Copper kings, populists and log-rollers : the third session of the Montana State Legislature, 1893
by Jean Marie Schmidt

A thesis submitted in partial fulfillment of the requirements for the degree of MASTER OF ARTS in History
Montana State University
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Abstract:
The 1893 session of the Montana legislature deserves close study because of its long-term effects upon the state, All of the issues that made Montana politics especially- turbulent in the years immediately following statehood were present in this session: the rivalry between mining kings William A, Clark and Marcus Daly, the contest over the permanent location of the state capital, Clark's campaign to be elected to the United States Senate, labor's demands for protective legislation, the rise of Populism, and the national debate over the free coinage of silver. In spite of these distractions, the legislature had a great deal of work to do. The unproductive first and second sessions had passed on a number of unfinished tasks-, some as simple as designing an offical seal for the new state, others as complex as creating its higher education system. The Popultsts held the balance of power in the House of Representatives and helped pass some laws favorable to labor, but were blamed afterwards for not accomplishing more. The joint assembly was deadlocked throughout the session and failed to elect a United States Senator, leaving one of Montana's Senate positions vacant for two years while the repeal of the Sherman Silver Purchase Act was debated in Congress. The action of this legislature that had the most lasting consequences for the state was the distribution of the state's educational and custodial institutions in separate towns.

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STATE LEGISLATURE, 1893

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JEAN MARIE SCHMIDT

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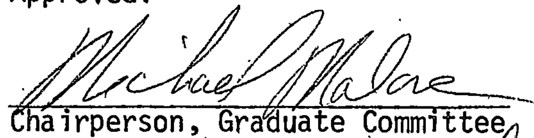
Approved:



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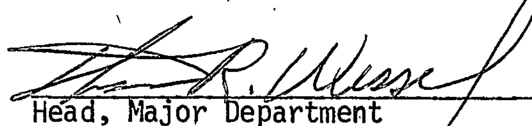

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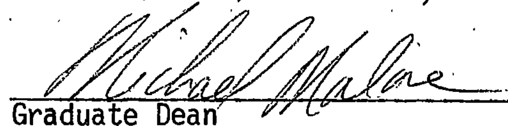

Graduate Dean

MONTANA STATE UNIVERSITY
Bozeman, Montana

March 1981

ACKNOWLEDGEMENTS

I would like to express my appreciation to my advisor, Dr. Michael Malone, who first suggested this topic, then directed me to the best sources. His suggestions and criticisms during the research and writing of this paper have been invaluable. I owe a great deal, too, to my friends and colleagues at the Montana Historical Society and the MSU Library, for tracking down elusive material for me. Dave Walter, Bob Clark and David Girshick at the Historical Society and Minnie Paugh and Kay Carey at MSU have all helped. Special thanks go to my parents for their constant encouragement and enthusiasm.

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ABSTRACT

The 1893 session of the Montana legislature deserves close study because of its long-term effects upon the state. All of the issues that made Montana politics especially turbulent in the years immediately following statehood were present in this session: the rivalry between mining kings William A. Clark and Marcus Daly, the contest over the permanent location of the state capital, Clark's campaign to be elected to the United States Senate, labor's demands for protective legislation, the rise of Populism, and the national debate over the free coinage of silver. In spite of these distractions, the legislature had a great deal of work to do. The unproductive first and second sessions had passed on a number of unfinished tasks, some as simple as designing an offical seal for the new state, others as complex as creating its higher education system. The Populists held the balance of power in the House of Representatives and helped pass some laws favorable to labor, but were blamed afterwards for not accomplishing more. The joint assembly was deadlocked throughout the session and failed to elect a United States Senator, leaving one of Montana's Senate positions vacant for two years while the repeal of the Sherman Silver Purchase Act was debated in Congress. The action of this legislature that had the most lasting consequences for the state was the distribution of the state's educational and custodial institutions in separate towns.

Chapter 1

THE POLITICAL BACKGROUND, 1888-1892

The 1893 session of the Montana state legislature had many far-reaching effects on the state, yet it has usually been overlooked by historians. The 1889-90 session, deadlocked over party rivalries and a fraudulent election, accomplished nothing besides sending four men to Washington to occupy two Senate seats. The second legislature, meeting in 1891, wasted nearly half its allotted time over the same issues before reaching a compromise. The 1893 legislature was the first to meet for a full session. Later sessions receive more attention for William A. Clark's attempts to bribe his way into the U.S. Senate, but that tactic was introduced in 1893. The Populists elected their first representatives to the legislature in 1893, and it can be argued that the party never had more influence in Montana than it had when its three members held the balance of power in the House. The action of this legislature that had the most lasting consequences was the distribution of the state's educational and custodial institutions to separate towns throughout the state.

Previous Legislative Sessions

The 1893 legislative session was the third since Montana was granted statehood, but the first to meet for a full session. The first legislature, which met for ninety days between November 23, 1889,

and February 20, 1890, had accomplished nothing. The Senate had been evenly divided between Democrats and Republicans, each holding eight seats. Lieutenant Governor John E. Rickards, a Republican, held the tie-breaking vote as President of the Senate. Rather than allow the Republicans to control the Senate, the Democrats refused to take their seats. When Rickards threatened to have them subpoenaed, they agreed to attend but refused to vote on organization. Rickards ruled that a quorum was present even if the Democrats did not vote, and let the Republicans proceed with the organizing. The Democrats then walked out, and fled the state to avoid arrest. Although the Republicans had managed to organize the Senate in the meantime, they were unable to transact any business afterwards for lack of quorum.[1]

The situation in the House had been even more ludicrous. There, the two parties each held twenty-five seats. The remaining five seats, from Silver Bow County, were disputed because of some blatant voting fraud. Precinct 34 had been created on the continental divide near Butte where crews of the Northern Pacific railroad were working on the Homestake tunnel. Almost no one who was not employed by the railroad voted in this isolated precinct, making it an ideal place to control the election. The votes were recorded as if they had been cast in alphabetical order, and they were counted in secret. The Democrats received 171 votes to the Republicans' three, although seven men swore they had voted for the Republicans. The Republicans also charged that

the workmen were told to vote the Democratic ticket or lose their jobs. The election in the rest of the state was so close that the returns from Precinct 34 meant the difference for five House seats. The Republican-dominated County Canvassing Board refused to count the votes from Precinct 34, but the Clerk of Court, a Democrat, issued certificates of election to the Democratic candidates anyhow.[2]

The Enabling Act and the state constitution were disastrously vague on how election disputes were to be settled. In the end, each house was the final arbiter of the qualifications of its members, so the House was supposed to decide the matter. However, this could not be done until the House was organized and had adopted rules of procedure, which could not be done as long as both parties had equal strength. Not only the five seats from Silver Bow were at stake, but also control of the House and control of the joint assembly, which was to elect two U.S. Senators. It seemed to be too important an issue to allow compromise. When the legislature convened, Democratic Governor Joseph K. Toole refused to allow the five Republican claimants to enter the building where the House was to meet. The Republican representatives responded by adjourning to another building where they met with their cohorts, while the Democrats remained in possession of the House chamber. The two Houses met separately for the entire session. Since each part seated its own candidates for the five disputed seats, each House could muster a quorum. Both passed bills and sent them to

the Senate, which was unable to act because it lacked a quorum. Because both the House and the Senate disintegrated over party politics, no laws were passed that session. The only action taken was the election of four U.S. Senators. After they organized the Senate, the Republicans in the Senate met with the Republican House and elected Wilbur F. Sanders and T. C. Power. The Democrats, before they left town, met separately with the Democratic House, and chose William A. Clark and Martin Maginnis. All four men went to Washington, where the Republican-controlled Senate accepted Sanders and Power and sent Clark and Maginnis home.[3]

The second legislature almost suffered the same fate in 1891. The problem in the Senate was resolved this time. Half the terms expired in 1890, so that the four-year terms would be staggered, and the Democrats won a clear majority. They were able to elect a president pro tempore and appoint committees. However, the Constitution provided that the members of the House would all hold their seats until the election of 1892. They also continued to hold their same differences of opinion over the five seats from Silver Bow and resumed meeting separately. Finally, on the twenty-fifth day, almost halfway through the session, a compromise was reached. Perhaps the fact that no Senate seat was at stake made the agreement possible. The Democrats were given two of the contested House seats and the Republicans three, and the Democrats were allowed to name the presiding officers. The

legislature managed to pass some legislation during the remainder of the session; mostly revenue and appropriations bills so the government could function. Nearly everything else had to be postponed until the next session, which would convene in 1893.[4]

Neither party could claim victory. The Democrats had succeeded in preventing the Republicans from controlling the Senate during the first session, and from their gains in the 1890 election they concluded that the voters approved of their actions. The Republicans, however, captured the two U.S. Senate seats, and were given a one-vote majority in the House in the second session. The real losers, of course, were the people of Montana. The dispute prevented the legislature from doing its work, and delayed key decisions for more than three years. The third legislature would have to work especially hard to finish its work and to dispel the unflattering attention that had been focused on the new state.

Political Parties

Because Montana Territory was established during the Civil War, party politics were acrimonious from the beginning. Most of the early citizens were Democrats and many were Confederate sympathizers from the border states. They were usually at odds with the federally-appointed Republicans sent out by Washington to govern them. In its first six years, Montana Territory went through three governors and

two acting governors, with occasional periods when no one was in apparent charge. The most successful governor of the territorial period was Benjamin F. Potts. Although a Republican and a brigadier general who had served with Grant at Vicksburg and marched through Georgia with Sherman, Potts was a moderate and found it easier to work with the Democratic majority than had his radical predecessors. His long term, 1870-1883, brought stability to the territorial government.[5]

The dominant figure in the Republican party during the territorial period was Wilbur Fisk Sanders. He had come to Montana in 1863 with his uncle Sidney Edgerton, the first governor. During the early territorial period he helped organize the vigilantes in Virginia City, and led the Radical Republicans. He was one of Montana's first U.S. Senators, drawing the short term that expired in 1893. Other Republican leaders included T. C. Power, the other Senator, and Thomas Carter, who was the national chairman of the Republican party during the 1892 election campaign. Lee Mantle helped the Republican party get established in Butte at the end of the territorial period, and served as state chairman in 1892.[6]

During the 1880's the Democratic party was dominated by the Big Four: William Clark and Marcus Daly, who controlled the copper industry, and Samuel Hauser and Charles A. Broadwater, Helena capitalists. The Democratic nomination for an office was usually tantamount to election as long as these four worked together. The

growth of the silver and copper mining industries during the 1870's and 1880's had brought in thousands of miners who usually voted Democratic. The transcontinental railroads built in the 1880's and early 1890's connected Montana directly to the states of the Upper Midwest, however, and brought in more immigrants, most of whom voted Republican. By 1889, the Republicans had gained enough support to be able to challenge the Democrats' control. Democratic candidate Joseph K. Toole won the first state governorship over Republican T. C. Power by less than 600 votes that year, and the Republicans captured the rest of the state offices and half the legislature. In 1892, the introduction of a third political party was enough to tip the balance toward the Republicans.[7]

The 1892 election was the first for the People's, or Populist, Party. In the south and midwest, where it had its greatest strength, the newly-formed party drew most of its support from small farmers. However, in Montana as in most of the mountain states, the party was dominated by mining labor. There were few farmers in Montana at the time. Some of the reform-minded had organized local Farmers' Alliances around Bozeman, Miles City and Missoula, but there was no strong statewide farmers' organization to serve as the basis for a new party. In contrast, there was a large labor force in the mining areas of the western part of the state, and it was discontented with its lack of influence in the major parties. The 1889 Constitutional Convention

had been dominated by mine owners. They had written into the state constitution a provision making only the net proceeds of mines taxable, but had failed to do anything for labor. The second legislature had failed to pass a bill on the eight-hour day, so labor decided to look toward a new party to further its interests.[8]

The People's Party was attractive to miners and mine owners alike because it was unequivocally committed to the free coinage of silver. Besides increasing the money supply to the advantage of farmers, this would insure employment and prosperity in mining regions. In addition to its famous calls for an income tax, direct democracy and other radical reforms, the party also advocated the eight-hour day, the abolition of child labor and the exclusion of Chinese workers, all of which appealed to labor.

