



The development of the Montana common school system, 1864-1884
by Dale Raymond Tash

A thesis submitted to the Graduate Faculty in partial fulfillment of the requirements for the degree of
DOCTOR OF EDUCATION
Montana State University
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Abstract:

The purpose of this study was to examine the development of the Montana common school system during the formative period, 1864-1884, in order to better understand the problems facing the Montana schools today.

In investigating the territorial period of Montana schools the problem resolved itself into answering the following questions: (1) What affect did politics have on the establishment of the early Montana schools? (2) Did Montana's first school law, passed in 1865, fail to provide a foundation for the development of the territorial common school system? (3) What steps led to the passage of the 1872 school law and what were the provisions of the law? (4) How did the 1872 school law work in operation? (5) What factors influenced instruction in the territorial classrooms? (6) What were some of the factors influencing educational development in frontier Montana? Diaries, journals, personal papers, newspapers, House and Senate Journals, Session Laws, reports of national and territorial educational officers and United States government documents were analyzed to discover the answers to the preceding questions® The study was limited by available time and sources to an examination of the public common schools offering courses in grades one to eight between 1864, when the Organic Act was passed which made Montana a territory, and 1884, when a statehood convention was held® In investigating the development of the school system during the period 186U-188U the following conclusions were reached; 1. The most important legislative action concerning the schools was the passage of the 1872 school law, called "The Foundation Rock" of the common school system.

2. One factor influencing the retardation of school growth during the 1864-1872 period was the excessive political partisanship practiced by both Republicans and Democrats.

3. Other factors more significant than politics in explaining the slow growth of the schools in early territorial Montana included a sparse and unstable population, an unsteady and inadequate financial base of school support, citizen apathy toward educational development and isolation of the territory from the rest of the United States® 4. The common schools were established in Montana not only as a result of frontier interest in a democratic system of education but also because of such economic motives as the desire to encourage immigration and the belief that a good school system would help to keep the resident population from leaving fo other gold fields®

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SCHOOL SYSTEM: 1864-1884

by

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A thesis submitted to the Graduate Faculty in partial
fulfillment of the requirements for the degree

of

DOCTOR OF EDUCATION

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ABSTRACT

The purpose of this study was to examine the development of the Montana common school system during the formative period, 1864-1884, in order to better understand the problems facing the Montana schools today. In investigating the territorial period of Montana schools the problem resolved itself into answering the following questions: (1) What affect did politics have on the establishment of the early Montana schools? (2) Did Montana's first school law, passed in 1865, fail to provide a foundation for the development of the territorial common school system? (3) What steps led to the passage of the 1872 school law and what were the provisions of the law? (4) How did the 1872 school law work in operation? (5) What factors influenced instruction in the territorial classrooms? (6) What were some of the factors influencing educational development in frontier Montana? Diaries, journals, personal papers, newspapers, House and Senate Journals, Session Laws, reports of national and territorial educational officers and United States government documents were analyzed to discover the answers to the preceding questions.

The study was limited by available time and sources to an examination of the public common schools offering courses in grades one to eight between 1864, when the Organic Act was passed which made Montana a territory, and 1884, when a statehood convention was held.

In investigating the development of the school system during the period 1864-1884 the following conclusions were reached:

1. The most important legislative action concerning the schools was the passage of the 1872 school law, called "The Foundation Rock" of the common school system.

2. One factor influencing the retardation of school growth during the 1864-1872 period was the excessive political partisanship practiced by both Republicans and Democrats.

3. Other factors more significant than politics in explaining the slow growth of the schools in early territorial Montana included a sparse and unstable population, an unsteady and inadequate financial base of school support, citizen apathy toward educational development and isolation of the territory from the rest of the United States.

4. The common schools were established in Montana not only as a result of frontier interest in a democratic system of education but also because of such economic motives as the desire to encourage immigration and the belief that a good school system would help to keep the resident population from leaving for other gold fields.

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CHAPTER I
INTRODUCTION

A physician can be a good physician and a scientist an effective scientist without knowing much about the history of their professions. The frontiers of scientific and medicinal knowledge are so rapidly expanding that there is little time for looking back. Yet, as author William Medlin has said, a prime characteristic of outstanding men in the applied as well as in the theoretical sciences is that they seek to understand the evolution of their disciplines.¹

The importance of knowing the history of ones' discipline is equally true for people in the field of education. It is important to study the history of education in order to be able to understand the educational problems of today. The history of education enables the educational worker to detect fads and frills in whatever form they may appear, and it serves as a necessary preliminary to educational reform. Author Edgar Knight has discussed the preceding reasons for studying the history of education in his book Education in the United States.² This writer has believed, as does author Knight, that in order to understand the problems of Montana's educational system today it is necessary to understand the historical background of this system.

¹ William Medlin, The History of Educational Ideas in the West, p. v.

² Edgar Knight, Education in the United States, p. 38.

Statement of the Problem

Although innumerable books and magazine articles have been written on Montana history, authors have concentrated on Indians, politics, road-agents, mines and transportation. The history of the Montana schools has been neglected. In investigating the territorial period of Montana history the problem resolved itself into answering the following questions: (1) What effect did politics have on the establishment of the early Montana schools? (2) Did Montana's first school law, passed in 1865, fail to provide a foundation for the development of the territorial common school system? (3) What steps led to the passage of the 1872 school law and what were the provisions of the law? (4) How did the 1872 school law work in operation? (5) What were the attitudes of school leaders toward school questions? (6) What were some of the factors influencing education in frontier Montana? The chief purpose of this study was to investigate the history of the early development of the Montana common school system during the formative period, 1864-1884, in order to discover the answers to the preceding questions.

Procedures

To investigate the history of the development of the common school system in Montana during the years 1864-1884, the following procedures were used.

An examination of the diaries, journals and other personal papers

of Montana's educational and political leaders during the territorial period was made to determine the attitude of these leaders toward the various stages of development of the common schools in Montana, and to determine the effect of politics upon the progress of the common schools.

Newspapers, personal papers of the participants, House and Senate Journals of the territorial legislature, Session Laws and reports of both territorial and national education officers were analyzed to determine whether or not Montana's first school law, passed in 1865, failed to provide an adequate foundation for Montana's common school system. The same records were also utilized in investigating the 1865 school law in operation, which was necessary in order to discover if the law failed.

Newspapers, personal papers, microfilmed and printed copies of United States Government documents, House and Senate Journals, Session Laws, and reports of the various territorial and national educational officers were examined to determine the steps which led to the passage of the 1872 school law and to investigate the law's provisions.

In addition to the preceding sources, minutes of the various teachers' meetings and teachers' institutes were examined to ascertain how the 1872 school law worked in operation and what the attitudes of teachers and educational leaders were toward school questions under the system which was established by the law.

Limitations

Certain limitations were placed upon the study. They are given in

the following paragraphs.

The study was limited by time and sources to an examination of the development of the common school system in Montana territory between the years 1864 and 1884, the formative period in the history of Montana schools. Montana's history begins in 1864 when the Organic Act was passed which separated Montana from Idaho Territory. A Constitutional convention leading toward statehood was held in Helena, Montana in 1884, and although the United States Congress turned down the request made by this constitutional convention for admittance into the Union, most Montana citizens believed that statehood was but a matter of a short period of time. As a consequence of this expectance toward admittance into the Union, the common school system merely "marked time" from 1884 until 1889, when Montana was finally admitted into the Union. Educational leaders evidently believed that during the last years of territorial existence the school system should not be tampered with and that correction of any major defects in the common school system's legal organization should be postponed until after statehood, when new school laws would have to be passed by the state legislatures.

This study was limited by time and sources to an examination of the schools that were supported by public education. Private schools were brought into the discussion only when they threw light upon the development of the publicly supported schools. The history of Montana's private schools has been better covered than the history of the public schools by such authors as Palladino and Mills. Father Palladino discussed the development of the Catholic schools in Montana, and Reverend Edward L. Mills told the story of

Protestant school efforts in Montana.³

This study was limited by time and sources to an examination of the common schools that offered courses in grades one through eight. High schools and colleges were brought into the discussion of the development of the common schools only because the interest shown by the public in high schools and colleges was sometimes indicative of interest in all schools.

Although not a limitation placed upon this study, an inherent limitation resulted from the absence of studies related to this problem. Some of the general histories of Montana give an overview of the development of the Montana school system and some of the specialized histories of Montana describe the establishment and activities of particular schools in specific areas. Riley discussed the passage of school legislation that effected the development of state control over the educational system in Montana, but ignored the questions of how and why the various laws were passed and how the schools operated under the laws.⁴ Previous to this study there had been no attempt to pull together all of the parts that make up the story of the territorial school system. All available evidence indicated that many of the primary sources had never been used before.

Within the limitations expressed in the preceding paragraphs, then,

³ Lawrence Ralladino, Indian and White in the Northwest: A History of Catholicity in Montana; 1831 to 1891. Lancaster, Pennsylvania; Wick-ersham Publishing Company, 1922.

Edward L. Mills, Plains, Peaks and Pioneers: Eighty Years of Methodism in Montana. Portland: Binford's and Mort, 1947.

⁴ Emmett J. Riley, Development of the Montana State Educational Organization, 1864-1930. Washington: Catholic University of America, 1931.

an attempt has been made to investigate the early development of the common school system in the territory of Montana, during the years 1864-1884. In order to understand the development of Montana's common school system some of the basic factors that effected that development are presented next.

CHAPTER II

SOME FACTORS INFLUENCING EDUCATION IN FRONTIER MONTANA: 1864-1884

In examining the achievements of Montana pioneers in the field of education six factors were found to be in operation: (1) the idea of public-supported schools was still comparatively new and on trial throughout all of the United States, (2) Montana's common school system was established by territorial government, and territorial government was federal government, (3) the federal government was dominated by the Republican Party which used the territories to further Republican ends, (4) one result of the Republican Party's use of the territories was patronage, called "carpetbagging" by the citizens of the territories, (5) the aims of both national and territorial Republican and Democratic parties were partly determined by Civil War loyalties - long after the war to be Republican was to be pro-Union and to be Democratic was to be pro-southern and, (6) the democratic influence of the frontier affected the development of the Montana school system. These six factors which influenced educational development in territorial Montana are presented in the following sections.

The Public School on Trial: Montana Territory and the Nation

One must remember that during the period 1864-1884 the entire public school idea was still on trial throughout the United States, and many people believed that it had been proved a failure. Richard Grant White

was shaking the very foundations of the system by his criticism, and James G. Blaine was worried enough to propose a constitutional amendment against sectarianism in the public schools. Montana's common school system was established in the shadow of this national inquiry concerning the effectiveness of the public schools and must be judged accordingly. In comparing the status of Montana's schools after 1872 in the field of finance, number of teachers, and percentage of scholars taught, it was found that Montana always ranked high in the list of all the territories and states. For example, the per capita expenditure for schools in Montana was highest of all the territories and sixth highest of all the territories and states in 1876. The common school idea was on trial throughout America and not just in Montana. During the period 1864-1884 Montana school development compared favorably with school development in the other territories and states. It must also be realized that Montana's common school system was established by a territorial government, and territorial government was but a division of federal government. In the next section some of the effects of federal control over the territories is discussed.

A Federally Dominated Montana Territory: 1864-1884

The federal government was established in accordance with democratic theory. A guiding principle of this theory of democracy was that all representatives who administered the government for the people should be chosen by the people. The Montana territorial government was established by the federal government and yet the people of the territory had nothing to

say about the selection of their governing officers. All territorial officers were appointed by the president upon the recommendation of influential persons in the dominant political party.

Much of the political history of the territories evolved from what the citizens of the territories considered an "unwarranted interference" from Washington, the inability to select their own governing officers.¹ The citizens of those territories organized after the Civil War were more critical of territorial government than the inhabitants of the territories that had been organized prior to 1861. Before the Civil War the sectional division over slavery magnified all local territorial politics into issues of national importance. Since local politics and government were so important to the federal government, Washington exercised great care in the selection of territorial officers, and the people of the territories were governed by men of great ability and national prestige. Consequently, territorial resistance to federal appointment of territorial officers was much less before the War than after the War.

With the inauguration of Lincoln the position of the territories in the national scheme changed. The territory became a means of achieving Republican ends of nationalism, railroad building and homesteading. Of equal importance in Republican thinking was the possibility of patronage to be gained from the Federal offices; the army posts, the Indian agencies, and the post offices. Lamar claimed that the "patronage aspect, more than anything else, determined the relationship of territory and federal government

¹ Howard Roberts Lamar, Dakota Territory, 1861-1889, p. 17.

between 1861 and 1890."² A political-cultural history of Montana in the 1864-1884 period is essentially an examination of a portion of Federal territorial policy as it was interpreted by the Republican Party.

Republican Party and its Partisan Control
of the Territories: 1864-1884

The importance of the territories in the Republican scheme of things was brought into focus by the passage of the Colorado Enabling Act. Grant was confronted with a Democratic House, including a Democratic Delegate from Colorado in 1875. The Democrats hoped that from Colorado would come three electoral votes in 1876, and Patterson, the Colorado Delegate, encouraged this belief.³ But when Colorado was admitted into the Union it cast its three electoral votes for the Republican candidate Rutherford B. Hayes who was elected by the narrow margin of one vote. Both parties judged territorial ambitions toward statehood in the light of this election.

Consequently the territorial officers were expected to use all means to maintain Republican supremacy. As an example, Grant's last order to newly appointed Governor Potts was to "redeem Montana" from the Democrats.⁴ Governors were sometimes removed when territories returned Democratic

² Ibid., p. 17.

³ Fredrick L. Paxson, The History of the American Frontier, p. 555.

⁴ Potts to Grant, July 3, 1871. Potts Letter Book, Montana State Historical Society Library, Helena.

majorities. Strict Republican control over the territories resulted in the practice of patronage.

Republican Partisanship and the Practice of
Patronage: Montana, 1864-1884

Washington called the territorial policy patronage, but in Yankton, Boise, Laramie or Helena it was "carpetbagging," and in western eyes it was as vicious, incompetent, and corrupt as it was to the leaders of the New South. Historians have shrugged off this feature of American democracy by tagging carpetbagging as a usual feature of territorial government, as indicated by Paxson in the following statement:

At a time when most of the appointive offices were used to reward party services it was too much to expect that officials in the Indian service or territorial offices should be selected upon any better basis.⁵

One wonders if a comparison of ante-bellum and post-war territorial government would indicate that it was "too much to expect" that the national government would carefully choose the territorial officers on the basis of ability. Pre-Civil War presidents had political bills to pay and there is no lack of evidence that the "spoils system" was in operation as early as 1812, yet it seems generally accepted that before the Civil War the territorial officers were of much higher calibre than the "brigadiers" and "lame duck" congressmen who reigned in the post Civil War era.

If the territorial appointees of the "seventies" were less qualified

⁵ Fredrick L. Paxson, op. cit., p. 558.

than those of the "forties" the explanation lies not in the territorial system itself, but in the "politics by personality" that characterized the period. Lack of party recognition of pertinent national and territorial issues, with resulting dominance of the "bloody shirt" and the subordination of territorial functions to personal ambition were but natural residue.⁶ Entire territories were placed in bondage to certain congressional districts or states. It was not merely coincidence that three of the first four Montana governors, as well as a large number of minor territorial officials, were from Ohio. From the pages of the territorial newspapers evidence appears that the great influence of the Sherman-Wade-Trumbull-Garfield combine, then ascendent in Congress, was responsible for the numerous Ohio appointees in Montana.⁷

In vain the citizens of western territories protested against the patronage system, comparing their plight to that of the colonies under George the Third.⁸ As each territorial office became vacant, the territorial newspapers began a clamor for the appointment of one of their

⁶ Waving the "bloody shirt" was a term used by historians to describe the G.O.P. attempt to use memories of the Civil War as a political weapon. The G.O.P. had preserved the Union and the people were not allowed to forget.

⁷ For example, Decius Wade, territorial Chief Justice, was the friend of Garfield, a nephew of Senator Ben Wade, and a brother-in-law of Colfax.

⁸ The Idaho Statehood Convention in 1889 protested: "We are held in a state of political vassalage similar in many respects to that in which the American colonies were held by Great Britain. Governments are instituted for the purpose of securing to all men (sic.) Their natural and inalienable right to life, liberty, and the pursuit of happiness, and all rightful governments derive their just powers from the consent of the governed. Taxation without the right of representation, among all people who love freedom has ever been held a valid complaint against the governing power." W. J. McConnell, An Early History of Idaho, p. 375.

"citizens." Much of the local opposition to territorial governors can thus be explained. The citizens of Idaho, in protesting the appointment of Governor Caleb Lyon, used the same arguments as the anti-Jayne movement in Dakota or the Helena Daily Herald in denunciation of Potts. The carpetbag issue often transcended local factionalism by causing all citizens of both parties to rally against the non-resident. For example, in 1881 it was reported that Judge Goodwin of the Salt Lake Tribune had been appointed Governor of Montana. The Helena Daily Herald expressed the feeling of most Montana citizens that a non-resident should not be appointed governor in the following excerpt:

...he is not a citizen of Montana, therefore, according to every principle of right and justice embodied in the Declaration of Independence, the Constitution of the United States, as well as all properly constructed human and divine law we pronounce him ineligible to the honorable position. If the Judge wants to come to Montana and take his chances with the rest of us poor disfranchised semi-barbarians there is nobody sitting on his editorial duster, let him come as a private passenger with his little carpet valise, over the little Mormon tramway: but Charley may as well understand first as last that we have no use for an imported "Excellency" however well it may look in principle. Charley may be too good for us and all that. He may even be an angel from Heaven. Its all the same. The further he has lived from us the less he knows of and about us. We'll take our chance on any of the forty thousand free and enlightened citizens of Montana.

