather than fight against the Union.

¹Ibid., p. 382.
³Ibid., p. 386.
In Montana, the Missourians found that the federally appointed officers assumed the same radical posture.

In the campaign of 1864, Montana's Democratic party upheld the Chicago convention's platform, which advocated cessation of hostilities and peace negotiations. The platform was not advocating peace at any price but called for reunion of the disaffected states as a condition of peace.¹

Peet gave this account of the Democrats' stance and the Republican reaction:

Democratic meetings in Madison County where most of Montana's voters were located attracted larger and more enthusiastic crowds than Republican meetings. Their theme was that the war had become one of attrition, with victory in sight for neither side, therefore there should be a convention of the states--northern and southern--to negotiate peace. Wild and uproarious applause greeted this program wherever presented.

These demonstrations for peaceable settlement of the war infuriated Colonel Sanders, Republican candidate for delegate to Congress, who lived in Virginia City. He believed there could be no peace until the South was brought to its feet by crushing defeat, on the field of battle. He argued that those who didn't support him and the Republican legislative ticket were "rebels, copperheads and traitors to their country."²

Peet said that Edgerton, when called to help with his nephew's campaign, did not improve relations with the Democrats.

He ignored the issues which the Democrats had been discussing at their meetings such as putting an end to the war by "peaceable means," and let himself go in as bitter and erroneous a harangue as ever had been heard in Alder Gulch. He dwelt upon the disloyalty of his audience and the disloyal demonstrations they had been making.³

²Peet, op. cit., pp. 6, 18.
³Ibid.
Edgerton's admiration for the abolitionist John Brown also may have contributed to the ill feeling between the governor and territorial Democrats who were ex-Missourians and Kansans. To Edgerton and other abolitionist Northerners, Brown was a martyr. To Rogers and other Missourians, he was a mad, unreasonable, murderous fanatic. The mere mention of Brown's name aroused strong antagonisms in Montana.

Edgerton apparently was quite proud of his visit to see the imprisoned Brown. Edgerton's daughter discussed the trip in detail in her biographical sketch of her father, quoting at length his recollections of the journey:

Then came the John Brown raid. Virginia was thoroughly roused, as well she might have been. A northern man's life was unsafe within her borders unless it was known that he belonged to the pro-slavery party. It was during this critical period that my father made the perilous journey to Harper's Ferry with the avowed intention of seeing John Brown. He shall tell the story in his own words:

"John Brown's brother and son having requested me to visit him at Harper's Ferry and arrange some of his business affairs, I started about December 1st. On the train with me were H. G. Blake, and the reporter of a Philadelphia paper. At Martinsburg we were joined by Alexander Boetler, Member of Congress from that place.

"When we reached Harper's Ferry, we were conducted by soldiers from the Baltimore & Ohio train to one going to Charlestown. After we were seated, some one called Mr. Boetler out. When he returned he said there was great excitement, and we were advised not to go on. The others followed this advice but I said that I must go on.

"On arriving at Charlestown, I found cannon placed, soldiers drilling, and the town having the appearance of being in a state of siege. With considerable trouble I worked my way to headquarters, found Gen. Taliaferro and told him my business. He said that he was sorry but he had just received a letter from Gov. Wise, instructing him to refuse all persons who asked to see John Brown with the exception of the minister and members of John Brown's family.

"The general said he could not then furnish me with a conveyance, but that towards evening he thought he would be able to provide me with one. At dusk a wagon drove up. I got in by the side of the colored driver, and a young southern officer took the seat on the box back of us. Some gentlemen came and asked him in a whisper if he knew who was his traveling companion. He
got out, went into a hotel close at hand, where he doubtless gained the desired information, for when he returned he perched himself on the end-board of the wagon so as to be ready for flight at an instant's notice.

"Near the edge of town, the Black Horse Guard came up with us, when the young officer jumped down and ran. The soldiers made him return and asked him why he ran. He said that he heard them say that they would kill me."

The soldiers tried several times to persuade my father to alight from the wagon. He believed then, and is still of the opinion that if he had left the wagon, he would have been shot with the pretext that he was trying to escape.

"So I clung to my place beside the negro driver, and escorted by the flower of Virginia's troops, finally reached the station safely."¹

In his account of Roger's confrontation with Edgerton during the oath controversy, Peet asserted it was not easy for Rogers to call on Edgerton because "he knew that Edgerton was an abolitionist and a supporter and defender of John Brown, the fanatical abolitionist, whose memory Rogers abhorred with every sense he possessed."²

Such antagonisms hindered relations between the Republican-appointed officials and the Democrats from Missouri and Kansas, but it could be argued that a friendly relationship would have been possible.

Most territorial settlers--except for officeholders, office-seekers and newspaper editors--were more interested in acquiring wealth and building a territory than in political controversies.

Diaries of miners, who made up most of the Territory's population, indicate politics was of secondary concern to them. Their consuming interests centered on gold, mail, groceries, roads, an occasional drinking spree and an evening in the hurdy-gurdy dance houses.³

²Peet, op. cit., p. 19.
³See, for example, the diaries of J. W. Grannis, 1863-1868; J. H. Morley, 1862-1865; Andrew J. Fisk, 1864-1870; J. Crandell, Jan. 1-Aug. 27, 1866 and I. G. Baker, 1864.
James Henry Morley, a Missouri Democrat who was not a secessionist, left a diary that refers infrequently to politics. On July 4, 1864, nearly two months before the Post was founded, Morley noted that, "The Fourth was celebrated in town by speeches, raising of a Union flag, etc. Quite a full attendance of miners from up the gulch. 'Secesh' on the wane." On a Sunday visit to town, October 23, 1861, the day before the first territorial election, Morley noted, "Politicians spouting in town." On Election Day, Morley apparently voted only because the drifters working for him did not show up and there was nothing better to do. He wrote, "Election Day. As drifters would not work we all went to town and voted for McLane [sic] & c. We are having beautiful Indian summer weather, which the miners are improving by pushing their work vigorously. . . ."

When he went to town Sunday, November 20, Morley said he got no mail, the weather was cloudy and rather warm and, "pretty full election returns now in." He did not comment further about the election. Nor did Morley comment about the activities of the Bannack legislature. He left Montana in July, 1865, just as he had intended. He had little respect for the federal government--an attitude expressed by many frontiersmen in the 1860's. In July, 1864, soon after he had learned of the creation of Montana Territory, he said:

We have a new territory now and a Governor has been appointed. Today a collector made his appearance in the gulch to "stick" us for a four dollar poll tax, as he said, to raise $5,000.00 to build a new jail. That seems to be of primary importance in

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2Ibid., p. 188.
3Ibid.
organizing government in these latter days. I more than half wish, when I see such officers and the scores of "pettifoggers" "going about seeking whom they may devour" in the country, that Uncle Samuel would let us severely alone, for it is a fact that miners can make their own laws to get along smoothly with each other, better than government laws enforced by such men.¹

One "such man" was Nathaniel Langford, the federally appointed tax collector. Morley saw Langford at Dance's, a store in Virginia City, and noted disdainfully that Langford "was expatiating on the making of offices."²

Another miner, John W. Grannis, a Republican who joined the Union League in July, 1864, noted on Election Day that he went to town, voted and had a good time with his friends. But he didn't mention trouble from secessionist elements.³

Grannis and other Montana Republicans referred to all Democrats as secessionists. In 1866, when it was apparent the Territory's Democrats had not planned to join the Confederacy, Grannis commented that it "was election day. The Secesh gobbled everything."⁴

Andrew J. Fisk also left a diary that contains no political views until after he and his brother, Bob, became co-editors of the Helena Herald, a Radical Republican journal.

The general goals of both territorial parties were similar. They wanted better roads, better mail service, protection from the Indians, lower taxes, favorable mining legislation, a territorial mint and an engineering miracle on Montana rivers to make them more navigable. If the Republicans had been more tactful and had not challenged the patriotism

¹Ibid., p. 200.  ²Ibid.  ³J. W. Grannis, Diary of John W. Grannis, Book 2, 1864, Oct. 21, 1864.  ⁴Ibid., Sept. 3, 1866.
of every Democratic act, the efforts of the territorial government might have been more productive.

The areas of controversy were strictly partisan, involving office-holding, federal appointments, printing contracts, and legislative apportionment. But the politicians succeeded in identifying those petty matters with the emotion-racked issue of patriotism vs. treason as symbolized in North vs. South.

A few scholars have placed the southern sentiment in Montana in what appears to be its proper perspective.

Thane, who did considerable research on the politics of the era, concluded:

Confederate sentiment in Montana . . . was largely the product of enterprising Republicans "waving the bloody shirt" in the futile hopes of electoral victory. Identifying Democrats with Confederates was a common Republican practice of the 1860's and 1870's, and in Montana the local Republicans received ample support from the Montana Post, then the only paper in the territory. With a monopoly on the market the Post echoed the sentiments not necessarily of its readers but its owners, D. W. Tilton and Ben R. Dittes, and its editor, Thomas Dimsdale, all of whom espoused the radical Republican cause.\(^1\)

Peet, in his study of Rogers, said that the implication that Missourians generally were traitors, that their influence in Montana was harmful and that, if left unblocked they would have subverted the territory is a piece of political fiction which Governor Edgerton and Sanders concocted and assiduously propagated for their own partisan ends.\(^2\)

Burlingame and Toole said:

. . . Montana Republicans were no different from Republicans elsewhere in "waving the bloody shirt." Edgerton, Sanders and others lost no opportunity to equate Democracy with treason and rebellion. The Republican Montana Post lent every assistance

\(^1\) Thane, \textit{op. cit.}, pp. 7, 8.

\(^2\) Peet, \textit{op. cit.}, p. 6.
to this endeavor. In the first election held in October, 1864, the Post was the outspoken advocate of Republicanism as the party of "patriots" and Democracy as the party of "traitors." There is no doubt that Edgerton used this kind of sentiment to the fullest extent possible, and that his fellow Republicans did likewise. Accordingly, a kind of legend has grown up in Montana that when thousands of other disloyalists and secessionists (mainly from Missouri) stood in fair train to make Montana a colony of the Confederacy, and this was only prevented by the patriotic endeavors of Governor Edgerton, W. F. Sanders and others.1

Montana's first Legislative Assembly was not overrun with Confederates or with Democrats. The Council was Republican by one vote, the House Democrat by one vote.

Despite that split, the lawmakers had little trouble passing legislation. And both houses passed a joint resolution affirming in strong and unequivocal terms the Territory's loyalty to the Union. The resolution said, in part:

... we hereby renew our pledges, ever entertained, of loyalty to the Union, and will frown indignantly upon any attempt to alienate one portion of our common country from the other. And as in the struggle our present appeal to arms may decide the fate of our nationality, and the question of self-government in its present form, we will ever pray for the success of the Union and the restoration of the constitutional government in the gauntlet of battle thrown down by rebels in arms.2

If the legislature had been loaded with secessionists or elected by a large number of secessionists, it is unlikely such a clear resolution of loyalty would have passed. There is not the ambiguity one might expect to find in a token affirmation of loyalty.

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It seems improbable that Governor Sidney Edgerton would have paid the legislature's bills with his own money had he believed that it was corrupted by rebels. But Edgerton, according to many historical accounts, including that of his daughter, paid the bills because there was no territorial secretary to disburse the federal appropriations. The Organic Act provided that only the secretary could issue territorial warrants. But the federal government had failed to find anyone to fill the secretaryship.

Edgerton vetoed only two bills in the first legislature. One apportioned the Territory for the next legislature and set an election date. Edgerton claimed the legislature had no fair basis for the apportionment, which would have increased the representation of heavily Democratic Madison county. The other bill, concerning the civil practice act, was passed over the veto.

Most of the legislative program supported by Edgerton was approved by the legislature.

If Rogers and the Missouri element he represented actually had wanted to sever Montana's ties with the Union, it is doubtful Rogers would have resigned his legislative seat so—in his words—the business of the territory could go on. Rogers recognized the authority of the governor to require a loyalty oath. A refusal to resign might have resulted in an impasse in which Edgerton would not recognize the territorial legislature. In that respect, Rogers exhibited more loyalty to the Territory and more interest in the welfare of the new government than did Sanders and his Radical Republican colleagues; their trip to Washington in 1866 to seek nullification of the second and third legislative
assemblies was an act of political spite committed without regard for territorial interests.

The premature convention called by Acting Governor Thomas F. Meagher in 1865, at the request of territorial Democrats, sought to bind Montana to the Union as a state. The convention was opposed by Republicans, and rightly so, on the belief the young Territory was not ready for statehood. There never was a movement to make Montana a part of the Confederacy.

The Post was responsible for much of the myth that has emerged concerning its readers. As the only newspaper in the Territory until November 16, 1865, it has been the source most frequently quoted by historians and writers who should take a longer look not only at the period but also at the newspaper. The Post reveals a partisan myopia as a chronicler of history. The Democrats of that time were never so bad—the Republicans never so good—as the Post portrayed them.
CHAPTER III

MONTANA ELECTIONS: IN THE POST AND AT THE POLLS

October 24, 1864, was a fine day in Virginia City. The streets were crowded but amazingly orderly. The Territory's first election had not produced the expected fireworks, though the drifters had refused to work--using the election as an excuse to come to town on that "beautiful Indian summer" day. The saloons and burdies still were as crowded on Monday as they usually were on Sunday.

The miners had been "pushing their work vigorously" to take advantage of the unseasonably good weather. The two-day holiday afforded by the election was a welcome break. James Morley and the other miners had heard "politicians spouting in town" that pre-election Sunday. The "spouting" probably was done vehemently because it was the politicians' last opportunity to electioneer in 1864. Campaigning had been lively since Governor Sidney Edgerton issued his election proclamation, published in the Post September 24.

Edgerton had apportioned the election districts, using as guidelines the eight counties created in the Montana region when it was part

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2James Henry Morley, Diary of James Henry Morley in Montana, typescript, Montana Historical Library, Helena, July 4, 1864, p. 188.
3Ibid.
4Ibid.
5Montana Post, Sept. 24, 1864, p. 2.
of Idaho. A census Edgerton had commissioned under the direction of James Tufts indicated 20,000 persons were in the Territory.\(^1\) Election results later indicated that considerably more than half of the Territory's voters lived in Madison county, which was overwhelmingly Democratic.\(^2\) But the Governor's apportionment, granting Madison county three seats in the seven-seat Council and six in the 13-seat House, was designed to prevent that county from dominating the legislature.

Helen Fitzgerald Sanders, Edgerton's grand-niece, wrote of the apportionment:

The vote of the various precincts of the territory at the election held October 21, 1864, showed that 75 per cent of the vote of the territory was in Alder gulch in Madison county, but considering the fact that the residence of the inhabitants of the gulch was temporary and shifting, Governor Edgerton, in apportioning the members of the first session, had distributed the memberships for that session over the various counties or districts made up by him without strict regard to a very loose and approximate census that had been taken under his supervision and the imperfections of which he knew.\(^3\)

Thus, Edgerton's apportionment could not be justified statistically. Edgerton even attempted to dilute the influence of the Democrats in Madison county by including with its returns votes "from all other portions of the Territory and counties not previously named."\(^4\) The

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\(^2\)Montana Post, Nov. 19, 1864, p. 2. The Post's results showed that the total territorial vote was 6,861 and of that number, 5,286 ballots were cast in Madison county.


\(^4\)Montana Post, Sept. 24, 1864, p. 2.
Post applauded that bit of gerrymandering:

One thing we notice with pleasure. In the region of the Yellowstone and Big Horn rivers, this county has many citizens who temporarily are there prospecting but whose interests are nevertheless here.

They know our wants and our people and the Governor, wisely judging that their temporary absence did not sever their rights to be heard by their votes in our election, has attached that region to this county.¹

The Post and the Union party campaigned according to the belief the election was a contest between patriots and traitors. That premise was not uncommon among Republicans in the election of 1864, but it was not a wise one to try to defend among the Democrats of Montana; Union Democrats were bound to regard it as fanatical. Neutral residents who had attempted to escape the bitter, emotion-charged hostilities between the abolitionists and the fire eaters were bound to resent the demand that, even in Montana, they must choose sides or risk being branded a traitor by both. And those citizens sympathetic to the South (it can not be denied that there were some, although not the legendary majority) were bound to be provoked into angry partisanship by castigations of treason at every Union political rally.

In its convention call, the Union party sought to rally only those who "yield an unconditional allegiance to the Constitution and Union, and who support the administration and its efforts to preserve and perpetuate the government bequeathed to us by our fathers."²

A letter to the Post, signed "W.," declared that for true patriots there was only one party.

¹Ibid.
²Ibid.
We often hear the remark: "We have nothing to do with politics here; we are neither Confederate nor Union." . . . Strictly speaking, political parties are no more . . . there are only two great divisions; viz: lovers and haters of their country, or in the words of Douglas, patriots and traitors. 1

Dimsdale said the election would decide whether Montana would remain loyal to the Union or "shall be ignobly and basely prostrate at the feet of the arch traitor Jeff Davis." He said voters should concern themselves only with this question:

Shall we in this free mountain country remain free as the God-given air of the mountains, and vote to sustain and perpetuate freedom in our land, or shall we who have no earthly interest, and who can have, by no possibility, at any time, present or future, any interest in the so-called Southern Confederacy, vote to afford aid and comfort to the enemies of our government, and to dissolve the most glorious union of states that the sun has ever shown upon? 2

Although the Post campaigned for the Union ticket in the legislative races, its main concern was to elect Edgerton's 34-year-old nephew, Colonel Wilbur Fisk Sanders, as territorial delegate--the voteless representative to the United States House of Representatives.

Sanders was widely known in the Territory, not only because he was the Governor's nephew but also because he had acted as the Vigilantes' "prosecutor." In that capacity he had acquired in the winter of 1863-64 a reputation as a courageous man. He augmented that reputation with his aggressive brand of oratory; he was said to be an expert at "sarcasm and

1Ibid.

2Montana Post, Oct. 1, 1864, p. 2.
and he unleashed those qualities with partisan and patriotic zeal in the 1864 campaign.

His opponent, Colonel Samuel McLean, 38, was a former prosecuting attorney in Carbon County, Pennsylvania. McLean had migrated in 1860 to Colorado, where he served as attorney-general for the provisional territory of Jefferson (later named Colorado). He had moved to Bannack in 1862, before Sanders' arrival in the fall of 1863. Sanders came with his uncle when Edgerton was assigned to the western district of Idaho Territory as Chief Justice of Idaho.

McLean was mining in Virginia City—as were many former professional men—and the Post always referred to him as a miner, never as a lawyer. He did well enough as president of the McLean Silver Mining Company to retire to a plantation near Burkeville, Virginia, in 1870.

The Post preached hard-headed politics in its campaign for Sanders. Don't be led astray by partisan loyalties, Dimsdale pleaded, and foolishly send a Democrat to Congress. Why? Because the Republican-controlled Congress would ignore a Democratic delegate and the territory that sent him.