The Montana Populist party was born in Anaconda in January 1892. Labor representatives dominated the meeting, but Farmers' Alliances and reform groups like the Single Tax Association were also represented. The statement of principles adopted by the party included labor objectives like the eight-hour day, abolition of child labor, Chinese exclusion, legislation against Pinkerton agents and abolition of the company store. For the farmers it advocated federal irrigation projects. Above all, it called for the free coinage of silver and for the forfeiture of the Northern Pacific Railroad's land grant, two issues that were immensely popular in Montana.[9]

The party then held its first nominating convention in June. The slate was nicely balanced among the various interests it represented. Will Kennedy, a Single Tax advocate and publisher of the Boulder Age, received the nomination for governor. Caldwell Edwards of the Gallatin Valley Farmers' Alliance was nominated for Congressman and Ella Knowles for Attorney General. Samuel Mulville of the Butte Blacksmith's Union was the party's candidate for the U.S. Senate position to be filled by the next legislature. Kennedy and Knowles were the most effective campaigners for the party. Knowles especially was an excellent speaker and drew large, appreciative crowds wherever she campaigned.[10]

The Clark-Daly Feud

It would be impossible to discuss Montana politics during the late nineteenth century without mentioning the activities of William A. Clark and Marcus Daly. These two men controlled the copper mining industry and the Democratic party, and tried to use their power to destroy each other's political plans.

William A. Clark had come to Montana in 1863, with the first rush of gold prospectors. Instead of trying for a quick fortune in mining, he went into merchandising, where the profits were more certain. He hauled produce from Utah, got a contract to haul mail from Walla Walla, and later went into banking in Deer Lodge. By 1872, he began buying mining property in Butte, where silver was displacing

gold. To learn better how to handle his new investments he took an intensive course in mining and mineralogy at Columbia University. Clark built a smelter to process his ore in Butte and was already a major figure in the Butte mining industry when Daly first appeared.[11]

Marcus Daly was a genial Irish immigrant who worked his way up through the mines, learning his business in the great Comstock Lode. He first came to Butte in 1876, as a mining engineer to investigate a silver mine for the Walker Brothers of Utah. At that time Clark already owned several silver mines but was not yet interested in copper. It was Daly who first developed Butte copper on a large scale. In partnership with George Hearst, James Ben Ali Haggin and Lloyd Tevis of California, he bought the Anaconda silver mine. When its ore proved much richer in copper than silver, he developed it for copper instead. The other three investors owned mining property throughout the United States, but Daly directed operations in Montana. He bought up other mines and built the smelter at Anaconda to process the copper ore.[12]

Clark soon recognized the value of Butte's cooper ore, too, and built his own copper empire. Given the size of their fortunes and their ambitions, it was inevitable that Clark and Daly should clash. Politically both were Democrats and controlled large blocs of votes in Silver Bow County and throughout the western part of the state. For a while it suited them to cooperate, as in the 1889 Constitutional

Convention which wrote into the state constitution a clause making only the net proceeds of mines taxable. However, this did not last long.[13]

Their alliance broke down in the 1888 election, the last before statehood. Clark was the Democratic candidate for territorial delegate. He hoped it would be a stepping stone to the United States Senate, where his real ambition lay. Later he claimed he had not sought the nomination, but had been persuaded to run by party leaders, and had accepted only after Daly had promised not to oppose his election. Clark expected to win easily, and he was shocked when he lost to Republican Thomas Carter by 5000 votes. He lost Silver Bow, Deer Lodge and Missoula Counties, which had always voted Democratic, but where Daly controlled large blocs of votes.[14]

Daly did not throw his support to Carter only to humiliate Clark. He was part owner of the Montana Improvement Company, which had an exclusive contract to log timber on the Northern Pacific's land between Miles City and Walla Walla. Besides supplying the railroad with lumber, the company also supplied Daly's mines and smelter. Unfortunately, the company was being sued by the Interior Department for cutting timber on federal land and was in danger of being put out of business. Daly needed a friend in Washington with good connections to save his lumber supply. Clark, besides being a business rival, would be a Democrat dealing with a Republican administration. Even if

he had been willing, he might not have been able to help. So Daly agreed with his lumber partners to support Carter, who promised to work to have the indictments withdrawn.[15]

Clark of course recognized Daly's role in his defeat. The counties where he lost most heavily were those where Anaconda and the Montana Improvement Company had large numbers of employees. Before the secret ballot, it was easy for shift bosses to check their men's ballots as they entered the polling places. Other party leaders, meanwhile, chose to ignore Daly's breach of party loyalty because they could not afford to offend someone who controlled so many votes. Clark used his newspaper, the Butte Miner, to attack Daly viciously. Daly responded by founding his own paper, the Anaconda Standard. He intended it to be the best newspaper in the state, regardless of cost, and hired a reputable eastern newsman, John Durston, to edit it.[16]

In 1890, as noted earlier, the Democrats in the legislature elected Clark as one of their two U.S. Senators. However, the Republicans, who were meeting separately, also sent two Senators to Washington. Faced with a surfeit of Senators from Montana, the Republican-dominated Senate chose to seat the two Republicans, and sent the Democrats home. Clark's amibition to become a Senator was increased by this second setback, and he prepared to try again in 1893.[17]

Daly, meanwhile, had his own ambitions. He did not seek high political offices, like Clark, but he was tremendously proud of his Anaconda Mining Company, and of the town of Anaconda which he built at the location of his smelter. To avoid controversy that might defeat the constitution and wreck the chance for statehood, the 1889 Constitutional Convention had left the location of the permanent capital to be decided by popular election in 1892. Daly wanted that honor for his company town, Anaconda. Helena, the territorial capital since 1875, was the most likely choice, but half a dozen other towns had filed petitions to be on the ballot. Daly hoped that the presence of so many choices on the ballot would keep Helena from receiving a majority in the 1892 election, forcing a runoff election in 1894. By then Daly hoped to stir up enough anti-Helena feeling for Anaconda to win.[18]

The Capital Election of 1892

The capital question aroused the most interest of any issue in the 1892 election. Seven towns were on the ballot: Helena, Anaconda, Butte, Bozeman, Great Falls, Deer Lodge and Boulder. Helena was the obvious leader. It had been the territorial capital since 1875, and had the facilities to house the various offices of the state government. It was near the center of population at that time. It had the best rail connections to the rest of the state, being on the lines of

two transcontinental railroads, the Northern Pacific and the Great Northern. It was also the major commercial center of the state. Helena had the support of the Northern Pacific railroad, which donated money to the campaign. For a while, issues of the Anaconda Standard shipped by the railroad arrived stamped, "Helena for Capital."[19]

Backers of other towns looked on the capital race as a way to boost their towns and attract more business and settlers, even if they did not expect the win the capital. Boulder was on the ballot but did not campaign seriously, and Deer Lodge, too, was never really in contention. Bozeman hoped to get the support of the settlers along the Yellowstone River, who would have had less distance to travel than to any of the other towns. Since it was located in an agricultural district, its economy would be relatively unaffected by the low prices of silver or copper, compared to Butte or Anaconda. To improve Bozeman's chances in the election, the Bozeman Capital Committee found the most original campaign device. They distributed tokens from the Bozeman Land and Loan Company to influential men in other towns that would allow them to purchase town lots for fifty dollars if Bozeman won the election. Obviously the lots would be worth a great deal more than that if Bozeman became the state capital, and its backers hoped the prospect of a large profit would encourage the recipients of the tokens to campaign for Bozeman. Its opponents called the campaign an illegal lottery and demanded that it be

stopped.[20]

Great Falls had stronger grounds for its bid for the capital, but because the town had only been founded a few years earlier, it was forced to campaign mostly on its potential. It had the advantage of being well laid out, in contrast to Helena which had sprung up around a placer mining district. The natural resources around Great Falls included water power and coal beds for energy, and building stone, lime and fire clay for building fine government buildings. The town's economy was supported by agriculture to the east, mining in the Little Belts, and wheat, wool and iron mills powered by the Falls. Wages were high, unions were strong and the Chinese had been expelled, so Great Falls hoped to get labor support. It also hoped to be endorsed by James J. Hill of the Great Northern Railroad, who had large investments in the town. His railroad was nearing completion and Hill was very popular in Montana for having built his railroad without a federal land grant, in contrast to the Northern Pacific. Hill, however, refused to be drawn into what he considered was a local issue. He kept his railroad out of the capital contest in 1892, although he did get involved in the 1894 election.[21]

Fast-rising Butte was the second largest city in the state, behind Helena. Almost one-fourth of the state's voters were registered there. Butte had to contend against its reputation as a tough town. The constant pall of smelter smoke that hung over the city made it

even less attractive to others. In its campaign, Butte argued that it had excellent facilities for state government, was easily assessible from all parts of the state and deserved to be the capital. Its mineral wealth was responsible for attracting the transcontinental railroads, and it was the market for much of the agricultural production of the farming areas. The smoke problem was being eliminated, and no one else could grow grass and roses in January, which was when the Legislature met, for that matter. Butte expected little support from other areas of the state in spite of such arguments, but solid support from its own voters could win it a place in the runoff election without outside support.[22]

Helena's most serious rival for the capital was Anaconda. Its boosters, financed by Marcus Daly, were active throughout the state. Their basic strategy was to pit the east side against the west side. The other east side towns, Great Falls and Bozeman, were encouraged to stay in the race to divide the east side vote, while the west side was urged to unite behind Anaconda. This was done in several ways. Deer Lodge, only twenty-five miles from Anaconda, might have drawn off too many local votes. Anaconda threatened to take away the county seat unless Deer Lodge withdrew from the capital race. Butte was different. Anaconda needed to carry Silver Bow County in order to place in the runoff election. Butte, however, was too big to be bullied, so subtler means were used. An Anaconda for Capital Committee

was organized in Butte in early October, soon after the main office was opened in Anaconda. The Anaconda Standard, which had its greatest circulation in Butte, constantly reiterated that although Butte was the undisputed industrial center of the state it was not meant the political capital. The Standard urged Butte voters to unite behind their closest friend, Anaconda. In response, the Butte Miner, William A. Clark's paper and no supporter of Daly's town, acknowledged that Butte had much closer ties to Anaconda than to Helena. The editor commented dryly that on that basis, he believed Anaconda would support Butte when the time came.[23]

Anaconda also needed to carry Missoula county, which covered the northwestern part of the state. The city of Missoula was not a candidate for the capital. Its citizens wanted to get the university when the state institutions were distributed, and they were willing to support whichever town promised the best support in achieving it. Anaconda's backers were the first. They ran a full-page advertisement on the last page of the Missoulian for a month before the election. The paper endorsed Anaconda for the capital because it had agreed to help Missoula get the university. A Missoula-Anaconda Capital Club was organized on October 19, with a $2500 contribution from Marcus Daly. He gave more money to similar clubs throughout the county. Helena's supporters countered by promising also to support locating the university in Missoula. They took out a similar advertisement on

an inside page soon after Anaconda's appeared in the Missoulian.[24]

Helena had an obvious advantage over Anaconda when rail connections were compared. The Butte, Anaconda and Pacific, which shuttled ore from Daly's copper mines to the smelter, was the only railroad to serve Anaconda. Its tonnage was much greater than the tonnage into Helena, but it was almost entirely copper ore. In the months before the election, crews began preliminary work to extend its track through the Bitter Root valley, Missoula and the Flathead region to the coal fields near the British Columbia border, because Daly claimed his smelter needed a reliable source of coal. The Anaconda capital committee cited the railroad as a link tying the west side together, one more reason why the west side towns should support Anaconda for the capital. Helena charged Daly was building the railroad at that time chiefly to bring in thousands of construction workers to vote for Anaconda in the coming election.[25]

Helena's rail connections were far superior to Anaconda's. Advertisements for Helena featured a map of the western part of Montana with Helena at the center and railroads radiating out from it to each of the other contestants. Anaconda, on a branch line that went nowhere, looked particularly isolated. To counteract the favorable impression of Anaconda generated by the publicity given the Butte, Anaconda and Pacific, Helena backers also revised a plan to build a branch of the Union Pacific from Dillon to Helena via the Jefferson

valley.[26]

In the beginning, Helena's campaign leaders had hoped to settle the capital question on the first ballot. The scope of Daly's campaign surprised and worried them. As Daly poured more and more money into the campaign for Anaconda, the likelihood increased that he would force a runoff. Helena men feared they would not have the resources to stand up to Daly's almost limitless wealth and determination in the runoff. In desperation, they began urging voters from other towns not to waste their votes in this election by casting a complimentary vote for their local favorite that had no chance of winning. Instead of waiting for the runoff to vote for Helena, the voters were urged to vote for their serious favorite immediately. Helena backers also warned that the state institutions could not be located until the capital issue was settled. They hoped the towns that wanted insitutions would support Helena in order to locate the capital in the first election, rather than delay the institutions two more years.[27]

Daly's strategy succeeded. Helena received 11,000 votes, more than any other town but less than the majority needed to settle the election on the first ballot. Anaconda was second with 9,700 votes. Thus, a runoff election between the two was scheduled for 1894.[28]