Nevertheless, in spite of territorial citizens' dislike of the carpetbaggers, when territorial elections of congressional delegates dominated the local scene, the "bloody shirt" sometimes united all Republicans - both resident

⁹ The Helena Daily Herald, January 29, 1881.

and carpetbaggers - against the "copperheads."¹⁰

Civil War Memories a Dominant Factor
In Territorial Politics

The passions of the Civil War colored local politics for years after the last shot was fired. Each election revived hatreds born of the battlefield. The Gazette, from Iuka, Mississippi, was quoted by the Helena Daily Herald in 1871 as evidence of the continued treason of the Democratic Party:

The noble Confederate braves were the bravest band of patriots that ever fought for constitutional government and civil liberty, or that was ever conquered by hired Hessians or Yankee thieves. Yes, we grieve the news that Lee had laid down his arms at Appomatox, and the more we have felt of Radical tyranny the more we have regretted it. We expect to regret it as long as we live, and damned be the southern renegade and apostate who does not.¹¹

These memories resulted in the organization of territorial branches of the Loyal Union League of America by those northerners who opposed most violently the pro-southern attitude of many western citizens. The members of the Union League were firmly convinced that the Democratic Party in Montana was dominated by ex-Confederates from the "Left Wing" of Confederate General Sterling Price's army who had been driven out of Missouri by the

¹⁰ "Copperheads" was the name given to all southern sympathizers by the Union men, but more correctly referred to the secret pro-southern organization that worked actively in the North to hinder the Union War effort. The name was supposed to have come from the copper coins carried by the members for identification.

¹¹ The Helena Daily Herald, April 29, 1871.

Union army and had found refuge in the Rocky Mountains. References to the "Left Wing" continued into the eighties, and the Union League, which had nominated Henry Plummer in 1863, was still approving candidates long after Hayes technically ended reconstruction in 1876.¹² This Union League action was not confined to Montana, and the "Left Wing" shibboleth was also a force in Dakota and Idaho politics.¹³

In summation, the Republican Party attempted to control the territories by keeping alive Civil War memories and through the use of the patronage system. Partisan politics and the democratic influence of the frontier combined to provide the setting in which the Montana common school system was organized.

Democratizing Influence of the Frontier upon Montana Education

The democratic influence of the frontier upon all American social institutions was best expressed by Fredrick Jackson Turner in the following famous and cogent statement:

Behind institutions, behind constitutional forms and modifications, lie the vital forces that call these organs into life and shape them to meet changing conditions. The peculiarity of American institutions is the fact that they have been compelled to adapt themselves to the changes of an expanding people - to the changes involved in crossing a continent, in winning a wilderness, and in developing at each area of this progress out of the primitive economic and

¹² Nathaniel P. Langford, Vigilante Days and Ways, p. 255. Plummer was the infamous outlaw chief who was chosen Sheriff of Bannack in 1863, and hanged by the Vigilantes in 1864.

¹³ W. J. McConnell, op. cit., p. 228.

political conditions of the frontier into the complexity of city life.¹⁴

The frontiersman had to adjust to the conditions of westward expansion and his educational plans and philosophy reflect this adjustment. The frontier bred a feeling of equality. The hardships of crossing the continent and fighting Indians eliminated class divisions, and everyone was judged according to the standards of the frontier. Lack of class consciousness and the concomitant faith in the common man resulted in an abiding confidence in the common school.

The frontier influence did not result in a completely new school system. As schools became a necessity on the Montana frontier, the ideas and practices the settlers brought with them from Ohio, California, Missouri or the New England states were modified and incorporated into a new common school system. Not all frontiersmen, nor perhaps even a majority of them, believed immediately in a formal education, but one point is quite clear - frontier leaders did. Western leaders believed that a strong common school system was the hope of the territory. One constantly finds references to the increased immigration and prosperity that would certainly result if the territory had a good common school system.

To the ordinary citizen of Montana in the 1860's, educational needs were less pressing. A great majority of the first settlers had no intention of making their home in the gold fields. After making their "strike"

¹⁴ The thesis of the frontier was first presented by Turner in an address delivered before the American Historical Association, meeting in Chicago in 1893. Fredrick Jackson Turner, The Frontier in American History, p. 1.

they headed for the states; if "busted" some new El Dorado lured them away. Even those frontiersmen who stayed were not impressed with the need of educational facilities. The railroad had to be obtained, the capital located and the Indians confined before attention could be focused on "schools."

In Montana, however, the efforts of educational leaders came to naught and although a common school system was recognized by the first territorial legislature in 1864, not until the administration of Governor Potts in 1872, were the foundations of the public school system successfully laid.

During the years 1864-1884 both the federal government and territorial government - which were really one and the same - were controlled by the Republican Party. Although federal government was democratic government, the territorial governments were arbitrarily controlled through the use of the appointing power by Washington and the people had nothing to say about the running of territorial offices. The Republican Party used patronage and "the bloody shirt" to dominate territorial politics. Coupled with Republican practices was the democratic influence of the frontier in creating the legislative philosophy which brought forth Montana's first school law. In the next chapter the steps leading to the passage of the 1865 school law and its provisions are discussed.

CHAPTER III

THE NATURE AND INFLUENCE OF MONTANA'S FIRST SCHOOL LEGISLATION: THE 1865 LAW

Republican politics and the influence of the frontier effected the slow development of Montana's common school system. The operation of these factors was clearly evident when the common school system was organized by the first legislature in 1864, and become apparent as the steps leading to the passage of the 1865; the passage of the 1865 school law and its provisions are discussed in the subsequent sections.

Educational Steps Leading to First School Legislation: 1861-1864

A review of the history of Montana education before the passage of the 1865 school law indicated that the first schools were all tuition or subscription schools. Montana's first big gold discovery took place in the summer of 1862, near Bannack. There were few children in the "Grasshopper Diggins" the first winter and no school at all.¹ A private school for "primary scholars" was taught for two months by Mrs. Henry Zoller in the summer of 1863. At the same time Kate Dunlap was teaching a subscription school at Nevada City.² In October of 1863, Chief Justice Edgerton offered a room in his home at Bannack for use as a school room. Makeshift

¹ A. B. Davies, Contributions to the Historical Society of Montana, Volume V., p. 196.

² Mrs. S. W. Park (Lucia Darling) Contributions to the Historical Society of Montana, Volume V., p. 191. Miss Darling is often mistakenly called the first school teacher in Montana. The schools opened at Fort Owen sometime in 1861.

benches were loaned or donated, and the pupils were taught from whatever books they could bring from their homes. Edgerton's niece, Lucia Darling, was the teacher at this school located "on the banks of the Grasshopper Creek near the ford and footbridge."³

The settled portions of Montana at this time were part of Idaho territory and the Montana districts were represented in the first territorial legislature which met in Lewiston in December, 1863. James Tufts from Fort Benton represented the Montana settlements and was elected speaker.⁴

The politics of this first legislative session set the pattern which both Montana and Idaho legislative assemblies were to follow for years. Even though the names "Democrats" and "Republicans" were retained, the issues were not free trade or the tariff. The one question which overshadowed all others, according to ex-governor McConnell, was "Shall the Union of States be dissevered, dismantled, or shall the Union be preserved?"⁵ That elusive reference to "Price's Army" - ex-Confederates who dominated the Democratic Party - appeared in the first Idaho legislature, and it was used to explain every legislative failure in Idaho and Montana for the next seven years. Taken from McConnell's Early History of Idaho, the following description of Idaho politics - which included the Montana gold camps - during the 1861-1863 period indicates the partisan Republican

³ Ibid., p. 192.

⁴ Tufts was later on to be appointed Secretary of Montana Territory and served as acting governor in 1868.

⁵ W. J. McConnell, op. cit., p. 288.

attitude toward the "Left Wing:"

During the interval that had elapsed since the election of Wallace, what was then known as the "left wing of Price's army" had been scattering its red plumes and feathers all over the vast inter-mountain region at that time embraced within the boundaries of Idaho Territory. The warriors composing this contingent of the Confederate Army, having become tired of the hopeless task of confronting the hordes of "Northern Abolitionists" who continued to invade and over-run the fair land watered by the "Big Muddy" and its tributaries, had concluded to resign in a body and migrate westward, where the more congenial task of taking charge of the political destiny of Idaho awaited them. And so they came, and continued to come, with the ox-whip in one hand and the ballot in the other: and by frequent and persistent voting soon changed the complexion of all things political. They were all from Missouri: all Democrats by birth and lineage, and had voted for Andrew Jackson from times immemorial, until in the later days had transferred their allegiance to "Jeff Davis."⁶

Contrary to the preceding derogatory statement by McConnell concerning the "Left Wing," it is doubtful if all the Democrats who came to the gold fields were ex-Confederates, but there is little doubt that their political affiliations lay with the South. The Republicans in Idaho supported the Union side of the question while the Democrats were in opposition to President Lincoln's policy. Such was the political atmosphere when the first legislation dealing with the territory now within the boundaries of Montana was enacted. No school legislation was passed in this first Idaho legislative session of 1863, and Montana was deprived of a guide to use in the first Montana session in 1865.

The lack of a school law did not stop Montana's educational endeavors as more schools were organized in 1864. A short term of school was held in

⁶ Ibid., p. 21.

Bannack in 1864 in a building owned by George French. Other schools were quickly opened as new camps made their appearance. All of the schools organized before the passage of the 1865 school law were subscription schools with costs that were born by "subscribers," or private schools paid for by tuition. Those who subscribed to the support of the school included any who wanted to donate, and not just parents. The following account by Bruffey of the building of the first school house in Jefferson Valley reveals the subscription process:

Silver Star was now wanting a school. Much agitation was going on talking of voting a tax for a school house. In those days the saloon or brewery was the center forum. One afternoon I called at the brewery. I bought a gallon of beer for a glass for the crowd. More soon came in. The school house question was soon sprung. As there were only about three taxpayers I said, "Do you fellows want Winegard, William Beall, and myself to build you a school house?" I had no children at all, Beal had none and Winegard had only one. "Oh no, we are willing to help," they said. "Well," said I to Mr. Fullhart, the brewery man, "draw up a paper. See how much you fellows will give." He drew up the subscription and started it with fifty dollars. They soon had two hundred and seventy-five dollars pledged. I knew the spirit of these fellows. "How much do you expect the house to cost?" I asked. "About five hundred dollars, including election and all," he replied. I said, "Then let's save the election. Put me down for one hundred dollars. I am sure Beall and Winegard will stand that much. I will see them as I go home." As they were the heaviest taxpayers each subscribed one hundred and twenty-five dollars.⁷

The preceding account by Bruffey, while revealing the subscription process, indicated that the population was too unstable and the tax base too small to support a system of public education in the early days of the territory.

⁷ George Bruffey, Eighty-One Years in the West, p. 83.

The editor of The Montana Post's first issue in 1864 indicated that because the tax base was so small Montana citizens would have to make great financial effort to support education. In announcing the opening of a school by "one Prof. Dimsdale," the editor also plugged for a good system of education as indicated by the following statement:

We are glad to inform our readers that Prof. Dimsdale has opened a school on Idaho Street. In a rapidly increasing community like ours, a school is a matter essential to the stability of the place and anything as truly American as education for the young, irrespective of party, creed or profession, should command the support of all good men and true of a nation, whose institutions can flourish among an enlightened people. Parents and guardians should send their children to a school, even where some sacrifice of personal ease is the result.⁸

Professor Dimsdale ran an advertisement in The Montana Post for two months, and his advertisement indicated that his school was a "select" school in the best sense. Even though the school was located "behind Mr. Lomax's Corral," only those subjects were taught that were offered in the best seminaries and "in the approved manner."⁹ Dimsdale's school cost each student \$1.75 per week, while "young beginners" entering night school were to be given the strictest attention in the areas of morals and deportment for \$1.25. per week.

To many people these "private" schools, of which Dimsdale's was an example, were not the answer to frontier educational problems. The private schools smacked of "elite" and "class" and were ill calculated to please

⁸ The Montana Post, August 27, 1864.

⁹ Ibid. .

a people that would demand the removal of a governor because it was rumored that he wore suspenders.¹⁰ Publishers Tilton and Dittes of The Montana Post indicated the democratic attitude that the schools should be public supported and free to all children in the following statement:

In our advertising columns will be found the card of Prof. Dimsdale, who having settled among us, is endeavoring to organize a school worthy of this place. Now, our notion is, that teaching is nowhere a private affair; it is a burden that should be equally on all our shoulders. A school house should be built belonging to the district. This would reduce the price of education materially. Above all things, every lover of his country and of her children should use his influence to keep the rising generation out of the streets which is a bad school, and send them where there is a good one.¹¹

In almost every issue, beginning in November, 1864, The Montana Post included an editorial similar to the preceding statement. The paper called attention to the need for a public school which would be supported by public funds and free to all children regardless of station in life. Dimsdale may have been the author of these articles. Such was indicated in December, 1864, when publishers Tilton and Dittes acknowledged the contributions of Professor Dimsdale to their paper.¹² In the same month, December, 1864, the first legislative assembly met in Bannack to enact all laws necessary for the governing of Montana.

In reviewing the history of the establishment of schools in Montana

¹⁰ W. C. McConnell, op. cit., p. 288.

¹¹ The Montana Post, September 17, 1864.

¹² Ibid., December 3, 1864.

before the 1865 school law was passed, it was evident that although schools were organized in 1861, few scholars were taught until gold was discovered near Bannack, in 1862. As the gold camps became populated, private schools paid for by tuition, or subscription schools paid for by the subscribers, were opened in the population centers. Pressure was brought to bear on members of the legislative assembly to create a public school system which was more in line with the democratic spirit of the frontier. The First Legislative Assembly responded and passed the 1865 school law. The work of the legislature in 1864-1865 concerning education is presented in the next section.

Politics and Education: Montana's
First School Legislation

The Organic Act, which had organized Montana as a separate territory in 1864, provided for the calling of the first legislature by the governor of the territory. There were two additional provisions of the Organic Act which had a direct application to education. Section 7 provided that the governor could appoint, with the consent of the Council, all officers not provided for in the Organic Act.¹³ Since there was no office or officer concerned with education provided for in the act Governor Edgerton filled the position by appointment. Section 14 provided for the eventual disposition of government lands - sections 16 and 36 of every township - for

¹³ Public Law Number 76; An Act To Provide a Temporary Government for the Territory of Montana, typed copy in Montana State Historical Society Library, Helena, p. 1.

the support of the common schools. Since the lands were not surveyed for the purpose until many years later, no money was realized from the use of government land until statehood.

In preparing for the legislative assembly, the Union Party met in convention in Virginia City, on October 5, 1864. Mail routes and Indians occupied its attention and there was no mention of education. As revealed by the following platform passage, the war was still the big issue:

...But we are urged by every consideration that can actuate mankind to insist that in the future, as in the past, there shall be in the limits thereof, one flag, one country and one destiny.¹⁴

The Democrats met five days later and also neglected education. Tinged with Copperheadism, their resolutions apparently gave credence to the Union claim that "rebels" were in control of the Democratic Party, as reported in the platform:

Resolved: That Democracy of this territory hereby extend their cordial sympathy to their political brethern in the states, for the earnest and zealous efforts they manifest and exhibit to defeat, at the approaching election, the present profligate and corrupt national administration and we sincerely and truly desire that success may crown their labors in the accomplishment of so laudable and holy a purpose.¹⁵

The election to choose members of the legislative assembly was proclaimed by Governor Edgerton for October 24, 1864, and as the conventions of the

¹⁴ Platform and Resolutions, Union Party, 1864. The Party Platform File, Montana State Historical Society Library, Helena.

¹⁵ Platform and Resolutions, Democratic Party, 1864. The Party Platform File, Montana State Historical Society Library, Helena.

two parties indicated, the territorial election mirrored that of Lincoln versus McClellan; local interests were secondary. The legislature chosen in October, 1864, was about evenly divided between Unionists and Democrats. The House was Democratic by one, while the Council was Union by the same margin.¹⁶

The politics of the first session of the Montana legislature matched that of the Idaho session held the previous year and with the same division caused by the Civil War of Republicans as pro-Union and Democrats as against the war effort. The governor hinted at what the tone of his message would be when he addressed Union meetings in October, 1864, denouncing the Copperheads and giving praise to Grant and Sheridan.¹⁷ The Governor called the First Legislative Assembly to order in December, and informed the members that the laws of the United States required all territorial legislators to take the oath of allegiance to the United States. The Council members took the "Iron Clad" oath with "little delay and grumbling."¹⁸ In the House the Democratic members refused to take the oath and prepared to resist the governor. The resulting confusion was reported in the following article by the Bannack correspondent for the Montana Post whose identity was concealed by the pseudonym Franklin:

In the House, however, the case was different. Mayhew, McCormick and Bell, each "said their say." An "estray" from the Council,

¹⁶ The Montana Post, November 19, 1864.