There is one thing that should be taken into earnest consideration by all of the voters in the Territory—and that is, that so far as the political influence of the delegate to Congress is concerned he has no vote; he is a mere business

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3 Ibid.
man sent to represent the business interests of the Territory, and whose influence for good can only be exerted upon the administration in power. Shall we send a man whose views coincide with those of the government, or shall we send a man inimical to it? In the one case the interests of the Territory shall be subserved, while in the opposite they could be sacrificial. It is not in the nature of men (unless indeed they be copperheads) to afford aid and comfort to enemies, and an opponent of the government, and of its war policy, would have no right to ask, and could have no expectation of receiving favors. Think of it, voters, and act for the best interests of the land in which you live, and in which you expect to prosper. Your prosperity depends on the prosperity of the Territory.¹

The Post carried Sanders' speeches in detail with the embellishment of "loud applause." Most of McLean's campaign speeches were ignored by the Post. Perhaps McLean did not campaign as much as Sanders did; that was indicated in one of Sanders' speeches: "After a diligent search, he [Sanders] had been unable to find out what was the political creed of his opponent, who, since this nomination, had retired to the sage brush, leaving his friends to speak for him, and their testimony was very various. . . ."²

Sanders told the voters:

He held it to be the primary and most sacred duty of every American to defend and maintain the Union at all and every cost. There were, he considered, two national parties, and two only. One the friends of the country and one its foes. There was no middle course in such times. Either a man was a sustainer of the government chosen by the people or he opposed it, and the interest of his native land, at one and the same time.

If the so-called Democrats got into office, not even a breath of free air would they get untaxed.³

¹Montana Post, Oct. 1, 1864, p. 2.
³Ibid.
In its last issue before the campaign, the Post headlined its editorial: "To the Polls! Hurrah for the Union." If Union men loved their country, their homes, their liberties and their children, they would go to the polls without bidding, the Post said, to cast ballots "for God and their native land."¹

The Post rejoiced over news of a Union victory in the Ohio elections, claiming its effects were great even in Montana and predicting that they would be greater.²

The Post closed its campaign with a 12-point statement of belief entitled, "Why I Cannot Vote the Democratic Ticket."

First—Because I am a Union man, and the secessionists vote the Democratic ticket, so there can be no Union about it, or they would sleep in the other bed.

Second—Because Fernando Wood, the leader of the Democrats, brought in a bill supported by his party, to take away the miners' property, and I want to secure it to them with good title.

Third—Because I cannot understand how a peace Democrat (if honest) can vote for McClellan, who is for war. There is inconsistence and falsehood on the face of it.

Fourth—Because the Democratic canvassers maintain their entire loyalty and devotion to the Union cause when asking a loyal man's vote, and tell a secessionist that they were Jeff's men, but to keep it dark.

Fifth—Because I am in favor of free speech, free press, and free schools, and free speech is only an introduction to a coat of tar and feathers where the Democratic leaders learned their politics.

Sixth—Because I hold a Copperhead to be the meanest politician on the face of the earth, and all Copperheads vote the Democratic ticket.

¹Ibid., p. 2.
²Ibid.
Seventh—Because peace offered by the North means "let the South go," and then I must pay for what the South will have to pay if the war goes on.

Eighth—Because I cannot, if I so vote, ever look a widow or orphan in the face after bringing the father or the husband to death, and then surrendering all that he had won. I should feel like a murderer.

Ninth—Because the South declares that peace—with the Union, is impossible—and I will not insult victors by declaring them vanquished, and their beaten foe conquerors.

Tenth—Because I want no hungry politician in office. I want just men, and the Democrat candidates look to the fleece and not the flock.

Eleventh—Because I go for the Union, and prefer joining men whose creed and actions agree, and the first measure of a Democrat would be to strike some twelve or thirteen states from the Union flag.

Twelfth—Because to send a delegate to Washington, holding the principles of the Chicago Convention amalgamated with the Richmond virus is an insult to the government, treason to my country, and treason against God and my own soul. Therefore as I can't vote for it, by the shade of Washington, I'll vote against it, and please God, early in the morning.

The Post stuffed its pages with fillers such as: "Take your dinner with you when you go to the polls" and "Let's all vote for W. F. Sanders."2

Optimistic accounts of recent Union rallies were featured prominently. At a party rally in Nevada (the second largest mining camp in Madison county), the Union speakers discussed their subjects "in a most masterly manner" and were "heartily greeted by the audience."3 At the meeting at Junction (another Madison county mining camp), "men on the
ground, belonging to both parties, stated that the numbers present
doubled that of the Democratic gathering," where the attendance was
400.  

The Union campaign, however, was unsuccessful. Sanders lost by
1,263 votes. The legislature was split: the Council was Republican
and the House Democratic--both by one seat. Madison county--containing
more than 5,000 of the Territory's more than 6,000 voters--was solidly
Democratic. But Edgerton's apportionment gave the Republicans the
geographical representation that they lacked in votes.

The Post was reluctant to publish the returns. In its first
post-election issue, it said:

... the results cannot be known during the present week,
but will appear in full in our next issue. The Democratic
ticket has obtained a majority in this vicinity, but what will
be the ultimate issue of all the voting, time only can tell.
The friends of liberty and of the government of their fathers
are in no way dismayed, but wait the event, with the calmness
of men who have done their duty to their God and their own
consciences.  

The Post reported that the election was marked by an absence "of
all packing and coercion."  

The Union loyalty issue really could not be settled in the
Territory anyway, the Post said, but would be settled November 8 in
the "states." "If Abraham Lincoln is elected, all attempts to make
Dixie the Territorial anthem may be strictly considered as played out;

1Ibid.  
2Montana Post, Oct. 29, 1864, p. 2.  
3Ibid.
and General Sterling Price's friends may count on their hopes having
eascented—that is—in plain terms, 'gone up!'\(^1\)

By November 5, the Post still was unwilling to acknowledge Union
defeat, quoting sagely, "He that answereth a matter before he heareth it,
it is folly and shame unto him."\(^2\)

The newspaper did begrudge the Democrats this much:

The Union party were \[\text{sic}\] outnumbered at the polls, in this
neighborhood, and in some other places, and if, on the receipt
of all the returns now so shortly expected, on the total summary
of legal votes there be no countervailing majority, the Union
men must acknowledge a defeat.

While disclaiming all personal hostility to our opponents, we
shall labor constantly to organize the Union party on a still
more solid and enduring basis, supported by numbers that will
render defeat impossible.

Win or lose, Montana is no portion of Jeffdom, and please God,
ever will be. For Freedom and the Union we will stand to the
last hour and the last man.

Democrats need not feel any rancor against us. We fought and
beat them by an overwhelming majority on a fair poll. The balance
of votes in this section were cast by Secessionists, openly
claiming to be citizens of Dixie, and voting as citizens of
Northern States. What would the Secessionists not only say, but
do, if we tried on their game in Alabama. Time will show who
love best truth, mercy, freedom and toleration.\(^3\)

By November 19 when the Post had received final election returns,
it was accusing Democrats of voting "not wisely but too well" and
claiming that a large number of votes were cast in proportion to the
population.\(^4\) That claim was overstated: the Governor's census had
indicated a population of 20,000, and 6,864 votes were cast. Furthermore,

\(^1\)Ibid.

\(^2\)Montana Post, Nov. 5, 1864, p. 2.

\(^3\)Ibid.

\(^4\)Montana Post, Nov. 19, 1864, p. 2.
as the Post acknowledged, a large portion of the population was adult and male.

The Post promised to judge Colonel McLean by his acts; it later concluded that he was guilty of inaction.

At the next election for territorial delegate, September 4, 1865, the Post castigated McLean for laziness, failing to correspond with his constituents and general ineptitude. "For all practical purposes, he might as well have been dead," the Post said. "We do not think that his most enthusiastic admirer can show that we are five cents each the richer for his exertions, or that we ever shall be."²

The Democrats apparently were not satisfied wholly with Colonel McLean, and there was some infighting before he was renominated. The Post delighted in reporting the Democrats' convention squabble.

The caucussing, wire-pulling and altercation were suggestions of anything but singleness of purpose. It was a stormy time, and the gentlemen had to be reminded by Mr. Harlow that their Little band were never made To tear each others' eyes.³

The Post attempted to minimize the problems within the Union party. But it was obvious in the newspaper's account that the Union men had disagreed before selecting Major Gad E. Upson. Upson had come to the Territory as Special Commissioner to the Blackfoot Nation to negotiate

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¹Ibid.
²Montana Post, Aug. 12, 1865, p. 2.
³Ibid.
a treaty. The Post tried to exploit Upson's service to the Territory in his role as treaty-maker, but it could not hide the fact he was an outsider. He had been appointed by Washington to take care of Montana's business. The Post decried such appointments, contending the government should appoint Montanans to the territorial offices.

Upson was selected in one "formal" ballot during which Attorney-General E. B. Nealley (also a federal appointee) and Colonel Wilbur Fisk Sanders withdrew their candidacies. It was obvious on the first ballot that the convention might deadlock on Upson and Sanders: Sanders had 16 votes, Upson, 13, with a scattering of five. Sanders withdrew and on the next (apparently informal) ballot, Upson had 27 votes with a scattering of seven among other candidates. The Post's account emphasized that the selection of Upson was accomplished in the spirit of unselfish party devotion:

In marked contrast to the noisy, acrimonious and selfish workings of the Democratic Convention, was the orderly, business-like, and harmonious conduct of the Union delegates on Wednesday last. The members of the first mentioned body were unable to agree upon anything, except the nomination of a man whose election would bring every improvement and all progress in the Territory to a deadlock—and even this action was the accidental

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1Montana Post, Aug. 12, 1865, p. 2. Major Gad E. Upson was born in Connecticut, worked as a mechanic and served in the Mexican War where he won his commission. His brother, Lauren Upson, was at one time editor of the Sacramento Union, then resigned to accept appointment as Surveyor-General of California. He probably got Major Upson's appointment for him. Gad Upson died in California in April, 1866, less than a year after the Territorial election. The Post's obituary said: "Having been suffering from consumption for a long time, it is probable that he greatly hastened his death by his exertions during the election campaign, in which he unsuccessfully contested the Delegateship with Colonel McLean, last fall. Montana Post, April 21, 1866, p. 2. The Post's obituary was taken from the Sacramento Union; no date was given.
result of the bitter partisan warfare between others of the ambitions of the Democracy. The Union Convention, with perfect order and good feeling, discharged its duties, and, although no one knew which of the candidates would, even probably, be the nominee, the selection was made in one formal ballot. The resignation of Messrs. Sanders and Nealley, especially of the former, was a proof of unselfish devotion to the good of the people seldom witnessed.1

The Republicans asked the help of their old friend James M. Ashley, the Congressman from Ohio. Ashley and the Post reminded the voters that had it not been for him, there would be no Territory. He was chairman of the House Committee on Territories and had engineered the bill creating Montana. Ashley told Virginia City voters he had become familiar with the needs of the territories. His concern was not selfish, he said, because "I have not a dollar of interest in this Territory, but since I have been attacked with quartz on the brain, I trust I shall have some certificates in my pocket, like the rest of you, on my return."2

Ashley urged Montanans to forget sectional differences and unite under the Republican banner for the good of the Territory. He said:

One piece of advice I feel bound to give you, and that is that, when choosing a Delegate to Congress, you will not be so insensible to your own interests as to select any one obnoxious to the government. In this matter, I entrust you to use your common sense. If you wished to sell quartz, in New York, you would not send a man obnoxious to the capitalists there. Your knowledge of business would teach you to send someone who might be expected to enjoy their confidence, and when you look at the matter in this light, I feel sure you will agree with me.3

Ashley promised the people of Montana he would "spare no effort

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1Montana Post, Aug. 12, 1865, p. 2.
2Montana Post, July 29, 1865, p. 2.
3Ibid.
... to secure to it [the Territory] such aid from the Government as may be needful for its development."

The Post reported that in his tour of the Territory, Ashley "was everywhere cordially received by the citizens, and addressed large crowds at Helena and Blackfoot." If the "Secesh" did anything to mar Ashley's reception, the Post did not consider it worth comment.²

Ashley's visit apparently buoyed the spirits of the Republicans, although it did not spur an election victory. The Post exuded optimism about the prospects of the Republicans, saying, "there seems to be a great change for the better in the political sentiment of the community."³

A bill introduced in Congress called for sale of the federal government's mineral rights in the western territories to help pay off the Civil War debt. The bill would have invalidated the miners' claims and eliminated future prospecting by claim. Although the bill was withdrawn by its sponsor, it had frightened the West, and the possibility

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¹Montana Post, Aug. 5, 1865, p. 2.

²Ibid. Ashley was the Radical Republican who moved for the impeachment of Andrew Johnson. Defeat of that resolution indicated that the rule of the Radicals in Congress was on the wane, and in 1868 Ashley was defeated as a candidate for re-election. President Grant appointed him Governor of Montana Territory in 1869. The Senate--after a "bitter struggle"--confirmed the appointment. Another controversy ensued when Ashley arrived in Montana, because the leader of the Radicals was not welcomed by the Territory's Democrats who were still in the majority. Ashley's tenure of less than a year was stormy. Furthermore, he was not in political agreement with President Grant who removed him over the protest of Radical Republicans like Charles Sumner. See Hamilton, op. cit., pp. 304-310.

³Ibid.
that it or a similar one might pass in the future disturbed all the territories.1

The bill had been introduced by a Radical Republican, Representative George W. Julian of Indiana, and the Post asserted that only a Republican could prevent passage of a similar bill in the future. The Post warned:

So long as a man is patriotic, competent, and honest, we do not care who he is, or where he comes from, that man will be our choice. If we pursue another course, and get a bad name for our Territory, our influence to prevent the sale of our mines will amount to nothing, and our appeals for help, either in the shape of money, roads, protection, or legislation, will be disregarded.2

The Post refused to give McLean credit for withdrawal of Julian's Gold Bill, "inasmuch as he himself informs us that there never was any danger of its passing."


2Montana Post, Aug. 5, 1865, p. 2. In its efforts to prevent sale of the mining lands, the Post printed a long editorial about the glories and unifying effect of a large national debt. It was "the mystic tie that binds whole races to keep the peace, and for our part we look upon it as the golden regulator, stimulating the enterprising, restraining the extravagant and calming the turbulent." The Post said there would be no Great Britain today if it were not for the national debt, calling it a "fly-wheel to the Constitution. It steadies the motion of the whole machine." The sale of bonds on the debt was a good barometer of confidence in government, the Post said, and concluded: "Practically speaking, a good sound national debt, if wisely managed, the interest paid honestly and with scrupulous punctuality, is nothing more or less than national salvation."
The Post, in a gesture of impartiality, did print McLean's version of his service in Congress and his reply to the charges he was lazy and irresponsible. McLean's account was edited by the Post, but his defense remained. The statement, one of the few about McLean's service, was presented to the Democratic territorial convention in Virginia City, August 7 and 8, 1866.

He said he did not get his certificate for some time after the election, and that he was 31 days on the road. When he got to Washington, Congress had adjourned for the Holidays; but immediately after he took his seat. When Julian's Gold Bill came up he devoted himself to opposing it. There were but few people from Montana there, but there were many Coloradians, and he found that he must represent them too, for Mr. Bennett, their delegate had sold them out and they had no confidence whatever in him. Julian's Bill provided for the sale of the mining lands, the proceeds were to be devoted to paying the National debt. He had witnesses, both Democrats and Republicans, to prove that he had worked hard against it, and Julian, finding that he would be beaten five to one, the bill was dropped. There was no danger of it passing, Mr. Ashley to the contrary, notwithstanding; seeing that all the Democrats and more than half the Republicans were against it. He referred to the appropriation of $150,000 for the road from Sioux City, and claimed that, with the assistance of Mr. Voorhees and other Democrats, he had got it amended to suit the people of our Territory, and prevented the money being spent all in Iowa. That he had applied and labored for the establishment of a Post Office at Bitter Root, Fort Owens, Hell Gate and Boulder, and that the Post Office at Nevada had been obtained by his efforts. He never received a letter or paper from home until after Congress adjourned. He had asked for a U. S. Marshal, and Mr. Pinney was appointed, a man who would mind his business, and let politics take care of itself. Judge Munson was also sent to the Territory and a Secretary appointed. He had never sold an inch of property until Congress had adjourned, and refused to go to New York to attend to his business when gold was falling at a ruinous rate. He had set up night after night, backing letters and documents to the territory. His wife had frequently assisted him. He had no control of the mails or savages, and it was not his fault if they did not get here. On his road home he had received at Philadelphia 36 letters, and the first copies of the Post. If they thought he had not done his duty, let them condemn him in black and white. He
could live without the nomination; but he should like to obtain it, as it would be a slur upon him if they threw off on him after representing them for one short session. He had not been asked to explain his conduct before, or he would have given an account of his stewardship and he had risen from a sick bed only a few days before.¹

The Post discounted McLean's excuses and professed accomplishments. The movement to build the Nobrarah road was not initiated by McLean, the Post said, and the legislation would have been accomplished without him.

It is true that the mails were irregular and delayed for some months; but it is now a long time since the roads were open, and during this time we have never heard from the Colonel, though many thousands of letters dated during the term of his sojourn at the capital have arrived safely in the Territory. He should at any rate have written oftener than he did to prevent the possibility of miscarriage. However, practically speaking, the loss of the letters stated to have been forwarded was, after all, of little consequence, in as much as they could not contain any information of substantial importance to the people, nothing worth noticing having been done by the writer.²

But when Upson, the Union candidate, went to Washington on "Indian business," the Post said "he applied himself to do all that he could for the Territory." Upson implied that he deserved some credit for the road appropriation. He said he had applied for $15,000 with which to obtain a treaty with the Indians and Mr. Windham, chairman of the Committee on Indian Affairs, had promised he would get it, but "he forgot all about it." Upson had journeyed to Connecticut, and when he returned to Washington he learned the revenue bill had passed without the treaty appropriation. Upson said it was only through his "exciting and toilsome chase" after the lost papers that the appropriation was saved as much for Major Upson's benefit as the Territory's.³

¹Montana Post, Aug. 12, 1865, p. 2.
²Ibid.
³Ibid.
Upson reassured voters that "about the Negro question... he was as much opposed to giving votes to the negroes, until they were properly educated, as Col. McLain [sic] was."¹

The only major issue in the campaign was partisan loyalty. On territorial matters the party platforms were similar. Both pledged to seek Territory roads, river development, permanent tenure of mining property, claim to Indian lands, protection from Indians, a branch mint, a geological survey and better postal facilities.²

In addition, the Republicans vowed that the "first and highest duty" of Montanans was to place "the public sentiment of the Territory upon a higher level, until its sympathies shall be in harmony with those of the country at large."

The Republicans said salaries of territorial officers and taxes should be reduced; its newly developing status should free the Territory from taxation; the Mexican monarchy should be overthrown; it had confidence in President Andrew Johnson's abilities, and the party would forgive all who would "cheerfully and honestly accept its inevitable decrees."³

The Democrats, in addition to the goals they shared with the Republicans, opposed "the odious and pernicious doctrine of 'negro equality' now sought and adopted by the party in power"; asserted that "unswerving fidelity and rigid devotion to the Constitution, the Union

¹Ibid.
²Ibid.
³Ibid.
and the rights of the States" would re-establish order and the "supremacy of reason and the toleration of opinion over passion and fanaticism." 

The Post again based its campaign on the plea that practicality should compel the voters to send a Republican delegate to a Republican Congress. It said:

The principle on which a Delegate goes to Congress is that of doing the most he can for the Territory. He is a business agent, and nothing more. There is neither Democracy nor Republicanism in the matter. Since there are no political issues at stake, the election of a man representing a party avowedly hostile to the government, can be taken only as a premeditated insult to the authorities.

The Post tried to prevent such a premeditated insult. It reported that Major Upson spoke at length at a meeting in Helena and defined his position so well and so clearly—leaving out political issues so entirely—that everyone present seemed to listen with the greatest intention.