Contests for Offices

The election of 1892 was disastrous for the Democrats. Popular Governor Joseph K. Toole declined to run for reelection, so the party nominated Great Falls real estate developer Timothy E. Collins instead. The Populists, with their free silver issue and reform platform, drew off much of the labor vote from the Democrats, resulting in a Republican sweep of all but one of the state offices. Former Lieutenant Governor John E. Rickards was elected governor by a small margin. Had Populist Will Kennedy not carried Silver Bow County, normally a Democratic stronghold, Collins would have won. Alexander Botkin was elected lieutenant governor and would preside over the State Senate. Charles S. Hartman, a Bozeman lawyer, was elected to Congress, defeating the incumbant W. W. Dixon, Daly's lawyer. The only non-Republican elected to state office was William Y. Pemberton, the Chief Justice of the Supreme Court, who had been nominated by both the Populists and the Democrats.[29]

In the legislature, the Democrats continued to hold a nine-to-seven edge over the Republicans in the Senate. No Populist won election to the Senate. The voters expressed their disgust with the deadlocked first and second legislature by returning only one man to the third House. The Democrats claimed twenty-seven seats, but lost one when the election was challenged. The Republicans held twenty-five

seats, not including the disputed one, possession of which had not been settled by the time the legislature was to meet. The Populist elected three members to the House, Absalom F. Bray and Thomas Matthews from Silver Bow County, and D. W. Beecher from Cascade. The caucus leader was Bray, a liberal Butte wholesale merchant who had come from Cornwall to see the Centennial Exhibition and never returned home. He had some previous experience in the legislature, having been one of the five Silver Bow Republicans who met with the Republican House in the first legislature. He was not seated, though, in the compromise that got the second session organized. Matthews, a miner who was also from Cornwall, tended to follow Bray's lead. Beecher, identified during the campaign as "a representative working man," was a Populist who had also been endorsed by the Cascade Democrats after their own candidate withdrew two weeks before the election. He felt he owed his election as much to the Democrats as to the Populists. His allegiance was divided, but in the beginning at least he worked with the Populists.[30]

Thus a number of factors combined to make the 1893 legislative session especially crucial. The example of the first two sessions was nothing to emulate, and the third session was expected to make up for the lost time. The members of the House were largely inexperienced. The Democrats and Republicans were nearly evenly matched, and the Populists were a small but significant unknown quantity in the

political equation. Marcus Daly, in his attempt to secure the state capital for Anaconda had contracted numerous political debts which would have to be settled. William A. Clark was expected to make some deals of his own to win the U.S. Senate seat that was to be awarded by this legislature. Interest was high as the legislators gathered in Helena at the new year.

Chapter 2

THE 1893 SESSION - BEGINNING PHASE

The 1893 legislature had a great deal of work to do in sixty days. Of paramount importance was the election of a Senator to succeed W. F. Sanders, who had drawn the short term in 1890. After that was settled, there were the institutions to be located, and the basic issue of whether to create one or several universities to be decided. A number of county division proposals could be expected. And because the first two sessions were so unproductive, some questions that were part of the transition to statehood needed to be settled. It promised to be a hectic session with little time to deliberate.

Major Issues

The first order of business was the election of a Senator. Before the sixteenth amendment was ratified in 1913, state legislators considered this their most important task, as well as their greatest opportunity for trading political favors. In this particular instance it was especially important for Montana to choose a Senator quickly, because the Sherman Silver Purchase Act was under attack. This 1890 law required the Treasury to buy an amount of silver roughly equivalent to the entire United States production, and to issue notes for it redeemable in silver or gold. The act insured the economic prosperity

of the western mining states, including Montana, but undermined the federal gold reserve. President-elect Grover Cleveland had promised during the campaign to work for its repeal. Thus it was most important for Montana to have its new Senator in Washington as soon as possible to fight against repeal. Regardless of party, all of the likely candidates for Senator were pro-silver.[1]

It was generally assumed that whatever deal the three Populists made with either major party for control of the House would include an agreement on a Senator, so that the election would be decided quickly. Some optimists thought it could be settled in less than a week. Lobbyists interested in other issues were willing to wait until the legislators were not longer preoccupied with the Senate election before they started pressing their cases.

Second to the Senate race, locating the state institutions was the most crucial issue. As a state, Montana was entitled to federal land grants to support several institutions which it had not had as a territory. They included a school of mines, a normal school, an agricultural college, a deaf and dumb asylum and a reform school. In addition, Montana had already received a land grant for a university in 1881. The state Board of Land Commissioners was selecting the lands.[2]

During the capital election, Helena interests had argued that the institutions could not be located until the capital issue was settled.

They argued that the loser in the runoff election would end up with nothing. However, shortly after that inconclusive election, others began arguing that the institutions had waited too long already, and the state was losing money from the delay. They accused Helena of planning to grab all the institutions if it lost the capital. Missoula wanted the university and had stayed out of the capital contest in order to work for it. During the campaign, both Anaconda and Helena had promised to help Missoula to get it. Shortly after the election, the Butte Intermountain, Republican potentate Lee Mantle's paper, had proposed locating the university at Missoula, the agricultural college at Bozeman, the normal school at Dillon and the school of mines at Butte. This proposal was eagerly supported in those four towns. Other towns were also interested in receiving parts of the educational system. Miles City wanted the agricultural college, arguing that the Yellowstone Valley had a much greater potential for agricultural development than the Gallatin did. Twin Bridges had established a teachers' college in 1887, and wanted the state to take it over as the state normal school. Livingston was also interested in the normal school. Walkerville citizens hoped to convince the legislature that all the smelter smoke in Butte made it an unhealthy place for the school of mines, and it should be put in their town instead.[3]

When it became apparent that the educational institutions would be located by the 1893 legislature, Helena leaders changed their

tactics. Joining with Great Falls spokesmen, they began presenting the case for a consolidated university. They argued prophetically that, separated, the institutions would never be more than a scattering of little colleges competing with each other for inadequate state funds. Consolidated, however, they could become the Harvard or Yale of the West in a few short years. They cited the examples of Minnesota and Wisconsin, where consolidated universities prospered, and solicited statements from university presidents in other states favoring the idea. State leaders like A. J. Craven, a member of the Helena school board, Cornelius Hedges, the first superintendent of public instruction, and long-time Territorial Delegate Martin Maginnis spoke in favor of consolidation. The state teachers' association, gathering in Missoula just before the legislature met, passed a resolution endorsing consolidation.[4]

The leader of the movement for consolidation was Paris Gibson, the founder of Great Falls, close associate of James J. Hill, and Cascade County's representative in the State Senate. Gibson had been born in Maine and was educated at Bowdoin College. He spent a good part of his life in Minneapolis, developing flour and woolen mills at the falls of St. Anthony, before he came to Montana. While in Minnesota he served on the Board of Regents of the University of Minnesota and was well acquainted with the advantages of a single consolidated university. Both Helena and Great Falls were mentioned

as possible locations for the university, but they did not press for it. They also proposed laying out a new town as Thomas Jefferson had done in Virginia, if local rivalries proved too great.[5]

By the time the legislature met, whether or not to locate the institutions that year was no longer the issue. The question had become whether to spread them around the state or to group them in one place. All sides were well prepared for the debate.

Plans for creating new counties also generated intense interest, at least in the areas involved. A county courthouse was as good as a small institution for stimulating local commerce; the county payroll could provide a number of jobs for local politicians. In addition to these considerations, many people found their county seats too far away. This was particularly true in the wide open eastern part of the state. For every county proposed, there was a local group which opposed the idea. Either there weren't enough people in the proposed county to support the government, or the tax base was too small, or the old county would be left with an unmanageable debt. In most cases, both supporters and opponents sent representatives to Helena to lobby for them.

The first and second legislatures had not been able to consider new counties for lack of time. Meanwhile the state population was increasing. The third legislature expected more than the usual number of proposals. These bills would create even more opportunities

for trading votes and logrolling.

The second legislature had established a commission to write a new code of laws for the state. It was necessary to clear up contradictions between the old territorial laws, the state constitution, and the laws that had been passed since statehood. The commission had been working between sessions and had four codes ready for consideration. Certain of the recommendations now caused objections when they were published. Governor Rickards recommended passing the codes as they were proposed to maintain their harmony. They could be amended as necessary afterwards. Yet it seemed certain that the legislators would want to make some changes before acting on them. The legislature could also expect to consider some bills to protect labor in this session. All three parties had endorsed the idea of a law restricting the use of Pinkerton agents. In addition, the Populists wanted some legislation on the eight hour day.[6]

Organization

The legislature convened on January 2, 1893, and began the business of organization. In the Senate this was a simple matter. The Democrats held nine seats and the Republicans seven. The presence of Lieutenant Governor Alexander Botkin, a Republican, as presiding officer had no real effect. The Democrats quickly elected E. D. Matts

of Missoula, a Daly man, President pro tempore, chose the other officers, and sent the customary committee to inform the governor they were ready for business.[7]

The situation in the House was much more complex. The Republicans held twenty-five seats and the Democrats twenty-six. However, A. J. Davidson of Helena was bedridden with rheumatism and unable to attend; so the Democrats could only command twenty-five votes. There were three Populists in the House, two from Butte and one from Great Falls; and furthermore, one seat from Chouteau County was contested. For a short time there was speculation that each party would recognize this own candidate and, as in 1889, would meet separately and send two Senators to Washington. However, that one seat was not enough to give either party a majority in the fifty-five member House, so they concentrated on securing the cooperation of the three Populists instead.[8]

Certainly, the Populists were in an excellent position. Their three votes represented not only control of the House but control of the joint assembly as well which would be able to choose the U.S. Senator. Provided that the Republican candidate won the Chouteau county election, which seemed likely, or that the contest remained unsettled and Davidson could not attend, the Populists could combine with either major party to organize the House and to elect a Senator. Since the Senate election was so important, this gave them enormous power, which they fully appreciated.

The three Populist representatives met with party leaders in Helena on December 31 to discuss strategy. They had received a telegram from national party leaders, ordering them to make any combination necessary to elect a Populist Senator. This would give the party six U.S. Senators and the balance of power in the Senate when repeal of the Sherman Silver Purchase Act was debated. Thus the national importance of these Montana events was large. In contrast, Will Kennedy, state party chairman and candidate for governor in 1892, told them to combine with the Republicans, who needed them more and might offer greater concessions. D. W. Beecher, the Great Falls representative, objected to that. He told Kennedy he had been elected by 1000 Democrats and 300 Populists, and he thought he owed something to the Democrats as a result. At their caucus, the Populists decided they could ask for the Speakership of the House as part of their settlement, but adjourned without deciding with which party they would cooperate.[9]

The single election not yet decided when the legislature convened was for a representative from Chouteau County. The County Canvassing Board threw out the returns from Box Elder precinct near the Blackfeet Reservation after some half-breeds testified they had been paid to vote Republican. This gave the victory to A. B. Hamilton, a Democrat, and the board gave him his certificate of election along with the other winners. His Republican opponent, E. E. Leech, appealed to the

state Supreme Court. After a special hearing, the Court ordered the board to review the election returns, this time including the Box Elder ballots, and to issue new certificates. The results were close, and the inclusion of the Box Elder votes would give the election to Leech. However, two members of the Chouteau county canvassing board were out of the state when the Court issued its ruling, and they did not return until December 30. They did not have time to complete the recount and issue Leech his certificate soon enough for him to get to Helena for the beginning of the session. Hamilton, on the other hand, was present with his original certificate, and demanded to be sworn in with the others on the first day.[10]

Confusion reigned, as the ugly partisanship which had festered since 1889 again rose to the surface. According to the state constitution, on the first day of the session the auditor was supposed to call the list of elected members of the House of Representatives and have them sworn in. Auditor A. B. Cook, a Republican, refused to call Hamilton's name or to let him take the oath of office. T. C. Bach, the Democratic leader, argued that if Hamilton's certificate was invalid, then so was Republican T. C. Burns, the other Chouteau County representative, since it was issued at the same time. The Republicans ignored the argument, and tried to move on to the election of officers. Bach charged that there was a conspiracy underway, organized by Colonel Sanders, the Mephistopheles of Montana

politics, to seat Leech and organize the House under Republican control before Davidson could recover and take his oath of office. He led the Democrats out of the House, and Beecher, the Cascade Populist-Democrat, went with them. The Republicans and the two remaining Populists, constituting a bare quorum of the fifty-three men who had just been sworn in, proceeded to organize the House without them. After electing Populist Matthews temporary Speaker and Republican D. J. Tallant of Cascade temporary secretary, the Republican-Populist majority prudently adjourned for the day.[11]

The first day seemed to have resulted in a complete victory for the Republicans. They had prevented Hamilton from being seated, and Leech was expected to arrive in a day or two with credentials at least as good as the Democrat's. Furthermore, two of the Populists seemed willing to follow their state party leaders' instructions and work with the Republicans in the House. If those two could persuade Beecher to get in line, they could control the joint assembly as well. The election of Matthews as temporary Speaker was an indication that the Republicans were willing to give the Populists what they demanded, in return for their cooperation in controlling the House.