¹⁷ Ibid., October 22, 1864.

¹⁸ Ibid., December 17, 1864.

slightly spiritously obfuscated, got into the wrong pew, had suggestions to make, was called to order by McCormick, retorted by accusing "Mac" of being ambitious of the Speaker's chair and finally subsided.

But the governor was not only imperturable, he was also inexorable. He hinted to the gentlemen in a mild way the anarchy that would follow if the Assembly should fail to take this necessary preliminary step to organization. This did not move them. Then there was the most distinct insinuation that the law allowed no one to be paid who did not swear allegiance to the Government that paid them. This touched the Madison County delegation in a tender place, and with such wry faces as a patient makes who takes distasteful purgatives, and such contortions as one would make after over-eating turkey buzzards, they swallowed "the iron clad" without "mental reservation or evasion."¹⁹

Since one member of the House, Rogers, was absent there was great speculation as to what "Mr. Rogers would do with the iron clad."²⁰ When Rogers, who reportedly had served with the Confederate army, arrived he refused to take the oath and made up his own which the House voted to accept. The governor refused to accept Roger's oath and consequently announced that he would not communicate with the Assembly until it was properly organized. "Franklin" described the House scene in the following item in the Montana Post:

...the committee returned, reported, and history must say that here began the most ridiculous farce enacted in many years. Children's war is terrible, compared with the one waged in the interests of this rebel for two or three days. They gravely passed a resolution to go and tell the "school marm" of the Governor. They mistook fustian and froth, bombast and buncombe, for a little common sense, and in their haste to make a point against the governor, transformed

¹⁹ "Franklin," The Montana Post, December 17, 1864.

²⁰ Ibid..

themselves into - well, pack animals of inelegant euphony.²¹

The passages which followed, in the same article, described in detail the famous battle which finally ended in the resignation of Rogers.

Because of "Franklin's" anti-Democratic efforts in the Post, another war began between Madison County Democrats in the legislature and "Franklin." Every week's issue of the Post carried a letter from this caustic reporter who made life difficult for the "Left Wing," and he was not above naming names. The legislature retaliated by offering rewards for his identification and passed the following resolution of censure:

Whereas, a certain communication has appeared in the "Montana Post" over the signature of "Franklin," bearing the date "Bannack City, January 27'th, 1865," charging certain members of the legislature assembled from Madison County with venality and corruption, and desiring to exonerate the members of the Legislature from foul slander, published by this libelous scribler and to show their contempt for the author of said communication; Therefore, be it Resolved, by the House of Representatives of the Territory of Montana, that the author of said communication, is a wilful (sic.) and malicious libeler and calumniator of the Representatives of the people, and that this house pronounced the charge of corruption against Members of this Legislature a wicked, wilful (sic.) malicious falsehood and calumny.²²

As requested by the legislature the preceding resolution was published in the Montana Post. The next Post issue carried the following satirical answer from "Franklin:"

If Madison County is to send another and like delegation to the second Legislative Assembly, in the name of the Gods, I beseech

²¹ "Franklin," The Montana Post, December 24, 1864.

²² The Montana Post, March 4, 1865.

you convert them to the doctrine of Orpheus and his disciples, who taught that the future reward of the good consisted of a state of everlasting intoxication. In anticipation of such beautitude, I fancy even now I hear these delectable legislators striking up: "When that illustrious day shall rise."²³

"Franklin's war with the "rebels" from Madison County lasted throughout the entire legislative session, and sometimes got downright personal as shown by the following retort made by "Franklin" to Bagg of Virginia City who had accused him of lying:

...I have lied concerning him (Bagg)...you are right, Mr. Bagg. For instance there is a lie of omission wherein I stated you were asleep, I knew better, and I humbly crave your pardon. The truth is, you were drunk...Then right there following it is a lie of omission in that I did not say that the language you used to your colleague Potter would disgrace a brothel.²⁴

Since "Franklin" was expressing the Republican viewpoint and the Montana Post was a Republican newspaper closely connected with Sanders, Edgerton and the ruling clique, one might expect that the legislature would have sought revenge by resisting the governor's suggestions at every turn of the road.²⁵ Instead the legislature passed the 1865 school law. The Madison County delegation was the largest in the Bannack session and would have been able to direct a great deal of influence against Edgerton. Of more importance to education, Bagg and McCormick were two of the most influential

²³ "Franklin," The Montana Post, March 4, 1865.

²⁴ Ibid., March 4, 1865. Bagg was the little-known fellow prosecutor with Sanders at the trial of George Ives.

²⁵ The Montana Post was a Republican newspaper until 1873.

members of the education committees during the first two legislative sessions. According to the 1870 viewpoint that politics were responsible for the slow growth of the schools, the Democrats should have killed the education bill in committee instead of reporting favorably.

Confusion and partisan bitterness thus characterized the political situation that was to bring forth the first attempt to establish a public school system in Montana. The First Legislative Assembly had convened in Bannack in December, 1864, to hear the Governor's message. Concerning education, the Governor asked for the passage of a comprehensive school law, as indicated by the following excerpts from his reports:

It will devolve upon you to devise some system of education to meet the immediate wants of our people. The Government, with a wise forethought, has made liberal provisions for this purpose in the Organic Act, setting apart two sections of land in each township for the establishment of a school fund. With proper care, these lands will furnish a rich endowment for our common schools, placing them upon a sure and permanent basis. But these lands are not available, and it may be years before we can realize any considerable advantage from them. Hundreds of children are now in the territory, which a wise legislature, will not permit to grow up in ignorance; for, in a free government like ours, where public measures are of the highest importance that people should be so educated as to understand the bearing of public measures.

Children are in onesense, the property of the public, and it is one of the highest and most solemn duties of the states to furnish ample provision for their education. It has been well said by a distinguished jurist that it is cheaper to educate the boy than to punish the man, and if the education of the boy is neglected, the punishment of the man may become a necessity, for crime and ignorance go hand in hand.²⁶

The editors of the Montana Post applauded the Governor's message and called

²⁶ "Message of Governor Edgerton to the First Legislative Assembly," Contributions to the Historical Society of Montana, Volume III, p. 345.

upon the legislators to put into law a system of common schools.²⁷ Such a school system, according to the Montana Post, could provide a good moral and practical education for every child in the territory at "a trifling expense to each individual," as school houses and support when divided among the entire population would be "nominal." The editors of the Montana Post in the same article also warned against the dangers of postponing the establishment of a school system:

A year of inaction, and two generations will not eradicate the taint which uncultivated ignorance will have instilled into the youth of the Territory. Those who have means of judging, can testify that the standard of education is so near zero, among the generality of the children, that immediate action can alone prevent a degeneracy both in morality and intellect, shocking to behold.²⁸

The legislature responded to the pressure of the editors of the Post and other friends of education by considering several school bills in the Bannack session. An examination of newspapers of that time gave no indication of partisanship affecting education during the First Legislative Assembly. If "Price's Army" were active against education, it was an ineffective action as "Missourians" took the lead in the House and Council. Council Bill Number 38, "An Act Establishing a Common School System for Montana Territory," was passed unanimously in the Council and was given final House approval on February 8, 1865.

A review of the work of the First Legislative Assembly which met under the proclamation of Governor Edgerton in 1864-1865 revealed very

²⁷ The Montana Post, December 24, 1864.

²⁸ Ibid. .

clearly that the partisanship of the Republican and Democratic Parties was bitter and constant. This partisanship, however, did not prevent the legislature from passing a law which was the basis of the school system until 1872. The 1865 school law dealt with all phases of the school system, but it had one major weakness; there was no provision for enforcement of the law. The provisions of the 1865 school law are discussed in the following section.

Provisions of the 1865 School Law

The 1865 school law established a legal organization which lasted until 1872. Some of the provisions of the 1865 law were included in the 1872 system. One of the provisions which was carried over into the school organization established eight years later concerned the establishment of a school fund. The school fund was to be made up of three different bases. Proceeds from the sale of the United States land grants were to be placed in an irreducible fund from which the interest would be annually divided among the school districts in proportion to the number of children of school age (4-21.) This provision, unfortunately, brought no money into the fund during the territorial period. In addition to income from land grants the county commissioners in each county were to levy an annual tax of one mill on the dollar on all taxable property of the county. The money collected from this county levy was to be used for hiring teachers in the district and could not be paid out for any other purposes.²⁹ The language of the law

²⁹ Acts, Resolutions, Memorials of the Territory of Montana, passed by the First Legislative Assembly, 1864-1865, p. 433.

was quite clear in making the one mill levy "mandatory" rather than "permissive."³⁰ But in spite of this clear obligation of the county commissioners, the law was ignored and even openly violated. A third source consisted of all money paid into the treasury from fines collected for breach of license laws or of any penal laws of the territory. This money was to be credited to the school fund by the County Treasurer.³¹

According to the law, the County Superintendent of Schools was an important elected officer who was to hold office for three years with a salary of from one to three hundred dollars per annum. His duties were clearly defined. The County Superintendent was to district the county so that every resident of the county was in some "convenient" district, and examine all persons who wanted to become teachers in the county.³² The list of subjects in which applicants were to be examined included orthography, reading, writing, arithmetic, English, grammar, and geography. If the prospective teacher satisfied the County Superintendent in the subject matter fields and was of "good moral character," the Superintendent had the authority to issue a revokable certificate for one year. The power of the Superintendent to district the county and to examine prospective teachers was carried over into the 1872 law, but in both instances the 1872 law outlined in greater detail the procedures to be followed.

Under the provisions of the 1865 law every County Superintendent was

³⁰ Ibid., p. 433.

³¹ Ibid., p. 434.

³² Ibid., p. 435.

to visit every school in his county taught by a "qualified teacher;" and one wonders if there were to be "un-qualified" teachers and if the un-qualified teachers were not to be visited. As is true today, the superintendent was to apportion the school fund among the districts. He was also to prevent trespass upon the school lands that had been granted by Congress for the school fund.³³ Concerning the power and duties of the county school officers, the law seemed quite adequate, but it was interesting to note that with the exception of the school officers in Lewis and Clark and Deer Lodge counties, accounts of practices indicated the superintendents were notoriously inefficient.

The obligations and duties of school boards were also specified in the 1865 law. School boards could make out tax lists, buy land, build buildings, purchase supplies, and hire certified teachers. Since teachers did not have tenure, the school board could discharge any teacher for any neglect of duty, or "for any cause that in their opinion renders the services of such teacher unprofitable as a teacher, by first paying him or her for services rendered."³⁴ The early school boards were also to deal with "disorderly scholars," when the "teacher experiences difficulty in the government of the school."³⁵

The school board was also empowered to assess upon the parent or guardians of the children attending the school their portion of the

³³ Ibid., p. 437.

³⁴ Ibid., p. 439.

³⁵ Ibid. .

necessary expense of sustaining the school in the way of tuition, for fuel "and other expenses, but in all cases they shall first endeavor to raise the amount required by voluntary subscription."³⁶ This provision of the law that the trustees were to attempt to raise money by the subscription process before levying a tax also applied to taxes for buildings, purchase of books and "apparatus." Herein lies a major reason why subscription schools continued for so long and a tax supported system of common schools was delayed. Taxpayers protested that they were too few to support education and did their best to raise "school money" by subscription.

The development of the schools before the meeting of the first legislature, the steps leading to the passage of the 1865 school law, and the major provisions of the law have been discussed. An examination of the sources indicated that all of the schools organized before 1865 were private schools. Because private schools did not reflect the democratic philosophy of the Montana frontier, pressure was put on the First Legislative Assembly to pass a comprehensive school law. The legislature responded and the 1865 school law dealt with all phases of the school system, but did not include a penalty system for non-conformity with the law. The act contained many minor provisions and was finally signed by the Governor in February of 1865 and remained the basis of the public school system in Montana until 1872. In the next chapter the development of the common school system under the 1865 law is examined in order to determine why a new school law was needed in 1872.

CHAPTER IV

THE 1865 LAW IN OPERATION

During the period 1864-1872 public school growth was extremely slow. In order to determine the reasons for the lack of educational progress during the eight years previous to the passage of the 1872 school law, an examination was made of the 1865 law in operation. Because of arrangement of available sources, in the course of investigating the 1864-1872 period, several stages of development presented themselves: (1) the organization of the first territorial public school, (2) the appointment and work of the first territorial Superintendent of Public Instruction, (3) Thomas Francis Meagher and the affect of his administration upon the development of education, (4) the progress of the schools under Green Clay Smith's and James Ashley's administrations. These developmental stages are discussed in the subsequent sections.

The First Public School In Montana: Virginia City, 1866

The first public school in Montana was not organized under the authority of the 1865 school law. Even before the law had been approved, an act allowing the incorporation of Virginia City had been signed by the governor. In this act authority was granted to the local city to "establish, support and regulate common schools."¹ Efforts were made by those interested in education to organize schools in Virginia City under the terms of the charter.

¹ Ibid., p. 540.

The Montana Post editorialized on the need for schools to keep the children off the streets:

A party of five chips off the old block, whose ages varied from ten years downward and whose height ranged from 3 feet six to "four feet nothing," (stocking feet), were pointed out to us last Sunday, sitting on some boarding over Mayor Pfout's stone cellar, and engaged in playing poker. A young gentleman of some eight summers appeared to be losing: as he brought down his knuckles violently on the board, exclaiming, "Oh hell on it; I can't hold a pair!" to which responded his companion of seven winter's growth: "Steady old hoss, its no use getting riled." Good parents those boys must have.² A dose of bambo would work wonders if energetically laid on.²

In the same article the editor appealed for a public school to alleviate juvenile problems.

Eventually the public responded and the first school district was organized in Virginia City. The first school teachers were Sarah Raymond Herndon and Mrs. Farley, who were examined by the county superintendent and paid \$6.00 for their certificates. The first public school term in Montana was held from March 5, 1866 to August 17, 1866.³ The school was held in the old Union

² The Montana Post, May 6, 1865.

³ Sarah Raymond Herndon, "The Pioneer Public Schools in Montana," Contributions to the Historical Society of Montana, Volume V., p. 198. There are references to a "free school" supported by taxes in Helena as early as March 4, 1865. (The Montana Post, March 4, 1865.) The Post also reported on January 13, 1865 that "there are public schools organized under the Territorial Act at Virginia, Nevada Junction and Mill Creek." (The Montana Post, January 13, 1865.) J. Patch wrote a letter in 1867 claiming that he had opened the first public school in Virginia City "the year before." (Helena School Files, Montana State Historical Society Library, Helena, Montana.) Further examination of sources failed to reveal the authenticity of these statements concerning the first public school to be organized in Montana Territory.

church on Idaho street, and eighty scholars were registered with the average attendance around fifty. Since there was a total appropriation of only two hundred dollars in the district, which went to pay the teachers, no money was provided for supplies. The pupils brought their own textbooks from home, and every pupil had a different book. The only books to be purchased in the territory were Webster's Blue Back Spellers which sold for one dollar each in John Ming's store.⁴

Teaching methods in all of the first public schools were dominated by the personality of the instructor and if he had a special area of interest it was in this area that the pupils spent most of their time. Years later David Hilger, a pupil in the first school in Helena, could still vividly remember Professor Corum's exercises in mental arithmetic. Some of these teachers were excellent scholars who inspired an enthusiasm for study that lasted for years, according to the following account by David Hilger:

...I went to the Rodney Street school taught by Prof. John W. Corum, who remains in my memory as the best teacher I ever had...for Corum inspired us all with a love of study and work that was worth much in later years. He had one habit that would bar him from the modern school room, I am sure, for he was an inveterate tobacco chewer and the sawdust filled cuspidor always had its place besides his desk.⁵

As indicated by Hilger, the early public school teachers were sometimes able scholars, but the teachers and students suffered from lack of books, buildings, supplies and "apparatus." From the meager beginnings in Helena, Virginia

⁴ David Hilger, "Early Schools in Helena," Montana Education, February, 1935, p. 6.

⁵ Ibid., p. 7.

and later in other camps developed Montana's public school system. Unlike the schools today, the early public schools received little aid from the territorial Superintendent of Public Instruction who operated under the 1865 school law.

The First Territorial Superintendent: Tenure and Duties

The local districts got very little help from the territorial office in the first years that the public schools were in existence because the legislature in Bannack had failed to provide for this officer. On the last day of the first legislative session Governor Edgerton sent in the name of Thomas Dimsdale as his choice for territorial Superintendent of Public Instruction.⁵ There has been some needless conjecture as to whether or not Dimsdale was actually appointed and confirmed as Superintendent. There can be no doubt that Governor Edgerton appointed him; the original certificate is on file in Helena, signed by Edgerton and dated February 19, 1865.⁶ The Council refused to act upon the nomination, but Dimsdale continued to serve; at least until the fall elections in 1865. Dimsdale had become editor of the Montana Post, and this was reason enough from the Council's point of view to refuse confirmation, but the Council refused to confirm any of Edgerton's appointments, as reported by the Montana Post in the following account:

⁵ The Montana Post, February 18, 1865.