But at the Democratic meeting that evening, "the usual amount of gaseous expletives took the place of argument, there being none of the latter commodity on hand. There were several speakers, but their orations did little good and no harm." 

In a letter signed Ulysses, Colonel McLean's speech was described as "a mere school boy's effort." Ulysses said McLean issued a "tirade of billingsgate and scurrility against the opposition." Colonel Sanders,

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1Ibid.
2Montana Post, Aug. 18, 1865, p. 2.
3Montana Post, Aug. 26, 1865, p. 3.
4Ibid.
the object of McLean's invectives, was called a "lean greyhound,"
Ulysses said.

Bad grammar is the distinguishing characteristic of Colonel
McLean's diction. "I done it," "had meant," "hadn't ought to,"
etc., are his favorite phrases.
Throughout his speech here [Helena] he betrayed an inward
consciousness that he was laboring in a bad cause.
Union men in Montana! This man must be beaten. Let that
stain of doubtful loyalty no longer sully your fair escutcheon.
Let not Montana stand out alone among her sisters, an object
of shame and disgrace to the Republic.\(^1\)

In its final pre-election editorial, the Post said McLean was:

A gentleman of Montana, a very good miner, and a kind,
social friend, but a most worthless Delegate, having been
weighed in the balance and found wanting, totally and conclu-
sively in that capacity comes back to Montana, and asks to be
re-appointed, promising to do the same again."\(^2\)

The Post tried to nullify McLean's claim to the miners' vote.

That Major Upson is not so good a practical miner as Col.
McLean, he himself is willing to admit, in fact, he would
smile at the question. But to say that because Col. McLean
is a good miner, he is therefore a good Delegate, is childish
nonsense. Working mines and advocating miners' interests are
two different things altogether.\(^3\)

The election was September 4, and the Post printed the sad news
of the returns at the bottom of the second column on page 2. "The returns
even for our County, are incomplete; but so far as they are known the
Democratic ticket is, by a large majority elected," the Post said.\(^4\)

The Post did find one reason for optimism—the Democratic majority
was smaller in proportion to the vote cast than in 1864. McLean carried

\(^1\)Montana Post, Sept. 2, 1865, p. 1.
\(^2\)Ibid., p. 2.
\(^3\)Ibid.
\(^4\)Montana Post, Sept. 9, 1865, p. 2.
Madison county by more than 500 votes,\textsuperscript{1} and the early returns gave him an edge of more than 300 in Helena where fewer than 1,000 voted.\textsuperscript{2}

Election Day was again peaceful in Virginia City, the \textit{Post} said. The streets were "lively and animated," but "there was no fighting; extremely few hard words were interchanged, and a general desire for good behavior that would find few parallels in 'America,' were evidenced throughout the day." After the election, there was a beating in Virginia City and one in Nevada but, in general, "such a crowd, and such a peaceable crowd, we never saw before."\textsuperscript{3}

Montana's next two elections were complicated by the controversy concerning their validity.

There was no election for the second legislative session, for Acting Governor Thomas F. Meagher proclaimed an extra session of the Bannack legislature, summoning Council members elected October 24, 1864, and House members elected September 4, 1865. The Republicans claimed the 1865 election was bogus; the election of representatives to the territorial legislature is rarely mentioned in the \textit{Post}.\textsuperscript{4} The \textit{Post} commented:

We editorially touch our hat to the gentlemen elected to the offices of Territorial Auditor, Superintendent of Education, and the Legislature. Nobody else will ever do it seeing that the first three offices are non-elective and the balance bogus.\textsuperscript{5}

\begin{itemize}
\item[\textsuperscript{1}] \textit{Montana Post}, Sept. 16, 1865, p. 2.
\item[\textsuperscript{2}] \textit{Montana Post}, Sept. 9, 1865, p. 2.
\item[\textsuperscript{3}] Ibid., p. 3.
\item[\textsuperscript{4}] The question of the bogus legislatures is examined in Chapter V.
\item[\textsuperscript{5}] \textit{Montana Post}, Sept. 16, 1865, p. 2.
\end{itemize}
Meagher also called a convention to consider the question of statehood and to draw up a proposed state constitution. The election for delegates to the convention originally was scheduled February 7, 1866, with the convention in Helena March 1. Because of weather, the election was postponed until February 21 and the convention until March 26. The Post and most Republicans boycotted the convention process.

The Post was miffed about Meagher's proclamation for two reasons: The story was printed first in a rival newspaper, the Virginia City Montana Democrat, and the convention call indicated Meagher had joined forces with the Democrats. The Post commented:

It will seem singular that all knowledge of so important a movement should have been withheld from the general public; but a glance at the signatures to this remarkable document shows conclusively that, whatever may be the constitution of the convention, the requisition is essentially the embodiment of the wishes of one party only. All the prominent names belong to one class. The consultation, organization and slate filling have been confined to that party without exception. We cannot but think the action in this matter is premature. The season is most unpropitious, and renders anything like a fair canvass impossible. The locality chosen for the assembly of the body is not the Capital, and it is nearly destitute of the material required for publishing the daily proceedings. . . . One-third, at least, of the most intelligent class of voters are absent from the Territory, on business or otherwise, and the popular vote will be little more than half of what it would be at a more fitting time of year.

The Post said the light voter turnout in Madison and Beaverhead counties proved it was right. "The smallness of the figures is suggestive. In Madison County, we ought to see more thousands than hundreds."}

1The Montana Democrat was founded Nov. 16, 1865, as the second newspaper in Montana Territory, in Virginia City.

2Montana Post, Jan. 20, 1866, p. 2.

3Montana Post, Mar. 3, 1866, p. 2.
In Beaverhead county, voters chose delegates to the legislature as well as to the convention. The Post reported that the election was "the most exciting one ever held in Beaver Head County. The so-called Democratic ticket, engineered by Benjamin Peabody, was badly defeated, the entire anti-State ticket being elected."¹

By the fall of 1867, when the election for the third legislature was scheduled, the second session had been declared null by Judge Lyman Munson in a civil-suit ruling. Munson declared void the laws resulting from that session because it had no constitutional authority. Munson's ruling also made it clear there was no authority under which Montana could assemble another legislature. To do so would require an enabling act from Congress, he said.

The Union party again boycotted the election, and its leader, Colonel Sanders, said: "The pending election--transpiring without the authority of law--does not seem to be a proper occasion to be used by our earnest and patriotic citizens for the inculcation of principles, in the immutable justice of which, our faith is so strong."²

Candidates were nominated by the Democrats and the "People's party," an amalgamation of "all those supporting President Johnson."³ The People's party, headed by former Democrat Paris Pfouts, a Virginia City storekeeper, contended "the affairs of the Territory had been

¹Ibid.
²Montana Post, Sept. 1, 1866, p. 4.
³Montana Post, Aug. 25, 1866, p. 5.
managed by a clique," and it called for a partnership of the miners and
the "people" to remove the clique.

The People's party, in the first resolution of its platform, hailed
the Republican convention in Philadelphia with "profound gratitude" for
the "harmony and unanimity that prevailed." The platform's other resolu­
tions:

--Supported Johnson's policy of reconstruction.
--Supported the principles and candidates of the Miners and
Peoples meeting.

--Recognized as "a great conservative principle" Johnson's doc­
trine of "once a state, always a state," believing that his adherence to
that doctrine and resistance to the measures of the Radical Republicans
were responsible for the harmony in the South.

--Stated it was not in sympathy with the "extreme party intolera­
ance and malignity" that would prohibit recognition of the Southern
states and their citizens.

--Expressed faith in President Johnson and his great character.

--Endorsed the House of Representatives amendment to the Organic
Act abolishing charters granted by the territorial legislature and vowed
to vote for no man for the house or assembly if he would not declare
himself against charters.

-- Declared the recent quartz law "ruinous in its tendencies as
it was senseless in its provisions" and said the territorial delegate
should work for its repeal.

--Endorsed speedy construction of the Northern Pacific Railroad.
--Requested a survey of the Yellowstone and Missouri rivers to determine their navigable qualities and "render them permanently navigable." ¹

The Post did not strongly endorse the People's party, but it did encourage it in the following editorial:

... the President most justly condemns the course of certain politicians in this Territory, who are fettered by the shackles of a contemptible party spirit, and proclaim the name of "Johnson men." If members of the Democratic organization, who sustain the principles of the Philadelphia Convention and the speech of the President, boldly avow their intention to vote for a ticket which does not emanate from the regular caucus, they are denounced by Democrats "in slavery" as "deserters" or "Republicans." The columns of the last number of the Democrat will support this proposition. It is evident that, if the Democracy of the country do [sic] not break their "shackles" and adopt the manly example of Messrs. Pfouts, Davis, Bond, Castner, and many others of this city; or, in other words, if they follow in the footsteps of Major Bruce and his cohorts, the Philadelphia Convention is an abortion, and the efforts of the President will result in a miserable failure. The election upon the following Monday will show the number of Democrats who "bear the shackles upon their limbs." ²

The Democratic platform was not published in the Post. The Montana Democrat denounced some of the People's party founders for disaffection.

The Post gleefully reported that at a Democratic rally "the audience was less enthusiastic, as well as more apt in seeing 'the point,' than the orators." Robert B. Parrott, a (successful) candidate for the House, was:

declaiming in his loudest tones against the perfidy of those, "mean, low-lived, contemptible, dirty Black Republican dogers," who violated their faith with the South, and refused her people admission to Congress, "after they had laid down their arms." One of those "honest miners" immediately retorted that "they

¹Montana Post, Sept. 1, 1866, p. 1.
²Ibid., p. 4.
didn't lay them down--we had to take them away from them;" and very soon Mr. Parrott bade his hearers an "affectionate fare­well." In September, 1866, the Post had a pro-Union ally--the Montana Radiator of Helena. Founded as a Democratic newspaper, it had been sold and the new publisher was urging Montanans to vote against the Democrats:

Now is the time for Union men--those who have supported our nation in the fiery ordeal she has passed through, and who have sustained her in the hour of dire necessity--to unite and prove to our brethren of the sister states that Montana shall and will stand by the Union.

Montana's Democrats were steadfast, however, and on September 6 the Montana Democrat assured the faithful: "Montana All Right--2,000 Majority--Radicalism Extinguished."

At the recent election the Democracy have swept the Territory, and the majority will not be less than TWO THOUSAND. The policy of the President is sustained, and Congress rebuked.

The Democrat commented smugly:

When it is considered that a few ambitious gentlemen, who had heretofore acted with the Democratic party, joined hands with Judge Hosmer and got up an opposition ticket, we think the victory is a glorious one, and will have a fine influence on future elections in this Territory. The result in this county teaches a fine lesson. It has shown some gentlemen how much influence they can exercise; and it has also proven to them that the Democratic masses have fixed political principles, and always stand by them and cannot be seduced from their positions by the treachery of would-be leaders.

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1 Ibid., p. 5.
2 Montana Radiator (Helena), Sept. 1, 1866, p. 2.
3 Montana Democrat (Virginia City), Sept. 6, 1866, p. 2.
4 Ibid.
The Post criticized the Democrats for their behavior at a People's party rally the night before the election. While Davis, Pfouts and Castner were trying to speak, they were interrupted by jeers which "caused confusion," the Post said.

Mayor Castner was unable to continue his remarks for a long time, because a Democratic portion of the audience, that was encouraged and acted in compliance with the suggestions of their leaders, some of whom occupy conspicuous offices in this Territory, uttered the names of disreputable females, and filled the air with hideous shouts and exclamations. . . . Subsequently when Judge McCullough attempted to gratify his supporters by expressing his principles at a Democratic meeting, a number of the "Peoples Party," prevented him by employing the contemptible tactics which, have been described. . . .

The Post said the Supreme Court of the United States would have to decide whether the actions of "some of the voters upon last Monday was a reality or a farce."

Thousands of citizens who sustain the views of the Judges of this Territory, regarded the Legislature as an illegal body, and declined to compromise themselves by going to the polls. The result cannot be claimed as a victory by any party, although the Democrats having no regular opposition, elected their candidates with ease. Only one matter was settled: The Philadelphia Convention has not affected the policy of the Democrats of Montana. They refused to affiliate with any Republicans that "stand by" the President, and their organ, in referring to the conduct of some patriotic members who wished to secure a union of "^Johnson men," speaks in the most sneering style of the "treachery of would-be leaders." If the Democracy of this nation adopt this illiberal course, the friends of President Johnson will be defeated by large majorities in every State.

The Post again reported a quiet Election Day although candidates on both tickets "worked energetically." The whisky consumed was not of the "fighting" variety, the Post said.

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1Montana Post, Sept. 8, 1866, p. 4.
2Ibid.
On the contrary, a man who came to the polls in the morning, sober and warlike, would be rendered sociable and peaceable after getting on the outside of a few glasses of whiskey. In short, the whole affair went off more like an old-fashioned love feast than an election, and Tussey Boy and his party are overjoyed with the results, while the so-called Pfouts-Hosmer party console themselves with the idea that "they may live to fight another day."

Tussey Boy was the Post's nickname for Major John Bruce, editor of the Montana Democrat. The Post's gesture of consolation was marked by foresight. The Pfouts-Hosmer party, with the Union party, did live to fight another day—on the floor of the United States Congress. It was a victory so devastating that it wiped out the past two elections won by the Democrats. But in winning that victory, the Republicans insulted and angered many Montanans, who vowed that "Tussey Boy" and his pals would have many other "love feasts" at the table of Montana politics.

1Ibid.
CHAPTER IV

A THEORY ABOUT FRANKLIN, THE "ANONYMOUS SCRIBBLER" OF MONTANA'S FIRST LEGISLATURE

When the coach finally bounced and rattled down the main street of Bannack, already a dying mining camp, only the driver's patience was intact. The passengers were tired, cold and irritable. One had come to Bannack to serve in Montana Territory's first legislative assembly, which was to convene Monday, December 12, 1864. For him, the first stop was at Harby's for those creature comforts provided by a saloon.

The traveler elbowed his way to the bar and shook hands with the men he knew. He congenially joined in the unofficial and well-liquored pre-legislative caucuses. He was welcomed warmly at all those informal gatherings, but particularly at those of the Republican or "Union" party. He was an important man in the Territory, a leading merchant with money invested in enterprises in most of the thriving mining camps. He had been in the Territory for almost five years, and, in 1864, a man could claim the status of old-timer with only two years' residence.

The traveler was to do more than legislate at the assembly; he also was to become its unofficial chronicler as Montana's first legislative correspondent and first political columnist.

Early in the session he was to complain that the legislature reminded him of the California State Legislature. "There is the same

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1 Montana Post, Dec. 17, 1864, p. 2.

2 Montana Post, April 15, 1865, p. 1. Harby's was a saloon, apparently across the street from the council chambers, frequented by the legislators.
scramble here after the 'good things' and 'fat takes' that there was at that time," he said, "and I notice a remarkable similarity in the methods used to accomplish the ends desired."^1

He revealed that the legislators' drinking sessions were as engrossing as their lawmaking sessions, and tattled:

Honorable members and Legislative bummies have drank nothing until yesterday for a week. So sudden a change of habits of course would produce serious results if no specific were found which would protect them from the fatal effects of temperance. For this purpose, for a week, they have been eating pieces of ice—said to be a sovereign remedy. The mercury in the thermometer, for a week, has been so far below 40 deg. as to be out of sight, but we caught a glimpse of it on day before yesterday. Mr. [Charles S.] Baggs felt fully thawed out today, but, if he does not repeat it, I will maintain secrecy until the Legislature closes. When a man designs and does so well sober, I do not feel anxious to tell his fantastic tricks when—asleep!^2

When the 60-day session ended, he wrote:

The high comedy which has been on these boards for sixty days closed Tuesday evening at 10 o'clock. The spectators were bored, the actors were weary, the scenery dillapidated, and the footlights dim. The whole round of cheap nonsense had long been exhausted. Even dullness became familiarly stale, and stupidity reigned unquestioned monarch of the assembled wisdom.^3

The pseudonym that he scratched at the end of his pungently partisan, frequently sarcastic and always entertaining letters to the Post was "Franklin." His identity never was revealed publicly. But he provoked his peers to censure him officially and to appoint an unofficial "smelling committee" to "ascertain who 'Franklin' is.^4 Franklin smugly concluded his assignment in Bannack with his identity as secret as it was the day he arrived.

^1Montana Post, Jan. 21, 1865, p. 3.
^2Ibid., Feb. 4, 1865, p. 1.
^3Ibid., April 15, 1865, p. 1.
^4Ibid., Jan. 7, 1865, p. 3.
For more than a century, Franklin's identity has remained a mystery, except for one well-educated guess that appears to have been correct. In a footnote in his dissertation about the early Montana press, Robert L. Housman said: "It is a temptation to suggest Frank Worden as possibly 'Franklin.' 'Franklin' was a Republican, he had been in California at the time of the first state legislature there; he was a strong advocate of the Historical Society. All this applies equally to Worden."¹

The Rogers' oath controversy (see Chapter II) riled the legislature and provoked jeers from Franklin's pen. The report that John Rogers' service with General Sterling Price's "tatterdemalions" would prevent his oath-taking so disturbed the lawmakers, Franklin said, that if "justice had been done in the premises, he [Rogers] would have seen more bayonets than bullets, and in the place of honors would have received a halter."²

Franklin asserted Rogers wasn't the only Democrat who objected to the oath, but the others were more hypocritical. Assemblyman Washington J. McCormick, a Democratic lawyer from Madison County, was one of the favorite targets of Franklin, who said McCormick "cared nothing about taking the oath himself." McCormick, Franklin said, "had become so versed in the Machiavellian philosophy, that he sees clearly how consistently he may be a good friend of the Government, a Union man par excellence, and yet aid this Rebellion until the American people will deign to elect a President to his liking."³

²Montana Post, Dec. 24, 1864, p. 2. ³Ibid.
In their "haste to make a point against the Governor," Franklin said, the Senate Democrats transformed themselves into "pack animals of inelegant euphony." He later apologized to "those Santa Fe jacks that do the freighting Summit-ward," for likening them to Democrats.¹

Franklin early in the session shattered any illusions that the Post might treat the Democrats impartially in its coverage of the legislature.

What probably was most galling for the Democrats was the realization the anonymous scribbler was seated among them in the Council. Franklin let them know that early in the session. And he said he didn't want anyone else doing the Post correspondence. He was jealous about that, he said, and he resented the "inveterate scribbler" in the Council who was writing letters to the paper and the "knight of the quill in the house." He had worked hard for the position, and he was paid for writing the letters. "That they do not suit all is why they suit me so well," he said. He didn't want anyone jumping his claim to the title of the Post's Bannack correspondent.²

In the next issue, a letter from Bannack, signed "R. H.," said the "egotistical 'Franklin'" was the prime incentive for the letter. Apparently R. H. had been accused of writing the Franklin letters, and he wanted to dispel such gossip immediately. (But he didn't want to badly enough to sign his name.)