However, appearances were deceiving. Once Beecher walked out with the Democrats, a Populist-Republican agreement seemed less attractive to both sides. Without his vote they could not control the joint assembly, and he categorically refused to support a

Republican for Senator. Furthermore, if Hamilton were seated and Davidson recovered, the Republican-Populist coalition could not even keep control of the House. Fusion with the Democrats now began to look more attractive to the Populists. The chances of electing a Populist Senator were slim at best, whatever their instructions from their national leaders. More important in Montana was passing labor-oriented legislation. If the Populists with Republican help passed a bill in the House, it would probably be defeated in the Senate, where the Republicans were in the minority and the Populists had no vote. The Populists, in other words, needed Democratic cooperation on labor issues dear to their constituents.[12]

Public reaction to the Democratic walkout was swift and hostile. Newspapers speculated on the fearsome possibility of having two Houses of Representatives again. Fortunately, that extremity was avoided. Overnight, the Populists and the Democrats worked out a compromise that allowed the House to get on with its business. The next day, Populist Matthews was elected permanent Speaker with the combined support of the Populists and the Democrats. Populist A. F. Bray was elected Speaker pro tempore and chairman of the important committee on state institutions. To avoid further antagonizing the Republicans, the compromise included no agreement on the Chouteau county contest. Beecher was named the chairman on the committee on elections. The other members were two Democrats and two Republicans.[13]

The compromise put Populists Bray and Matthews in powerful positions, but they had reason to feel insecure. From the beginning their partisan colleague Beecher showed an alarming tendency to work with the Democrats in any event. Davidson's health, meanwhile, was improving. On January 9, he was carried into the House on a stretcher to take his oath of office. He still was not well enough to attend regularly, but he was available on an hour's notice for an important vote. Already the Democrats, with Beecher's and Davidson's votes, had a majority in the joint assembly and could elect a U.S. Senator as soon as they decided on a candidate. More threatening to the two Silver Bow Populists' power and their hope of passing labor legislation was the likelihood that Beecher and the Democrats on the Committee on Elections would soon decide to seat Hamilton. His vote would give the Democrats a majority in the House without the Silver Bow Populists' support, and they could reorganize the House to exclude Bray and Matthews from power. The Democratic-Populist alliance was extremely shaky.[14]

The Committee on Elections, two Democrats, two Republicans and Populist Beecher, was proceeding slowly to examine the Chouteau County election contest. The Committee met with the two claimants, Democrat A. B. Hamilton and Republican E. E. Leech, and their attorneys on January 6, but was unable to decide on a course of action. On the ninth, the Committee requested the power to send for documents and

witnesses, but the request was laid over until the following day. The ninth was also the day that Davidson was sworn in as a member of the House, raising the specter of a Democratic majority. The next day, before the Committee on Elections' request for subpoena powers could be taken up in the House, Populist stalwarts Bray and Matthews temporarily switched sides and joined with the Republicans to seat Leech. The Democratic-Populist Beecher voted against this motion along with the Democrats, but Davidson was absent and the motion carried by a single vote. The House then voted overwhelmingly to grant the Committee the authority it had requested. Hamilton filed a formal motion of contest three days later, but by then it was a dead issue.[15]

Seating Leech gave the Republicans twenty-six votes in the House and held the Democrats to twenty-seven including Davidson and Beecher. The Democrats still needed the Populists to make up a majority. Bray later claimed that he and Matthews had voted to seat Leech on procedural grounds, because no contest could be filed until one or the other contestant was seated. Actually, the Populists had helped seat the Republican Leech in preference to the Democrat Hamilton to protect their own positions as Speaker and Speaker pro tem.[16]

Senate Election - First Phase

As soon as the organization of the House was finally settled, the contest for Senator began in earnest. The Populists were committed to vote for Samuel Mulville of the Butte Blacksmiths' Union. He had, after all, been chosen at the party convention the previous June. In spite of the instructions of their national leaders, the Populists had not included an agreement on the Senate election when they joined the Democrats to organize the House.

The contest for the Republican nomination was orderly, too. Wilbur F. Sanders, a leader of the Republican party for thirty years, had drawn the short term in 1890. Now he wanted to be reelected by a legitimately organized legislature to clear his name of any taint associated with the irregularities of that first legislature. Also interested in the nomination was Lee Mantle, a pro-Marcus Daly Butte businessman, publisher of the _Intermountain_, and recently elected mayor of Butte. Mantle was popular among the voters, and he thought he might be able to get the support of the Populists and be elected. Bray and Matthews were from Butte, and were rumored to support him. Sanders was too conservative to be acceptable to any of the Populists although he had voted for free coinage as a Senator. When the Republican party caucused on January 9, the group gave the nomination to Sanders by a narrow one vote. From then on, as long as

he was their nominee, the Republicans voted for him unanimously.[17]

In contrast to the discipline of the Republicans, personal rivalry split the Democrats several ways. William A. Clark was making another determined effort to be elected Senator. After having been humiliated by Daly's treachery in the 1888 election and by the Senate's refusal to seat him in 1890, he was truly determined to win this time. As soon as the results of the November 1892 election indicated a Democratic majority in the Legislature, he had begun soliciting support for the party's nomination. Since he realized Daly would probably try to stop him, he apparently offered money as well as the traditional inducements, like support on certain legislative issues, to garner support. A. B. Hammond, leader of the Republican party in Missoula County, wrote Samuel T. Hauser on November 30, informing him that Butte men were already visiting legislators-elect to buy their support for Clark. "Kenyon has a 'sack'," he reported, "and as some of the members who have been elected are poor men that kind of talk will probably convince them."[18] At this point Clark assumed that, for a modest investment, he could get the support of a majority of the Democrats. This would give him the caucus nomination, and party discipline would force the other Democratic legislators to vote for him.

Hammond's report alarmed Hauser, a tough Helena banker and one-time Territorial Governor, for he also wanted the nomination but

did not have the financial resources to compete with Clark directly. However, he realized Daly would try to stop Clark, and tried to work out a deal for his support. Hauser asked T. F. Oakes, president of the Northern Pacific railroad, to contact Daly's partner J. B. Haggin in New York. Oakes first suggested they all support a third candidate like outgoing Governor J. K. Toole, but got no response. Hauser wanted desperately to run, but Daly preferred to back W. W. Dixon, the Anaconda company attorney who had just been defeated for reelection to Congress. Daly, through Haggin, refused to commit himself to a deal beyond promising to support Hauser if Dixon faltered. This was unacceptable to Hauser, who would only support Dixon if his own candidacy failed. Oakes finally told Hauser he ought to deal with Daly directly.[19]

Other men were mentioned as possible compromise candidates, including former territorial delegate Martin Maginnis, T. E. Collins, Helena attorney Roberts Burns Smith and Great Falls founder Paris Gibson. However, the Democrats seemed to have a majority of votes in the joint assembly, so none of the front-runners was willing to give up his chance for the nomination. The party caucused on January 9, but did not vote. Each candidate was too afraid the nomination would go to someone else.[20]

To further complicate the election, the legislators were uncertain as to when they were supposed to begin balloting. According

to federal law they were to begin on the second Tuesday after organization, and vote every day until a Senator was chosen. Because the House met on Tuesday, January 3, but was not organized until Wednesday, this apparently meant they could not begin until January 17. However, no one wanted to lose a week that way. Finally, they agreed to start balloting on the tenth. If someone was elected during the first week, one more ballot would be taken on the seventeenth to ratify the election. They thought this plan covered every contingency.[21]

The joint assembly did not meet on January 10, but the two Houses took separate ballots in their own chambers to test the candidates' strength. The Republicans all voted for Sanders, and the three Populists for Mulville as expected. Among the Democrats, Clark led with sixteen votes, Dixon received eight, Hauser six, Maginnis two and R. B. Smith one. The joint assembly met for the first time at noon on the eleventh. Hauser received eleven votes, the most he would ever get. Beecher, the maverick Populist, voted for Hauser, and he drew supporters from Clark, Smith and Maginnis.[22]

By the third ballot, January 12, Hauser's control over his forces began to fade. Lockhart, who had supported Clark on the first ballot, returned to him, and Beecher returned to the Populist fold. Davidson supported Hauser but was too ill to attend. Accepting the inevitable, Hauser agreed to a caucus the night of the twelvth. Twenty-five Democrats attended, representing the Clark and Hauser factions.

Davison sent a proxy, and Gibson agreed to abide by the outcome although he was not there. Hauser formally withdrew his candidacy, and endorsed Clark. In return, Clark promised to support Helena in the capital elections in 1894. Clark also promised that his men would vote for Hauser if at some later time he himself withdrew. These promises allowed Hauser to save face, while costing Clark nothing. He certainly would not be expected to support Anaconda for the capital after Daly had worked so hard to keep him out of the Senate. Nor did he intend to withdraw from the race in favor of Hauser or anyone else as long as his party had the votes to elect the next Senator.[23]

On the other hand, Hauser's support did not gain as much for Clark as he had expected. The eight Daly-Dixon men did not attend the meeting, and they afterwards refused to be bound by its decision. They continued to vote for their candidate as if there had been no caucus. Furthermore, they argued that the Democratic nominee would need at least one vote from a Populist to be elected, and none of them would ever vote for Clark. Beecher had voted for Hauser once, but when he dropped Mulville for good on the fourteenth, he went to T. E. Collins. Paris Gibson also voted for Collins instead of supporting the caucus nominee, another blow for Clark.[24]

After Beecher left Mulville for Collins, the other Populists announced that they had done their best but could not get a

Populist elected. They then switched to Dixon. On the same day E. C. Smalley, a representative from Stevensville who had originally supported Hauser, switched from Clark to Dixon. It looked as though the Daly men were effectively lining up votes to block Clark. This was the last voting change for two weeks. The joint assembly met for ten minutes every noon and took one ballot before adjourning. Sanders polled all the Republican votes, Clark received twenty-three at most, Dixon received eleven constantly, and Collins received the votes of the two Great Falls Democrats.[25]

At first the Republicans hoped some of the Democrats, perhaps those offended by the quarreling within their own party, would miss a joint session without arranging a pair first. If enough Democrats did so on the same day, the Republicans might be able to elect their candidate. However, with all three Populists voting for Democratic candidates, it was unlikely that enough Democratic votes could be lost this way.[26]

As the balloting continued and the Democratic positions hardened, both sides began to speculate about whether or not the governor had the power to appoint a Senator if the legislature adjourned without electing one. Most Democrats concluded that he did, and repeatedly warned the other faction to give in lest a Republican ultimately be appointed by the Republican governor. The Dixon group repeatedly offered to compromise on a third candidate, but the Clark men swore

it would be Clark or a Republican. The Republicans, too, agreed that the governor did have the power to appoint, if the vacancy occurred when the legislature was not in session. Since the legislature would adjourn on March 2, and Sanders' term would expire on March 4, when the new Congress was to be sworn in, this would be the case. If, on the other hand, the governor did not have the power to appoint, the prospect was no more appealing. A deadlocked legislature would mean Montana would lose its rightful representation in Congress at a crucial time.[27]

A new Republican strategy evolved as time passed. The members were given strict orders never to pair with a Dixon man, for that would have the effect of removing two anti-Clark votes. They also agreed to adjourn the joint assembly each day after one ballot, so that those who considered Clark their second choice would not have the opportunity to switch.[28]

At one point, someone in Clark's group evidently thought divine intervention might help where all else had failed. On January 28, when the vote had not changed in almost two weeks, Reverend S. E. Snyder, the chaplain of the House, prayed for Clark's election.

> We have a common interest in the welfare of this nation and its institutions and in this state that towers above sectional or political interest. Oh, Lord, we have been earnestly requested to pray that the minority of this house may see the error of their ways and fall into line with the majority. O, God, Thou knowest we would not approach Thee with any selfish or partisan prayers.

> But we stand before Thee as intelligent citizens endowed with conscience and will power and responsible to Thee for our acts. Help us, O, God, to honor Thee with those God-given powers, and Thine shall be the praise, world without end. Amen.[29]

In all probability this prayer was offered in Clark's interest. Clark always insisted that he was the choice of a majority of the Democratic party, and his campaigners continuously berated Dixon and his supporters as a minority faction acting on the whim of the obstructionist Daly. However, if Reverend Synder expected to sway any votes in the Senate contest, he was unsuccessful. The vote totals were lower that day because it was Saturday. but the relative strengths of the candidates did not change.