⁶ Montana Schools File, Montana State Historical Society Library, Helena, Montana.

On the last day of the session, the Governor sent in to the legislative Council, the following nominations of territorial officers: Treasurer, J.J. Hull; Auditor, John S. Lott; Superintendent of Public Instruction, T. J. Dimsdale, upon which nominations that body refused to act. Of course it was not essential they should, and these gentlemen have, or will have, their commissions.

In the preceding article the partisan Montana Post evidently ignored Section 7 of the Organic Act which stated that the consent of the Council was necessary to confirm all officers appointed by the governor.

Concerning the controversy over Dimsdale's confirmation, much of the mis-information can be traced back to an article written by Tom Baker in the Anaconda Standard in 1906. According to Baker, Dimsdale was confirmed when the first legislature assembled at Bannack and re-confirmed when the second met in Virginia City. Baker wrongly indicated, according to the following account, that Dimsdale served until his death:

...and Dimsdale retained the office and the emoluments until the time of his death. Although, as the position was regarded as very much of a sinecure, there were not a few growlings of "graft" or its equivalent, "soft snap," at the carrying away of a plum by so outspoken antagonist as he was of the party who had the power to confirm or reject his appointment.⁸

Some historians writing since have merely repeated Baker's illogical insinuations, mis-interpretations, and just plain errors in fact. After all, Baker was a veteran newsman and said to have been a pupil of Dimsdale's.⁹

⁷ The Montana Post, February 18, 1865.

⁸ Tom Baker, "Thomas Dimsdale," The Anaconda Standard, September 28, 1906.

⁹ Ibid..

Contrary to Baker's article, Dimsdale was not confirmed by the Council and since there was no money appropriated for the office, and no warrants issued in the Superintendent's name, there was no graft.

Riley explained away Dimsdale's failure to report on the condition of the Montana schools by the lack of salary; the legislature's failure to provide any money.¹⁰ This is true as far as it goes, but Riley did not go far enough. As far as the legislature was concerned, there was no office of public instruction. The Superintendent had no duties and powers since legally he did not exist. In addition, it must be remembered that there were no public schools in operation during Dimsdale's tenure, 1865-1866.¹¹

Dimsdale operated purely an information office as the following Montana Post article indicates:

As the season is now fast approaching when we may expect a large influx of migrants it is to be hoped that the inhabitants of the different counties and settlements of Montana will make every exertion to ensure the education of the young. A most liberal and judicious school act has been passed, and the authorities are most anxious to see its provisions carried out. Communications on the subject, addressed to Professor T. J. Dimsdale, Superintendent of Public Instruction, Office of the Montana Post, will be promptly responded to and any information or advice needed will be cheerfully given.¹²

The Superintendent believed in educating all children and deplored the current neglect of female education as reported in an article in the Montana Post:

¹⁰ Emmett J. Riley, op. cit., p. 10.

¹¹ The first public school opened in March, 1866. Dimsdale was removed from office in March of 1866.

¹² The Montana Post, May 6, 1865.

Above all things in a country like ours, the education of the female portion of the community is a paramount necessity. What is a man without intelligent female society? The old Chief of the Cherokees showed his wisdom and penetration when he petitioned the Government to educate the girls instead of the boys, if one class only should be instructed. Said he, "When I was young, they taught only the boys. They grew up and married ignorant squaws, and the children all took after their mothers." It is possible to educate nearly all of the girls of Montana and a very large portion of the boys also.¹³

Dimsdale's effort to promote education for the girls can be commended, but he ran counter to modern practice when he recommended building a school wherever there were to be found a dozen children, as indicated in the Post:

...If we want empty jails, full churches, happy homes, the law of love and the love of law, let us build school houses wherever there are a dozen children to be found...Which will the men of Montana pay, a large sum to punish crime, or a small one to prevent it?¹⁴

Dimsdale also encouraged the election of good school boards and expressed the belief that one way to handle the teacher shortage was through the monitorial system.¹⁵

There is a great deal of confusion concerning Dimsdale's tenure. The Montana Post and also the records in the State Department indicate that there were to be territorial elections in the fall of 1865. One of the officers to be elected was the Superintendent of Public Instruction. Dimsdale

¹³ The Montana Post, February 18, 1865. This seems to be in contradiction with Dimsdale's statement in his Vigilantes: "From Blue stockings, Bloomers, and strong-minded she-males generally, Good Lord, deliver us." T. J. Dimsdale, The Vigilantes of Montana, p. 81.

¹⁴ Ibid., February 18, 1865.

¹⁵ Ibid., March 11, 1865.

wrote the following article in the Montana Post indicating the importance of electing a good Superintendent of Public Instruction:

Another appointment of the highest importance remains to be noticed. He who would teach teachers and govern schools should at least have a thorough practical knowledge of his business. In this case we most emphatically counsel the people of Montana to throw overboard all recollections of personal friendship, political bias or admiration of real or supposed talent. Get the best man. If in the judgement of the citizens, the present appointee is inferior in qualification to any one in the territory at once elect the better man in his place. Whatever may betide politics or dollars and cents sacrifice the interests of education for no consideration whatever.¹⁶

Either the people took Dimsdale's recommendation to get a better man, or else he did not run in the fall election held on September 2, 1865. The election results show that Thomas F. Campbell defeated Elliot McLoughlin 2,942 to 30 in the race for territorial Superintendent of Public Instruction.¹⁷ All of the votes for McLoughlin came from Edgerton County. Perhaps Dimsdale's ill health (he was to die within the year) or his impending work on The Vigilantes of Montana; or his courting (he was married in late 1865) kept him from running. After the election was over Dimsdale wrote the following article in the Montana Post calling upon the people to organize new schools:

The election is over. The people of Montana have a good school law and ample provision for its effective working. Shall this become useless for good, by lying dormant or shall the energy of the people give dry bones life and constitute the tuelary genius of our territory? In every inhabited spot let schools be erected. Humble and

¹⁶ The Montana Post, July 15, 1865.

¹⁷ Ellis Waldron, An Atlas of Montana Elections, p. 14.

deficient in many respects they must be at first, but in a marvelously short time, if the endeavors of the mothers and fathers of Montana are persistent and well directed a school system shall arise in our midst. Let the school meetings be called; let county superintendents do their duty supported by the sympathy and labor of the people and we shall have to bless the legislature for one good action in giving us a ¹⁸ school law which shall stand monument to their everlasting honor.

Herein lies one of Montana's most interesting mysteries. The Montana Post articles and the records in the State Department indicated that T. F. Campbell was elected territorial Superintendent of Public Instruction in September, 1865. No source lists his term. Was it because T. F. Campbell served as Superintendent in 1868 and the second term confused historians? Did Campbell resign? Was it possible that Governor Meagher refused to recognize Campbell as Superintendent because the Organic Act called for appointed and not elected officers? No evidence was found concerning this officer. Campbell's 1865 term has been lost to history.

There has also been controversy concerning the length of Dimsdale's term and how he left office. The honor for being most wrong goes once again to Tom Baker of the Standard story who claimed that Dimsdale held the office until death on March 22, 1866.¹⁹ Baker's contention is in direct contradiction to all evidence; mere mathematics refuted it. Judge Blake, in an obituary editorial, said that Dimsdale resigned to write the history of the Vigilantes.²⁰ Raymer claimed that Dimsdale was removed and in his

¹⁸ The Montana Post, September 5, 1865.

¹⁹ Tom Baker, op. cit., September 28, 1906.

²⁰ The Montana Post, September 29, 1866.

History of Montana the following letter was reproduced which could not be located in the Montana State Historical Society Library to substantiate the claim:

March 8, 1866.

To the President of the Council.

I have the honor to inform you that I have appointed Mr. Peter Ronan, of this city, as territorial Superintendent of Public Instruction in place of Prof. Thomas J. Dimsdale, relieved (sic.) for not having sent to this office his report, appertaining to his duties and department as respectfully asked by me some weeks ago. This appointment is made in conformity to provisions of the Organic Act of the territory which require your confirmation of all such appointments.²¹

In this letter which Raymer reproduced there was not a word about T. F. Campbell. Meagher evidently had considered Dimsdale the legal Superintendent until Ronan was appointed to the office.

Thomas Dimsdale, the first Superintendent of Public Instruction, served from January, 1865, until March, 1866. During the year in which Dimsdale was Superintendent, there were no public schools in operation, while the office was not recognized by the legislature of the territory. Dimsdale served only as a propaganda and information officer. He drew no salary for his efforts. Great confusion reigns among reports of historians as to the length of Dimsdale's term and how he left office, but the best evidence seems to indicate that he was removed in March, 1866, by Acting-Governor Thomas F. Meagher. There has been more written about Meagher than any other territorial officer, probably because of Meagher's colorful political machinations.²² The effect of

²¹ Robert Raymer, History of Montana, Volume I., p. 249.

politics upon the progress of the common schools during the administration of Thomas Francis Meagher is discussed next.

Thomas Francis Meagher and the Development
of the Common Schools: 1865-1867

Although Thomas Francis Meagher received a great deal of undeserved notoriety and the Hibernians erected a statue in his honor, legislative development - including education - came to a stop during Meagher's terms as acting governor. Sidney Edgerton evidently had little faith in Montana's first schools because he returned East in the summer of 1865, to put his children in school in Ohio and never returned as Governor. Secretary Thomas Francis Meagher became acting governor during Edgerton's absence. He served until Governor Green Clay Smith arrived in October of 1866. During the years of Meagher's administration the development of the schools was retarded by the bitter political partisanship resulting from the Civil War.

For example, in the August, 1865, meetings held by the Union and Democratic Parties, once again education was slighted; pushed aside by the memories of Appomatox. In the Democratic convention the following resolution denouncing negro equality was passed which indicated the future attitude of the Democrats toward integrated schools:

Resolved: That we are opposed to the odious and pernicious doctrine of "negro equality" now sought to be adopted by the party in power, into the several states and territories of the republic; and that we denounce the same as a flagrant outrage upon the rights of the white race.²²

²² The Montana Post, August 12, 1865.

The Democrats of Montana, in denouncing negro equality, were but echoing the aims of the national Democratic Party. The 1865 elections in Montana were dominated by national issues. Local problems played but little part when Meagher arrived on the scene. Meagher's political machinations have been well covered by numerous books, magazine articles and stories, and for the present study only one point need be repeated. Secretary Meagher, driven by personal ambition, manipulated the powers and functions of the territorial offices to serve his own political ends.

Meagher delivered the executive message to the second session of the territorial legislature, meeting in December, 1865. The message emphasized Montana's isolation from the rest of the United States resulting in a lack of military preparedness in the face of Indian troubles. The "acting one's" only mention of education was in reference to calling for a territorial census. According to the governor, the collection of statistics was necessary for "supplying the foundations of education."²³ Meagher did not explain why the collection of statistics was important in dealing with the school problem.

The legislature went beyond the governor's recommendation and passed a law setting up the office of territorial superintendent of public instruction and defining its duties. The only legislative controversy involving education evidently concerned a proposed but defeated Council amendment that "no religious tract or any publication of a religious character

²³ Department of State Territorial Papers, Montana, 1864-1872, Micro-film No. 356, Roll 1, n. d.

likely to elicit discord on religious subjects shall be permitted in the common schools of the Territory."²⁴ Because this anti-religious tract amendment had been defeated by the House, Meagher vetoed the entire Superintendency bill. In the following letter Meagher explained that the bill had also been vetoed because the legislature had failed to provide the Superintendent with an adequate salary:

I respectfully disapprove of this bill, because in the first place, it does not give the Superintendent of Public Instruction a sufficient salary. Five hundred dollars a year is in my judgement, a very if not absolutely inadequate, compensation for such an officer. On the Superintendent of Public Instruction devolves one of the most important duties a public officer can be called upon to perform. I do not believe, and cannot, anxious as I am to economize the public expenses, satisfy myself that the Superintendent of Public Instruction in this territory can effectively discharge his duties with such a salary as the bill, I now respectfully disapprove, authorizes him to receive.

I disapprove of this bill, moreover, for the reason that it does not authorize the Superintendent of Public Instruction to exclude from the public schools of this territory any sectarian tracts or other publication having a tendency to excite discord upon religious subjects. Nor does it empower him to prevent and suppress sectarian instruction, in which as the world knows, teachers of every religious denomination are apt and prone to indulge.²⁵

No evidence of any partisan criticism of Meagher was revealed, but the legislature did pass the act over his veto. This Superintendency bill was the only educational law to be vetoed in the territorial period. It also was the first law concerning the office of Public Instruction. It

²⁴ Ibid., n. d.

²⁵ Original letter from Governor Meagher to the House is in the Meagher File, Montana State Historical Society Library, Helena.

was the beginning of concern for statistical record keeping in the schools, and yet the law has received very little attention by historians.

Even the Montana Post applauded the bipartisan efforts of this second legislative session as indicated in the following article:

Nothing of a partisan nature was considered in the legislature. Democrats and Republicans buried the political hatchet. ...If every legislative assembly could deliberate as impartially as the second legislative assembly Montana would be the best governed territory.²⁵

Soon after the adjournment of the second legislative session, Governor Meagher appointed Peter Ronan, partner of Editor Wilkinson of the Virginia City Democrat, as territorial Superintendent of Public Instruction. Ronan declined the appointment and Meagher then appointed Alexander H. Barret, "the Barret with the one t" who was Meagher's private secretary. The territorial auditor's report showed that a warrant was issued to Alexander H. Barret as territorial Superintendent of Public Instruction, the first territorial money to be paid out in the name of education. There was no report of Barret's accomplishments, if any, even though the 1866 law had defined his duties. Barret later on served as Clerk of the House - including the 1872 session - and was for a short time the editor of the Helena Independent.

The Democrats were anxious to form a state constitution so a committee awaited upon Governor Meagher asking him to call a constitutional convention.²⁶ All territorial officers were appointed by Republicans in Washington.

²⁵ The Montana Post, December 22, 1865.

²⁶ Hubert Bancroft, History of Montana, Idaho and Washington, p. 647.

If the dominant Democratic party in Montana was to receive its share, the offices would have to be elective. The only legal way to achieve this sinecure was by becoming a state. Meagher at first replied to the committee requesting a convention that only Congress could pass an enabling act. He advised the Democrats to memorialize on the subject.²⁷ Three weeks later Meagher changed his mind; after all he had always been a member of the Democratic Party, and perhaps realized - as the Republicans were to claim - that the office of United States Senator might go to him.

The convention called by Meagher to draw up a state constitution met in March, 1866, in Helena.²⁸ The active work of the convention was confined to four days with much of the time consumed with organization, proxies and filling delegate vacancies. Robert Ewing was chosen president of the convention and H. N. Maguire secretary. Historians have claimed in the general histories of Montana that in that short time the delegates drew up a state constitution which was modeled after California's. Thomas Tutt, the delegate from Edgerton County, carried it to St. Louis. Since the constitution disappeared on the journey to St. Louis little is known of its contents. Records failed to indicate what the constitution had to say about education. This seems unfortunate because if partisanship did play a part in the retardation of the school system, the 1866 constitution was an ideal opportunity to present itself.

²⁷ Ibid., p. 647.

²⁸ Ibid., p. 648.

Since the constitution was Democratic it was heavily scored by the Republicans who considered it pure folly to organize a state government when after one year the territory was in such financial ruin. The only Democrats against the constitution were from Gallatin County. This delegation cast the only negative votes, pointing out that the territorial script was worthless, and that the taxes were so "heavy that the whole idea of statehood is simply ridiculous."²⁹ To some groups the idea of statehood under Democratic rule was worse than "ridiculous." The following advertisement appeared in the Radiator; a short lived Virginia City newspaper:

To the people of Montana. The ends of justice shall be carried out in the future as in the past. Justice and Mercy are our watchword. Be just and fear not.

Vigilantes of Montana.³⁰

The Vigilantes were anti-Meagher and were even accused of executing him.³¹ Meagher did not heed the Vigilante warning but called another session of the legislature to meet in November, 1866. To more effectively combat Meagher, the Union Party - the Republican Party - met in Virginia City to create a permanent party organization. The war and "treason" occupied the attention of the Union meeting and local problems, including education, were once more pushed into the background.³² The following campaign

²⁹ The Montana Post, April 10, 1866.

³⁰ The Radiator, March 31, 1866.

³¹ See page 59.

³² The Montana Post, March 29, 1866.

was the most bitter yet experienced in Montana politics, with the Democrats winning control of both houses of the legislature. The quiet arrival of Governor² Smith just before the third session of the legislature convened in November, 1866, did much to allay the bad feeling caused by the election.

Governor Smith had but little time before the legislature met to become acquainted with the problems of the territory. It must be assumed that his message was written with the help of Meagher, with whom he was on good terms. General Smith's comments on education were general with but few specific suggestions. General Smith recommended that the Superintendent of Public Instruction be given a sufficient salary. He also proposed that the Superintendent be required to visit each county in the discharge of his duties, and that he appoint local commissioners in each county to attend to "the local interests of the schools."³³ Less commendable were his suggestions that the Auditor be made ex-officio Superintendent or that the counties be so districted that there were no more than fifty scholars in a district.³⁴

The governor's suggestions to improve the school system were given added weight by the inclusion in his message of the first report of a territorial Superintendent. With the resignation of Barret as Superintendent, Meagher had appointed A. M. S. Carpenter, who drew \$125 from the territorial treasury for his efforts. Carpenter was the most active Superintendent up

³³ "Message of General Green Clay Smith to the Assembly," Contributions, Volume V., 1904, p. 128.