R. H. disagreed with Franklin's views about the Rogers' controversy, though Rogers was a Democrat and R. H. a Republican. R. H. said:

¹Ibid. ²Ibid.
I cannot, in justice to him or the friendly feeling I entertain for him, read the remarks passed upon him and the course he pursued while here by your one indeed [sic] correspondent, without entering my protest against his (your correspondent's) miserable vent of spleen... The course pursued by Mr. Rogers, in the vain endeavor to secure his seat, was honest, straight-forward and manly. I heard him make the most sensible speech which has yet been delivered in the House of Representatives, in explanation of the reason why he was unwilling to take the prescribed oath, in which he stated, honestly and fairly, that he could not forswear himself, even if he would acquire millions by taking it. He professed himself willing to support and defend the constitution and the laws of the United States, and claimed only the rights of the citizen of the United States, since to them he owed his allegiance, but could not swear that he had not taken up arms against them..."1

R. H. said if Franklin knew the facts in the case, he had "committed an unwarrantable wrong."

Rogers' defense was summarized and paraphrased by the Post, which self-righteously refused "to introduce into our columns a new germ of that political and party hostility of which there is already too much in this locality."2

In his statement, Rogers said he couldn't understand why Governor Edgerton had sent him a certificate if he did not intend to admit him to the legislature. The Post said that Rogers,

finding himself a stumbling block to legislation, considering that much work was to be done, and that it would be unjust to the people to have their property and interests jeopardized for 12 months from the want of laws to protect them, he therefore resigned, solely considering the interests of the people in so doing.3

Franklin, meanwhile, was delighted that one of his fellow legislators had asked "if I had any idea who that 'vile scribbler' was."4

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1Montana Post, Dec. 31, 1864, p. 2.
2Montana Post, Jan. 7, 1865, p. 2.
3Ibid., p. 3.
4Ibid., p. 4.
He protested, facetiously, surely, that he was sorry Rogers "was dissatisfied at my mild statement of the facts in his case."¹

He chided Charles S. Baggs, another frequent target in the Council, saying "bitter Democratic partisans" were beginning to question Baggs' loyalty. They had good reason to, he said, because Baggs had faith in the republic as well as the Democratic party; "hence he cannot be implicitly relied on in all party drills." Then Franklin slyly noted that Baggs had drunk no "poor whiskey" since he had been in Bannack, "and this

¹To the jealous confirmation strong
As proofs from holy writ."²

Franklin said the Democrats were "kept by the most ungodly pack of sinners that ever sought to do business upon the hypothesis that it was advisable to keep up a show of decency."³

In his letter of December 27, 1864, Franklin launched a one-man war on the legislature's granting of charters for roads, ferries, bridges, utilities and navigation improvements.

Franklin's adamant opposition to such charters is a valuable clue to his identity. It, more than anything else, leads one to conclude that Housman's guess was correct—that Franklin was the Hell Gate merchant, Frank L. Worden. With his partner, C. P. Higgins, Worden also operated stores in Deer Lodge and Gold Creek and had money invested in Dance, Stuart and Company, a mercantile store in Virginia City.⁴ Freight costs were Worden's principal problem and his largest item of overhead.

A man chartered for a toll road was responsible for its maintenance, but Franklin indicated that experience had taught him that toll roads were often one-way bargains. He contended toll roads would increase the cost of travel and hauling freight.

The most impudent thing of the session thus far, excepting the attempt of a rebel to get into the Assembly is, the claim of Messrs. John D. Ritchie and others to secure a charter for the road from Virginia towards Salt Lake. They have expended no dollar, performed no work, but claim the natural highway as a toll road, which if granted, will cripple the Territory for years. They rode over the route once or twice, and claimed it, they say, and gravely put this forth as a reason why the people of Madison County should be placed under contribution for years to come. Other parties claim it—some of whom it is alleged have expended nearly ten thousand dollars on it, but it is decent compared with the naked, bald claim, of other parties. If corruption induces your representatives to cripple the industrial interests of the Territory, by inducing such legislation as this, let the dear people remember those who thus vote away their dearest rights for paltry gold. Those who have built the road ought to receive what they have expended, but even that ought to be paid them out of the Treasury, and not by a charter.¹

Frank Worden had enough experience hauling freight across the western plains and mountains to have acquired some strong opinions about the maintenance of toll roads.

Francis Lyman Worden was born in Marlborough, Vermont, October 15, 1830, the son of Rufus Worden. The family was descended from early New England settlers and was of Welsh origin.

Young Francis, who was called Frank when he reached the West, was sent to Troy, New York, at the age of 14 to learn merchandising and bookkeeping. By the time he was 22 he had worked up from office boy and messenger to clerk. The appeal of the West was strong, and he persuaded a cousin to stake him to $300; $200 of it went for a boat ticket

¹Montana Post, Jan. 21, 1865, p. 3.
from New York to San Francisco. He sailed March 23, 1852, and arrived in August in San Francisco, where he signed on the steamship Oregon as a sailor. The Oregon sailed between San Francisco and Panama City, Central America. Worden stayed on the ship for a few months, then took a clerk's job in San Francisco's Occidental Hotel. He left that job in the summer of 1853 to work as a clerk for Gordon and Company in San Francisco.1

Franklin had been in California, because he complained about midway through the Bannack legislative session that the routine business had become monotonous and the legislature "reminds me very much of the State Legislature of California."2

In the same letter, Franklin admits to being "a carder, and a dicer, also. I have bucked the tiger in San Francisco, and have taken the real Bengal by the mane in Sacramento. I am an A. M. in the 'seven damnable sciences."3

Worden did not object to gambling. He is said to have won the first pair of "gum boots" ever seen in the Territory in a Gold Creek saloon when a man, trying to raise money for a gun and clothing, walked in and said he would raffle the boots at $1 a dice throw. Worden "stepped up and on the first throw won for himself the pair of gum boots."4

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1Partoll, op. cit., pp. 189-190.
2Montana Post, Jan. 21, 1865, p. 3.
3Ibid.
4"When Missoula Was Very Young," The Sunday Missoulian, January 8, 1928, pp. 4-5.
Worden prospected for gold in Oregon after he left his clerking job in San Francisco. But when he and his partner failed to find gold, they returned to California, where they heard about a new strike in the Colville, Washington area. When they got there, they learned the Indians were on the rampage, so Worden joined the Oregon Volunteers, a civilian group trying to defend the frontier. He served under Washington's Governor Isaac I. Stevens in 1856 in the Columbia River campaign.

During that volunteer service, Worden may have met his future partner, C. P. Higgins, an Irish immigrant who came to the United States as a teen-ager.

Worden was a clerk in the Indian Service Quartermaster Corps in Olympia, Washington, after the Indian War. In 1858 he went to Walla Walla, Washington, with a government permit to trade with the Indians, and organized "Worden and Company." He was appointed Walla Walla's first civilian postmaster October 1, 1858.¹

Worden learned a valuable lesson for a frontier storekeeper while in Walla Walla. He was extending too much credit and at the end of 1859 found he had sold $30,000 in goods but was $9,000 in debt with $10,000 to $11,000 out on credit. He said he collected nearly all the money owed him. His acquaintance, C. P. Higgins, bought out Worden's original partner in Walla Walla and interested Worden in going to Montana. Higgins had been in Montana as a wagon master with Stevens' exploring expedition. He knew the country and he had $8,000 to contribute to the partnership. In 1860, they took 75 horses loaded with freight over the Mullan Road and opened a store at Hell Gate (west of the present site of Missoula).²

¹Partoll, op. cit., pp. 189-202. ²Ibid.
Their store was the first one in what was to become a mountain mining area. Gold discoveries meant more traffic on the Mullan Road. By 1862, Worden and Higgins had opened a branch store at Gold Creek and, with James Stuart and Walter Dance, stores in Deer Lodge in 1864 and Virginia City in 1865.¹

Worden and Company was the agent in Hell Gate for Montana Post subscriptions and job printing orders.² Since the medium of exchange was gold dust and since the only storekeeper for miles was also the unofficial banker, Worden and Higgins had a safe hauled over the mountains from Walla Walla.³ Thirty inches tall and 20 inches square, it was the first one in the Territory and was perched on a platform in the back of the store.⁴

Worden's role as unofficial banker in Hell Gate also substantiates his identity as Franklin. In one of only two pointed clues that Franklin gave about his identity, he used a financial term. It was in the January 7, 1865, issue of the Post, and Franklin was promising more scandalous tales about the legislators to regale the Post's readers:

Now my promise to tell you all about the tastes and habits of the members, their calibre and efforts to discharge their duties, etc., has put several of them not before "overly" well-behaved (to use an adverb from Dixie, the only thing coined here recently except lies) upon their good behaviour, and you and I are compelled by the length of this epistle to defer that pleasant duty until a "more convenient season." They shall not be slighted alway [sic], but I shall settle it by and by with usury.

I am truly, etc., Franklin

I see the secret is out in this last line, and it is not my fault hereafter if all men do not know whom I am.⁵

¹Ibid. ²Ibid., p. 192. ³Ibid.
⁴"When Missoula Was Very Young," loc. cit.
⁵Montana Post, Jan. 7, 1865, p. 2.
Franklin apparently thought he had provided a sure clue in the closing line of his letter, and the only word with a significant double meaning is "usury." Worden was undoubtedly well known in the Territory for his banking transactions. (There was no bank in the Territory in 1864-1865.) Even if Worden didn't lend money, he most likely charged interest on credit he extended.

Worden is the logical choice in identifying Franklin by a process of elimination.

Only three members of the Council in the first legislature were not members during the second session: Worden, Frank M. Thompson of Beaverhead county and Robert Lawrence of Madison county. All were Republicans, as was Franklin.

Franklin evidently was not a member of the second legislature. On February 3, 1866, the Post printed an advertisement asking him to return to his listening post in the legislature. It said:

Wanted--Our old correspondent "Franklin," to watch the Legislative body as of yore. The compensation will be according to the old contract.¹

But Franklin's colorful letters did not appear in the Post during that second session or during the third one.

Lawrence was president of the Council but, as Franklin mentioned in his letter, was not present at its first session.² Franklin also commented occasionally about Lawrence, telling how he took "that Websterian head of his out of both hands, where he carefully kept it most

¹Montana Post, Feb. 3, 1866, p. 3.
²Montana Post, Dec. 17, 1864, p. 2.
of the time,\(^\text{1}\) of Lawrence taking the Governor's required oath\(^\text{2}\) and of
the Council's struggle to pass a resolution thanking Lawrence for his
work as president.\(^\text{3}\)

Franklin said in one letter, "Confidentially I will say to you,
in your private ear, that I think it must be one of the three Governors
here, whose name is Franklin. He is a close observer, a fine writer and
watches the two houses so closely, that I think he has some ulterior
object in view."\(^\text{4}\)

Three legislators had the first name of Frank: Worden and Thomp­
son in the Council, and Francis Bell in the House. Bell was a Democrat
from Madison county, and Franklin persisted in attacking that delegation.
Thompson was from Bannack in Beaverhead county. He supported the Histor­
ical Society, as did Franklin, and was one of its original incorporators.\(^\text{5}\)

At one point it looked as if the session would not pass a bill
incorporating the Historical Society. Franklin wrote: "The bill incor­
porating a Historical Society is lost. Better days and wiser legislators
will yet organize some such society, and the folly which defeated this
laudable design will be appreciated at its real value."\(^\text{6}\)

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\(^{1}\)Montana Post, April 15, 1865, p. 1.

\(^{2}\)Montana Post, Dec. 24, 1864, p. 2.

\(^{3}\)Montana Post, April 15, 1865, p. 1.

\(^{4}\)Montana Post, Jan. 7, 1865, p. 3.

\(^{5}\)Worden was also a prominent member of the Historical Society.
When he died, the society passed a memorial in his honor. James M.
Hamilton, From Wilderness to Statehood: A History of Montana (Portland,

\(^{6}\)Montana Post, Jan. 21, 1865, p. 3.
When the bill creating the society was passed, Franklin took credit for it, announcing in his letter of February 9 that "The Historical Society, thanks to this correspondence, is a body corporate, if not politic."¹

There is evidence in Franklin's letters to indicate that he was not Thompson.

Franklin favored Virginia City as the territorial capital.² It is doubtful if Thompson, who was from Bannack, would have favored such a move. But it is likely that Worden would have supported Virginia City as the capital, for it was the largest and best situated of the towns in which he had investments.

Franklin often criticized Bannack, unlike a man representing its citizens in the legislature. "This dull town makes one long for the flesh pots of Madison county," he lamented in one letter.³ (Worden was a bachelor when he served in the legislature.)

Franklin's frequent references to Thompson also suggest he was someone else.

Franklin told his readers that "the Honorable Assembly are adept in the 'black arts,' and have come down heavily on one business which has heretofore flourished largely in your town [Virginia City]. They have passed an act prohibiting certain games of chance, where it is asserted the chances are all one way." After confessing he liked to gamble occasionally, Franklin said, "this act is above my comprehension,

¹Montana Post, March 4, 1865, p. 1.
³Montana Post, Jan. 7, 1865, p. 4.
and its provisions are 'past finding out.' He promised he would impor-
tune "my good friends, Faulds, in the House, and Mr. Thompson in the
Council" for an explanation of the act as soon as the session adjourned.1

Franklin mentioned Thompson again when discussing a committee
report with which he apparently disagreed:

So much of the Governor's message as related to Federal
affairs was referred to a Committee whose report surprised
every one who knew that Dr. Leavitt [also a Beaverhead Repub-
lican] and Mr. Thompson belonged to it, but it has transpired
that Mr. Baggs made it on his own responsibility; and Mr.
Thompson openly stated that he had never heard it until it
was read as the report of the Committee and I presume that
Dr. Leavitt only awaits a proper opportunity to repudiate it
also.2

In his account of the last session, Franklin told of Thompson
offering a resolution thanking Lawrence for his services as president;
of partisan haggling over the resolution, and of Thompson finally pushing
it through "with an ill grace" from two or three of the members.3

Though he frequently commented about the industry and integrity
of the Republican delegation, Franklin mentioned Worden only twice. The
first time was in Franklin's first letter:

Such a showing was made with reference to the Deer Lodge
returns that Mr. Frank L. Worden was admitted by the Governor
as a member of the Council and Mr. James Stuart as a member of
the House.4

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1Montana Post, Jan. 21, 1865, pp. 2, 3. In his mild jest at the
foolishness of the gambling law, Franklin was not in agreement with the
puritanical Post which preached: "The prohibition of all dice games,
and of such traps for the unwary as three card monte, etc., is a most
excellent step on the part of the Legislature. The games mentioned are
only polite ways of stealing."  

2Montana Post, March 18, 1865, p. 1.

3Montana Post, April 15, 1865, p. 1

4Montana Post, Dec. 17, 1864, p. 2. Note the use of Worden's first
name and middle initial, and Stuart's first name. It was the only occa-
sion that Franklin used the legislators' entire names. In all other
And in his last letter, telling of Thompson offering his resolution thanking Lawrence, Franklin said:

The resolution did not exactly suit Potter, nor were its polite phrases consonant with the caprices of Baggs, and even Merriman looked as if he was nonplussed for once, while Dr. Leavitt and Worden were as pleasant and smiling as usual.¹

It is doubtful if the councilman writing the Franklin letters would have mentioned himself too frequently or not at all for fear of revealing his identity.

The most persuasive clue was not intended as a clue. That was Franklin's determined opposition to granting private charters for transportation "improvements."

The Post vacillated on that subject—depending on the recipient of the charter. When one was granted to a group of loyal Republican promoters or for a project needed in Virginia City, the Post supported it.

The Post had long campaigned for construction of a water works for Virginia City. Only a private company would have had the means or initiative to build it. When there were rumors of a movement afoot in the legislature to deny the water works company its charter, the Post said:

We confess that we are enemies to the principle of monopoly; but there are cases, and most especially such as the present, where we should be sorry to see a claim so well founded, ignored. If there is one thing, more than another, required in Virginia City, it is pure water. We... trust that our legislators will show themselves worthy of the choice of the people, and we expect that they will protect and reward the promoters of an enterprise at once so innocuous and so beneficial, as the construction of the water-works now nearly complete. If they grant no worse charters than the one sought, they will deserve a monument at the hands of the electors, recording the fact of their unparalleled devotion to the interests of their constituents.²

¹Montana Post, April 15, 1865, p. 1. ²Ibid., Dec. 10, 1864, p. 2.
The Post occasionally editorialized against the practice of granting charters, complimenting Democrat Alexander Mayhew for introducing in the second session a resolution to curb such legislation.

As matters now go, a bucket of water from an unchartered rivulet would be more rare than a hogshead of the elixir vitae, and harder to obtain than the Philosopher's stone. The House vetoed the resolution, but are [sic] now in a state of acute repentance. If great care is not taken in watching the money provisions of such bills, however personally beneficial, they are Territorially dishonest and oppressive.¹

Many of the Post's loyal Republican friends were in the charter business. Among them were Nathaniel Langford, the Republican-appointed tax collector; Judge H. L. Hosmer, and Colonel Wilbur F. Sanders.²

In the third session, Governor Green Clay Smith vetoed a charter authorizing a toll road. Smith said that the applicants were not required to keep the road in good repair, and could establish a toll gate before the road was completed. The Post criticized Smith's veto, saying:

As the same objections could be urged against nearly every charter that has been given to individuals by the present and past legislative bodies, we think that the decision of the House was correct when it passed the bill. The broad rules of the common law are applicable to the owners of every toll road, and a grand jury has the power to indict them whenever they are guilty of negligence, and maintain a highway that is dangerous or unsafe. . . . We fail to perceive any weight in the Governor's objections, and trust that the Council will concur with the House, and override the veto. There is another view which may be considered. No party is forced to go over the proposed road of Guyot, and his patronage depends upon the amount of labor that is employed in its construction. Motives arising from self interest, if no others animated his efforts, would stimulate him to satisfy the wants of the people by maintaining an excellent highway.³

¹Montana Post, March 17, 1864, p. 2.
²Montana Post, Feb. 4, 1865, p. 2; April 15, 1865, p. 1; Jan. 13, 1866, p. 2.
³Montana Post, Dec. 1, 1866, p. 2.
In certain cases, depending on the individuals involved, charters apparently were not "territorially dishonest and oppressive."

Franklin, in contrast, was steadfastly critical of charters. "The idea seems to prevail that no good thing shall be saved for the public, but given to someone who claims it," he wrote. ¹

Quite a number of Madison county men are here to procure such legislation as interests them. The Madison canal or ditch company, which is to bring the Madison into the head of Alder gulch, has been incorporated, and gentlemen from all parts of the Territory have procured the incorporations of mining companies to limitless numbers. One is dizzied at the figures named in some, but familiarity enables a man calmly to listen to the five millions or ten millions so often repeated, until he begins contemptuously to consider it as but enough to furnish him his morning meal. ²

In his war against charters, Franklin also criticized the Post's most sacred cow, Colonel Sanders, something that only a man of Worden's stature would dare to do. And he did it in connection with the charges that were to provoke the legislature into censuring him. Though the Post was to overlook Franklin's mention of Colonel Sanders in connection with those charges, one wonders if the Colonel did. The lines that made Franklin's name profane in the Bannack legislature were these:

Private bills are passed by for the more pressing duties of the session, although I would not discourage those who have "axes to grind," provided they are able and willing to "pay the fiddler." And this last remark leads me to say that there are in this assembly some of the most venal, corrupt, and shameless legislators in the world. They who "do" the statutes for Pandemonium would shun their company. This letter, however, cannot be considered an expose. Men openly in the streets propose to sell votes for a given price, and in any legislative body that ever before congregated, would be kicked out incontinently. We all remember Hon. O. B. Matteson in Congress in

¹Montana Post, Jan. 21, 1865, p. 3.
²Ibid.
1855, who for doing privately, what is here a public and oft-repeated thing, was unanimously kicked out of that body. "It is a private bill; pay me if you want my support." As if any bill could be so private as not to affect for many years, if not for all time, the welfare of this people. Mr. Sanders, of your place, is said to be the author of this philosophy, and it has found a number of ardent advocates here. I suppose if McCormick were the judge in your county, he would take money from the hands of suitors because it was a "private matter." Out, I say on all such iniquity, and I hope the people of Madison will find who of their delegation are guilty, and "Lash the rascals naked round the world." 1

Sanders must have squirmed a bit to see himself named the "author of that philosophy" on the front page of the Post.