The impasse between the two groups of Democrats hung over the entire legislature. The men considered the election of a U.S. Senator to be the most important task before them, but there could be no election unless Daly and Clark reached a compromise, and that was impossible as long as Daly refused to support Clark and Clark refused to withdraw. The Republicans were united behind Sanders, but they did not control enough votes to elect him. They could only keep their distance and hope that the acrimony among the Democrats would not engulf them. For the moment party discipline was holding the Republicans together, but a number of the other possible candidates were waiting with growing impatience for Sanders to falter. The three Populists had already been drawn into the opposing Democratic

camps, destroying the unity of their caucus, distracting them from their legislative goals, and tarnishing the party's reputation for integrity. Meanwhile the legislators of all parties had little time to spare for legislative matters, and the session was nearly half over.

Chapter 3

THE 1893 SESSION - FINAL PHASE

By this time it had become obvious that the joint assembly could remain deadlocked indefinitely. While the Senate selection balloting dragged on, other issues were waiting to be settled. Bills for new institutions, new counties, appropriations and revenue were accumulating. Lobbyists were waiting to present their favorite projects. Gradually the leaders of both Houses realized they could not wait to settle the Senate question before taking up other matters. They needed to take care of these other issues while the Senate election was still in process.

Institutions

The issue that the legislators and lobbyists were most anxious to settle was the location of the state institutions. By the time the legislature convened, the question of whether or not the institutions could be located before the capital was decided was no longer a debatable issue. By general consent, the legislators agreed to locate them during this session. The state could not afford to delay any longer. The only questions remaining were how many and where.

Lobbyists from nearly every interested town had gathered in Helena and were impatient to present their cases. The consolidationists,

mostly from Great Falls and Helena, had endorsements from the state teachers' association and from nationally-renowned educators like President Eliot of Harvard to support their arguments. Missoula sent a large delegation headed by County Superintendent of Schools James M. Hamilton, who later served as president of the agricultural college. The group was well-armed with endorsements from heads of agricultural colleges and schools of mines, colleges that would be overshadowed by the university in a consolidated institution. The consolidationists, fearing that the tide was against them, railed at the deals that were being made to further local self-interests at the expense of the state's needs and asked that the issue be judged on its merits. Even some of the men who favored dispersing the units admitted that consolidation was better, but it didn't have a chance.[1]

Bills to create the various institutions were introduced in both Houses, but the Senate took up the issue first. E. D. Matts of Missoula County began by introducing a bill for a state university in Missoula on January 10. William McDermott of Silver Bow submitted his bill for a school of mines to be located in Butte, on the eleventh. Charles W. Hoffman of Gallatin followed the next day with a bill creating an agricultural college at Bozeman. Simeon R. Buford of Madison County proposed establishing a normal school at Twin Bridges on the sixteenth. Against the tide, Gibson introduced his bill for a consolidated university on January 14. All of the bills were referred

to the Committee on Education, which Gibson chaired. However, he got no support for consolidation from the other members of the committee. Matts was the author of the Missoula university bill, and O. F. Goddard of Yellowstone County needed support to move the state prison to Billings. The bills were reported back without recommendation, so that the debate over consolidation could take place in the Committee of the Whole.[2]

When Matts' bill to locate the state university in Missoula came up before the Senate Committee of the Whole on January 26, its author urged that the Senate act on it immediately. Gibson, however, argued that the Senators had only received the printed copies of the bills the day before, and needed more time to study them. On his motion, the Senate agreed to delay the debate till January 31. The bills were to be taken up in the order they had been introduced, which meant that the Senate would have decided on most of the individual school bills before Gibson had a chance to present his consolidation plan. Instead, he introduced amendments during the debates on each of the other bills, forcing the legislators to debate consolidation several times.[3]

The state university bill was taken up first. In a surprise move, Gibson began the debate by proposing that Missoula be required to donate 160 acres and $40,000 as a prerequisite for getting the university. He argued that an educational institution was an economic

asset to its community, and Missoula ought to be willing to pay something for it. The endowment could be used for buildings and equipment while income from the land grant covered operating expenses; so there would be no demands on the state treasury. Other states had required such subsidies, and their colleges were in better financial condition as a result. Furthermore, Great Falls was prepared to offer 320 acres and $100,000 for the consolidated university, and the legislators ought to consider such financial aspects when locating the institutions. Matts replied that Gibson's proposal was mercenary and went against the best interests of education in Montana. The locations ought to be decided solely on the merits of the towns. Gibson declared that there were other towns just as good as Missoula, and if another town offered $200,000 he would vote to locate the consolidated university there. In spite of his arguments, Gibson's amendment to require an endowment was tabled indefinitely.[4]

The debate then turned to the real issue, consolidation or dispersion. Again Gibson led the argument for consolidation. On the basis of the present population, he argued, attendance at all four institutions would hardly be enough to keep one in operation. For all the others' talk about the best interests of education, the institutions were being distributed for the benefit of the towns. The result was going to be several starving institutions competing with each other for state funds. The separationists took turns

replying. Senator Hoffman, who wanted the agricultural college for Bozeman, maintained that the federal funds for education were intended to benefit the working classes, not to build up a great university. William McDermott cited the example of the school of mines to argue for spreading out the institutions. If the school of mines was located in Butte it would become self-sustaining, but if it was located a hundred miles away, miners' sons would choose to go out of state for their education. Matts concluded the debate, explaining that the resolution from the state teachers' convention was misleading, and that the educators did not really favor consolidation. Again Gibson lost, and the bill was ordered favorably reported. Final passage the next day was almost a formality.[5]

Despite the lack of support he was getting, Gibson was not yet ready to quit. The next afternoon the Committee of the Whole took up Hoffman's bill for an agricultural college at Bozeman. After Senator Reno Swift of Custer County tried unsuccessfully to substitute Miles City for Bozeman, Gibson moved to have the bill tabled for a week to give the Senators time to reconsider consolidation. A single university, he argued, would prevent duplication and save money. While the different towns might be working together now to divide up the institutions, he warned that in two years they would be competing with each other for state funds. Hoffman rose to oppose the delay. Montana was already losing $15,000 annually in federal funds for the

agricultural college and experiment station. O. F. Goddard of Yellowstone County argued against consolidation. He feared that the agricultural college would be dwarfed by the university, and thought that it was the duty of the legislature to locate the school in one of the major agricultural areas of the state. Goddard denied that there was any combination working to divide up the institutions, as Gibson had suggested. Gibson insisted the combination did exist, but he declined to pursue it further. After more debate, Gibson's motion to table was defeated, and the bill was ordered reported with the recommendation that it pass.[6]

When the Senate reconvened in regular session, it immediately took up the report of the Committee of the Whole on the agricultural college bill. David Folsom of Meagher County, the only Senator to support Gibson on consolidation the previous day, tried to substitute Missoula for Bozeman. Gibson, in an effort to salvage something for his constituents, moved to substitute Great Falls, and offered 320 acres and $50,000 for the school. He argued that the agricultural school was also supposed to offer instruction in mechanical arts, and Great Falls, in addition to being the center of an agricultural region as good as Bozeman's, had far more industry. Swift tried again to substitute Miles City, but all three substitutions failed by large margins. Picking up on the idea of an endowment, William Steele of Lewis and Clark moved to require Bozeman to donate 160 acres with

water rights to the college. His proposal also failed, and the report of the Committee of the Whole was accepted unchanged.[7]

Gibson's motions to require Missoula and Bozeman to give an endowment to their institutions came as a surprise to his opponents, and they tried to brand his proposal as selling the institutions to the highest bidder. The Bozeman Avant Courier, which supported dispersal so that the agricultural college would be located in Bozeman, argued that only Great Falls, Helena, Anaconda and Butte could afford to bid. Since Butte was the richest town, it would outbid the rest and the agricultural college would be located in the mining and smelting center of the state, which would be absurd.[8]

On the other hand, the consolidationists thought the proposal was reasonable. The lack of support it received was an indication that deals had already been made.

> "It is pretty apparent from the discussions and the votes yesterday that there is a combination to secure the state university for Missoula, the school of mines for Butte, the agricultural college for Bozeman and the normal school for Dillon, and indications are not wanting that the programme also embraces the location of the asylum for the insane and the penitentiary. It is not in itself objectionable that the cities that desire these institutions should help each other; but it is to be feared that in their anxiety to secure them the interests of higher education in Montana have not only been subordinated but are likely to suffer serious detriment."[9]

On February 2, the bill for the school of mines at Butte came up in the Committee of the Whole. By this time the consolidationists seemed to have exhausted their arguments. The bill was ordered

reported favorably and the report was accepted by the Senate with little debate. Immediately after that, the Committee of the Whole finally took up the consolidation bill. Acknowledging what ought to have been apparent from the beginning, Gibson said there was no use wasting time on it; the schools were already scattered. The bill was tabled indefinitely.[10]

The next order of business for the Committee of the Whole was the bills for normal schools at Twin Bridges and Livingston. A bill to locate the normal school at Dillon had been introduced in the House, but not in the Senate. The Livingston bill was tabled for two days, while the Twin Bridges bill was given a favorable report. There must have been second thoughts during the night, however. When the Twin Bridges bill came up for final passage the next day, Folsom tried to substitute Dillon. At this stage, substitutions could only be made by unanimous consent, and Buford, author of the Twin Bridges bill, objected. Instead, the bill was tabled indefinitely by a one vote margin. Folsom then announced his intention to introduce a bill locating the normal school at Dillon.[11]

When the institution bills were introduced in the Senate, companion bills were also introduced in the House. The House had not received committee reports on them when the Senate bills were

transmitted; so they decided to take up the Senate bills instead. They were first referred to the Committee on Public Institutions, chaired by A. F. Bray. On February 6, he submitted a report favoring a package of bills including the Senate bills for the state university at Missoula, the agricultural college at Bozeman, the school of mines at Butte and a soldiers' home at Glendive, and House bills for a normal school at Dillon, a penitentiary at Billings and a reform school at an unspecified site.[12]

When the House journal was read the next day, Beecher, who was also a member of the Committee on Public Institutions, objected to the report. The committee had not met, and some members had never been consulted on the bills. Bray had to admit this was true. To save time he had consulted informally with some of the members and submitted the report on that basis. The bills were sent back to the committee to answer Beecher's objection. The committee met during a recess and the majority submitted the same report. The minority of three, including Beecher, submitted a report in favor of consolidating the university, college of agriculture and school of mines; failing that, they wanted the school of mines located in Walkerville. Even the proponents of consolidation were not above promoting local interests, it seems.[13]

The bill for the Butte school of mines was debated in the Committee of the Whole on February 8. Bray led the speakers favoring

the bill, while representatives from Helena and Great Falls argued for consolidation. The arguments followed the same pattern as the Senate debate, with the segregationists citing local needs and the consolidationists arguing for economy. W. H. Swett of Butte and Joseph Annear of Walkerville tried to substitute Walkerville because of the smoke problem in Butte, but lost.[14]

The next day the Committee of the Whole discussed the bills for the university at Missoula and the agricultural college at Bozeman. The university bill was given a favorable report, with no discussion and no dissent. When the bill for the agricultural college was taken up, D. J. Tallant of Great Falls tried to substitute Missoula. This was the final effort of the consolidationists, and like all the earlier ones it failed.[15]

When the House debated the Dillon normal school bill on February 10, the Senate's action of a week earlier was clarified. Alexander Metzel of Madison county, who had introduced a bill to locate the normal school at Twin Bridges, presented the case for his town. In 1887, before any other town was interested, they saw the need for a normal school and established one. It now had an enrollment of 65, and buildings worth $10,000, which they were generously offering to the state. In turn, J. E. Fleming of Beaverhead argued for Dillon, which was offering ninety to one hundred acres for the normal school. The school at Twin Bridges wasn't much of a school; in the five years

it had been in operation it had yet to graduate a single student. A. F. Bray explained that the Committee on Public Institutions had been impressed initially by the size of the enrollment at Twin Bridges, until they learned that all but one of the students came from the immediate vicinity. Additionally, Twin Bridges was not on a railroad and it was almost impossible to reach in the winter. The House voted to locate the normal school in Dillon, and the Senate concurred.[16]

The educational institutions, although most important, were not the only institutions to be distributed in 1893. Among the others, the state penitentiary was most desired. The old federal prison from the territorial period had been located in Deer Lodge. Since the federal government abandoned it in 1890, it had been run on a contract basis. The building was overcrowded and unsafe, and the contract system was expensive. Deer Lodge wanted to keep the state prison, but Billings also wanted it. To resolve the conflict, the House appointed a special committee, Edward Scharnikow of Deer Lodge and A. L. Babcock of Billings, to investigate the relative merits of the two towns. They proposed a dubious compromise: the prison at Deer Lodge would be repaired and renamed the Western State Prison, and a new facility would be built at Billings to be known as the Eastern State Prison. The bill passed the House with little opposition. When it reached the Senate, it was too much for Gibson. Once again urging fiscal responsibility, he argued that two prisons were too

expensive, and unnecessary in a state with so little population. When the vote was taken, his was the only nay.[17]