³⁴ Ibid., p. 129.

to that time. He visited schools, gathered data, and made recommendations to the legislature. In his report to the legislature Carpenter pointed out that a good school system was a great attraction to immigration and would help persuade many of those who were already in Montana to remain.³⁵ The Superintendent claimed that a system of complete, free public schools was more important in securing healthy immigration than a positive assurance that "our mountains were solid gold."³⁶ According to the Superintendent's 1866 report there were only eleven organized school districts in the territory. School had been taught in "only a few."³⁷

The legislature made a half-hearted attempt to act upon Smith's and Carpenter's suggestions to modify the school system by giving the Superintendent more power. Two bills were introduced in the third session. House Bill 33, "An Act to Create a Common School System for the Territory of Montana," was referred to the Committee on Education, reported back and upon third reading lost 9 to 12.³⁸ There was no evidence of any partisanship in the vote. "Rebel" Rogers and Blake of Madison County voted for the bill, while Speaker Donegan, Mimms and Roach voted against it. All were Democrats except Blake.

Immediately after the third session of the legislature adjourned, Green Clay Smith left for Washington to lobby for territorial appropriations.

³⁵ Ibid., p. 132.

³⁶ Ibid., p. 133.

³⁷ Ibid., p. 133.

³⁸ House Journal, Third Session: 1866, p. 314.

Meagher once again came to the front. It was during this time that the most famous of Meagher's military efforts took place. It was also a time for the most violent out-pouring of abuse against the "Acting One," mainly over the Governor's pardoning of convicted murderer Daniels.³⁹ Republicans generally denounced Meagher as a drunken bum who kept "lewd women." Even territorial Judge Munson claimed that Daniel's pardon was the result of Meagher's "unfortunate habit."⁴⁰

In spite of Republican abuse, Meagher once more called a special session of the legislature for the purpose of altering the election law to permit the choosing of a delegate to Congress. The Montana Post expressed the belief that the session would be "most onerous" to the people and said that if there were not a sufficient number of legislative members to constitute a quorum it would be the most fortunate thing that ever happened to the Democratic Party in Montana.⁴¹ Republicans believed that Meagher was scheming to get Democratic votes for the delegate contest. Political partisanship erupted. Threats and counter threats were constantly being made. In answer to the Vigilante's threat to take over the government, the "Five For One Committee" took out an advertisement in the Montana Post in which the committee promised to hang five Vigilantes for every person the Vigilantes

³⁹ Bagg of Virginia City was said to be the moving force behind the Daniels pardon. Bagg was chairman of the Education Committee and circulated a petition asking for the pardon of Daniels, who was hanged by the Vigilantes soon after being pardoned.

⁴⁰ Lyman E. Munson, "Reminiscences," Contributions, Volume V., 1904, p. 211.

⁴¹ The Montana Post, February 23, 1867.

hanged.⁴² The Union League was most active. Its secrecy and effectiveness are hinted at in the following story:

It will be remembered that a few weeks ago the Gazette (a copperhead tinged Democratic paper) stated that it knew every man and officer of the U. L. A. in Helena, their initiative ritual, signs, grips, oaths, and all the diabolism of the institution and made a promise that whenever black enough ink could be obtained they would print the roll of their infamy. Well, this much as a prologue. The editorial corps or corpse of that paper represents Edgerton in the Council and has been here during the session. Two days ago he met the Vice-President of the U. L. A. of Helena and engaged in a political conversation with him in which he stated the fact that the times looked dark for the democracy; that they must organize and work to defeat the leaguers, that the success of the Democratic Party depended upon change in the election law etc.; didn't you know you was in the enemy camp that time? Do you know anything about the organization except the imaginings of your terror stricken heart?⁴³

The Democrats retaliated in kind to Republican abuse. Every possible criticism was used in describing Republican or League efforts. The following is typical of Democratic attacks upon the League:

The two proprietors of the Post were recently in Helena and took a dip in the blue dye pot of the Underground League of Africa and now ventilate themselves in the sunshine of radicalism...We shall see whether the legislature or its acts are legal in the Supreme Court, which is yet the expounder of the laws, and it is not for Hosmer, Munson, or the U. L. A. of this territory to say to the contrary...the interests of this territory are too great to be deferred to the wants of the League of Africa.⁴⁴

⁴² The Montana Post, February 9, 1867. The present writer was unable to identify the "Five For One Committee" beyond the implication in the Montana Post advertisement that it was a supporter of Meagher.

⁴³ The Montana Post, March 9, 1867.

⁴⁴ The Rocky Mountain Gazette, February 23, 1867.

Union Leaguers and Democrats continued to abuse each other during the legislative session which apparently met from February 25, 1867, until March 6, 1867. Not much is known of what went on in this session.⁴⁵ There is no record of its action. Neither Owings, Waldron, or Sanders had any record of this legislative session. It might well be called the "lost legislative session." This legislature adjourned just in time to come under the interdiction of Congress, which annulled all legislative acts since the first legislature had convened in Bannack. The "League of Africa," as the Democrats derisively called the Union League, had been successful. Fisk and Sanders represented the League in Washington and had convinced Congress that the territorial legislature was in the hands of traitors led by a drunken traitor who was acting governor. It must be remembered that in 1867-1868 Congress was in the hands of the radical Republicans who were having the same kind of trouble with President Johnson that Montana Republicans were having with acting governor Meagher, hence Congress was willing to listen to Sanders and Fisk. The Gazette was astounded when news arrived in Helena that Congress had annulled the acts of the territorial legislatures. The following editorial reveals this astonishment:

If the laws of Montana are abolished as telegraphed by the blockhead Fisk, it is quite likely a vigilance committee will be organized in this territory to regulate internal police.⁴⁶

⁴⁵ The Post mentioned that an abortive attempt was made to establish an agricultural college in Deer Lodge, but this was the only information uncovered about the work of the legislature during this session. The Montana Post, March 9, 1867.

⁴⁶ The Rocky Mountain Gazette, March 23, 1867.

The preceding disgusted Democratic viewpoint can be compared to the telegram sent by jubilant Republicans Fisk and Sanders:

Congress has annihilated the bogus legislature of Montana and annulled its laws. The election is fixed for September. U. S. Judges salaries fixed at \$3500. Montanans celebrate here tonight.⁴⁷

Three legislative sessions in one year was unheard of. Congress in the hands of Eastern radicals was disgusted by an insane threat by Montana's Democratic Delegate McLean to take Montana out of the Union.⁴⁸ The technical excuse for the annulment was that Meagher had failed to reapportion the territory before calling a special session of the legislature. Reapportionment of the territory according to population had been required in the Organic Act which had organized Montana as a territory, and the Organic Act was legally binding upon the territorial officers. The annulment left the 1865 school law intact but negated all laws affecting the schools from the time of the first legislature until the 1867 regular session. Most important, the annulment wiped out the law of the 1865 session which had created the office of Superintendent of Public Instruction.

The three months from the Congressional annulment of the territorial legislatures until the death of Meagher were politically the most active in territorial times. Leaguers and Vigilantes were even said to have threatened

⁴⁷ Hubert Bancroft, op. cit., p. 668.

⁴⁸ Ibid., p. 668. McLean threatened to lead Montana out of the Union and into Canada. The Civil War, which had been over but two years, had been fought to prevent a similar disruption of the Union, and McLean played right into Radical Republican hands.

the governor, and there can be no doubt that the annulment of the "bogus legislature" curtailed many government services. The annulment set back the cause of education many years, not only by the loss of the education laws, but by creating an atmosphere of distrust and suspicion which was to last many years. The territory enjoyed a brief respite under the administration of Green Clay Smith, but partisanship erupted once again when Governor James Ashley arrived in Montana. The lack of progress in the development of the common school system during the governorships of Smith and Ashley are discussed in the following section.

Lack of Progress of the Common Schools under
Smith and Ashley: 1867-1869

Governors Smith and Ashley were both Republicans and since the legislature was Democratic during the entire territorial period, these two governors were able to accomplish little more than their predecessors in the way of helping the common schools. Smith was more moderate than Ashley, and the more successful of the two in getting school bills passed.

Meagher's mysterious death on July 1, 1867, did not put an end to Montana's political struggles. Reported drowned at Fort Benton, Meagher was also said to have been executed by the Vigilantes. Various confessions of Meagher's murder were forthcoming for fifty years, but no evidence was produced. Meagher was quickly made a martyr by the Irish element in the

Democratic Party.⁴⁹

In July of 1867 the Democratic Party held its convention. Local problems were still secondary in the Democratic platform to the planks against negro suffrage and the Congressional annulment of the 1866 and 1867 sessions of the legislature. The Republican convention, convening at the same time, waved the flag and the main speaker accused the Democrats of treason, as indicated in the following passage:

Do not understand me as saying that all the Democrats of Montana or even a majority of them are disloyal but rather do I say, that the party has passed into the control of those who have no sympathy for the United States Government, and who were never Democrats as we have accepted the signification of that time honored name.⁵⁰

Education was left out of both the Republican and Democratic platforms in 1867.

Soon after the political conventions had adjourned, the fourth session of the legislature met on November 7, 1867. Governor Smith, in his message to the assembly, said nothing that directly concerned education. In this session there was only one Republican member. According to Bancroft, this lone Republican was ruled out by his Democratic brethren in the legislature:

⁴⁹ Lewis Hunt, "Thomas Francis Meagher," The Montana Magazine of Western History, Volume 12, Number X, p. 23. The most interesting story concerned the Livingston promotor who obtained a "petrified man," found below Fort Benton, and made a small fortune exhibiting it. Even the Great Falls Tribune claimed in 1899 that it was genuine and with a bullet hole in its head appeared to be Thomas Francis Meagher. A Montana Petrified Man Company was organized and stock was sold, but the stone man disappeared as mysteriously as did Meagher himself. Ibid., p. 23.

⁵⁰ Clipping in the Montana State Historical Society Library, Helena; Political Parties and Platforms file.

...He was ruled out, not because he was not elected by a majority, but because he was not wanted in that body, where indeed, he would have been of little use.⁵¹

This all Democratic legislature was extremely anti-Union, and even dared to leave the words "white male citizen" before the voting qualifications in direct violation of national statute. Congress threatened to annul the acts of the legislature and repeal the Organic Act. The Democrats in the territorial legislature even asked Chief Justice Wade and Justice Munson to resign. So much time was wasted that Smith called an extra-session to meet the day after the regular session had adjourned.⁵²

In the two legislative sessions of 1867 only two bills concerning education were introduced. Council Bill 28, "An Act to Provide a System of Common Schools for the Territory," would have provided the territory with an entire new school law, but it lost on committee report.⁵³ Council Bill 45 to amend the school law by providing for a territorial Superintendent of Public Instruction was introduced by Bagg, president of the Council. After the usual parliamentary maneuvering, the bill was agreed to by Committee of the Whole and passed on third reading. Interestingly enough, one of the only two votes against the bill was cast by President Bagg, who had introduced it. The bill was amended by the House and went to Conference Committee.⁵⁴ It was

⁵¹ Hubert Bancroft, op. cit., p. 669.

⁵² Ibid., p. 671.

⁵³ Council Journal, Fourth Legislative Session, 1867, p. 123.

⁵⁴ Ibid., p. 123.

concurred in by both Houses and signed by the governor.

This bill provided for a territorial office of Superintendent of Public Instruction. He was to be elected by the people. However, the first such officer was to be elected by the territorial Council. In the Council election which followed, T. F. Campbell beat out A. M. S. Carpenter for Superintendent of Public Instruction. The election definitely ran counter to the Organic Act which stated that all territorial officers would be appointed by the governor and confirmed by the Council.⁵⁵

Whether in violation of the Organic Act or not, Campbell served two years as Superintendent of Public Instruction. Professor Campbell had taught in one of the first schools in Helena in 1866.⁵⁶ He was a Campbellite minister and the father of Prince Lucien Campbell, who many years later became the well-known president of the University of Oregon. T. F. Campbell served as Superintendent until 1869, when he moved to Oregon to take charge of Monmouth Christian College.

During the time Campbell was Superintendent other schools made their appearance. The first public school in Helena was built on Rodney Street, in 1868.⁵⁷ Professor Corum was in charge of the school with a lady

⁵⁵ See page 24.

⁵⁶ David Hilger, op. cit., p. 6. Campbell built a small school house south of his home and it was for this school that some of the public-spirited miners brought the first school bell from St. Louis. The roof of the building was not strong enough to support the weight of the bell which was then placed on a support of four posts in the yard. The miners, for their generosity, had the privilege of ringing the bell whenever they wanted to and to the discomfort of the scholars exercised this privilege.

⁵⁷ Ibid., p. 6.

assistant for the younger pupils. In the winter of 1866-1867 a school was organized in Bozeman by Mr. Davis Willson, who was the first teacher in Gallatin County to receive public money.⁵⁸ The Bozeman school was taught in a house owned by Joe Merovill, a Mexican, on the location "where the Frazier House now stands," (1908.)⁵⁹ Deer Lodge schools had also made their appearance, with the first school house being built of logs, originally hewed for a jail at Silver Bow, hauled by Judge Irvine to Deer Lodge and donated to be used as a school.⁶⁰ Several other public schools had made their start during Campbell's tenure.

Reports rather clearly indicate that Campbell was an active Superintendent. He pushed hard for uniform textbooks in the territory, and published a list of what he thought the textbooks used by the schools should be in the Rocky Mountain Gazette.⁶¹ He also delivered lectures on the subject of education in Diamond City and Helena, and he wrote several articles on the schools which were published in the Gazette.

Toward the last of Campbell's tenure as Superintendent, in 1869, Green Clay Smith journeyed to Kentucky and never returned. Secretary Tufts, who had been Speaker of the first Idaho Legislative Assembly, became acting governor. Tufts was governor when the fifth session of the legislature met

⁵⁸ Clipping from the Bozeman Chronicle, December 31, 1908, in the Bozeman School File, Montana State Historical Society Library, Helena.

⁵⁹ Ibid. .

⁶⁰ The New North West, March 29, 1872.

⁶¹ Emmet Riley, op. cit., p. 22.

in 1869, and delivered the executive message. Eliminating the cliches and flowery language, Tufts had few concrete suggestions to make. He expressed the belief that although the school law needed revision, the territory was not populous enough for the introduction of graded schools. He also asked that a commission of three men be appointed to go over the plan of the school system and draw up a revision of the school law which was to include a provision for a territorial university.⁶²

Acting Governor Tufts submitted Superintendent Campbell's report on the condition of the schools with the gubernatorial message. In his report the Superintendent expressed the belief that no territory had had a better record for the first five years of its history than Montana. Nevertheless, Campbell deplored the lack of a permanent school fund. He recommended a minimum five mill assessment on property for the purpose of education. He also suggested that the territorial Superintendent be required to visit each county in the territory each year and devote his whole time to the work of education.⁶³

This fifth session of the legislature, meeting under Tuft's direction, was unable to come up with any solution to the school problem, although a committee was appointed to work out jointly with the territorial Superintendent a new school law. The committee reported back that with the help of the Superintendent a new school law had been drawn and submitted to the House for passage. This was a promising start with House Bill 64 as the result. This bill passed the House and Senate and was sent to the governor

⁶² House Journal, Fifth Session, 1869, p. 19.

⁶³ Emmett Riley, op. cit., p. 19.

for his approval.⁶⁴ Other historians have made no mention of this bill and there is no record of it being approved by the governor. Evidently the bill was pocket vetoed by the governor. Tufts was a Republican and the legislature was Democratic, but there is no evidence to throw light on the fate of the "lost bill" which would have been as sweeping in its effect as the 1872 law.

Council Bill 47, "An Act Defining the Duties of the Territorial Superintendent," was also passed. It did nothing more than set the Superintendent's salary at \$2000 per year and require his residence in a town with a post office.

In 1869, James Ashley was appointed governor of Montana and Tufts once again became acting-governor until the arrival of Ashley. Ashley arrived in Montana just in time to address the legislature meeting in its sixth session. His message was effusive in language and contained little of note concerning education. Here is a sample:

Ignorance is the handmaiden of vice, and whenever ignorance and vice dominate in a territory or state, a just government protecting all, and granting special favors to none, becomes impossible, and a government of force becomes a necessity. Universal education is the evangel of peace, order and law in a republic.⁶⁵

Then followed a passage attacking the parochial schools which Father Riley, in writing his dissertation for Catholic University, understandably

⁶⁴ House Journal, Fifth Session, 1869, p. 187.

⁶⁵ "Message of James Ashley," Contributions, Volume XI, p. 252.

ignored:

The strength of our school system is in the fact that it is free from sectarianism and the baneful influence of party. To maintain the vigor and efficiency of our public schools it is necessary to guard against building up partisan or select schools. In proportion as denominational and select schools are strengthened our public schools will be weakened. The opponents of our public school system long ago learned the most vulnerable point of attack.