Only a merchant whose profits depended on low freight rates could become so angry about private charters. Lawyers, which many of the legislators claimed to be, would look on such lobbying as a normal part of every legislative session. Lawyers made money as lobbyists. Furthermore, the charters would require lawyers for interpretation and transaction of privileges granted.

Though Franklin's arguments were sound, they were somewhat unrealistic in territorial Montana where primitive transportation facilities needed improvement. The federal government, engrossed in ending the war, was not about to risk thousands of dollars and men and equipment to build roads in Montana. The Territory needed help from the governor to pay the housekeeping bills of the legislature. Private sources were the only ones available for road and bridge building.

Franklin's anonymous competitor, "R. H. 2" probably presented the most realistic picture in his wildcat correspondence:

1Montana Post, Feb. 4, 1865, p. 1.
Numberless bills are being introduced and passed, chiefly of charters for roads, ferries and the like; no great fights or discussions are being had on any question. Everything is ground through on the "get what you can" principle, in this respect showing the good sense of both houses, as it cleans up business with little waste of precious time. The Governor has approved all bills which have passed.1

Hamilton, in a later analysis of the legislature, disagreed sharply with Franklin's viewpoint:

The members of the first legislative assembly were men of ability and undoubted integrity. The Territory, being without laws other than the Organic Act and the laws of Congress which were applicable, presented the twenty law-makers with a formidable task. They entered upon their labors with a determination to give people a set of statutes which would prove well suited to the conditions in the communities. The volume and quantity of the statutes enacted at this sixty-day session are proof that the efforts of no other Montana legislature have resulted in a larger or more practicable grist of laws.2

Considering the job that confronted that legislature, it is, indeed, noteworthy that so much was accomplished. It enacted a civil and criminal code. It passed mining legislation. Foreseeing the development of the cattle industry, it passed laws regulating brands. The legislature created eight counties and passed laws for county and local governments. Laws were passed for establishment of a public school system. A general property tax and a business licensing law were passed to raise revenue.

Hamilton pointed out the dilemma concerning the need for roads:

Better and more roads were a necessity, but there was no money available to build public highways. In this dilemma, the assembly turned to private capital and chartered numerous companies to build tollroads, bridges and ferries. Instead of enacting a general incorporation law the legislature resorted

1Montana Post, Dec. 31, 1864, p. 2.
2Hamilton, op. cit., p. 281.
to the clumsy method of creating a multitude of private corporations by special acts, mining companies heading the list, with roads a close second.\footnote{Ibid., p. 282.}

Franklin's diatribe about the "corruption" of his fellow legislators resulted in a censure resolution that passed the House of Representatives.

The Post, in the issue containing news of the censure, reacted calmly—a great deal more calmly than Franklin did or than the Post would when the legislature refused to pay for its subscriptions.

"Comment from us is unnecessary," the Post said, "as this gentleman is perfectly able to take care of himself."

The resolution, which passed the House February 6, 1865, said, in part:

\begin{quote}
Whereas, A certain communication has appeared in the "Montana Post" over the signature of "Franklin," bearing date "Bannack City, January 27, 1865," charging certain members of the Legislature assembled from Madison County with venality and corruption, and desiring to exonerate the members of the Legislature from foul slander, published by this libelous scribbler and to show their contempt for the author of said communication; Therefore be it: Resolved, By the House of Representatives of the Territory of Montana, that the author of said communication, is a willful and malicious libeler and calumniator of the Representatives of the people, and that this house pronounces the charge of corruption against members of this legislature are a wicked, willful, malicious, falsehood and calumny.\footnote{Montana Post, Feb. 11, 1865, p. 2.}

Franklin replied sarcastically that grief had "overwhelmed and overshadowed me on that ever-to-be-remembered last Monday."\footnote{Montana Post, Feb. 18, 1865, p. 2.}

Franklin said that when the newspapers arrived in Bannack the morning of February 6, he saw "several members with faces as red as that
of a dissipating duenna." He said he went to work "and delved in the earth for six long hours a ruined man and did not know it."\footnote{Ibid.}

During that day at my work I speculated upon the propriety of accommodating "R. H." and other inquisitive Eves, by repudiating my nomme \footnote{Montana Post, March 4, 1865, p. 2.} de plume, and giving "his Franklin's name to the public." But then I knew I should be bored as well as bribed. I thought of the flattery and drinks that would be urged on me; of the gewgaws and grants—the charters and "chips" that would come to me unbidden, and I said devoutly, "deliver us from temptation," and resolved not to solve the mystery; although there is not a man here who does not know who your correspondent is, yet no two agree. When I went up town, I learned that the House had passed the resolution enclosed concerning me.\footnote{Ibid.}

After raging at Washington McCormick, whom he condemned as the father of the resolution, Franklin said he offered a $100 reward "for each and every man in this Territory, who was convinced by the passage of that resolution that there has been no corruption in this Legislative Assembly."\footnote{Ibid.}

Thereafter, Franklin's attacks on the legislature were increasingly vituperative. The Post also grew vitriolic when it was informed the Council had voted to pay the Post only $17.50 of its $35 bill for subscriptions. But when the Council's bill was presented to the House, it refused to pay anything.\footnote{Ibid.}

The Post claimed, probably correctly, that the legislature was using it as a whipping boy because of Franklin.

Driven to desperation, like the aboriginal inhabitants while declaring war, they drive their flashes through the brain of a committeeman, and it is resolved, as soon as spoken, that the
Council won't pay for the paper, the contract with the Sergeant-at-Arms to the contrary, notwithstanding and nevertheless....

The proprietors of this journal, on receiving the overwhelming intelligence, would doubtless have torn their hair, &c., but the coldness of the weather prevented their taking off their hats, and as for the monetary loss involved, they intend by retrenching all unnecessary expenditure, and by a continuous and diligent application to business, to accumulate sufficient capital, to meet the appalling deficiency occasioned by the failure of the Council to keep their written engagements. Mr. Otis [the sergeant at arms who signed the subscription order] stands as an innocent but terrible warning to all persons who shall dare to promise anything on behalf of such a body. When a single individual thus behaves, men call him a "BILK," but Legislatures "repudiate." 1

Franklin reported that Baggs delivered the diatribe against the Post in the Council and accused Franklin of lying about him. Franklin admitted he had, indeed, lied, adding:

Looking over all that I have written, humiliating as it is, I must acknowledge that the charge is true. I have lied concerning him. I see lies of commission and omission. You are right, Mr. Baggs. For instance, there is a lie of commission wherein I stated you were asleep. It is not a mistake. It is a black, naked lie. You were not asleep. I knew better, and I humbly crave your pardon. I will not depart from the facts again if you will forgive me. The truth is that you were drunk, and I knew it, and ought to have said so. Everybody else knew it, but I thought it a matter of such small importance that you would not object to one little romance in the letter, but as you do, I cheerfully make the amends honorable. Then right there following it is a lie of omission in that I did not say that the language you used to your colleague Potter [Anson S. Potter, a Democratic councilman from Madison county] would disgrace a brothel, but the truth is I was gone part of the day, and had not time to write all that would interest your constituents. 2

In his final letter to the Post, dated February 1 but appearing in the newspaper April 15, Franklin summed up his impression of the legislature.

No I am not going to write its history. The Union minority have done well. Not all of them can escape criticism or condemnation, but the Territory owes them much for the evil they

1 Ibid. 2 Ibid.
have prevented, if not for the good they have accomplished. And now that my friends have subsided, I cannot speak of them unkindly. One domestic infelicity does not always break up the family, and my little honeymoon row shall not prevent me from doing these gentlemen the kindness of putting their names in print. I wish, however, to disclaim any affinity with divers and sundry of the two houses who shall not forget Franklin.

Franklin could not be forgotten because he was the only man who provided a continuous commentary about the Territory's first legislature.

Franklin was not a good reporter. He seldom explained the legislation about which he wrote. He often referred to committee reports and speeches without telling his readers what those reports or speeches contained. He made no effort to record both sides of debates. He wrote with a total lack of objectivity, and his letters too often were concerned with personalities rather than issues.

But he was a colorful, gritty commentator, providing personal insights into the workings of the first legislature and the men in it. Those insights are more useful when it is known who Franklin was and how his identity distorted his viewpoint.

If Franklin was Frank L. Worden, he was a merchant and businessman who at 35 already was wealthy. He was a Republican who could remain independent of the Territory's party bosses because of his position and his wealth. He had mercantile interests in the gold camps of Virginia City, Deer Lodge and Gold Creek and in Hell Gate; and, in some respects,

1Montana Post, April 15, 1865, p. 1.

2J. H. T. Ryman, "Montana's First Safe," a printed card in the small collection of Worden papers at the Missoula Public Library. The card apparently was attached to Worden's safe when it was on display as a historical curiosity. The card says that in June, 1864, Worden had exchanged the winter's receipts of 1,500 ounces of gold dust in St. Louis for $65,000.
he and his partners could set their own prices because of lack of competition. He had enjoyed doing business without the restraints of local taxes and toll roads, and he wanted to keep it that way. He had a genuine interest in the development of the Territory because it was his home, and he believed his interests coincided with those of the Territory.

Worden had earned his money by providing merchandise desperately needed in an isolated country. Getting his merchandise there was risky and difficult, and he often had accompanied the pack trains and steamers that carried his goods.

He probably was distrustful of lawyer-politicians who were trying to make money with plots and schemes proposed on paper. To Worden, charters giving a man a monopoly on a road, a ferry, a bridge or a navigational project that would be successful only because travelers were forced to pay a fee would not have been regarded as the most respectable or honest kind of business endeavor.

Worden was a busy man in the spring and fall of 1866 when the second and third territorial legislatures met without Franklin. He and his partner, Higgins, built a saw mill and grist mill at the site of the future city of Missoula. They had invested $30,000 in the enterprise, and Worden probably considered business much too pressing to spend 60 days in the new capital, Virginia City.1

He also was occupied with another time-consuming project; he was courting Miss Lucretia Miller of Frenchtown, and they were married November 29, 1866.2

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1Partell, op. cit., p. 194.
2Ibid.
As Franklin, Worden had been bored with the routine of the legislature. His courtship and flourishing business ventures were undoubtedly more fascinating.

In 1880, Worden again was elected to the legislature as a member of the Council. He died in 1887, having contributed much to the civic and business development of Missoula. He was a county commissioner from 1870 to 1873. In 1873, Worden and Higgins were among the founders of the Missoula National Bank (now the First National Bank), and they are said to have "financed" the Weekly Missoulian in its "lean years" from 1874 to 1875. In 1883 and 1884, Worden supervised the construction of Missoula's waterworks.¹

For the historian, the usefulness of Franklin's letters is greatly increased when the correspondence is put in its proper historical perspective by identifying the writer as one of Montana's most enterprising pioneers.

¹Ibid., p. 195.
CHAPTER V

MONTANA'S BOGUS LEGISLATURES

A body dangling from a tree was among the sights that greeted Judge Lyman E. Munson when he walked up a Helena gulch July 9, 1865. He had come to begin his duties as one of Montana's three federal judges.

The judge, from New Haven, Connecticut, had arrived on a Sunday when the "saloons were crowded, gambling was in full blast, and the hurdy gurdy houses added noise and color to the scene." Hamilton wrote that, "the Vigilantes had strung a man up the night before and the coroner had not been around to cut him down."

That scene and similar ones later were to provoke Munson to warn residents that further Vigilante activity would result in a Grand Jury inquiry and to plead that grievances be settled in court.

Munson was to discover that many were unwilling to abide by court decisions. Those who were disgruntled accused him of allowing political sentiments to influence his court decisions. There may have been some basis for such accusations because the Post, which was to become one of Munson's few champions, was among the first to suggest that his decisions were based on politics as well as on law.

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2President Lincoln had appointed Munson in March, 1865.
3Hamilton, loc. cit.
4Ibid.
5Montana Post, Dec. 9, 1865, p. 2.
"Bummer," the Post's Helena correspondent, reported that license infractions were occupying most of Munson's time in early court sessions. But Bummer had heard no complaints from the defendants, "as the Court has been as lenient as possible in its decisions. Only a few obstreperous individuals have come before his honor, and these, chiefly Jeffdomites, have had to come down heavily."

The Post did not define the term "Jeffdomite," but in that newspaper's vocabulary it was synonymous with Democrat, Secesh and Missourian.

Bummer's story was an indication of what was to become an angry battle between the Democrats and the Territory's Republican judiciary. That clash did not alone cause the nullification of the second and third territorial legislatures, but it was one significant reason.

Another reason was the failure of Governor Sidney Edgerton and the Bannack legislature to agree on an apportionment bill providing for election of a second territorial legislature.

The Organic Act creating the Territory provided that the governor must apportion the Territory into election districts to elect a seven-member council and a 13-member house. Council members' terms were two years, House members one.

The act said:

The persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives according to the number of qualified voters, shall be prescribed by law, as well as the day of the announcement of the regular sessions of the legislative assembly.\(^2\)

\(^1\)Montana Post, Aug. 19, 1865, p. 4.
The act stipulated that there "shall be one session of the legis-
lative assembly annually, unless on an extraordinary occasion, the
Governor shall think proper to call the legislative assembly together."¹

The Bannack legislature, in accordance with the Organic Act,
passed an apportionment act based on the returns of the October, 1861*
election. The bill would have increased the council to 13 members and
the house to 26. Since there was no official census, the election returns
were probably the best available guide to the population of the Territory.
But the apportionment encountered Republican disapproval because it would
have increased the representation and domination of Democratic Madison
county.

Miss Helen Sanders gave these reasons for her great-uncle's veto
of the bill:

The act . . . provided that the first legislative assembly
should prescribe by law the time, place and manner of holding
elections, and the apportioning of the representation in the
several counties. The assembly, instead of complying with these
provisions of the organic act, and of gradually increasing its
members to thirteen councilmen and twenty-six representatives,
passed a bill defining the districts, apportioning the members
of the assembly among them, and included therein the provision
to increase at once the council to thirteen and the house to
twenty-six members. The effect of the bill was to fix the maxi-
mum representation allowed by the organic act, and this could
not thereafter be increased to meet future expansion in the
population.²

The act implied but did not specifically state that the increase
should be gradual. It said the number of representatives could be in-
creased by the Legislative Assembly "from time to time to 26," in

¹Ibid.

²Helen Fitzgerald Sanders, A History of Montana (Chicago and New
proportion to the increase in qualified voters, and the council could be increased to 13.¹

Miss Sanders gave another reason for Edgerton's veto.²

The apportionment bill as passed by this session and containing the provisions outside of the scope of authority granted by the organic act, as recited, used the vote as shown at the election held on October 24th, thereby giving an overwhelming majority in both branches of the assembly to Madison County. Governor Edgerton did not think such apportionments were justified by the existing condition of affairs and for the foregoing reason vetoed the bill. It was his belief that the subject would be taken up again by the assembly and the objectionable features eliminated, but the assembly took no further action during the balance of the first session, and adjourned, without passing any apportionment bill whatever.³

The assembly probably was as justified in its apportionment as Edgerton had been in making his. Miss Sanders said Edgerton's apportionment was done "without strict regard to a very loose and approximate census that had been taken under his supervision and the imperfections of which he knew."³ The Organic Act did not require a scientific apportionment. It merely required that it be "as nearly equal as practicable, among the several counties or districts," so each section would be represented "in the ratio of its qualified voters as nearly as may be."⁴

The Organic Act's provision for the orderly continuance of a territorial legislature had precluded the possibility of an impasse because of an obstinate Democratic legislature and an equally obstinate Republican governor. Both parties believed their welfare and that of the Territory were identical, and both were determined that welfare should not be compromised. Consequently, the best interests of the Territory were ignored in a blatant refusal to assume governmental responsibility.

When Thomas Francis Meagher arrived to serve as the Territory's secretary, Edgerton was about to leave for the states. His departure made Meagher the acting-governor of a government unable to function. The secretary was empowered to issue territorial writs, but the acting-governor could not; and the legislature (seemingly) could not legislate.

The Union men accepted Meagher as one of them because of his Civil War record and his appointment by a Republican administration. For a time, Meagher apparently accepted their views of territorial affairs.

A Post editorial welcomed Meagher effusively:

General Meagher has arrived among us, and we doubt not that the public reception of this evening will be in earnest of the high appreciation in which he is held as a soldier, as a citizen, and as a man. Our new Secretary is no partisan [sic]. His banner is the stars and stripes, under which he has fought for the country, and this he regards as the flag of a nation, and not of a party.

The Union party soon would learn to its dismay that the Post's account was accurate. Meagher was not a partisan. He was a political

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1Montana Post, Sept. 30, 1865, p. 2.

2Ibid.

3Robert G. Athearn, Thomas Francis Meagher, An Irish Revolutionary in America (Boulder: University of Colorado Press, 1949), pp. 1-166. Meagher was born into a wealthy Irish family and was a leader in Ireland's revolutionary movement. He was exiled to Tasmania, then came to the United States. For a time, he edited an Irish newspaper in New York City, then was commissioned in the Union Army where he led an Irish brigade. His service record is questionable, though his reputation in his time was good and he was popular among New York's large Irish-American population. He was given the secretarial post in Montana after it had been refused by other appointees and after he had lobbied vigorously for a federal appointment. Although Meagher was appointed by a Republican administration and had espoused that political philosophy toward the end of the war, his earlier political ties were with the Democrats. As a leader of the New York Irish, Meagher had been a Democrat in a traditionally Democratic area. Meagher disappeared in the Missouri river in July, 1867, an apparent drowning victim. His body never was recovered. There were subsequent stories that he was living incognito, but none had any reliable foundation. Miss Sanders treats all those stories at length (pp. 335-340).
pragmatist, perhaps an opportunist, but he was not addicted to the "blind partisanship" the Post so often decried.

The Post was so optimistic about Meagher's arrival that it even noted happily he intended to call a legislature.

It is his intention to call together the Legislature at the earliest possible moment. He has telegraphed to the Comptroller of the Treasury a request that the appropriation for this Territory may be passed to his credit, so that the necessary funds for the working of the Legislative, Judicial and administrative departments may be forthcoming. When the answer to these communications is received, the Legislature will at once be summoned to meet. Not as a politician, but as an American citizen, General Meagher enters this territory, inspired with the firm determination to do justice to all men.¹

That account does not hint at the Post's subsequent antipathy regarding the convening of the legislature. The Post and Meagher both changed their opinions on that subject. Apparently the Republicans decided the time was not politically auspicious for another election. They were able to convince Meagher to support that view temporarily, probably dangling before him the old "bloody shirt" of the secessionist threat.