When Miles City failed to get the agricultural college, Senator Swift introduced a bill to locate the state reform school there. White Sulphur Springs also expressed some interest in this institution, but began campaigning too late. The House originally considered leaving the location to be decided by the commissioners, but eventually agreed to the Miles City proposal.[18]

Several towns wanted the state orphanage, including Butte, Walkerville and Twin Bridges. After Twin Bridges lost the normal school, it was awarded the orphanage. The bill was passed by the House on the fifty-nineth day of the session.[19]

One more institution was created by the legislature this session. It began as a proposal for a deaf and dumb school at Boulder, part of the package reported by the House Committee on Institutions on February 7. The Senate added care for the blind and feeble-minded to the asylum's original purpose, and the House concurred. Boulder had originally asked for the state insane asylum, but that was not on the agenda for this session. The insane were being cared for on a contract basis by Drs. A. H. Mitchell and Eric Mussigbrod at Warm Springs. As in other years, the doctors offered to sell their establishment to the state, but were turned down.[20]

Instead of competing with other towns for one of the institutions

supported by the land grant, Glendive created one of its own. Senator Thomas Cullen introduced a bill to build a soldiers' home in Glendive. Most of the opposition to the bill came from Senator William Steele, who maintained it was the responsibility of the federal government. Montana had not sent a regiment to the Civil War, and had no responsibility for the veterans living in the state now. Steele came from South Carolina, but had not fought in the war. The bill met more opposition in the House. Someone reported that the Grand Army of the Republic objected to the climate in Glendive. Lewis insisted that a soldiers' home would never have been heard of if Glendive had not originated the idea. The bill was referred to a special committee, which decided to leave the location up to the board of managers. Lewis then argued against the entire proposal, on the grounds that the state could not afford it. In a few years the army might abandon one of the military posts, and that could be used for a soldiers' home instead. The bill was eventually tabled indefinitely.[21]

By the time it adjourned, the third legislature had created a four-unit higher education system, two prisons, a reform school, an orphanage and an all-purpose asylum for the physically and mentally handicapped. The lawmakers considered but rejected a soldiers' home. They refused to consider taking over the care of the insane, preferring instead to continue contracting out for their care.

The plan for a consolidated university had the support of the

state educational community and national educational leaders. Logically, it would have been more economical to build one set of buildings, equip one laboratory and one library, and hire one teacher in each discipline. Although many legislators agreed philosophically that consolidation was better, they voted overwhelmingly against it.

It has often been said that Marcus Daly orchestrated the campaign to disperse the institutions in 1893, in order to strengthen support for Anaconda in the capital race. Missoula wanted the state university, and received promises of support from Anaconda and Helena before the 1892 election. Bozeman was given the agricultural college over Miles City and Great Falls in return for supporting Anaconda. Although Twin Bridges had a much stronger case for the normal school, it went to Dillon because Anaconda needed more support in Beaverhead County. The lack of support for alternative proposals and for Gibson's forceful arguments for consolidation indicates that an agreement had been reached before the debate began to parcel out the state institutions regardless of the interests of the state.[22]

The plan to disperse the institutions probably did not originate with Daly. The 1891 legislature had received proposals for a state university in Missoula, an agricultural college in Bozeman, and normal schools in Twin Bridges and Livingston. That body did not have time to act on the bills, and in the intervening election Daly was able to use the proposals to his own advantage. In the 1893 legislature the

combination was so strong that only a handful of representatives voted against it. Helena representatives, who had been among the earlier advocates of consolidation, were warned not to interfere with the university bill, or risk losing Missoula's support in the runoff election for the capital. The few who clung to the cause of consolidation were mostly from Cascade and Fergus Counties, which were left out of the combination.[23]

Newspaper editors, especially those who favored consolidation, alluded to the deals that were being made to disperse the institutions. The Great Falls Tribune suggested that some legislators knew as much about the state's needs as "a suckling pig knows about astronomy," and only considered "local self-interest and the selfish demands of the coterie to whom they owe their election."[24] Others fretted that when it came time to erect and equip buildings for so many institutions, the people would regret turning down endowments from other towns.[25] Even the Anaconda Standard referred to the deals that were being made to give every town an institution that wanted one.

> "There will be plenty of state institutions before the legislature finishes the business of this session. Under the original programme, it was discovered that there weren't quite enough buildings to 'go round,' but somebody suggested soldiers' home, somebody else proposed an asylum for the blind, and we think it quite safe to predict that a retreat for the victims of rheumatism will yet be voted; so that no city in the state will have any reason to complain when once the distribution is completed. There will be enough for all."[26]

If Daly, the owner of the Standard, was the main force behind this program, his editor's attempted humor falls flat.

Although there are some indirect signs, from this distance it is impossible to find much direct evidence of logrolling behind the distribution of the institutions. It certainly occurred, with little attempt at disguise, and it left the state with many unnecessary institutions to support.

Counties

County division schemes were popular civic projects when Montana was young and growing. The 1893 legislature had its share of proposals to consider. Bills were introduced for eight new counties. The House generously passed all of them, but the Senate killed three later. Since most of the new county schemes, like many of the institutions, aroused only local interest, they provided a fine opportunity to trade votes.

Teton County, cut from the western part of Chouteau, was the first new county to pass both Houses. When the Senate bill, which included the names of the county officers, reached the House, A. B. Hamilton's name was substituted for sheriff. He had just lost the disputed seat in the House. Otherwise there was little debate and no real opposition.[27]

Flathead and Valley Counties soon followed. The only opposition to Flathead County, proposed for the northern part of Missoula County,

came from Columbia Falls residents, after the House changed the county seat from their town to Kalispell. Valley County, the part of Dawson County north of the Missouri river, met some opposition because there were only 400 registered voters in the entire area. T. C. Bach of Lewis and Clark thought taxes would be too high, and livestock owners would register their animals in other counties with lower tax rates. But T. H. Lewis, who lived in the proposed county and had sponsored the bill, argued that Dawson County was too large and the people in the northern half were politically ostracized.[28]

The next county to be created encompassed the Bitter Root Valley, formerly part of Missoula County. It was originally to be called Bitter Root County, but at the last moment the House renamed it Ravalli, in honor of the Jesuit missionary leader who had worked there among the Flathead Indians. Ravalli County met more resistance than the earlier county bills, some of it from Missoula County residents who grumbled that their county would be what was left after everything else had been taken away.[29]

After Ravalli County passed, three more county proposals were defeated. T. C. Burns of Choteau County proposed making the eastern part of Choteau a new county called Bear Paw. The House Committee on Towns and Counties changed the name to Blaine in honor of the Republican leader who had just died in January. The debate over Blaine County revealed some of the behind-the-scenes dealing that

went on in the House. Burns thought he had made an agreement with Representative A. O. Rose of Beaverhead, who was lobbying for the Dillon normal school bill, to support each other's projects. He had refused to back out of the deal, even when a friend representing Madison County asked him to support Twin Bridges. Rose voted against Blaine county; so Burns retaliated by voting against the Dillon bill when it came up for final passage. Both bills passed the House by comfortable margins in spite of this squabble. The Senate defeated the Blaine county bill a few days later. Burns must have been very angry to reveal this agreement, because the House rules forbade vote trading. Everyone, of course, did it, but not in public.[30]

Senator George Hatch of Park County first introduced the bill to create Sweet Grass County out of parts of Park and Yellowstone, with his hometown Big Timber as the county seat. Later, he and his Park County colleagues in the House abandoned their attempt to get the normal school for Livingston, so that they could concentrate on defeating the Sweet Grass proposal. The bill was voted down by the Senate on February 16, but its supporters got A. F. Bray to introduce the same bill in the House the next day. It was eventually defeated there, too.[31]

At one point there were so many county bills pending that Senator William Steele threatened to introduce one for Ox Bow Bend. No one had ever heard of it before, but he was certain he could get

enough votes to pass the bill. "These county division schemes are being pushed in connection with the senatorial contest, and owing to the fact it is hard to tell what the combinations either way will result in."[32] The warning came too late.

Broadwater County, planned for an area between Jefferson, Lewis and Clark and Meagher Counties, with Townsend as the county seat, was the cause of turmoil in the Senate election. W. E. Tierney, its author, had agreed to vote for Clark in return for support on his bill. When it received an unfavorable report from the House Committee on Towns and Counties, the only county not to be recommended, he blamed Clark and voted for Sanders. This angered his Democratic colleagues, who declared that he had ruined any chances his Broadwater County bill ever had of being passed by the House. Republican N. E. Benson of Meagher County, who was opposed to the Broadwater proposal, began voting for Clark to cancel the damage done by Tierney's switch. Later, Tierney and Benson compromised by delaying the date of implementation one year. Benson then returned to the Republican fold, but Tierney continued to vote for various Republicans to express his anger at Clark. After Benson was appeased, the bill ran into opposition from the Jefferson County representatives, who said their county would be left with an unmanageable debt and could not afford to lose so much assessed property. The House eventually passed the bill, but it, too, was killed by the more conservative Senate.[33]

The last county to be proposed was Granite, to be taken from Deer Lodge and Lewis and Clark Counties. The bill progressed slowly through the House, then was rushed through the Senate in the last two days of the session.[34]

Labor Legislation

The populists and the labor wings of both major parties made the passage of a law restricting the use of Pinkerton agents their first priority. The state constitution contained a clause against bringing an armed body of men into the state, but it was not self-enacting. In his message to the legislature, Governor Rickards endorsed legislation to enforce it. Representative Thomas Kilgallon of Butte, a foreman in one of Clark's mines, introduced the first anti-Pinkerton bill on January 10. It stated:

> No sheriff, mayor or other person in authority shall appoint as special deputy marshalls or policemen any person who has not been in the state for two years, and in the county or city from which appointed for one year. The bringing of special deputy marshalls or policemen into the state from outside is prohibited, for the protection of either public or private property.[35]

The bill required penalties of one to three years' imprisonment and a fine of up to $300. W. H. Swett introduced a second anti-Pinkerton bill the next day, requiring only that a special deputy be a resident in good faith. The labor representatives preferred Kilgallon's bill because it was very specific. The others preferred Swett's because it

was more ambiguous.[36]

Kilgallon's bill was first referred to the Committee on Public Institutions to delay it, but the chairman of that committee was A. F. Bray. He requested that it be referred to the Committee on Labor instead. That committee reported in favor of the bill, after cutting the residency requirements in half and changing the fine to $100 to $500 plus court costs. The House passed the bill as amended on January 30. Several of the members thought it would be wise not to be present when the vote was taken, but Speaker Matthews wanted everyone's vote on the record. Although a quorum was present already, he sent the Sergeant-at-Arms to request the missing men to come and vote. The vote was fifty in favor and one against. Leech, who cast the only negative vote, changed it to aye to make it unanimous.[37]

The bill then went to the more conservative Senate. Matts added an amendment excepting from the residency requirement a posse summoned to quell a disturbance or prevent public violence. This provision was so vague it weakened the bill considerably, but the Senate would not have passed the bill as it read originally. The House agreed to the amendment, and the Governor signed the bill into law.[38]

Senate Election - Climax

While the House and Senate dealt with other matters, they continued to vote each day for a Senator. The results varied only

according to who was absent. The Sanders, Clark and Dixon factions were irrevocably set. Collins never received more than two votes, and on January 31, he withdrew. Beecher, who by this time seemed to have forgotten his Populist affiliation entirely, switched to Clark; and Gibson voted for Dixon.[39]

Before the legislature convened, Clark had assumed that all he needed was a majority of the Democrats. Once he controlled the caucus, party discipline would force the rest to support him and he would be elected. However, party discipline meant little to Marcus Daly when Clark was concerned. Daly kept his men out of the caucus that nominated Clark, and denied that they were bound by its decision. Because Daly controlled enough votes to deny him the election, Clark was forced to go outside the party to make up the difference. His campaign managers began working on Beecher to counter Daly's claim that Clark could never get the Populist vote any candidate needed to be elected. Beecher was eventually won over to Clark, but it made little impact on the Dixon men. He was written off as a renegade and a bribe-taker.[40]

Beecher's vote still left Clark ten short of election. Aside from the propaganda value of having a Populist support him, it did not help much. More important to Clark's strategy was winning Republican votes. Those efforts began soon after the Dixon men refused to join the Democratic caucus. E. D. Weed, who was watching

developments for U.S. Senator T. C. Power, reported that some of the Republicans appeared to be weakening and seemed to have Democratic money in their pockets. He specifically named Coder as one who needed encouragement to stand by the colors. This was two weeks before the Republicans dropped Sanders for Mantle, Coder's ostensible reason for turning to Clark.[41]