They made their appeal to the rich and fashionable, and especially to those who are earnestly sectarian. They assume that denominational and select schools are more genteel, more efficient, and above all more religious while they allege that the daily intercourse of the children of the rich and fashionable with the children of the poor in our public schools as demoralizing and morally dangerous.⁶⁶

Ashley made no specific suggestions to the legislature and even if he had, the suggestions would have been ignored. Ashley's troubles with the legislature in Montana were said to be (by Republicans) greater than those suffered by any other territorial governor. Ironically, his troubles were similar to those suffered by Andrew Johnson under the Radical Congress (Ashley was the original impeacher of President Johnson.) Little useful school legislation was accomplished in this 1869 session.

In 1869 Ashley appointed James Mills Superintendent of Public Instruction. Mills declined and Lathrop was appointed and served two years.⁶⁷ At least the records in the State Department show that he drew money as territorial Superintendent, but the newspapers and Governor Potts felt that

⁶⁶ Ibid., p. 253.

⁶⁷ Captain Mills was editor of the Deer Lodge New North West. He became territorial Secretary under Governor Potts and was well known for his military activities (the Secretary was ex officio Adjutant) during the Nez Perce War.

Lathrop had never qualified for the office.

This discussion of Ashley's administration brings the story of the development of the public schools up to 1870, when Governor Potts arrived on the scene. There were few schools in operation, and undoubtedly partisanship was a factor in the retardation of the school system.⁶⁸ Of much more importance, however, was the irresponsible financial attitude of the legislatures and the county commissioners. Bancroft, Hamilton, Burlingame, Sanders, Raymer and other historians have told the story of how the legislatures and the county commissioners spent so much money, both legally and corruptly, that there was nothing left for education. Sheriffs were offered fantastic sums for the capture of criminals; legislators granted themselves twelve dollars a day extra-compensation in addition to their federally paid salaries; taxes went uncollected for the territory at a time when Nathaniel Langford was able to collect over 98 percent of the taxes owed the Federal Government in Montana; territorial warrants were hawked on the open market for ten cents on the dollar.⁶⁹ All in all, the progress and operation of the schools under the 1865 law were discouraging.

Dimsdale, the first Superintendent under the law, had exercised only propoganda service and the first public school had not been organized until 1866, during the period when Thomas F. Meagher was acting governor of

⁶⁸ "Report of the Secretary of the Interior," The Executive Documents of the House of Representatives of the Third Session of the Forty-First Congress, 1871, Volume II, p. 323.

⁶⁹ Hubert Bancroft, op. cit., pp. 666-690.

Montana. Meagher's partisan leadership of the legislature injured education when Congress took its revenge upon Montana Democrats by annulling two years of legislative action. Green Clay Smith and James Ashley followed as governors of Montana territory, and during Smith's administration the legislature had passed a law creating the office of Superintendent of Public Instruction. Little progress was made in developing the common school system between the administrations of Sidney Edgerton and B. F. Potts.

During the Potts administration in 1872, a new school law was passed and put into operation. The 1872 school law was destined to be the foundation upon which the common school system of Montana rested. In the next chapter the reasons for passing the 1872 school law, the actions of the legislature in passing the law, and the provisions of the 1872 school law are presented.

CHAPTER V

THE 1872 SCHOOL LAW: PASSAGE AND PROVISIONS

Eight years after the first school law of 1865 had been passed in Montana there were still few public schools in operation. Because of the condition of the schools it was generally felt by educational leaders that a new school law was needed. The condition of the schools in 1871; the efforts of Governor Potts and Superintendent Hedges to promote a new school law; and the passage of the 1872 school law and its provisions are discussed in the following sections.

The Discouraging Condition of the Schools in 1871

In his annual report to the United States Commissioner of Education for 1870-1871, the year Governor Potts took over the reins of government, the territorial Superintendent painted a dark picture of the condition of Montana schools.¹ In spite of the fact that the 1865 school law had been in effect for six years, and that Montana had excellent land and climatic conditions, the territorial abstract indicated that the most conspicuous thing about the common school system was "its utter inadequacy to meet demands."² There were few school districts in operation and the school fund was entirely inadequate in meeting educational obligations. The depressing report to the Commissioner follows:

¹ "Report of the Secretary of the Interior," The Executive Documents of the House of Representatives, of the Third Session of the Forty-First Congress, 1871, Volume II, p. 323.

² Ibid., p. 323.

We have no permanent school fund in the Territory, nor have we any legislation tending to the establishment of such a fund. The sixteenth and thirty-sixth sections of land given by the United States for schooling purposes are generally reserved to the townships in which they are located, or to the counties, and never, so far as I have been able to learn, enter into a state or territorial fund.

It seems to me of paramount importance that we should have some nucleus established, around which we could form a territorial fund, the interest only of which should be appropriated annually for school purposes. How to establish such a point, from what source to create such a fund are questions to which I have given much thought and investigation, without reaching any very satisfactory conclusion. Would not that spirit of liberality which has ever characterized the policy of the general government in matters of education, warrant the legislature in memorializing Congress on this subject - vital alike to the interests of the nation as to the prosperity of the Territory - asking that a portion of the United States revenue collected in the Territory, for a limited period, be set apart for this purpose.

I trust I shall be pardoned for this suggestion, for it is the only feasible plan that presents itself to me for the accomplishments of desired ends. The government could well afford to make such an appropriation. The hardy and adventurous pioneer has opened up a wilderness to civilization, from the bosom of which he has extracted millions of dollars of gold, which he has thrown into the circulating wealth of the nation. The land, only a few years ago valueless, are now sought for with eagerness: and the land office in this city is becoming the repository of thousands of our hard earned treasure.³

The Commissioner of Education evidently received the preceding report from territorial Superintendent Campbell in Montana and included it in the general report to the Secretary of Interior on territorial education. The report, as it concerned Montana, could be condensed into a sentence; in spite of opportunity the lack of money was strangling the six year old school system. The "only feasible plan" that presented itself to the Superintendent from Montana was aid from the central government, a rather critical

³ Ibid., p. 323.

commentary upon the frontiersman's vaunted individualism and belief in education. One might point out again, however, that in spite of this "rugged individualism" the frontiersman was accustomed to look toward Washington for solutions to his problems whether it be schools or protection from the Indians. After all, territorial government was federal government.

It evidently didn't occur to Montana's Superintendent that instead of looking to the national government for financial aid for education the schools should be supported from the territory's mineral wealth. In some Colorado camps claim number 2 was left vacant on each lode and was recorded free of charge for the benefit of the schools.⁴

Both the territorial Superintendent and the Commissioner of Education expressed the belief that politics were responsible for the sad condition of the Montana schools in 1871. The Commissioner's report included a letter from a "well known citizen of Montana, whose opinions are entitled to consideration."⁵ The letter, which also blamed politics for the condition of the schools, is as follows:

In 1864 there were some 10,000 people, from all parts of the country, assembled at Virginia City, attracted by the marvelous accounts of the wealth of the placer mines in Alder Gulch. That portion of this population from the East was largely composed of disbanded soldiers of Price's army, while the migration from the

⁴ Everett Dick, Vanguards of the Frontier, p. 281.

⁵ "Report of the Secretary of the Interior," op. cit., 1871, p. 324. The citizen isn't named in the Commissioner's report. It is certain, however, since the Commissioner was appointed by Grant, that the letter represented the viewpoint of the Republicans in Montana. Fisk or Wilbur F. Sanders were close to many national politicians in the Republican Party and may have written the letter.

West contained some of the worst characters of the Pacific States. For three years, or until the commencement of 1867, crime was punished by a vigilance committee, said to have embraced all the best men in the Territory, whose executions were frequent and summary.

During this period many families from the Western States, and some from New England, settled in the Territory and society began to improve. A school was established and well attended. The legislature, at its first session in 1864-65, passed a school law. Though no general interest was felt in schools, a few kept the subject alive, a superintendent was elected and, since 1865, most parts of the settled portions of the Territory have been supplied with schools, some of which are said to be very good, though no graded school has been yet established.

While the interest in education is increasing, some of the best citizens of Montana complain that unfortunate political collisions between parties give to legislation a partisan character, and withhold the legislature from giving proper attention to school laws and school funds. This leads some of the better classes to seek schools in the states for their children.⁶

One might disagree with the Commissioner's contention that politics were responsible for the condition of Montana's schools, but there could be no disagreement with the report that the schools in Montana were in a poor state of being. The same report showed that four counties either did not have any common schools or else simply did not report in 1870 to the territorial Superintendent.⁷ In the counties that did report in 1870 there were only 27 school teachers, 25 districts, 15 schools and 704 students.⁸ The entire territory spent a total of only \$12,000 on education.⁹

The retarded condition of the schools in 1870 was due to many causes

⁶Ibid., p. 324.

⁷See Appendix I., p. 170.

⁸See Appendix I., p. 170.

⁹See Appendix II., p. 172.

with politics undoubtedly a strong factor, but there were many others. The depressed economic condition of the territory, the lack of a permanent population, the low level of citizen interest in education, and the inadequacy of the 1865 school law were all responsible for the lack of progress made by the schools during the period from 1865, when the first school law was passed, to 1871. Two territorial officers, Governor Potts and Superintendent Hedges, took the lead during the period 1871-1884 in the effort to improve the common schools.

Two Outstanding Educational Leaders: Potts and Hedges

Progress in the field of education during the decade of the 1870's was marked by the efforts of two leaders, Cornelius Hedges and Benjamin F. Potts. Hedges was appointed territorial Superintendent of Public Instruction under the provisions of the 1872 school law and thus began a life's dedication to the cause of education. Potts was appointed Governor of Montana in 1870 and served until 1883, more than half of the territorial period.

Some of Montana's territorial development during Potts' tenure of office are well known. The capital was relocated from Virginia City to Helena. A series of Indian wars were fought and the Indians confined to their reservations. In 1881 the railroads were brought to Montana and the transition from a gold camp to a more balanced economy was begun. The achievements in education were of equal importance though less well

known. Potts worked closely with Hedges to develop a firm foundation for Montana's common school system.

Governor Potts had been a Democrat before the Civil War and at best was a moderate Republican. He soon split with the Radical Republicans in Montana, who still looked to ex-governor Ashley as the crucified savior who would someday return to deliver Montana from the Copperheads.¹⁰ The split between Potts and the Radical Republicans had an effect upon education in Montana. Hedges was a good friend of Robert Fisk, editor of the Helena Daily Herald, and Wilbur F. Sanders, who were the acknowledged leaders of the Radical Republicans in Montana.¹¹ On several occasions Fisk travelled to Washington to work for the removal of Potts as governor and hired Hedges as temporary editor of the Helena Daily Herald. Because Hedges worked for the Radicals, Potts removed him from the territorial Superintendent's office and Montana lost one of its best school officers.

The governor's split with the Radicals in the Republican Party forced him to look to the Democrats for support. The Democrats were dominant in the legislature during the period 1871-1884 and Potts was able to work very well with them in developing school legislation. Potts and Hedges took the lead in the effort to get the legislature to pass a new school law in the face of declining territorial statistics.

¹⁰ See page 64.

¹¹ "Radicals" were those extremists in the Republican Party who wanted to severely punish the South for having caused the Civil War. They refused to let memories of the war die. The name "radical" was appropriate only because this group advocated negro suffrage to promote Republican power in the South.

Passage of the 1872 School Law

The 1872 school law was passed during a time of depression. A comparison of the 1870 census with the estimated 1864 census indicated that Montana's population was decreasing with its economy in a depressed condition. The gloomy shadow cast by declining territorial population statistics did not bring an end to educational endeavor. The people carried the school load without federal or territorial help. For example, in February of 1871 The Helena Daily Herald announced that a school "exhibition" was to be held for the purpose of building a "new and much larger" public school building.¹² In Bozeman the people recognized that the time had come to establish better schools and the editor of Bozeman's Avant Courier indicated that the people had been too busy to worry about schools until 1871. According to the Avant Courier, as revealed in the following account, the time had come for action in support of the schools:

Concerning an institution of learning at Bozeman, there has been talk before...now is the time for action. Up until this time the people have been too busy with the mines, road agents and Indians. We have everything but schools. Our people are beginning to weary of a nomadic life and are now "prospecting for a home stake." They feel that house and family and the proper education of their children deserve more than a passing thought. Good education is an inducement to immigration and increased population will more than compensate for the most liberal outlay, so that such an investment could not be but a safe pecuniary interest. We have need of such an institution ourselves, having a host of as bright, intelligent and beautiful children in Gallatin County as the sun ever shown upon.¹³

¹² The Helena Daily Herald, February 16, 1871.

¹³ The Avant Courier, September 20, 1871.

Governor Potts agreed with the editor of Bozeman's Avant Courier that the time had come to press for better educational facilities and from his first weeks in Montana was an enthusiastic supporter of all educational activities. He helped organize adult classes, spelling bees, and literary associations. The Helena Daily Herald reported one of the governor's educational efforts in the following article:

The people of Virginia City have just completed the organization of a society to be called the "Madison County Lecture Association" for the purpose of giving to the capital public a series of lectures and intellectual entertainment during the coming winter. Governor Potts, Judge Warren, William Cavanaugh, Judge Lovell and others took part in its preliminary meeting. Governor Potts was chosen President.¹⁴

The Governor helped organize other educational activities during the first month he was in Montana. He also lost no opportunity to speak for the cause of education. No sooner was Potts settled in Virginia City than he hurried to Helena to deliver the main address before the "Montana Agricultural, Mineral and Mechanical Convention."¹⁵ Potts' theme at the Helena meeting was "schooling," good schooling, from the lower grades to the higher. The Governor also told Montana citizens that the federal government would not solve their educational problems.¹⁶

Potts continually worked toward obtaining the long promised, much sought after sections 16 and 36 that the federal government had offered

¹⁴ The Helena Daily Herald, October 29, 1870.

¹⁵ The Helena Daily Herald, September 26, 1870.

¹⁶ Ibid., September 26, 1870.

Montana in the Organic Act. Some of the first letters in his official copy book deal with the school land problem. The following letter is an example of Potts' efforts to obtain the federal lands:

To Commissioner of General Land Office.

Sir: By the provisions of Section 14 of the Organic Act of the territory approved May 26, 1864, Sections 16 and 36 of each survey township shall be reserved and applied to schools in said territory. A large amount of the land of the territory has already been surveyed and no land has been set apart and reserved for school purposes. I respectfully request instructions from your office as to the course pursued by the territorial authorities in obtaining these lands.¹⁷

This letter to the Commissioner of Lands was indicative of Potts' personal interest in schools, but evidently the federal government was unable to help the territory in this matter and school lands were not surveyed during the territorial period.

During 1870-1871 Governor Potts acquainted himself with territorial problems; maintaining close contact with territorial leaders. It is possible that during this time Hedges worked with the governor in preparing his message to the legislature. Potts was in close contact with Hedges in the months just previous to the 1871-1872 session.

The 1871-1872 session of the territorial legislature dealt mainly with railroads, codification of the laws, territorial expenses, and education. Concerning education, Governor Potts took drastic action in asking for an entirely new school law, and personally outlined some of the features he

¹⁷ Potts to the Commissioner of Land Office, January 23, 1871. Potts Letter File, Montana State Historical Society Library, Helena.

thought should be included in the law. The most important of Potts' recommendations concerning the school law called for a territorial Superintendent with authority to enforce territorial regulations upon the schools as revealed by the following passage:

The gentleman appointed Territorial Superintendent of Public Instruction by my predecessor failed to qualify...because of the vacancy in said office I am not officially in possession of any information touching the condition of the common schools of the territory.

I think experience in the states clearly proves that no code of school laws approaches a well regulated school system, unless the state and county superintendent are by law clothed with sufficient authority to make their position efficient. The system of school supervision has long since been considered and approved by all thoughtful friends of our system of public education. The friends of education claim that supervision is the grand and indispensable agency in the conduct of all systems of public instruction, and its continuance in this territory, with the proper legislation will, I have no doubt, prove a blessing to the youth and an honor to the territory. I trust we will be able to select a competent person for superintendent who will be acceptable to every friend of education in the territory.¹⁸

It was felt that if the legislature were to heed the governor's recommendation for a stronger Superintendent of Public Instruction one of the major weaknesses of the 1865 law would be corrected. The governor also called upon the legislature to memorialize Congress for help in financing Montana's schools.¹⁹

In general, the territorial press agreed with the governor that

¹⁸ "Message of Governor Potts to the Seventh Session," Messages of the Governors, 1864-1889. Montana State Historical Society Library, Helena.