On November 30, Meagher was petitioned by a group of Montanans to call an election for a second session of the legislature. The group also asked him to summon a convention to propose a constitution and to apply for statehood.²

Meagher refused; his reply, dated December 15, 1865, reflected the Republican persuasion. He said the legislature called by Governor Edgerton had expired October 24, 1865; thus, the council was no longer valid. The Democrats elected to the house in the fall of 1865 were not legally elected, he said, because:

¹Montana Post, Sept. 30, 1865, p. 2.
²Athearn, op. cit., p. 147.
The Apportionment Bill, providing for a new Legislature, having been vetoed by Governor Edgerton, and the Legislature having failed to pass it over his veto, by the necessary two-thirds vote, it is clearly my conviction that the legislative functions of the Territory have temporarily lapsed.¹

Meagher concluded that an enabling act from Congress would be needed to revive the legislative functions: "No other proceeding can legitimately restore them, embarrassing as the circumstances are in which their suspension places us."²

About the same time, Meagher wrote to U. S. Secretary of State William Seward, saying:

Were Montana admitted as a state tomorrow, the Union cause would have to encounter in Congress equivocal friends, if not flagrant mischief-makers, from here whilst the Government of the State of Montana and all the branches of that Government, would, I sincerely fear, be monopolized by men who in their hearts regard with aversion and vindictiveness the great triumph of the Nation, and the liberty our advancing and victorious arms secured the bondsmen of the South.³

In mid-January, 1866, Meagher changed his mind. Why he did so is a matter of conjecture. The Post implied he had sold out to the Democrats in hope of winning a seat in Congress. The prospect of a more powerful political future in a more civilized society probably did appeal to the ambitious Irishman, but frustration probably was equally responsible for his reversal in outlook.

By mid-January he undoubtedly realized that political power in Montana rested with the Democratic party; that even if some Democrats

¹Montana Post, Feb. 3, 1866, p. 2.

²Ibid.

were Southern sympathizers, they were powerless to do anything that would threaten the Union, and, on the contrary, were so dependent on federal subsidies that they were forced to give the Union their allegiance; that all his pleas to the federal government had gone unheeded, and that the Territory apparently needed a more compelling channel of communication—perhaps statehood could provide it.

On January 19, 1866, Meagher issued a proclamation calling for a territorial convention "in compliance with a requisition, signed by numerous citizens of this Territory, and having good reason to believe that it conveys the earnest wishes of the Territory at large."

Meagher said in the last paragraph of his proclamation:

The resources of Montana, which it is difficult to exaggerate; its commanding geographical position, and the facilities it presents of closer and constant intercourse with many of the very richest and most enterprising portions of the Union, the neglect we have suffered at the hands of the National Government and the last Congress, the great influx of capital and population, which promises to give us, during the present year, a fresh and powerful vitality—every circumstance that can address itself to the practical good sense and wholesome ambition of the people, demands that, in the absence of a Legislature, a voice should be given to the wants and just pretensions of the Territory, and such steps be taken as will secure to it a political condition that will commensurate with its growing strength and accumulating wealth.

On January 20, Meagher explained in a letter to President Johnson that he was unwilling to keep the Territory "dumb and inactive, in relation to its interests, when it was in my power to speak and act."

Meagher wrote to Seward February 20, 1866, that he had first opposed "giving the Southern crowd any power." But, he said, that had

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1Montana Post, Jan. 20, 1866, p. 3.
2Ibid.
3Athearn, op. cit., p. 149, quoting Johnson Papers, Division of Manuscripts, Library of Congress.
been an error in judgment, because the Southerners were really perfectly tractable and dutiful, "but an unrelenting bitterness on the part of some Republican officials had been the cause of their earlier animosity toward authority."1

Athearn quotes Meagher's version of Montana's political milieu as he described it in his letter to President Johnson:

I am well aware that the radicals and extremists of the Republican party of the Territory, who, animated by the same malevolent and bitter spirit that confronts your grand policy, and would inflict an eternal proscription upon the South, regard no Federal officer with favour, or with ordinary fairness even, who refuses to be a mean tool or a mischievous firebrand in their hands. "The malice of these men" had moved them toward a conspiracy sworn to "disable me by slander, or to overthrow me in Washington by scandalous misrepresentations."2

The Post cited Meagher's earlier refusal to assemble the legislature as the basis for its argument against his present course of action and branded him an opportunist turncoat. The Post also said it objected more to Meagher's political "heresy" than to his alleged betrayal of territorial interest.

The total revolution of his expressed opinions, on this subject, has certainly, and most justly, surprised, not only his old friends, but his new ones also. It was with regret—that we heard a gentleman of such great talents advocating a measure which must result in litigation on the subject of its validity, mainly because it would enable a party—bitterly hostile, in politics, to the Administration who sent him here—to control the legislature of the Territory. In turning his back on the Republicans he was exercising a great constitutional right; but we should think the act incomplete unless he also resigned the office he holds from them.3

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1Ibid., quoting Territorial Papers of Montana, Vol. I, Department of State, National Archives, Feb. 20, 1866.

2Ibid.

3Montana Post, Feb. 24, 1866, p. 2.
The summoning of the legislature and convention and the hostile Republican reaction generated angry, emotional suspicion on both sides. Any issue could have sparked a major controversy, and the James Daniels murder case in Helena did.

Daniels was the first man tried for murder in a Montana district court. He was indicted by a grand jury for the first-degree murder of James Gartley, who had died of stab wounds in a fight following a card game.

Daniels, found guilty of manslaughter in a jury trial before Judge Lyman B. Munson, was sentenced to three years in prison and fined $1,000. He was confined in the Virginia City jail.

Daniels' attorneys and 29 other Helena men petitioned Acting-Governor Meagher for a reprieve. The petition contended Daniels had acted in self-defense after Gartley hit him with a stool and "struck him down into a burning box stove;} Gartley was bigger than Daniels; and "Munson's charge to the jury was illiberal to said Daniels." Among those signing the petition were Helena lawyers (and Democrats) W. Y. Pemberton, E. W. Toole, R. B. Parrott, and E. B. Waterbury.

Meagher freed Daniels, saying:

It appearing clearly, from the petition of numerous good citizens of the county of Edgerton--where said conviction occurred--including several jury men, who by their verdict,

1Hamilton, op. cit., p. 324.

2Montana Post, March 31, 1866, p. 2. The Post claimed that Daniels had been paroled recently from the California State Prison after conviction for manslaughter.

3Montana Radiator (Helena), March 17, 1866, p. 2.

4Ibid.

5Ibid.
contributed to the conviction, that the circumstances under which the aforesaid offense was committed were most provoking on the part of the deceased of the parties in conflict, and to a great extent, justifiable on the part of said Daniels. . .

I . . . do hereby reprieve the said James B. Daniels, for the said offense of manslaughter committed, and of which he is convicted as aforesaid, until the decision of the President of the United States is known.¹

On hearing the news of Daniels' release, Munson took the first stage to Virginia City. He informed Meagher that the acting governor did not have the power to grant a reprieve and that he should revoke the order and put Daniels back in jail.

Munson reviewed his position in the case in a March 1 letter to Meagher. The judge said the acting-governor could have reprieved Daniels if he had been sentenced to hang, "but not even then could you have set him at liberty." Munson said he had ordered the U. S. Marshal to re-arrest Daniels "and hold him at all hazards, until otherwise ordered by the President."²

Munson then berated Meagher for statements Meagher allegedly had made about forcing the judiciary to recognize the legislature.

One word further: I notice in the city papers a published speech, said to have been delivered by you in a Democratic Convention recently held in this city, in which you say that you shall compel the Judges of this Territory to recognize the legality of the Legislature soon to assemble under your call, and the validity of the laws it may pass. Had you spoken simply as a politician, I should have taken no notice of the speech—probably never should have read it; but you gave to it significance by adding the weight of your official position, which brings it to notice. That there may be no misunderstanding between us, or misapprehension in the minds of those who heard, or have read it, I deem it proper, as one of the judges alluded to, (the others being absent) to state that the Judiciary of Montana will pursue a straightforward, honest, independent course in the discharge of their official duties, regardless

¹Montana Post, Feb. 24, 1866, p. 3.
²Montana Post, March 3, 1866, p. 2.
of fear or favor. They will not be bought by promises of reward, nor bullied, nor intimidated by threats from any source. They claim the right and will exercise the duty, of not only constructing, but of passing upon the validity of any law the Legislature may pass, or even the legality of the session itself, whenever they may come properly and legitimately before them, in the discharge of their official duties, and their judgments, orders and decrees will be observed and enforced, until overruled and set aside by a higher tribunal than the edict of an Executive. The Judiciary will aim to do their whole duty, and it is hoped their decisions will be just, equitable and satisfactory.

The Post echoed Judge Munson's statements in an editorial and reported that "Daniels declared, in the presence of several officials, that, if he escaped, he would have the lives of some of the witnesses for the prosecution."²

The Post said few of the petitioners were in court during the trial, "and it is most lamentable that such a character should be turned loose on society, after lawful conviction, by an exercise of authority, unwarranted by law. . . ."³

Munson later was criticized severely for his pursuit of Daniels. Democrats were to charge in the second legislature that "he played the part of the low, petty bailiff."⁴ The Democrats used his behavior as grounds for reducing the salaries of the judges and assigning Munson to a district populated by Indians.

Even Virginia City bar members who pleaded with Meagher to revoke his order "for the sake of civil propriety," criticized Munson's actions. "We pronounce no opinion upon the course this Judge has thought justifiable to take, beyond saying that it identifies the Judge with the executioner, and the court room with the jail," the Virginia City lawyers said.⁵

¹Ibid.  ²Ibid.  ³Ibid.  ⁴Montana Democrat (Virginia City), March 29, 1866, p. 2.  ⁵Montana Radiator (Helena), March 17, 1866, p. 2.
Meanwhile, the Vigilantes had marked Daniels for execution. On his release in Virginia City, he had fled to Helena and was hanged his first night in town. It later was reported that enroute he had stopped at a ranch and had told the residents "he was going to Helena to attend to one or two jobs of men who had testified against him."¹

The Post's account said:

This news arrived in town almost as soon as he did. He seemed to feel, intuitively, that something was brewing that boded no good for him, and he went to Featherstun [the U. S. Marshal in Helena], who was yet without orders, and asked his protection. It was at once vouchsafed in the form of permission to stay at the office, and at night that officer accompanied him to the place where he was going to sleep. At Daniels' special request, Featherstun went around town, to see if he could gather any information of a suspicious kind as regarded any proposed attempt on the person of the culprit. No such symptoms were discovered, and he returned to inform Daniels that he was safe. On arriving at the store he was apprised of his having been taken away by parties unknown to the owners of the store, and in the morning, his lifeless corpse was found suspended from the murderer's tree in Dry Gulch.²

Munson was blamed by the Democrats for having been partially responsible for the events leading to Daniels' lynching—a charge that was probably unfair. Both the Radiator and the Post insisted Munson could not be held responsible in any way for the action of the mob, since he had not arrived in Helena when Daniels was hanged. Moreover, Munson had warned the Territory's Vigilantes that further extra-judicial activity would result in a grand-jury investigation. He had said:

The frequent and sudden disappearance of persons in this community by some secret, mysterious, midnight agency, with no further explanation than is given by a simple label upon their backs, with an inscription which may be true or false, so far as the community knows, calls for a suggestion and admonition from the Court, that such work is without the pale of authority,

¹Montana Post, March 10, 1866, p. 2.
²Ibid.
Unauthorized by law, and, if persisted in, will be a proper subject to be inquired after by a Grand Jury, sworn to discharge of a duty from which they cannot shrink, though its discharge be painful. . . . However satisfactory may be the apology for an act which seeming necessity compelled heretofore, no such necessity now exists. Courts of law are now fully established with power competent to meet every want—to suppress every crime—to punish every offense;—especially with such auxiliary help as they have reason to believe will be tendered in time of need and which it is the duty of every good citizen at all times to render.  

Pinned to Daniels' back, it is said, was his pardon on which had been written, "If our acting governor does this again, we will hang him too."  

Even before the legislature convened, the Republicans reportedly were planning its annulment. "Index," Montana correspondent for Salt Lake City's Union Vedette, said:

Affairs political in this Territory are assuming a rather singular shape. The leaders of the Union party are making preparations to use their entire strength at Washington to defeat any project that may be born of the approaching Territorial Convention. They uniformly assert "that no ticket will be authorized nor vote cast for any delegate, and further, that they shall recognize no acts passed by the Legislature which meets on the fifth of March at Virginia," Thus matters move on in the political arena.

The first bill to pass the second session of the Montana Legislative Assembly provided increased compensation for territorial officers. It passed March 8 and would have raised Judge Munson's salary. On March 26 a bill was passed repealing that law. During the debate on the

1Montana Post, Dec. 9, 1865, p. 2.
3Union Vedette (Salt Lake City), March 12, 1866, p. 3.
5Montana Democrat, March 29, 1866, p. 2.
repeal bill, Alex Mayhew said "rather than give Judge Munson extra pay, after his conduct in the Daniels' affair, he would sign a petition for his removal."¹

The Montana Democrat commented:

We are gratified to see that there is entire unanimity in the legislature as to the enormity of Judge Munson's conduct in the Daniels' affair. All the speakers who participated in the debate, concurred in condemning his conduct in the severest terms, in which the remainder of the members concurred.²

The repeal of the pay bill undoubtedly sealed the fate of the second legislature. It certainly would have made Judge Munson more receptive to arguments that the session should be nullified.

Legislation passed by the second territorial legislature was mostly of a housekeeping and charter-granting nature. Charters were granted to operate ferries, build roads and incorporate a Helena water company. A bill was passed to create a new county. A measure was introduced calling for a better observance of the Lord's day, but it failed. An attempt to pass a law preventing racial intermarriage also failed.³

The Post summarized the activities of the second territorial legislature this way:

They did not pass another Magna Charter, but fiated with a number of little ones, that it is a question whether a man can cough without interfering with "vested" interests. The

¹Ibid. ²Ibid. ³Montana Democrat, March 29, 1866, p. 2. The Montana Democrat, in an article containing sketches of the 13 members of the House, left a more complete picture of the men in the second legislature than we have of the men in the first or third sessions. The Democrat's sketches indicate the following native origins: Pennsylvania, 2; New York, 2; Kentucky, 2; Maryland, Missouri, Tennessee, Belgium, Ireland and New Brunswick, each one, and one unknown (he had not yet arrived). Ages ranged from 28 to 44 with the average age about 36. By occupation, there were five miners, three lawyers, two merchants, a doctor and a justice of the peace.
session was called mainly for the relief of the honest miner; but the ungrateful fellows say they are not a bit relieved. Of the minor measures of utility, we have spoken editorially from time to time. Apart from the horrid politics of the majority, they were good fellows, and we wish them safe home. It was looking through Democratic spectacles that soiled their wisdom.¹

The convention gathered in Helena immediately after the legislature adjourned. In an editorial entitled "The Convention—Montana Must Enter the Sisterhood of States," the Montana Radiator said:

Coming as a rule from all sections of the Union—from Maine and Texas—from California and Missouri, they have left as a rule, despicable sectional animosities behind them, and Montana stands before her sisters today, a noble example for their emulation of what American feeling should be: nationality without sectionalism, liberty without fanaticism, forbearance without humiliation. She should have a voice in the national councils in the great and important work of reconstruction.²

The convention's most important duty, the Radiator said, "will be to take steps to sever at the earliest moment, the bonds which hold young Montana down in Territorial vassalage." Promises of support from the general government were too often withheld, the Radiator said, and had led the Territory into lethargy "or outright dormancy."³

But when the convention assembled, it was without a quorum. The Post reported:

A motley of the august body, known as the Convention, met on Monday last, at Helena, under the Presidency of General Ewing. We wish that we could add that, finding they had no quorum, they decently went home; but the record informs us that the members present actually agreed to stand as unauthorized proxies of the absentees, and burst forth in the full flower of organization.⁴

¹Montana Post, April 21, 1866, p. 2.
²Montana Radiator, April 7, 1866, p. 2.
³Ibid.
⁴Montana Post, April 11, 1866, p. 2.
The Post's correspondent said the convention, "sired by the Acting-One, and damned by the people," succeeded in achieving a quorum by a method "as novel as it was expeditious," and which could not have failed if only three delegates had been present. It voted to empower delegates from counties not fully represented to act for the absentees—"presto change, the thing was done."¹

Some delegates objected to the proceedings, the Post said. Among them were Downs of Gallatin, who called the proceedings "ridiculous," and Keyser of Beaverhead, who "objected to the hocus-pocus arrangement by which the few in attendance voted themselves a quorum."²

On Friday, April 13, Thomas E. Tutt, chairman of the committee on Federal Relations, presented a draft of a memorial to Congress. It said:

... the people of Montana were proud of their allegiance to the Federal Government, and felt deeply thankful for the many favors already received; the memorial proceeded to protest against the sale of mineral lands, and the attempted aggression of Idaho. The Northern Pacific Railroad, known as the Lake Route, was heartily endorsed, and the necessity shown for appropriations for public buildings and for the establishment of a mint. The general unappreciated agricultural resources of Montana were alluded to, and the document closed by saying "the day is not far distant when we shall ask to be admitted as a State, and to be fully represented in the national councils."³

¹Ibid. The convention was to assemble 55 delegates, 10 each from Madison, Edgerton and Deer Lodge counties, five each from Beaverhead, Gallatin, Jefferson, Missoula and Chouteau counties. There were no delegates from Chouteau county and only nine each from Deer Lodge and Madison. Only one appeared from Beaverhead but he was allowed to name one more. The convention comprised 41 regularly chosen delegates and the special one from Beaverhead county. A quorum was declared when 24 delegates reported, and they were allowed to cast the full number of votes allowed their counties. Vacancies later were filled from among citizens temporarily in Helena from the respective counties. The convention was in session six days. See Hamilton, op. cit., p. 291.

²Montana Post, April 14, 1866, p. 2.

³Montana Post, April 21, 1866, p. 2.
The convention then debated a proposed resolution praising Meagher. The Post's correspondent left an amusing account of that debate. Pemberton, the correspondent said, declined to endorse Meagher as a statesman "until he knew he was one."

Johnston wanted to know "what had the convention to do with flattering and patting upon the back the gentleman referred to."

Waterbury thought there were too many words in the resolutions, some of them very fluid, and would about as soon think of swallowing one of Bulwer's novels entire, as the document in question. After some alterations, the resolutions were passed, both Johnston and Waterbury voting in the negative. During the discussion, all wished it to be particularly understood that they didn't endorse Meagher's fighting for the Union.¹

The Post praised C. E. Irvine, to whom "belonged the highest honor attained by any of the delegates of the people in convention assembled—he moved to adjourn sine die."²

After adjournment, the Post's correspondent said, a Democratic caucus "was in full blast . . . without any person leaving his post."

The whole thing was a Democratic caucus, from beginning to end, got up to subserve the ends of would-be office holders, who have far more regard for their purses than for the people.³

The convention reportedly did produce a constitution, but it was not reproduced in the territorial newspapers and minutes were not kept. The constitution was taken by Tutt to St. Louis to be printed, but it was lost.⁴

¹Montana Post, April 21, 1866, p. 2.  
²Ibid.  
³Ibid.  
The paper endorsed one accomplishment of the conventions: Montanans should acquaint themselves with the memorial to Congress, it said, because "there is a great deal of sensible talk to be found in it."

Three months after the second legislature had convened, it was declared null and void by Judge Munson who was ruling in a civil case that challenged a law passed in the second session. The ruling was no surprise, since the Post had been predicting the courts would declare the session invalid.

Munson's ruling, dated June 4, 1866, appeared in the June 9 issue of the Post. The decision applied to the attachment case of Townsend & Baker vs. Amos T. Laird. The argument was based on the Bannack Legislature's failure to pass an apportionment bill.

Munson referred to the Organic Act and said:

The language here used is not only explicit and direct in its terms, but mandatory in its precepts, and so plain that a child cannot mistake its meaning, or err in its construction. It required the first Legislature to make an apportionment for future elections—no other tribunal can make it, and no provision is made for an election without it.