For the first half of the session Daly made sure all of his men were present every day for the Senate ballot. Furthermore, the Republicans were under strict orders not to pair with any of Daly's men. Thus, Clark was always ten or more votes short of election, a difficult number to pick up by any means. The first indication that Clark might have a chance came February 4, a Saturday, when two Dixon men were absent. This was the first time any Dixon men were paired, and it suggested that Daly might not be able to hold his faction together for the entire session. Senator Sanders was present that day to watch the voting and encourage his supporters. Because the Dixon men were paired with Republicans, their absence did not affect Sanders' relative strength. He was three votes short of a majority, as usual.[42]

Then on February 8, W. E. Tierney, a Clark Democrat, surprised the galleries, disconcerted the Clark faction and delighted the Republicans by voting for Sanders. This put Sanders just two votes short of election, too close for the Democrats' comfort. In announcing

his vote, Tierney denounced Clark for reneging on his promise to support the Broadwater County bill. Tierney had voted for Martin Maginnis on the first day, then for Hauser until he withdrew, before supporting Clark. If the Dixon pairs had encouraged Clark, Tierney's defection was a decided setback.[43]

The next day Tierney voted for Lee Mantle, who was not the Republican nominee and had no chance of being elected that day. Apparently he had received some kind of assurances from Clark, but was cautiously waiting for results before returning to his support. Tierney's was the first vote cast for Mantle, and it triggered a flurry of vote changing. First N. E. Benson of Meagher County switched from Sanders to Clark to indicate he opposed the Broadwater County proposal and to negate the effects of Tierney's vote. Then J. E. Fleming of Beaverhead changed his vote from Sanders to Mantle, hoping to start a boom for his friend. In response to that, Joseph Annear of Walkerville switched from Sanders to Thomas Couch, superintendent of the Boston and Montana Company and Mantle's fiercest rival for control of the Republican party in Butte. This effectively killed the Mantle boom, and the joint assembly adjourned for the day.[44]

That night Mantle's supporters called a caucus of the Republican legislators to say that they had supported Sanders long enough, he was losing control over his men, and it was time to change candidates. Sanders' men argued that he should not be blamed for the break in the

ranks, which in any event was only temporary. Benson would be back as soon as the Broadwater County issue was settled. Someone suggested Rickards as a compromise candidate who could get Populist support, but he got no response. Some thought Daly might throw his support to Mantle and actually elect him to keep Clark from winning. The caucus eventually voted to drop Sanders for Mantle, but not everyone was satisfied. Senator Charles Baylies and Representatives Alex Burrell, T. C. Burns and C. L. Coder refused to make the nomination unanimous as was customary, an indication of trouble ahead. Furthermore, Representatives Joseph Annear, N. E. Benson, L. A. Huffman and T. H. Lewis were not present, and their support for Mantle was unreliable.[45]

When the ballot was taken on the tenth, the dissension among the Republicans became obvious. Most of them voted for Mantle, but Burns and Coder stayed with Sanders and Annear voted for Couch again. This time Tierney voted for Sanders, and Benson for Clark.[46]

On the whole the signs were good for Clark. Tierney was only a minor problem; he was still voting against Clark, but not for anyone who was very close to being elected. After Mantle became the Republican nominee Tierney no longer voted for him, but for Sanders or some other Republican who would only receive two or three votes. Thus, Clark still had time to pick up the ten more votes he needed. The break in the Republican solidarity indicated that Clark might be able to pick up a few votes from men unhappy with the new nominee,

or tired of the endless balloting. Clark's biggest worry was that Daly might throw his support to Mantle and decide the election before he could find another ten votes. Daly had helped Mantle win the Butte mayoral election over a Clark Democrat in 1892, but it would be going too far even for him to make Democratic legislators vote for a Republican Senatorial candidate. Daly could, however, send Mantle to the Senate by subtler means. Unless Clark seriously threatened to be elected, Daly needed only to continue the deadlock. After the legislature adjourned, Governor Rickards might be persuaded to appoint Mantle to the vacancy.[47]

The next day was Saturday, and Clark decided to make his move before Daly changed his mind. Six pairs were announced, involving six Republicans, three Dixon men and three Clark men. From Clark's perspective, nine opposition votes were removed at the cost of only three supporters. Davidson, apparently forewarned, made one of his rare appearances in order to vote for Clark. The dissension among the Republicans over the change in nominees helped Clark pick up five Republican votes: Burns and Coder from Sanders, Annear from Couch, Lewis from Mantle, and Benson, who was still counterbalancing Tierney's vote for Sanders. It was not quite enough. Either Clark had mis-counted his votes or, as was more likely, some men who had promised to vote for him backed out. He fell just three votes short of election, this time. His men pressed for a second ballot, certain that they

would be able to persuade three more men to change their votes, but the loyal Republicans and the Dixon supporters carried the motion to adjourn by one vote.[48]

Many people saw in Clark's success in buying Republican votes Mantle's inability to hold the party together. Several would-be candidates seized the opportunity to suggest that they could do better where Mantle had failed. After the joint assembly adjourned, Governor Rickards circulated among the members trying to persuade the Republicans to switch to himself. He claimed that he would be able to hold the party together, and that the Silver Bow Populists and some Dixon men might vote for him to prevent Clark from being elected. Lieutenant Governor Botkin also campaigned on Rickards' behalf, since he would be elevated to the governorship if Rickards went to the U.S. Senate. Others campaigned for Thomas Carter. He had been mentioned as a possible candidate ever since the Democrats' failure to unite behind a single candidate inspired hope among the Republicans. Recalling his victory over Clark in the 1888 election, his supporters suggested that he could draw the necessary support from the Democrats through his connection with Daly. The Republicans held an informal caucus that night to discuss returning to Sanders, but took no action.[49]

Rumors circulated freely on Sunday. Some believed that Daly had been badly frightened and would throw his strength to Mantle on Monday. Others said that the Republicans and the Clark Democrats had agreed to

elect Clark. There was a strong anti-Mantle faction among the Republicans and they did not want to see him elected by Democratic votes. Since Clark was the Democratic nominee and the Democrats were the majority party, they saw no apparent contradiction in using Republican votes to elect the Democratic nominee in order to prevent the Republican nominee from being elected by Democrats.[50]

On Monday it all proved to be wishful thinking. Daly's twelve still voted for Dixon, and most of the Republicans who had voted for Clark returned to their party. Only Lewis voted for Mantle, though. Annear and Burns voted for Couch again, and Coder gave his vote to Thomas Carter. Benson voted for Clark, but only after Tierney had cast his vote for Sanders.[51]

Clark's supporters insisted that they could get the Republicans back whenever they needed them, but that was unlikely. Clark's failure to have enough votes lined up the first time he made his move was a serious error. The Republicans who had voted for him, and some like Leech who were only rumored to be leaning toward him, came under vicious attack from the press and party leaders. They would be extremely reluctant to expose themselves like that a second time.[52]

The man who came under the worst attacks was C. L. Coder, a representative from Fergus County. The Anaconda Standard, Daly's paper, revealed that he was listed as a deserter in the War Department's records. He had asked Senator Sanders to sponsor a bill to remove the

charge, and Sanders had enlisted Dixon's help to steer it through the House of Representatives. Dixon was obviously the source of the Standard's information. Coder's side of the story was that he had been taken ill while home on leave and had overstayed his pass. When he recovered, he had returned to his unit and served out the rest of his enlistment. He maintained that the desertion charge was merely a technicality.[53]

The day the story appeared in the Standard, Coder sought out Dixon in the lobby of the Helena Hotel and accused him of tampering with the facts of his case. While the two of them were trading charges of disloyalty to county and party, Sanders himself joined them. A master of invective, Sanders first called Coder a coward, a deserter and a traitor, then turned to the crowd that had gathered and denounced the tempters who were the real villains. He urged that they be "hounded down by everyone who loves his state."[54]

Ironically, that same day, Sanders issued a lengthy statement supporting Coder's explanation of the desertion charge. By implication, the statement also defended Sanders from any suggestion that he had introduced the bill on Coder's behalf for political motives. He had never met Coder, and had taken up his cause purely in the interests of justice, he insisted.[55]

This was not the last heard about Coder, however. For about a week after the incident at the Helena, he cast his vote for various

Republicans , not including Mantle or Sanders. Then on February 22, he left for home, claiming that his family was ill and his daughter dying. Since he lived on a ranch east of Lewistown about a hundred miles from a railroad, he was not expected back before the end of the session. This caused consternation among the anti-Clark forces, for he had arranged a pair with G. W. Ward, one of Dixon's Democrats. Ward thought it would only be for two or three days, but Coder had it announced as lasting until both appeared on the floor of the House. This effectively prevented Ward from voting on political questions for the rest of the session. The House debated the matter with little sympathy for Coder. It finally decided this was an ethical matter between the two men, and left to Ward to decide whether to break it and when.[56]

Toward the end of the session, rumors of bribery were so widespread that one man felt compelled to make a public statement denying that he had even been approached. The Anaconda Standard reported that Clark's campaign managers had approached a Great Falls man who was visiting Helena, and asked him to work on one of his friends in the legislature. D. J. Tallant, a Republican of unimpeachable integrity, identified himself as the representative in question. On February 20, he told the joint assembly that he had not been offered a bribe, his friend was in town on business, and "in light of all the rumors . . . it would ruin the reputation of an angel to appear in Helena at this

time."[57] He confirmed, though, that bribes had been offered to other Republicans.[58]

The last three weeks of the session saw frequent attempts to find a compromise candidate who could draw enough support from other factions to be elected. The Republicans switched to Mantle in part because they hoped Daly would support him to stop Clark. Carter, an old Daly ally, was considered for the same reason. Mantle and Rickards thought they might be able to get some Populist votes, too. Annear and Burns voted regularly for Couch, but could not persuade anyone else to join them. Tierney voted for one Republican after another, but his object was not to find someone electable but to annoy Clark. He would not vote for the Republican nominee, but he would not return to Clark even after the House reconsidered and passed his Broadwater county bill.

Bray and Matthews, at the urging of party leaders, made a second attempt to elect a Populist. For three days they voted for Dr. A. H. Mitchell, one of the proprietors of Warm Springs. Beecher refused to join them, so they went back to Dixon.[59]

Great Falls Democrats held a mass meeting on February 22, ostensibly to discuss the deadlock. Their real purpose was to promote T. E. Collins as a compromise candidate. Clark's supporters took over the meeting, however, and passed a resolution asking Senator Gibson to vote for Clark.[60]

The Dixon Democrats offered repeatedly to compromise with the others on anyone but Clark, but Clark remained adamant. Since the election of anyone else but Clark would be a complete victory for Daly, there really was no room for compromise. Two days after Clark failed in his first attempt to be elected with Republican votes, the Dixon Democrats caucused without the two Populists. Dixon offered to withdraw if Clark would, so that the party could agree on someone else who could be elected. Clark did not even bother to reply.[60]

As time ran out, some of Clark's supporters became increasingly reluctant to let Rickards have the opportunity to appoint a Republican Senator after the legislature adjourned, when they could have elected a Democrat. They met the evening before the last day of the session, and four of them urged Clark to withdraw. Clark, however, refused, assuring them that he had enough votes lined up to be elected the next day on the first ballot. He implied that if he failed, he would then withdraw so that someone else could be elected on the second ballot. Thus encouraged, they agreed to stay with him.[62]

March 2 was the last day of the session, and Clark's last chance to be elected. The House and Senate decided to hold the balloting at the Helena Auditorium to accomodate the expected crowd of observers. All members were present except for two Senators. C. W. Baylies had been called home because his young daughter was dying, and S. R. Buford had offered to pair with him. Surprisingly, in view of the Coder

incident, everyone accepted his departure and seemed glad for him when the girl was reported out of danger.[63]

Ward had broken his pair with Coder two days ealier, and Coder had returned to Helena. Davidson, too, was present. Clark needed thirty-five votes to win. He sat confidently in the front row with an acceptance speech ready, but never got to deliver it. The Senate voted first, and George Hatch of Park County voted for Clark without an explanation. When the House roll was called, Annear, Coder and Lewis, all of whom had voted for Clark on February 11, voted for him again. Bonner, a Dixon man from the first day, delivered a speech praising Clark as a fine Democrat, but he spoke without enthusiasm and swayed no one. S. W. Graves of Silver Bow, a well-respected Republican, explained his vote for Clark on the grounds that Montana's Senator should belong to the same party as the president. Tallant interrupted him with shouts of "Traitor!" and was nearly clubbed by Beecher. When order was restored, the voting continued. Tierney, who had voted for so many Republicans in the past month, at last voted for Clark again. Paul Van Cleve of Park County, was the final Republican to vote for Clark. Clark received thirty-two votes, three less than what he needed.[64]