¹⁹ Ibid., December 4, 1871.

something should be done for the schools. The legislature also agreed with the governor that a new school law was needed and revealed this by introducing several school bills in the 1871-1872 session. Dan Searles took the lead in pressing for a new school bill in the legislature and the 1872 school law was known as the "Searles Bill." Searles was a "professional school teacher" although Hedges apparently had a very low opinion of his abilities.²⁰ Because of his "professional experience" he was made head of the education committee.²¹ Hedges nevertheless worked closely with Searles, and may have been responsible for the original form of the 1872 school law. His diary indicates close cooperation with Searles.²²

The original Searles Bill was much more powerful than the watered down version that finally passed both houses. The editor of the Avant Courier lauded the bill's introduction and supported its passage but deplored its lack of provision for enforcement.²³ Fisk of the Helena Daily Herald expressed the belief that politics, and in particular Democratic politics, were responsible for the lack of enforcement provisions, as indicated by the following account:

²⁰ "Spent all day in Searle's school and found morale very low and couldn't help saying so at its close. Made me feel almost sick." Cornelius Hedges, Diary, Wednesday, February 17, 1875. Microfilm, Montana State University. "Taught school for Searles in afternoon, didn't change my opinion of the school." Ibid., February 21, 1875.

²¹ In 1881 Dan Searles became editor of the Butte Miner.

²² Cornelius Hedges, Diary, op. cit., October 29, 1872.

²³ The Avant Courier, February 1, 1872.

Mr. Searles' school bill, upon which he had spent great care and a great deal of time, and which was calculated to fill a perceptible void in our educational regulations, and meet all the wants of our people in this respect, has been hashed up and cut down in such quantities by the Council as to be recognizable only by its title. Now although it is to be deeply regretted that this bill should be so butchered, as for Mr. Searles, my sympathies for that gentleman do not gush out into any considerable overflowing for this pignant rebuke by his Democratic brethren. He has been a "war horse" of that faith for a many a year, and he should have long since learned that a high state of education and Democracy seldom if ever, are seen hand in hand, and should have known better than to introduce a measure in this legislature which aims to educate the masses at the expense of further undermining his own party.²⁴

The sections of the law that Editor Fisk of the Herald, in the preceding partisan commentary, claimed had been "butchered" were probably those same sections which Hedges later on explained had been eliminated because those provisions of the law were too cumbersome or "too expensive for a young territory."²⁵ The law was modeled upon California's and was finally approved January 12, 1872.

Most newspaper comments agreed with Hedges that the 1872 law was a vast improvement over the loosely drawn 1865 statute. The 1872 school law for the first time recognized "fully" the duty of the "property of the commonwealth to provide for the education of all without resort to rate bills."²⁶ The Avant Courier proclaimed the 1872 law the best legislation of the session.²⁷ Editor Wright of the Avant Courier also urged

²⁴ The Helena Daily Herald, January 11, 1872.

²⁵ Cornelius Hedges, "A Historical Sketch of the Territorial School System," Report of the Commissioner of Education, 1876-1877, p. 281.

²⁶ Ibid., p. 281.

²⁷ The Avant Courier, February 11, 1872.

Montana's citizens to put the law into effect as soon as possible, and warned against the hiring of poor teachers to implement the system.²⁸ The Madisonian, Missoulian and Deer Lodge New North West were also briefly laudatory. The growth of the schools was to justify the support of the 1872 school law by the press. Riley has called the law the "foundation rock" since its provisions for dealing with every phase of school organization established the legal framework of the common school system.²⁹

Provisions of the 1872 School Law

Some of the most important provisions of the 1872 school law are discussed in the subsequent paragraphs. The law dealt first of all with the powers and duties of the Superintendent of Public Instruction. Confusion, uncertainty and lack of purpose had characterized this office since Dimsdale's appointment as the first territorial Superintendent. More than any other territorial office the Superintendency had suffered because of political partisanship. Shorn of all power as a result of the political castration of the sixties, the Superintendent under the 1865 law functioned solely as a propagandist.

The 1872 law provided for a bonded, executive-appointed supervisory officer who was to serve a two-year term. The Superintendent's power and authority were increased substantially over what they had been under the 1865 law. He was to have the power to adopt courses of study and to adopt

²⁸ The Avant Courier, February 11, 1872.

²⁹ Emmett Riley, op. cit., p. 27.

all "rules and regulations" for all public schools in the territory.³⁰ The Superintendent was also to report annually to the governor on the condition of the schools.

It was recognized by the solons that the county school officers were usually unqualified and little interested in the schools. To partially counteract county indifference, the territorial Superintendent was saddled with a prodigious amount of work in preparing forms, diplomas, certificates and registers to present to the county officers. The law in 1872 even provided that the territorial Superintendent would send the county officers suggestions on school architecture as indicated in the following passage:

...as he may deem useful, with such wood cuts and plans of school houses he may be able to obtain, or which may be provided by territorial appropriation.³¹

No territorial appropriation was ever forthcoming for the purpose of helping the counties with school architecture; indeed, the legislature several times failed to provide for the printing of the annual Superintendent's report as required by law.

Potentially, one of the most important provisions affecting the territorial Superintendent concerned school visitations. The Superintendent was to travel to every county in the territory where schools were taught "so far as possible without neglecting his other official duties" for the

³⁰ Laws of Montana; Codified Statutes, Seventh Session, 1871-1872, p. 619.

³¹ Ibid., p. 620.

purpose of visiting schools.³² For all of this travel, plus rent, fuel, postage, printing and expressage, the parsimonious legislature granted him three hundred dollars per year in addition to his two thousand dollar salary. No territorial Superintendent could fulfill his duties and save any money out of his salary.

The powers and duties of the county superintendent were likewise increased. Under the 1872 school law the county superintendent was recognized as the most important county officer.³³ His duties and authority were impressive and included the examination of prospective teachers, enforcement of territorial school regulations, submission of reports on the condition of the schools and determination of school district boundaries.³⁴ The county superintendent of schools was made responsible to the electorate every two years and his salary was made dependent upon the number of schools and scholars in the county, an obvious attempt to encourage the county superintendent to organize new schools.³⁵

³² Ibid., p. 629.

³³ The New North West, July 18, 1874.

³⁴ The Laws of Montana, 1871-1872, op. cit., p. 623.

³⁵ "Each county superintendent, except when otherwise provided for by statute, shall receive such salary and his reasonable travelling expenses, not to exceed ten dollars per district, to be allowed by the board of county commissioners, which shall be paid out of the county general fund in the same manner as other county officers are paid. Provided, that such compensation shall not be less than a sum equal to one dollar, nor more than two dollars, for each school census scholar in his county, exclusive of travelling expenses, and that he be allowed, in addition to his salary, a sum for postage and expressage, payable out of the county school fund, equal to one dollar for each school district in his county." Ibid., p. 622.

The provisions for creating new school districts were of great significance for the future, continuing in force through the days of early statehood. Most of Montana's excessive multiplication of districts came about through the 1872 districting process. For the purpose of organizing new districts, or for the subdividing of an old one or the changing of district boundaries, at least ten heads of families were to present a petition to the county superintendent giving the reasons for the change. The county superintendent then submitted the petition with his recommendation to the county commissioners who had power over the petition. No monies belonging to the old district were to be shared with the new unless a school was actually opened within eight months of the boundary change. Then the new district was entitled to its "just share."³⁶

The lenient provisions of the law as originally passed concerning the easy formation of new districts were necessary because of the unpopulated condition of the territory. As the few large districts became populated - there were only 65 in the entire territory - and since there was a lack of adequate transportation, it was necessary to provide for easy, constantly shifting district lines. Unfortunately, however, the multiplication of the districts continued far after the original reasons for the law had disappeared thus creating one of Montana's most serious school problems.

The 1872 school law also provided for district school elections.³⁷ The elections were to be held on the last Saturday in September. Significant

³⁶ Ibid., p. 623.

³⁷ Ibid. .

was the inclusion of a tax paying qualification for voting in school elections, consequently, property holders could not now be forced to build a school for the non-property holders. Electors were otherwise required to have the same qualifications of age and residence as in the general election as indicated in the following affirmation:

You do swear (or affirm) that you are a citizen of the United States, that you are twenty-one years of age according to the best of your information and belief; that you have resided in the territory twenty days next preceding this election and that you are a taxable resident of this school district, and that you have not voted before this day.³⁸

Trustees were to be elected on the same alternating basis as today and by the same procedure.³⁹ The school boards under the 1872 school law were empowered with the same authority as under the 1865 school law, but a new duty of exercising censorship over the reading material of the school was added. In regard to censorship the law stated that it was the duty of the board to exclude from the schools and school libraries "all books, tracts, papers or catechisms" of a sectarian or political character.⁴⁰ No evidence was revealed in the territorial newspapers indicating that any school district found it necessary to invoke this censorship provision.

Under the 1872 school law the schools were open to all children between the ages of four and twenty-one "unless otherwise provided for by law." Four-year olds were started in regular school and it was "the three

³⁸ Ibid., p. 623.

³⁹ Ibid., p. 626.

⁴⁰ Ibid., p. 625.

R's" and not kindergarten games for these young scholars.⁴¹ According to the law, all schools were to be taught in English with the curriculum to include the following: Reading, Writing, Orthography, Arithmetic, Geography, English, Grammar, United States History and Bookkeeping. Close attention was to be paid to manners, morals, and physical well being.

Section 34 of the 1872 school law provided for the segregation of whites and blacks in the common schools of Montana. The segregation problem in the Montana schools warrants special discussion in a later chapter and Section 34 will be merely quoted here:

The education of children of African descent shall be provided for in separate schools. Upon the written application of the parents or guardians of at least ten such children to any board of trustees a separate school shall be established for the education of such children, and the education of a less number may be provided for by the trustees, in separate schools, in any other manner, and the same laws, rules, and regulations which apply to schools for white children shall apply to schools for colored children.⁴²

The "separate but equal" doctrine was established in the Montana schools long before it was adopted by many of the southern states.

According to the law, the school day was to be six hours in length, but the school board could in an emergency lower the requirements to four hours for scholars under eight years of age. Pupils could be expelled for disobedience, open defiance of the teacher, or habitual vulgarity and profanity. Parents of any pupils who destroyed, defaced "or otherwise injured"

⁴¹ The Herald printed a letter from a citizen of Hamilton, in which he reported that a four year old boy delivered a declamation that "would put to shame many a boy thrice his years." The Helena Daily Herald, January 18, 1873.

school property were made liable for the damage.

The section of the law concerning the duties and obligations of teachers was detailed and complete, even the holidays were prescribed by law. In addition to their regular duties, teachers were to look out for moral training of the students, as indicated by the following section of the law:

It shall be the duty of all teachers to endeavor to impress upon the minds of their pupils the principles of morality, truth, justice, and patriotism; to teach them to avoid idleness, profanity, and falsehood, and to instruct them in the principles of a free government, and to train them up to a true comprehension of the rights, duties, and dignity of American citizenship.⁴³

There was no evidence in the territorial newspapers or minutes of teachers' meetings that teachers were opposed to this section of the 1872 school law which, in effect, required them to teach the American way of life.

Of great importance to the development of education in Montana were the provisions for financing the school system. A county levy of not less than three nor more than five mills was to be levied by the county commissioners. In addition, all fines collected for violation of the penal laws of the territory or breach of license laws were to accrue to the school fund. The law concerning the county levy for the schools was mandatory in phraseology but discretionary in practice, as no penalties for violation were included.⁴⁴ If the school district desired it could go beyond the five mill levy and

⁴³ Ibid., p. 630.

⁴⁴ See page 97.

vote a special tax for any capital outlay, but the special tax could not be used for teachers' salaries. Of questionable efficacy was the provision that the trustees for the school district could sit as a board of equalization with full power to make changes in the school assessment rolls.

All school money was to be apportioned among the districts according to the number of census children between the years of 4 and 21. Since all good Indians were on the reservations, Indians were not to be included in the census unless they were living under the guardianship of white persons. The law made an attempt toward maintaining standards by promising withdrawal of county money from the districts if the teachers were not "fit for the occupation of teaching," and if they were not legally certified. Unfortunately, the 1872 school law did not identify the criteria by which teachers could be judged "unfit." Many minor regulations, which will not be discussed in this study, were included in the 1872 school law which was approved January 12, 1872.

The poor condition of the Montana schools seven years after the passage of Montana's first school law in 1865 led Potts, Hedges, and other educational leaders to press for a new school law. The legislature responded in 1872 and passed a comprehensive school law, which increased the authority of the territorial and county school officers and established an adequate school fund. The 1872 school law has been called the "foundation rock," and many of its provisions carried over into statehood. The school system was barely in operation, however, before moves were made to modify it. Some of the amendments and modifications to the 1872 school law which took place during the period 1872-1884 are discussed in the next chapter.

CHAPTER VI

THE 1872 SCHOOL LAW: AMENDMENT AND MODIFICATION, 1873-1884

It is true that the 1872 school law has been called the foundation of the common school system but this does not imply that the law went unchanged throughout the territorial period. Almost every session of the legislature during the decade 1873-1884 amended the law, although some sessions were more concerned with modification than others. Examination of territorial records, legislative journals and newspapers indicated that the decade of adjustment, 1873-1884, was divided into two periods: (1) minor modification of the school law during the years 1873-1877, (2) important changes in the school law during the years 1877-1884 to strengthen the school system by the establishment of teachers' institutes, compulsory school attendance, uniform textbook requirements and integrated schools. A discussion of the efforts to change the school law of 1872 in each of the two periods is presented in the subsequent sections.

Minor School Law Amendments: 1873-1877

The education system resulting from the 1872 school law was barely in operation before faults were found with it. One of the most persistent problems concerned the lack of money to run the schools. Congress had been memorialized by the 1872 session of the legislature to increase the funds available for the support of the schools. In the 1872 memorial the legislature petitioned Congress to fulfill the federal government's promise to turn over to the states for the support of the schools two sections of

land in every surveyed township.¹ Governor Potts was extremely concerned with the school land problem and had written the Land Commissioner several times asking for national aid for the territory.² H. N. Maguire, one of Montana's leading Democrats, had written an article in The Avant Courier demanding that the school lands be opened to settlement.³ Hedges answered Maguire in the Herald with the opinion that the lands could never be opened by the territory, Congress would have to do so.⁴ Hedges indicated in the same Herald article that he had little faith in the wisdom of the territorial legislature as expressed in the following excerpt:

...One thing is certain, these school lands will never come into the possession or under the control of our legislature, except as trust, which they will not be allowed to give or fritter away even should they have the disposition.⁵

Maguire, who was a land agent, revealed what he was after when he advertised in The Helena Daily Herald that any Civil War veteran could get one hundred and sixty acres of land under the Bonus Act of 1872 which could be located through an agent. If the school lands were opened to settlement, Maguire, by charging the usual realtor's fee for location, would have made a small fortune. The school lands would have been lost to the territory.

¹ Ibid., p. 647.

² See page 76.

³ This is the H. N. Maguire who was chairman of the abortive constitutional convention of 1866.

⁴ The Helena Daily Herald, April 19, 1872.

⁵ Ibid., April 19, 1872.

In spite of concern over lack of money for the operation of the schools, territorial records indicated that educational problems were of no significance in the calling of the special session of the legislature which met in 1873. This session was a railroad session which had been called to act upon the question of whether or not the territory should grant a subsidy to encourage the railroad to build into Montana; any other discussions were coincidental. Governor Potts' message to the 1873 legislature touched upon every subject from the hanging "of old man Triplett by the disgraceful Bozeman mob" to the election of justices of the peace, but not one word about education. Economy was the watchword of the 1873 special session. The territory was in a depressed condition and consequently the governor urged the reduction or elimination of expenditures.⁶

Although the Governor did not mention education in his message, Superintendent Hedges proposed several changes in the school law. Hedges recorded the following in his diary: "spent all afternoon drawing bill of amendment to school law," and also, on March 28, 1873, "spent all day drawing up school act."⁷

The legislature responded by amending the school law as Hedges had suggested. The major portion of the 1873 amendment referred to the powers and duties of county superintendents, who were by this act required to visit every school in the county. The county superintendent's authority to

⁶ Messages of the Territorial Governors, 1864-1889: Potts, Eighth Session, 1873. Montana State Historical Society Library, Helena.

⁷ Cornelius Hedges, Diary, op. cit., March 4; March 28, 1873.

⁸ Council Journal, Extraordinary Session, 1873, p. 13.

examine prospective teachers was strengthened by increasing the number of subject fields in the examination but the amount paid to the county by each teacher for a certificate was lowered from five dollars to two. In the same amendment the number of "heads of families" required to sign petitions for the creation of new school districts was lowered from ten to five. The school year was made to begin the first day of November and end on the last day of October, as the 1872 law had not been clear on this point.

The changes brought about by the 1873 session were admittedly not earth shaking, and in the year that followed the territory was in the depths of the depression with the morale of the people approaching the nadir. Hopes that the railroad would soon reach Montana had been dashed by the Panic of 1873; the "easy grab" mining gulches had played out and much of the nomadic population was leaving the territory.

In submitting his report to the Commissioner of Education in 1874, Superintendent Hedges asked the Commissioner of Education to take into consideration the depressed condition of the territory before passing judgement on its schools. These conditions appeared in his report to the Commissioner as indicated in the following passage:

The depressed general condition of our territory for the past two years since our present law has been in operation, our diminishing population and decreasing assessment rolls, have all operated unfavorably to the maintenance and growth of our schools and must be properly weighed in judging these returns.⁹

⁹ "Montana," Report of the Commissioner of Education for the Year 1874, p. 497.