The Organic Act is our corporate charter, our Bill of Rights, and all privileges not specially granted therein are reserved by Congress to itself as the sovereign power, retaining a supervisory control over our organization, acts and domain, and those granted powers, by legal instrument, cannot be exercised in a way or manner different from the conditions prescribed in the grant itself. . . . Without the apportionment by the first Legislature, no subsequent one can assemble to make laws for the government of the people, without an express permission from Congress, as the sovereign power.

Munson denied that Meagher was entitled to assemble the legislature under the provision that an extraordinary occasion existed.

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1 Montana Post, May 12, 1866, p. 3.
2 Montana Post, June 9, 1866, p. 2.
Another question, suggestive of inquiry, arises out of the 11th section of the organic act, which provides that the Governor, on an extraordinary occasion, may call an extra session of the legislature together. But no such occasion existed, and no such right is conferred without it. No public exigency has transpired; no threatened invasion of our peace or security was foreshadowed, and no public right was in peril. The only reason assigned in the proclamation convening those citizens to public duty, was to give legislative sanction to a convention, such an extraordinary occasion as to justify an extra session; but as the case does not turn upon this point, its further consideration is unnecessary.

Munson said he believed the case would be appealed to the Montana Supreme Court—a tribunal comprising the three federal district judges, including Munson.

The two other judges, Hezekiah L. Hosmer and L. P. Williston, were out of the Territory while the second legislature was meeting.

The Democrats were determined that Munson's judgment should not stand. In a rally in Helena near the end of June, the Post's correspondent gave this account of a speech by Meagher:

He told what he should do and what he should not do. Congress, Judges, Justices of the Peace, and all these little fellows to the contrary notwithstanding, and repeated his old threat that he should call upon the entire force of the Territory, if necessary, to compel a recognition of the legality of the acts of his pet play thing, the late so-called Legislature.

At a Union meeting in Helena the next night, Colonel Sanders addressed the Republicans, "finding a somewhat extensive field for the display of his noted sarcasm in his reference to the meeting the night before." The Republicans passed a resolution declaring that those in

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\[1\text{Ibid.}\]
\[2\text{Ibid.}\]
\[3\text{Montana Radiator, June 16, 1866, p. 3, tells about the return of Sanders, Hosmer, Williston and Langford to the Territory.}\]
\[4\text{Montana Post, June 30, 1866, p. 2.}\]
\[5\text{Ibid.}\]
favor of the second legislature were "in entire consistence" and "in sympathy and purpose," identified:

with the elements which forced upon us and Congress a notoriously inefficient, unpatriotic delegate; and that, ever since the existence of these communities, has, in sympathy and purpose, identified itself with the rebellion which has been waged against the republic—consistent in its attachment to wickedness and its love of injustice.\(^1\)

A bill proposed in Congress to amend the Organic Act contained a provision that would have denied pay to members of the second legislature. Territorial Delegate McLean protested to Congress and argued that the Territory should be allowed to do its own legislating. He said:

I speak at least for my own Territory in saying that we are almost unanimous in the belief that much congressional territorial legislation will be of no benefit to the General Government, and very injurious to us. We are willing to pay our just dues to Government, and we rejoice that we are enabled to bear a proper proportion of the heavy burden imposed on the nation by the late war. If gentlemen would only take into consideration where we were, what we are, and what we must necessarily become, I believe they would at least try to prevent this harsh and hasty legislation to our prejudice. We do claim to know our wants, and when it cannot possibly prejudice the interests of the nation, we would solicit the privilege of attending to our own affairs in our own way. The prejudice arising from political bias should not be allowed to operate against us while we remain in a territorial capacity.\(^2\)

McLean concluded his speech with a warning:

With the British Columbia border almost under our feet and serving as the boundary line of our Territory; with all its rich placers, and a knowledge of the liberality of the owners, such bills of outlawry might not have the effect of compelling citizens of the United States to seek quiet homes in the country of an ancient enemy. Does it not sound strange that a nation against whom we successfully rebelled through her oppression, should at this day offer in her own possessions, to the descendants of the . . . revolutionary rebels, "a home where they can enjoy more liberty with less taxation than in their own country." Yet this

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\(^1\)Montana Post, July 7, 1866, p. 4.

\(^2\)Ibid.
is the simple truth. Do not, by unwise and oppressive legislation drive us over the borders while our love of country would actuate us to stand upon its outer edge, a living wall of strength in the defense of our land.¹

"Shame on such counsel, and silent forever be the tongue of the politician that could so meanly pervert the sentiments of our people," the Post said.²

The proposed amendment failed to pass.

When the District Court session opened in August, the Post asked Montanans to be fair-minded about the decision nullifying the legislature.³ The Montana Supreme Court was not requested formally to rule on Munson's decision, and Judges Hosmer and Williston apparently ignored the issue for a time.

Judge Hosmer and Paris Pfoutz subsequently founded the Montana People's party, an amalgamation of former Democrats and Republicans unified in support of Andrew Johnson's policies. Hosmer campaigned for the People's ticket candidates for seats in the third legislature.

A Democrat editorial pointed out Hosmer's rather complicated position:

Judge Hosmer—This gentleman occupies a very singular position just about this time. All along he has ignored the last legislature as a judge, yet on Saturday night we find him urging in a lengthy speech the election of candidates to the next Legislature which is liable to the same objections he urges against the second. The nominations he supports are made in accordance with an apportionment of a Legislature that he decides had no right to meet. Certainly his Honor cannot have one opinion as a Judge, and another as a private citizen. The people will regard his conduct as very strange and inconsistent. Better yield the point gracefully and hold court according to law.⁴

¹Ibid. ²Ibid. ³Montana Post, Aug. 4, 1866, p. 4. ⁴Montana Democrat, Aug. 30, 1866, p. 2.
The Montana Democrat also wondered whether candidates on the Pfoutz-Hosmer ticket, if elected, were pledged to vote $2,000 extra compensation to the judges and governor. "Looks like it," the Democrat said, "from the interest the judge takes in their success. His labored effort on Saturday night in their behalf merits such a reward."\(^1\)

The Democrat contended the question of the second legislature was settled favorably by Congress in August when it passed a bill appropriating money to pay the legislature's expenses.

The question of the legality of the last Legislature having been decided by Congress against the opinion of the Judges, by making the usual appropriation, the people everywhere are taking an interest in selecting the best men to represent them in the Legislature. Nine-tenths of our citizens feel gratified that this question has been settled and that Montana, like the surrounding Territories, can have the benefit of legislation. No greater outrage upon the rights of a free people was ever perpetrated than the attempt made by Governor Edgerton, and seconded by Judges Hosmer, Munson and Williston, to deprive Montana of the rights and privileges guaranteed by the Organic Act. It was not only an outrage, but a positive crime, and we think our people manifested a great deal of forbearance towards these enemies of free institutions, when we reflect upon the outrageous attempts of these men to run roughshod over the vested rights of the people of Montana, in violation of law and justice, and the attempt to deny the right of legislation, we can hardly restrain our indignation.

They merit and will receive the contempt of all just men in the community, and they can never have any more influence in this Territory, and we do most sincerely hope that President Johnson will appoint better men in their places.\(^2\)

The Democrat was confident that when the United States Attorney General ruled on the matter, "these judges will receive a severe rap over their ignorant pates for the absurd opinions they have promulgated on the legislative question."\(^3\)

\(^1\) Ibid.  
\(^2\) Ibid.  
\(^3\) Ibid.
The election returns showed another Democratic victory, and the Post maintained the validity of the third legislature was unsettled. But when the new governor, Green Clay Smith, issued a proclamation declaring the successful candidates members of the Council and House of the third legislature, the Post defended Smith's position. It said critics should not be quick to condemn Smith for the action because it did not constitute recognition of the legality of the law-making body.

Upon entering his office, he finds that documents have been transmitted to the Executive by the officials of every county and election district. Their right to hold those positions and discharge their public tasks is conceded by all. It appears that the people have assembled, according to public proclamation, and voted for certain parties for different offices. No citizen appears before him to enter any protest, the forms pertaining to such occasions have been observed, there is no other assembly that claims an existence, and the duty of the Governor is plainly set forth. . . . as the Executive officer of Montana, it is his task to declare that the members of the Territorial Legislature have been duly elected in conformity with the provisions of an Act passed April 10, 1866.

The Post said the Montana Supreme Court had never settled the issue but had "quietly ignored its existence." There was no case pending before the Supreme Court of the United States, and "we cannot tell who, or how, the vexatious question will be settled." The Post called for a settlement of the issue, saying it was causing "confusion and inconvenience." It suggested that the quickest settlement could be effected by Congress by passing an enabling act.

A new Legislature can make legal the action of officials, and the statutes of previous assemblies. All parties who have performed their duties in good faith can receive compensation. The best result will be that all men in the Territory can take an active part at the polls, and we shall no longer be ruled by a limited number, and, perhaps, a minority of voters.

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1Montana Post, Oct. 20, 1866, p. 2.
2Ibid.
3Ibid.
The Post apparently thought there was a good chance the third legislature would be approved by Congress—or at least be considered legal enough to be able to pay its bills—because the newspaper tried to get the legislative printing contract. In the November 10, 1866, issue, the Post said:

The proprietors of the Post extend a cordial invitation to the members of the Legislature to visit their office and inspect their processes and facilities for executing any work in typography.¹

The Post said its facilities were more complete than were Major Bruce's (the publisher of the Democrat); thus, the Post had a better claim to the contract. "Why then should the Territorial printing be bestowed upon Maj. Bruce, whose means of performing the work are extremely limited?"²

The Post for a time was quite favorable in its comments about the third legislature. In an editorial strangely unlike the opinions it later would express, the Post asked Montana's Supreme Court to reverse Judge Munson's decision:

We repeat the opinion which we expressed upon another occasion, that the members are governed by good motives, and no injury will be designedly inflicted upon the Territory by their statutes. No person regrets more than ourselves that their power to effect good is paralyzed by the uncertainty that prevails regarding the legality of their sessions and acts. The doubts that are entertained by many intelligent citizens, cannot be removed until judicial magnates have passed upon the vexatious question. The views of the Territorial Judges are too well known to be repeated, and all must give that deference to them which is demanded by their exalted position. But, as their ideas conflict with those of a respectable portion of the community, it is necessary that the Supreme Court of the United States should render a final decision. This cannot be obtained for years, because no case

¹Montana Post, Nov. 10, 1866, p. 2.
²Ibid.
has been appealed to that tribunal, and we do not think it probable that such an event will occur. Under these circum-
stances we trust that Congress will enact laws which will allow all parties who have performed their tasks in good faith, to receive a reasonable compensation, and, at the same time, emancipate the people of Montana from the troubles and perplexities which now exist. If the national legislature does not give that relief which is prayed for by every citizen, one of two things must take place: First, all men must cast aside their legal opinions and acknowledge the validity of the second and third Territorial Legislatures in order that the greater evils may be avoided, or secondly, the Supreme Court of Montana must on the broad ground of public policy reverse its decision upon the subject. A lawmaking power is absolutely essential to the safety and well being of the community, and we express the earnest wish that the present misunderstanding will cease before the next election greets us.

The third legislature adjourned December 15, 1866, and the Post summarized its accomplishments favorably.

The members of the law-making body have returned to their homes, and the proper time has come when we can examine their actions without prejudice. Although the Democratic party swayed the opinions of a large majority on the national issues, their votes and measures did not appear to be governed by the narrow minded schemes of a demagogue. In the Council, a bill relating to witnesses, in which there was a section prohibiting negroes from testifying in certain cases was triumphantly de-
feated. In the House, resolutions endorsing the political principles of President Johnson at the present time, were ingloriously tabled. The Democrats exhibited their displeasure with their inefficient delegate to Congress, S. McLean by passing a resolution requesting Gov. Smith to go to Washington, D.C., and endeavor to secure for the Territory some of the benefits which the federal government had so bountifully bestowed upon our neighbors. With the exceptions that have been indicated, nothing of a partisan nature was considered. The Democrats and Republicans buried the political hatchet in their legislative career, and merit the thanks of the community for their action. Memorials were addressed to Congress in appropriate language, requesting appropriations for various purposes, and the Legislature of Montana recognized in an unmistakable manner the legality of the body which is now in session in Washington. If every legislative Assembly could deliberate as impartially as that which has recently adjourned in Virginia City, many States and Territories would be blessed.

\[1\] Montana Post, Nov. 17, 1866, p. 2.
\[2\] Montana Post, Dec. 22, 1866, p. 1.
The Post's earlier argument to declare both the second and third legislative sessions invalid apparently had alarmed some of the more determined Republicans in the Territory. In the December 22 issue, the newspaper printed a letter from Judge Hosmer declaring the sessions invalid. Hosmer had compromised his position when he campaigned for People's party candidates, but he denounced the legality of the third session in a letter dated December 22. Hosmer said the letter was a response to a written request for his opinion from John S. Slater, Alexander Davis, Thomas Thoroughman, W. F. Sanders, S. M. Stafford and W. L. McMath; in other words, his opinion was not being delivered as part of a legal proceeding. The fact that he publicly would state his opinion on a controversial matter that might come before him in litigation was, in itself, irregular.

Hosmer said that "for some cause unknown to me, the question was not raised during the term of the Supreme Court, nor until the session of the Court for the First Judicial District, just closed, have I been required to act authoritatively upon it, except that in holding the terms of Court in said district, I have conformed to the appoints of Governor Edgerton."¹

Hosmer's opinion was much like Munson's and reviewed the same sections of the Organic Act. He concluded that since the conditions for assembling the second legislature had not been stipulated by the first, there was no basis for the second.

Hosmer closed his letter by disclaiming mercenary motives. He said he simply believed it was his duty to give his opinion.

¹Montana Post, Dec. 22, 1866, p. 2.
Neither am I insensible to its injurious effects upon the Territory, or the necessity for its speedy settlement by Congress. It is a matter of indifference to me whether it be settled by the passage of an act legalizing the doings of the second and third assemblies, or of a new enabling act, so that something be done to harmonize the action of the co-ordinate branches of the Territorial government and give stability to Territorial legislation.

I cannot but feel, however, that whether right or wrong, the decision of this question by the judiciary of the Territory should have been final, until Congress had otherwise ordained. It is strictly a judicial question, and the threats of compulsion, the ridicule, the ribald jests, with which Judge Munson and myself have been thrown in our way by subordinate officials of the Territory, will all, sooner or later, recoil upon the heads of those who gave them existence.1

The Post's attitude toward the third legislature began to change during the next week. It carried an article about the legislative act to assign judicial districts to the three federal judges. "Instead of proceeding in an impartial method and equalizing the labors of the members of the bench, certain persons grasped the opportunity for the purpose of gratifying their "likes and dislikes."

The second judicial district comprises the counties of Big Horn, Vivion [later Musselshell] and Chouteau. It is apparent at a glance that the number of lawsuits which will arise in this region, must be "like angels visits, few and far between." Judge Munson is required to administer justice to those who are so unfortunate to become involved in litigation in this vast wilderness. Judge Williston will receive the cream of the courts and exercise jurisdiction over the rich and thriving counties of Edgerton, Deer Lodge, Meagher, Jefferson and Missoula. Chief Justice Hosmer will wear the ermine of his high office in Madison, Beaverhead and Gallatin. The injustice of this narrow minded operation is rendered more glaring by the consideration of another statute, which provides that a docket fee of five dollars shall be paid to the presiding judge for every action brought before him. The income of Judge Munson will not be perceptibly increased by this process while his associate, Judge Williston will reap a splendid financial harvest. These laws are enacted by both houses, and pushed through at the eleventh hour with little, if any discussion.2

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1Ibid.

2Montana Post, Dec. 29, 1866, p. 1.
The Post concluded that Munson had been "practically exiled and
deprived of his proportion of the public revenue," and Hosmer had been	treated with "indignity and contumely," only to "reward a man who enter-
tains the idea that the second and third legislatures of Montana were	legally convened."¹

In the same issue, an item entitled "The Judges Disagree" said
Williston had announced his intention to conform to the laws of the
second and third legislatures, while Hosmer and Munson would act accord­
ing to the Bannack legislature. "As Judges Munson and Williston have
been assigned to Edgerton County by different authorities, it is safe to
anticipate an 'irrepressible conflict' between them." The situation pre­
sented an interesting question, the Post said: "Who shall decide when
doctors (judges) disagree?" The Post said the only answer was the arbiter
that "generally determines difficulties of this nature--time."²

Governor Smith left the Territory after the third session ended,
complying with the legislature's request that he go to Washington as
Montana's representative. That made Thomas Francis Meagher acting gov­
ernor again.

One of Meagher's first acts after Smith left the Territory was to
order a special convening of the legislature to pass a law changing the
date of election of the delegate to Congress. Meagher said the session
was necessary because of the recent federal change in congressional
terms. Unless Montana revised its election law, it would be unrepresented
in Congress from March to September.

¹Ibid.
²Ibid.
The Post said the proclamation "came upon the people of Virginia unexpectedly, and astonished some of the Democrats beyond measure." The paper referred to the proclamation as "a most delightful specimen of an expensive practical joke," pointing out that the legislature had asked Governor Smith to go to Washington so the Territory's interests would be represented during the spring and summer.¹

The Post pointed out that the special legislative session was to convene February 25, one week before the national Congress would convene. Allowing the legislature a week to amend the law, 30 days for publishing the election proclamation and 30 days for the candidate to receive his credentials and reach Washington, "he will probably reach there some four to six weeks after they have adjourned."²

The Post charged that the real intent of the special session was to change the county election date as well as the date for electing a territorial delegate.

The Democracy of Edgerton and other counties know that if the election takes place at the usual time, Republicans will be elected to office in those counties by the increase of Republican votes during the ensuing summer, and by the chicanery of this extra session Democracy seeks to fill the positions with its favorites before the party has handed in its checks and forever relapsed into a hopeless minority.³

The legislature assembled but accomplished little. The election laws it was convened to amend were not amended, and it adjourned March 6. It was all but forgotten because of the news that the U. S. Congress finally had settled the confused status of the second and third sessions.

¹Montana Post, Feb. 16, 1867, p. 1.
²Ibid.
³Ibid.
--it had annulled both of them. Major Martin Maginnis, who later became
editor of the Rocky Mountain Gazette, Helena, called the action "the
most unjust act ever perpetrated by the Congress of the United States
on a territory."¹

The work was accomplished by a delegation of Montana Republicans
who had gone to Washington to seek the nullification. The delegation
included Colonel Sanders, Robert E. Fisk, publisher of the Helena Herald,
and Robert Whitlach of Helena, a prominent member of the Union party.

The telegram announcing the nullification was dated March 1, 1867,
and was sent to Robert Fisk's brother, James, at the Herald office in
Helena. Another Fisk brother, Andrew, who kept a diary, made this entry
on March 4.

A large Eastern mail in this week. We received a dispatch
from Robert Whitlach, from Washington, saying that Congress had
annulled the acts and laws of the Copperhead Legislature of
Montana. We issued a supplement on the strength of it. Big
excitement—a procession was formed by the Union men, held a
meeting in court-room and most everything was loudly cheered
except—"Andy J," who got three growls.²

The Post ran the news on page 1 of its March 9 issue under the
headline "The Finale."

The following little item of information came over from
Helena yesterday evening, and came among the Democracy like a
breath of sirocco.
"Come like the winds come when forest are rended.
Come like the waves come when navies are stranded."
It is a new phase of "The Situation," and explains itself
fully.