Many people expected Clark to withdraw after the first ballot to allow another Democrat to be elected. When he did not, the Dixon men joined with the Republicans to pass a motion to adjourn, as had

been their strategy throughout the session. The roll call on adjournment offered a final opportunity for speeches. Matts, leader of the Dixon faction, defended the "obstructionist Democrats." He insisted that he only wanted to elect a Senator by honest means. "I want to see no man representing this state in the Senate who receives votes by force or fraud. I want to see a man elected to the United States Senate who is not tainted by fraud or corruption."[65] The blame for letting a Republican be appointed rested on Clark and his cohorts. T. C. Bach, leader of the Clark forces, blamed the Dixon men for insisting that the two Populists be included in the caucus. Matthews and Bray both attacked Beecher for joining the Democrats and not helping them elect a Populist. Bray also insisted his goal had been to prevent the election of a Republican, which he had done.[66]

After the legislature adjourned sine die, Mantle gave a banquet for the Republicans who had remained loyal to him. Other party leaders, including Sanders and Rickards, also attended. Each legislator was asked to recite the details of the bribes he had been offered to vote for Clark. One man claimed to have turned down $15,000. On the other hand, three felt slighted that they had not received any offers. They were all jubilant at having prevented the Democratic majority from choosing a Senator.[67]

Chapter 4

RESULTS

The members of the 1893 legislature knew when they met that they had a great deal of work to do in a limited amount of time. The House wasted a day in political dispute before working out a coalition of Democrats and Populists for control. Nevertheless, this was a very real accomplishment compared to the fiasco of the first two sessions. The Senate generally conducted its business in an orderly manner. It was smaller than the House, its members were generally more conservative, and more than half of them had served in the Senate before this session. In contrast, the House was more disorganized. It was larger, with fifty-five members, and only a handful had previous experience. Some had served in the territorial legislature, but only J. H. Monteith of Butte was reelected from the first House and he was not one of the leaders. The Speaker of the House, Thomas Matthews, was completely inexperienced, but he relied on the guidance of the Speaker pro tem, A. F. Bray. The legislators were generally preoccupied by the Senate election, which continued through the entire session when it was only expected to take a few days. They accomplished less than they had intended, in an atmosphere of bribery and log-rolling that made it difficult to keep sight of the public good.[1]

Senate Election

The failure to elect a U. S. Senator was the greatest disaster of the 1893 legislative session. As a direct result of William A. Clark's and Marcus Daly's personal feud, the legislature was unable to elect a successor to W. F. Sanders. Both men were willing to let the Governor appoint a Republican rather than let the other triumph.

Sanders thought he had served Montana well during his first term and deserved to be reappointed. Governor Rickards, however, told him that the party had discharged its debt to him when it had elected him Montana's first Senator. Instead, he appointed Lee Mantle, who had been the Republican nominee at the close of the session. Rickards and Mantle had been political rivals before 1892. They apparently had come to an understanding before the Republican state convention that year, when Mantle as state chairman helped Rickards win the nomination for governor.[2]

Clark insisted that Daly had conspired all along to send Mantle to the Senate. First Daly had helped Mantle get elected mayor of Butte, then he had thrown the state elections to the Republicans in November. Sanders' nomination delayed his plans for a while, but he waited and kept a Democrat from being elected until the nomination went to Mantle. Daly met with Rickards and explained that he could not openly support Mantle, a Republican, but he could prevent the

election of a Democrat, thus leaving the way open for Rickards to appoint Mantle. None of this could ever be proven, but Clark believed it to be true.[3]

When Mantle went to Washington, the United States Senate refused to seat him. The legislatures of Washington State and Wyoming had also adjourned without electing Senators, and the Senate refused to seat those governors' appointees, too. The Senate wanted to put an end to this growing trend toward gubernatorial appointments of senators which resulted simply from the failure of the legislatures to elect them. Even though some of its own members had achieved their seats through bribery, the Senate evidently felt it was going too far to allow a small group of men to deadlock a state legislature so that the governor could appoint his own man. The vote against seating Mantle and the others cut across party lines.[4]

Montana had only one representative in the U.S. Senate for the next two years. National silver leaders like Senator Henry Teller of Colorado urged Governor Rickards to call a special session of the legislature to fill the vacancy, but he was not anxious to open the door to more bribery and corruption, or to let the Democratic majority elect a Democrat. Mantle, too, was opposed to a special session. He wrote to Senator T. C. Power to explain why.

> "If these gentlemen knew the scandalous character of the last Montana Legislature; of the open bribery, debauchery and corruption; they would hesitate I am sure

> before lending their voices in aid of inflicting such a condition upon us again. The men who are clamoring for the extra session are mainly the hirelings of Clark. Hauser has fallen in with the cry because he has been led to believe that he can be elected. If that were true it would not be so bad, as there is but little danger of Sam buying anyone. But it is not true. Clark's emissaries are all over the state at this moment carrying petitions. They are paid and sent directly from Butte. Not only this, but every member of the Legislature who can be, has been 'seen'."[5]

Rickards did not call a special session, and the Senate seat remained vacant until 1895. The Republicans, who had a large majority in the legislature that year, elected Mantle to serve the remaining four years of the term.

Daly successfully prevented Clark from achieving his goal of being elected to the Senate in 1893. In retaliation, Clark took his revenge in the capital election the following year. Playing on the company town issue and planting the fear that Daly and the Anaconda Company would devour the state government, Clark was instrumental in keeping the capital in Helena. It was an expensive campaign for both men. Daly, whose task was larger, reportedly spent $2,500,000 in Anaconda's behalf, and Clark $400,000 for Helena.[6]

When Clark failed to buy enough votes on March 2 and the legislature adjourned, the Anaconda Standard hailed it as a victory for honesty in a death struggle over corruption. "With all the forces of corruption doing their utmost for weeks, the legislature in joint assembly to-day declared by a vote of 37 to 32 that the majority of [Montana's] legislature is honest and that a seat in the United States

Senate cannot be bought."[7] The Standard's conclusion was not only inaccurate -- the forces of corruption were active in both Democratic camps -- it was also premature. The year 1893 was only a rehearsal for the 1899 session, when Clark would spend at least $400,000 to buy election to the Senate. Daly carried his fight to the Senate, and the evidence of bribery in the election was so pervasive that Clark had to resign before he was thrown out. Clark eventually achieved his goal in 1901, when Daly was dead and unable to stop him.

Institutions

The action of the 1893 legislature that had the most far-reaching effects for Montana was the creation of the state institutions. Disregarding Paris Gibson's sensible arguments in favor of a consolidated university and his offer of an endowment if it were located in Great Falls, the legislators agreed to establish four separate institutions for higher education. Duplication in equipment and courses and competition for students and state funds were inevitable. The communities that received the institutions were not even required to donate any land or money for them, let alone match Gibson's offer. The capital election played a role in this. Daly offered institutions in return for support for Anaconda. Helena leaders felt they could not afford to antagonize so many towns, so they abandoned their earlier efforts in behalf of consolidation and matched Daly's offer. The only

legislators who voted for consolidation were a handful from Great Falls and Fergus County.

The other institutions, the reform school, the orphanage and the asylum for the deaf and dumb, seemed to have been awarded as consolation prizes to towns that had lost in their bids for educational institutions. The reform school was located in Miles City, in the easternmost part of the state far from most of the population, after that town lost the agricultural college to Bozeman. The orphanage was given to Twin Bridges to compensate for the loss of the normal school. Boulder had asked for the insane asylum, which was not established that year. Instead, the town received the deaf and dumb school.

Billings had wanted to take the state prison away from Deer Lodge, where the facilities were badly deteriorated. Rather than choose between the two towns, the legislators decided to create two prisons. Billings was to get a new penitentiary, and the facilities at Deer Lodge were to be repaired. The Panic of 1893 left state finances too weak to afford the second penitentiary, or Montana would have had two prisons.

The only town to make a serious bid for an institution and not get one was Great Falls. As the center for the movement for consolidation, it was left out of the coalition that divided up the institutions. It did not get a state institution until the School for the Blind was

located there in 1935, or a college until a Catholic college was founded in 1932. For future legislators there was a dubious lesson, that virtue had to be its own reward because it certainly didn't seem to produce any tangible benefits.

The Populists

The Populists did not do as well as they had expected in their first legislature. They had only three members in the House, one of whom, D. W. Beecher, tended to act more with the Democrats than with his fellow Populists. Nevertheless, they controlled the balance of power in the House, and used it to get Thomas Matthews elected Speaker and A. F. Bray Speaker pro tem. Among their accomplishments, the Populists held the positions of Speaker and Speaker pro tem, and were able to direct the flow of legislation and control the debate. The legislature passed a law restricting the use of Pinkerton agents, a very important issue for the miners who were the backbone of the Populists party. It also gave the eight-hour day to stationary engineers, the first step toward achieving it for all mine workers. Congress was sent memorials in favor of direct election of Senators, free coinage of silver and restrictions on immigration, and against repeal of the Sherman Silver Purchase Act, all of which were part of the Populist program.

On the negative side, the House accepted a Senate amendment to

the anti-Pinkerton bill that considerably weakened the original intent. No one introduced a bill to give miners the eight-hour day. More damaging was the failure of the Populists to work together on the Senate election. With Beecher voting only for Democrats, a Republican-Populist coalition would not have enough votes. Yet cooperation with the Democrats was valueless as long as the Democrats were fighting among themselves. All three Populists got too deeply involved in the Democrats' feud, without getting any tangible benefits for their own party. Unfortunately, this set a pattern for future Populist legislators, whose calls for reform sounded hollow as they cast their votes for William A. Clark.[8]

Because they held such visible positions, Matthews and Bray tended to be blamed for the paucity of legislation passed by this session. They in turn blamed Beecher for not working with them, for the extra vote would have given them more leverage in the joint assembly and possibly on legislative matters as well. In reality, the Populists could have done little to change the results of the session. The legislators were too preoccupied with the Senate election and the institution question to accomplish much more.

From this beginning the Populists went on to win three seats in the Senate and thirteen in the House in 1895, when the Republicans controlled the legislature. They reached their peak with eighteen House seats in 1897, when the Democrats returned to power. The fusion

with the Democrats in the election of 1896 led to the eventual demise of the Populist party a few years later.

Other Issues

Clearly, the most important business for the legislators was the election of a U.S. Senator. After that, the distribution of the state institutions took precedence over other questions. Most important to labor representatives was the passage of bills restricting the use of Pinkertons and giving stationary engineers the eight-hour day. County division schemes also occupied a great deal of the legislators' time. They passed five new county bills and debated three more. The result of this most noted at the time was not the benefits to the residents or the effect on taxes, but the fact that there would be an odd number of Senators in the next legislature. A repetition of the deadlock in the first Senate would not be possible.

Distracted by the Senate election and the debate over the state institutions, the legislators did not have time to consider everything they had planned. Among the first bills to be tabled were the proposed legal codes, which had seemed of paramount importance before the session began. The codes were needed to complete Montana's transition from a territory to a state, as there were many contradictions among the territorial laws still in effect and the federal Enabling Act and state constitution, but the legislators did not have time to give the

codes the attention they deserved. T. C. Bach, leader of the House Democrats, proposed calling a special session to deal with the codes. After the U. S. Senate refused to seat Lee Mantle, pressure for a special session increased. However, Rickards resisted. Not only was the expense unjustifiable in the midst of the business panic, but he did not want to give the Democratic majority another chance to elect a Senator.[9]

Conclusions

From earliest territorial days Montana politics were riddled with factions, and legislatures frequently lost sight of the public good in their pursuit of political goals. Statehood did not bring any radical improvement. The third legislative session marked a new phase in Montana politics, when factions had enough money to do serious damage.

Without Marcus Daly's money behind it, Anaconda's bid for the state capital would have seemed ridiculous. Even in a time when every frontier hamlet expected to be the next metropolis, a small, isolated, company-owned town was a very poor prospect. Yet, without Clark's money opposing it, Anaconda might have won. The two men used their enormous fortunes to save Montana from each other's whims, and succeeded mainly in thoroughly corrupting state politics. To improve Anaconda's chances in the capital race, Daly had to spread cash and political favors liberally. As a result of his log-rolling, Montana

was permanently burdened with more educational and custodial institutions than it needed, institutions that were a constant drain on the state treasury.

Clark had his own ambitions, and the money to pursue it to extremes. He wanted to be elected to the U.S. Senate. The more often he was thwarted, the more determined he became. In 1893, when Daly seemed likely to stop him again, Clark turned to bribery to get votes he needed from Republicans. He did not quite succeed this time, but the technique only needed to be expanded to work the next time.

Log-rolling was nothing new in frontier politics, nor was a certain amount of petty bribery. What was new in these instances was the use of money on a vast scale to accomplish personal ends that would have been impossible by legitimate means. It looked ominous for the future.

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[3]Butte Weekly Miner, 9 March 1893.

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