Washington, D.C. March 1, 1867
To Capt. Jas. L. Fisk, Ed. Herald
Congress has annihilated the bogus Legislature of Montana

¹"Major Martin Maginnis," Contributions to the Montana Historical
²Andrew J. Fisk, Diary of Andrew J. Fisk, original copy in Mon­
tana Historical Library, March 4, 1867.
and annulled its laws. The election is fixed for September.
U.S. Judges salaries fixed at $3,500.
Montanans celebrate here tonight.
(Signed) R. E. Fisk, Jim Whitleah, and others.¹

Below that "little item of information," on page 1, the Post exulted:

The above dispatch is fitting climax to the farcical proceed­nings of the Legislature yesterday... It is probable that the proceedings of all the sessions, except the Bannack Session are declared illegal, as decided by the Territorial Judges. What a lot of toll roads will suffer in consequence? What a stunner this will be for the Democracy, the Capital, Penitentiary and Agricultural College men. The Herald is out in an Extra, with sensation heads, and says a general jubilee was held in Helena, with speeches, music, etc.²

In an editorial, apparently written after some thought about the ramifications of the annulment, the Post's reaction was more qualified.

The telegram conveying the information in regard to the Territorial Legislature, is not very explicit, and after a due consideration, we believe that it conveys ideas that are not correct. The wording is vague and of a general character, evidently penned under the excitement of the moment. Under the common acceptation of it, it is in direct opposition to the bill as introduced by Senator Wade, advocated by influential men of the Territory now in Washington. That bill, as introduced, de­clared the private acts of all the sessions except the first, null and void, but recognized those of a general character. We do not believe it has been so radically changed as to destroy all the general laws. At the most it will only hold them subject to ratification by the Legislature to be elected in September. The original bill also gave the Judges the privilege of defining their Judicial districts and increased their pay to $4,000. We think the suspension of the numberless franchises granted through­out the Territory is a dispensation of Providence for which we should feel devoutly thankful. Some few out of the multitude are necessary, perhaps, and those who maintain them require some privileges, but for the larger number of them, they are the most monstrous swindles the people could suffer from. The general laws passed have been useful and necessary, and their abrogation, wholesale, will leave the Territory in a very unenviable condi­tion, and we do not believe any such act has been passed. In

¹Montana Post, March 9, 1867, p. 1.
²Ibid.
a few days a copy of the act will be received by mail, and this exciting question decided. Until then it is only fair to presume that the original purpose of the bill remains unaltered and the general laws were declared in active force.\(^1\)

It soon became apparent the annulment did affect the general laws of the Territory. For if Congress were to declare the second and third sessions void on the grounds they had no constitutional or legal basis, then it had to declare all the acts of those sessions illegal. It was not at liberty to pick and choose among them, declaring those void that the Republicans wanted voided and allowing to stand the ones the Republicans favored.

On April 6 the Post reported that Meagher had issued a proclamation declaring he had not received official notification of the annulment and, so far as he was concerned, the laws of the second, third and fourth sessions were still in effect.\(^2\)

The Post charged that the Gazette, Helena's Democratic newspaper, and the Democrat were "using their strongest exertions to present the case in a false light; imposing on the credulity of the people; and doing it for the sole purpose of making political capital of it. . . ."

When Sanders returned to Montana in May, 1867, he had some explaining to do; since he again was planning to run for territorial delegate, he was eager to do it.

On May 21, 1867, Sanders addressed a meeting at Content's corner in Virginia City. The Post reported that a large crowd remained for the entire address "long as it was and chilly as was the night." Most of those present were Democrats, the Post said, but "it is said to their

\(^1\)Ibid.

\(^2\)Montana Post, April 6, 1867, p. 1.
honor, this candid, earnest and convincing statement of his action and views upon this much discussed subject was listened to with earnest attention and the most commendable order."

Sanders blamed the Bannack legislature for failing to pass an apportionment bill, saying Edgerton had vetoed it in time to allow the passage of another. "But the politicians in that body declined to make the attempt," choosing to hold Edgerton responsible for the lapse in legislative functions. He insisted the whole subject was discussed at length by all men at the time of the legislature and after, with everyone concerned concluding an act of Congress would be needed to reconvene the legislature. He reviewed Meagher's first refusal to assemble a legislature and his subsequent submission to Democratic wishes. But, Sanders said:

The Great Union Party of the Territory clearly foresaw the evils to come from the step, disbelieved its validity and predicted its discomfiture. Early in the history of this body, its acts were adjudged by our highest tribunals to be invalid, and the views of the Supreme Court became a certainty. These tribunals held the pretended Legislative Assembly an illegal body and its acts of no more force than those of any well-disposed mob.¹

Sanders then reviewed the three legislative sessions (counting the special one in March, 1867):

They fanned into a flame the spirit of discord, and whetted the teeth of the disciples of Mammon; they sought to punish by fine and imprisonment those whose views of duty compelled them to obey the judgments of our Judicial tribunals; they squandered at least $40,000 of the funds of the United States, and burdened the Territory with a like amount of indebtedness; they represented but a small part of our people, but spoke as oracular as the tailors whose petition was headed, "We the people of England;" they sought to convey the impression that no respectable portion of the community had failed to recognize their legality, and would

¹Montana Post, May 25, 1867, p. 1.
fain have blotted out the great Union party from the Territory; they created, or sought to create, in the community the impression that there was not in the controversy any grave question about which men might well honestly differ, but that it was a question with the Judges of extra compensation; they stained the priceless honor of the State by partial but humiliating repudiation; they sought to misinterpret the action of Congress by claiming its stereotyped annual appropriation as an acknowledgment of their validity; they failed to repeal the license law as they had promised, and conquered their earlier prejudices against extra compensation. The exhibition of this dirty linen is not pleasant, and I leave this part of the story, omitting much that I trust may never recur again in our history.1

Sanders insisted that nullification was not a political act.

"They [Congress] knew it was a party matter here, but it cannot be made one there," he said. But he admitted that Governor Smith had not agreed with his recommendations. "He [Smith] was the only man in Washington who opposed this measure, so far as I know," Sanders said.

Sanders, relishing his revenge against the heretofore all-powerful Democrats, said:

It did not seem to me that the courts should be bullied, blackguarded or bribed out of their decisions. Puffed up with their assumed authority, and refusing to acknowledge their obligations to law, it did seem to me that it was advisable, and for their own good as well as for the good of all concerned, that these legislators should hear emphatically from a power they could not evade and dare not disregard. They have heard from it—a clap of thunder from a clear sky. To them it may be humiliating, but it will have its use if it teaches them humility and decent regard for the opinions of others. It is what from the beginning, the Union party predicted would be the end of the play. . . .2

The colonel had been able to shout, "I told you so," but the nullification did not alter the political temperament of the Territory. It simply meant the next legislature had to redo the work of the second and third. Montana remained Democratic,3 and Wilbur Fisk Sanders’ political

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1Ibid.  
2Ibid.  
3K. Ross Toole, Montana: An Uncommon Land (Norman: University of Oklahoma Press, 1959), p. 109. Whereas the legislature in 1864 was
career was frustrated. Judges Hosmer and Munson were declared incompetent by a joint resolution of the next legislature and were asked to resign. Hosmer served out his term until 1868, but Munson resigned and returned to his law practice in New Haven, Connecticut.

was almost evenly divided, by 1869 only three Republicans were in the 24-member house and none in the Council.

Ibid., p. 104. Toole said, "Sanders ruined himself politically and when he ran in 1876 for territorial delegate, he was defeated largely on the basis of what he did in 1866."

Robert G. Atchearn, "Civil War Days in Montana," Pacific Historical Review, Vol. 29, 1960, p. 33, said, "His gratuitous interference so deeply angered Montanans that when Sanders ran again for the office of delegate, years later, it rose up to haunt him, and he was again defeated. As a matter of fact during Montana's entire territorial period it was represented in Congress only two years and eight months by a Republican delegate."

R. E. Albright, "The American Civil War as a Factor in Montana Territorial Politics," Pacific Historical Review, Vol. 6, 1937, pp. 44-45, said, "an expression of Montanans' sentiments about the Radical Republican Congress nullifying their second and third legislative sessions came in the elections of 1867 when after a spirited and partisan campaign, Wilbur F. Sanders who had led the movement for nullification, was defeated for the office of Congressional delegate by the votes of those he had denounced during the campaign as 'rebels and traitors . . . unfit to exercise the right of self government.'"

Hamilton, op. cit., p. 326.
CHAPTER VI

PUNDIT OR PROPAGANDIST?

On its first anniversary, the editor and publishers of the Montana Post, reflecting on the newspaper's accomplishments, boasted a great deal and found that the Post, like the Territory, had cause for optimism.

The plant had been moved from the basement of a log cabin to a new stone printing office. It was well stocked with supplies, and a new job press had replaced the small hand press that John Buchanan and Marion Manner had brought from St. Louis. The first year had not been easy.

The efforts required to sustain it [the newspaper] in a land so remote from the ordinary source of the supply of material and current news, few, besides those actually engaged in the work, can have any idea. Snow capped mountains, rugged defiles, and swollen streams are placed between us and the nearest point of telegraphic communication with the States, for half a year, and when we read of the troubles and difficulties of those who have only heard of those things, we cannot help smiling; for we of Virginia think we are all right when we get that far on our way during a winter trip to the East, leaving the dreaded snow clad "Divide," and the Snake river, behind us.1

Despite the hardships imposed by life in the mountains, the Post anticipated a prosperous future.

Troops for our protection are rapidly marching toward us; a convoy for treasure will be shortly established, and, unless the people of Montana are so foolish as to commit political suicide at the next election, we know of nothing that can prevent a career of prosperity such as never before the sun shone down upon.2

Its political principles, the Post said, had remained unchangeable:

1Montana Post, Aug. 26, 1865, p. 2.

2Ibid.
We love our country; we are jealous of its honor, and we are loyal to its traditions and Government. Every day sees accessions to the ranks of those who think with us; and those who will not agree with us, know that they cannot answer our arguments. Throwing aside partisan politics, without giving a foot of ground where principle is concerned, we have labored for the good of the people giving all men fair play; acting invariably with charity to all, and with malice toward none. Making our salutation to our patrons, we hope for them and for ourselves a prosperous year, and fully resolved to do our whole duty as the representatives of the Press in this Territory, we commence our tasks.¹

Six months later, when the Post observed the first half of its second year, it wrote a complimentary editorial about itself:

Opposed to everything that will injuriously affect the interests of this young, but rich Territory this paper will never be made the partizan vehicle of blackguardism, personal abuse or scurrility of any kind, but will uniformly maintain unconditional Union principles. If from a desire not to weary our readers or not to encroach upon space that can be more profitably filled, we do not always publish long-winded political editorials, we shall always watch the moves of the demagogues in our midst, who, utterly regardless of the interests of the people, for the sake of their personal aggrandizement, would ruin us all. The tricks and artifices of such men we shall expose on all occasions; but our main object will be to lay before our readers a newspaper with the best original matter, and the most reliable interesting local and foreign intelligence that we can furnish. We shall steadily improve the "Post," and spare neither pains nor expense to make it THE PAPER of the Territory.²

Few challenged the assertion that the Post was THE PAPER of the Territory. The Union Vedette in Salt Lake City said:

The Virginia Post of the 27th ult., is received--crammed with column after column of the most interesting Territorial and great Western news. It has enclosed a supplement of eight columns with "news of general interest" and any amount of items from the weekly "Vedette."³

The Owyhee Avalanche said:

¹Ibid.
²Montana Post, Feb. 17, 1866, p. 1.
³Montana Post, March 17, 1866, p. 2, quoting the Salt Lake City Union Vedette.
The Montana Post is the handsomest and there is no better newspaper extant.1

The San Francisco Golden Era said:

The Montana Post published at Virginia City, Montana Territory is a comprehensive and very complete and interesting journal—equal to the best interior papers of California.2

Even competitive newspapers said the Post was the leading newspaper in the Territory. The Montana Radiator, for example, said in an editorial noting the Post's self-congratulations the previous week:

From the Post we learn that it has finished the 1st half of a 2nd year's existence. It is conceded that the Post is the best looking paper in any of the Territories, is ably conducted, and full of enterprise; a fact perhaps more frequently alluded to in its columns than modesty should sanction in one who has had over a year the advantage of any of its contemporaries in Montana. The editor who is evidently a man of education and research, seems to have overlooked a short passage of standard literature, that reads thus:

"Let another man praise thee, and not thine own mouth; a stranger, and not thine own lips." Nevertheless, the Post is "a power in the land," and its proprietors, managers and friends, may well feel proud of the position it has attained. The public should not too harshly judge should a morsel of jealousy reveal itself, through some of its self-laudations, at recent encroachments on its hitherto exclusive territory.3

The Post was addicted to self-promotion—but it had reason to be proud. It was an informative newspaper. Its news from other papers in the east and west obviously was culled according to what the Territory's readers would find interesting. Its local news items, numerous and newy, exceeded in number those in the Radiator or the Democrat.4

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1 Ibid., quoting the Owyhee Avalanche.

2 Ibid., quoting the San Francisco Golden Era.

3 Montana Radiator (Helena), Feb. 24, 1866, p. 2.

4 The Post usually ran a full page of local items, but the Democrat and the Radiator seldom had more than one column, and the type used by the latter two papers was considerably larger than that in the Post.
Its editorials—when non-partisan—usually reflected the Territory's needs and interests. There were many editorials about the need for roads, telegraph lines, protection against Indians, favorable mining legislation, schools and farmers.

The Post devoted much space to mining news and to letters from correspondents in the gulches.

When the telegraph line between Salt Lake City and Virginia City was completed in November, 1866,¹ the Post arranged with Western Union to have news dispatches sent to the newspaper. It was apparently the only one of the Territory's four newspapers to make such an arrangement. The Post often accused the other papers of stealing its telegrams, and they vehemently denied it.² On March 2, 1867, the Post published a Western Union certification that D. W. Tilton and Company was the only Newspaper publisher in Montana receiving telegrams over its wires for publication.³

The Post was lively and entertaining. Its editorials were not objective. The management apparently worried little about libel laws.

Thus, from the viewpoint of the Montanan of the mid-1860's, the Post was a good newspaper.

From the viewpoint of the historian of the mid-1960's, the Post is a valuable source as witness of the events it records, providing detailed sketches of life in the mining camps. But its record of the

¹Montana Post, Nov. 3, 1866, p. 5. The line apparently was completed November 2, because an item in the Post locals tells of a meeting at Content's Corner "last night" to rejoice over completion of the line. "Three cheers went to J. A. Creighton, the originator and successful contractor for building the useful work," the Post said.

²Montana Post, Dec. 8, 1866, p. 4, and March 2, 1867, p. 1.

³Montana Post, March 2, 1867, p. 1.
political scene is distorted by its intense involvement in party affairs. The Post provides a marvelous account of territorial politics as seen and understood by Thomas Dimsdale, Colonel Wilbur Fisk Sanders, the territorial judges and most of the Republican leaders. But that account is unbalanced. Most Montanans were not Republicans. Those who were Northern and border state Democrats resented the Republicans impugning their patriotism. Those actually from the South resented the reminders of the hostilities they had sought to escape and the charges of treason thrust on them. The second and third territorial legislatures were not considered invalid by the majority Democratic party, and the Congressional annulment of those sessions outraged the party.

The Post was inconsistent on some political issues. It endorsed the proposed nullification of the second legislature and questioned the status of the third during the election campaign. Later it urged recognition of the legislatures. Then when Sanders returned after successfully lobbying for the nullification act, the Post hailed his efforts as a service to the Territory.

When news of the nullification reached Montana, the Post's initial reaction was that Congress surely could not have nullified all the general laws; only the private ones should have been abolished. If the legislatures were bogus for the reasons set forth by the Post that they were

1 Southerners—even secessionist southerners—did not consider themselves traitors to the Union. They were fighting to preserve the constitution as they interpreted it, a way of life and the sovereignty of state governments. Many believed they had every right to secede. See William B. Hesseltine and David L. Smiley, The South in American History (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1960), pp. 160-164, 270-284.
without constitutional authority, then all their laws were void, not just a few.

The Post also compromised its stand on the second and third legislatures when it sought the territorial printing contract. If the second legislature was bogus, then the third was too; yet the Post pleaded for the printing contract of the third legislature and was miffed when it went to the Democrat.

The Post was inconsistent on the question of private charters, endorsing those issued to territorial Republicans but criticizing the legislature for granting such charters. Still, when Governor Green Clay Smith vetoed a charter for a toll road, the Post thought the veto should be overruled. If the man didn't take good care of his toll road, no one would travel it, the Post said. He would be forced to develop and repair it. The argument was one that could have been used to support any of the charters granted; it was fallacious because in territorial Montana the traveler took the only road available despite its condition.

The Post was inconsistent in its oft-repeated claim of non-partisanship. When the Montana Democrat charged in December, 1865, that the Post was Republican, the Post indignantly replied:

Where does the Democrat get its authority for designating the Post "a Republican paper?" The Post is certainly a Union paper; but dare the "Democrat" deny as much of itself? The fact is our paper is and will continue to be a NEWSPAPER, altogether untrammeled by party obligations; and that is the reason it has, and will continue to have, twice as many subscribers as any other sheet published in Montana Territory. If political wire pullers must have a special organ, they have a right, if they are able, to employ one; we are employed by the PEOPLE, to advance their local interests and give them news. A political paper has no business in Montana, anyhow. . . . matters of local importance have a stronger claim upon brains and printer's ink than the old hackneyed arguments and long stereotyped phraseology of petty
party politics, that attracts the attention of the people in the East for want of something more interesting and exciting.¹

In 1867, when the Republican Helena Herald and the Post were engaged in a debate as to which was the better Republican newspaper, the Post said this:

The Post was the first paper ever established in this Territory, years ago, when the disunion party were in the vast majority, rampant, ferocious and bitter. All through the dark years of trial and minority, when to conduct a Union paper was tempting fate, it was the staunch unflinching supporter of the Union party, confident of the ultimate success which now rests upon our banners. The money of secession could not buy it, nor their threats intimidate, and it stands forth today with a record unimpeachable; the only fearless, straightforward advocate of the Union party in Montana. And yet this penny-a-liner of the Herald, a conceited hatchling scarcely yet out of the shell, and smelling badly from its rather peculiar incubation, comes up pompously and claims to be the worthy organ of the Union people of Montana. Bah! Its egotism is only equaled by its impudence. Gentlemen of the Union party, we pandered not to the Democratic party, when every inducement was offered us to do so. We fought through the ordeal on principle, unaided; and thank kind Heaven, the right has triumphed. We have the nerve to speak for the rights of our people, and right is always consistent. The insinuous attempts of the Herald to place us in a wrong position, we were expecting, and against a conscious rectitude of purpose, they fall harmless as pebbles against a castle wall. They are envious of our position, anxious to share the glory they never battled for, and carry the standards in the great parade, that another has borne through the unequal contest to final victory.²

The Post's greatest disservice was to impute secessionist sentiments to the majority of the Territory's electorate. The Post's role as a propagandist for the Radical Republican line fed and reinforced the myth of Confederate sentiment in Montana.

The newspaper served Montana well in giving the Territory a voice to make known its needs and desires. It served its readers well in

¹Montana Post, Dec. 30, 1865, p. 2.

giving them news about the Territory, the western mining region and their homes in "the states." The Post's political coverage--though it expressed the minority party viewpoint--served to crystallize sentiment on territorial issues.
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