Under the circumstances of the territory's depressed economic condition the interest in the schools was remarkable. In 1874, the Eighth Session of the Legislature gathered to hear Potts deliver his third message. In no uncertain terms the Governor scored the county school officers for not handing in their reports. He also plugged for compulsory education and asked the legislature to racially integrate the Montana schools. The Montana school system had been racially segregated since the passage of the 1872 school law and in 1874 the legislature ignored the integration request. Concerning compulsory education, Potts believed that it was the duty of the territory not only to place education within the reach of all the people but to compel them to take advantage of education's benefits. An elementary education, according to the Governor, should be considered as much a legal obligation as a necessity and the territory had the same power to enforce compulsory education that it had to enact any other law to promote the public welfare.¹⁰

The commissioners of Meagher County had attempted to solve their county's economic problems by refusing to levy the required three mill property tax for the support of the schools. The Governor's condemnation of the Meagher County action appears in the following portion of his message:

The violation of the school law by the commissioners of Meagher County, in refusing to levy a tax of three mills on the dollar for school purposes as required by law, demands of the legislative assembly

¹⁰ Messages of the Territorial Governors, op. cit., Potts, 1874.

the enactment of a law to punish county officers by fine and imprisonment for refusing to perform a plain legal duty. No officer is above the law, and when he takes an oath to enforce the law and violates it, he should be punished as a criminal and forfeit his office.¹¹

In his report contained in the Governor's message Hedges also pointed out the dereliction of the county officers in not levying the school tax. In 1873 only one county had levied more than the minimum rate while one, "in defiance of the plain law" went below the minimum tax. Hedges indicated that the below-minimum school tax was to be continued in 1874, as revealed in the following portion of his report:

...I am informed by the superintendent of the county that for the present year it has been further reduced to one mill on the dollar. How such a dereliction of duty as in this instance can be justified, I will not consider.¹²

Hedges' report also showed that in only one county was any special tax raised for the payment of teachers' wages so the support of the schools rested upon the amount realized from the minimum rate; hence most districts soon exhausted the school fund and had to curtail school for lack of money.¹³ The Superintendent also expressed the belief that the worst feature of the schools was their short yearly average length of four months. He wanted the minimum school term required by the law to be increased, since four months was not enough time to do an adequate job. As indicated in the following

¹¹ Ibid., Potts, 1874.

¹² Cornelius Hedges, Biennial Report of the Superintendent of Public Instruction, 1872-1873, p. 3.

¹³ Ibid., p. 4.

excerpt from his report, he pointed out the inadequacy of the short term for effective learning and the damaging effect of long intervals between terms:

...This is less than half of the time absolutely needed and indeed, when computed by the actual value to the scholar it falls much below even that small proportion. It is a very moderate estimate to say that by doubling the length of our present average school term, more than trebles the advantages and benefits to scholars. In these long intervals between school, the taste for and interest in study acquired by the scholar are diverted and dissipated. His mind becomes filled with other thoughts than those of books and more than half of a succeeding term is consumed in re-adjusting his attention to study and in resurrecting the scraps of knowledge previously acquired. Indeed, the pleasure attending the first acquisition of knowledge never returns when once lost. Interest and ambition can not survive upon such scanty and intermittent supplies.

In casting about for an explanation for the brevity of the school year, Hedges came up with the interesting account that the high teachers' wages were responsible. The average compensation of teachers in Montana was 68 dollars a month, while the average in Illinois was only 45 dollars a month. Wages were relatively more for all pursuits in Montana, and the school districts were forced to compete with all kinds of high paying endeavors in order to obtain teachers. The net result of the high wages paid to Montana teachers was the exhaustion of many school funds and the curtailment of school. According to Hedges, he was not attacking the high teachers wages but merely explaining the shortness of the school term.¹⁵

Hedges also criticized the national government for its lack of interest in territorial schools by pointing out that the Morrill Act had resulted

¹⁴ Ibid., p. 3.

¹⁵ Ibid. .

in nothing for Montana. Instead of aiding the territorial schools, the national government further "oppressed" Montana's citizens by forcing a worthless script upon them.¹⁶

Hedges reported that the supply of teachers was short and that the school houses were mostly log and were "neither elegant, comfortable nor convenient."¹⁷ School equipment was reported as "impossible," in the "matter of school desks and benches, with some of those in use a terror to behold."¹⁸

As was characteristic of Hedges, he admitted that the amendment that he had suggested to the 1873 legislature to allow easier district partitioning had been a mistake.¹⁹ The easier partitioning procedure resulted in districts so feeble that they could not sustain a three-months school term with their share of school tax money. According to the Superintendent, a poor school house, a cheap teacher, and a short session were the inevitable results of the amendment. One good district could be ruined by making three or four poor ones. As indicated in the following portion of his report, Hedges pointed out that district divisions often resulted from personal

¹⁶ Ibid., p. 6. In reference to the "worthless script," Hedges, like most Montanans, was an active opponent of the "crime of 1873" in which the national government had stopped the coinage of silver dollars. Hedges was personally interested in silver mines which had been discovered in the Jefferson Valley in 1874. "Mr. Hedges, one of the discoverers and locators of the Jefferson River mines, called this week. He confirms the reported richness of the diggings and the many good reports...." The Helena Daily Herald, May 18, 1874.

¹⁷ Cornelius Hedges, Biennial Report, 1873, op. cit., p. 6.

¹⁸ Ibid., p. 7.

¹⁹ Hedges had most likely written the amendment, see page 90.

quarrels:

Sometimes, I regret to say, these divisions of districts are dictated by neighborhood quarrels, and the children suffer to satisfy these short sighted and self-destructive animosities.²⁰

Such district divisions were possible under the 1873 amendment and could thus promote feebler districts. These same short sighted animosities have carried over to the present day and have often prevented district consolidation.

Potts has been given great credit by modern historians for his efforts toward improving the collection of taxes for the schools. Potts' contemporaries were far less charitable towards his educational efforts, as indicated in the following Helena Daily Herald editorial:

The Governor's message has been received and like most of the documents issued by that functionary it is of immense length and if we should undertake to publish it, it would fill nearly two entire pages of the Herald. A mere repetition of former messages embracing statistical facts that have been published in this paper long before the governor ever dreamed of Montana. Indeed, the message is a very weak document, and will neither interest the people nor add new luster to the statesmanship of "old genial influences."²¹

Contrary to Fisk's belittling of Potts' message on education, every territorial governor's message was read by the present writer and in his opinion none was the equal of Potts' 1874 message for clarity, directness,

²⁰ Ibid., p. 7.

²¹ The Helena Daily Herald, January 6, 1874. Potts was called "old genial influences" because he had written a letter to a friend in the East asking the friend to pity him because he was beyond the genial influences of civilization. This did not set well with Montana's citizens.

and understanding of the school problem. The message was especially noteworthy because of the complete absence of noble educational cliches. The minimum millage controversy attacked by the governor was the most serious threat to the public school system during territorial times. If the problem had gone unchallenged, the county commissioners under the guise of economy could have refused to open the public schools.

Both Potts' message and Hedges' report were referred to the committee on education in the House and Council. The legislature passed sweeping amendments to the 1872 school law, but the punishment asked for by Potts and Hedges to prevent school officers from not doing their duty left something to be desired. A fine of not more than one hundred dollars was to be levied against any school officer who failed to do his duty. The law was not clear as to whether or not this included county commissioners in their role of collectors of school revenue.

The following report of the Committee on Education and Labor concerning the minimum millage controversy was indicative of the attitude of the people that well characterized school officers who did not do their duty should not be punished:

...the failure of the County Commissioners of Meagher County to levy the adequate tax to support the common schools the committee beg to state that from the known character of the gentlemen who comprise the county commissioners of that county there was no intention to disobey the law, nor is it clear that they did.²²

Contrary to the report of the committee, the law was quite plain

concerning the three mill minimum levy, and the committee's action was neither fair nor accurate. Wilbur Fisk Sanders, Stafford and Carmaichael comprised the committee membership, and from reports it was impossible to determine to what extent either geographical or political partisanship commandeered their report. For Sanders, the report was a radical departure from his usual liberal attitude in support of the schools.

Potts did receive support from Sanders in his effort to repeal the segregation clause in the school law by Sanders' introduction of the following anti-segregation amendment:

Provided that if any scholar is excluded from school on account of color it shall be the duty of the trustees to provide for the children so excluded.²³

Even Sanders' watered down version of the anti-segregation amendment lost in the "Missouri" dominated legislature. The Republican territorial newspapers were unanimous in laying the blame for the defeat of the anti-segregation amendment on the "left-wing." One does not have to go very far to find the extent of the pro-southern influence in the eighth session. "Rebel" Rogers was the influential and able speaker of the House, and "Missouri" names that included such as the vociferous Sample Orr dominated the legislative roll. When the only school bill to pass the legislature in 1874 was presented to the governor for his approval, the clause discriminating against the negroes remained.

The 1874 school amendment provided for many minor changes that included

²³ Ibid., p. 237.

a reduction of expense money for the Superintendent's office. The age of public responsibility in providing schools was raised to five years - the census roll still started at four - and the school year was to begin the first day of September and end on the last day of August. Of more importance was the passage of Council Bill 44 by which "deaf, mute, and blind children" were declared the special responsibility of the territory.²⁴

The two year period following the adjournment of the eighth session of the territorial legislature was one of discouragement for the territory. The arrival of the railroad seemed further off than ever. Mines had played out and were closing. But most distressing of all, the territory's population was being rapidly drawn to the Black Hills by a new gold rush. Those citizens who remained were plagued by grasshoppers, disease, and Indians. Even in the face of these hardships, the remarkable support of the schools continued. New elementary schools continued to be built, and in 1876 the first high school opened its doors in Helena. Three years later the first high school "graduates" assembled to hear Granville Stuart, in a commencement address, blame a textbook for his failure in life. According to Stuart:

...for text books we had Webster's spelling book with that discouraging frontispiece of a very lightly clad young man weakening when half way up a high mountain with a cupola on top of it and a rough looking female ordering him to climb it. I attribute my failure to achieve greatness to that picture. The constant contemplation of it so impressed the difficulty of becoming famous in that costume upon my youthful mind, that hope died within me.²⁵

²⁴ Ibid., p. 32.

²⁵ The Helena Daily Herald, June 13, 1879.

Stuart also pointed out that only a few years previous to the opening of the high school he had hunted antelope on the very hill where the school had been built, and there had been no white man within fifty miles. 1876 also saw the completion of the Central Graded School of which Helena was so proud.²⁶ Built of brick and costing the "tremendous sum" of \$25,000, it was furnished with "regular" school furniture, including desks, blackboards, maps "and such."²⁷ The territorial legislature was in session when the Helena Graded School was opened and the dedication ceremonies were attended by both Houses, the Supreme Court Justices, Superintendent Hedges, and other territorial officials. Wilbur Fisk Sanders and Judge Blake gave the dedication speeches and the school opened for business under Professor Charles Wheeler; the first graded school in Montana.²⁸ During the years 1875-1877 from Fort Benton to Bozeman new schools made their appearance and old ones were improved.

In his report to the Commissioner of Education for the year 1875, Hedges proudly pointed out that school attendance had increased in the face of a declining population.²⁹ The average length of the school term had

²⁶ David Hilger, op. cit., p. 7.

²⁷ Ibid. .

²⁸ Judge Blake, who should have known better, used his entire dedication speech trying to get the teachers, parents and students to agree that "Helena" should be pronounced "He-lee-na." Letters of protest poured into the Herald office, including some from people who had attended the meeting at which Helena had been named. The Judge, of course, was overruled.

²⁹ "Montana," Report of the Commissioner of Education, 1875, p. 498.

also been increased by ten days. Hedges incidently indicated some dissatisfaction with the public school system when he reported that the number of children attending private schools had doubled since 1874.³⁰ The Superintendent also protested that the age limits of the public responsibility for education were too broad - five to 21. According to Hedges, too many younger married people "whose school days, in the ordinary conception of the term, are supposed to be over," were attending the schools.³¹

In this same report Hedges, curiously enough, indicated with satisfaction that the "average compensation of teachers has been sensibly reduced," but according to Hedges the Montana depression was so bad that the teachers were still better off than anywhere else in the United States.³² In an effort to reduce expenditures, the legislature attempted to consolidate the offices of territorial Auditor and Superintendent of Public Instruction in 1876. Fortunately for the continued progress of the schools, the legislative Committee on Education and Labor recommended that the Bill "do not pass," reasoning that two different offices required two different types of men, as indicated in the following portion of the committee report:

...The Auditor has to be a man with figures, but the Superintendent has to be a man with culture and learning; these two offices to be filled with the necessary ability require such a great variety of diverse attainment seldom found in one individual.³³

³⁰ Ibid., p. 498.

³¹ Ibid. .

³² Ibid. .

³³ House Journal, Ninth Session, 1876, p. 219.

In addition to killing the bill which would have consolidated the offices of Auditor and Superintendent, the legislature acted on one other bill concerning the appropriation of school lands.³⁴ The school land act allowed the school trustees to appropriate for the use of the district any lands which had been set aside under the township act for the establishment of a university. More important for the future development of the schools was a provision allowing district trustees to bond the district for a period of three years at 18 percent interest or six years at 10 percent for capital outlay, including the building of "out-houses;" the beginning of the all-important bonding process which is the heart of school expansion today.³⁵

In the years 1873-1876 there was little legislation affecting the schools. Montana was in the depths of a depression and much of the population left for other gold camps. The attention of Montana's citizens was diverted away from the schools by the Indian wars, climaxing in the Custer Massacre on the Little Big Horn. The most important action of the legislature during the period 1873-1876 concerning education was in refusing to consolidate the offices of territorial Auditor and Superintendent and in establishing a school district bonding process.

From 1877 to 1883 conditions in Montana were greatly improved over what they had been from 1873 to 1876. The last major Indian war had been fought within the boundaries of Montana and the Indians were confined to the reservations. In 1881 the railroad reached Montana and the economic

³⁴ Session Laws, 1876, p. 148.

³⁵ Ibid. .

situation began to get better. Concomitantly, there was much more legislation concerning the schools in the years 1877 to 1883 than there had been since 1872.

Important School Law Changes: 1877-1883

Between the years 1877 and 1883 there was much legislation passed which affected the schools. Some of the most important school bills legalized teachers' institutes, provided for uniform school textbooks throughout the territory and repealed the segregated school clause of the 1872 law. In addition, many minor amendments were proposed, some of which were defeated by legislative action and some of which were added to the statute books.

The 1877 session of the legislature was dominated by the railroad question and any school amendments were secondary. The defeat of the railroad subsidy at the polls in 1876 had caused the legislature to change the time of the next legislative session to 1877. Governor Potts vetoed the change but the legislature passed the change bill over his veto. The 1877 legislative assembly was the tenth session to meet since the territory had been organized in 1864. Potts, in his message, commented on the favorable progress of the schools and asked for nothing specific in the way of education. Hedges' report, which was included in the message, also wrote on the great progress made by the schools since the last session. He recommended an increase in the length of the school term to six months, the cost

of which would be made up by reducing teachers' wages.³⁶

The governor's message was sent to the Committee on Education and Labor. The committee report on the governor's message reflected the general feeling of well-being concerning the schools as shown by the following comment:

Your committee believe that too much care cannot be exercised in fostering the educational interests of our nascent commonwealth... That we believe that the present school law of the territory, with a few material amendments, will suffice for the present.³⁷

Superintendent Hedges soon used the editorial page of the Helena Daily Herald to propound his ideas as to what the "few material amendments" mentioned in the preceding committee report ought to contain. Hedges ranked as most important an extension of the school term from three to six months minimum as a condition of sharing public money.³⁸ According to the Superintendent, the first three months were spent almost entirely in acquiring some discipline, skill, and "readiness." He claimed in the following Herald report that the effective school time would be more than doubled by lengthening the term to six months:

...
 ...In the three months succeeding they can more readily accomplish twice as much and what has been acquired would become so much more firmly fixed that study habits would not be lost in the long interval between school terms but would prompt, too, much voluntary study.³⁹

³⁶ Cornelius Hedges, Biennial Report, 1876, p. 4.

³⁷ House Journal, Tenth Session, 1877, p. 81.

³⁸ The Helena Daily Herald, January 13, 1877.

³⁹ Ibid. .

The legislature, realizing the possible increased cost of education, ignored Hedges' recommendation for a longer term of school, but several school bills were introduced. One of the school bills introduced in 1877 proposed to do away with territorial and county superintendents of public instruction and substitute a board of three members, elected from three huge school districts. The members of the board were to perform all the duties of the superintendents. The board would meet once a year for a short session to transact general business and would spend the rest of the time in the individual districts. Since the number of school officers would be greatly reduced, the sponsors of the bill claimed economy as its chief merit.

Hedges attacked the bill to consolidate school offices in no uncertain terms, as indicated in the following Herald editorial:

Economy is always a legitimate object to seek consistently with the general good. But if it would appear as we think it will appear, that the economy and efficiency of the school system would be destroyed, the uncertain saving of a few dollars would prove a sorry piece of extravagance in the end. The present system of school superintendents is the growth of a century's experience. Boards of education have generally given way. They exist now only in a very few of the oldest states and where change has been most strictly resisted. Nowhere is there any doubt of the general wisdom of superintendence.⁴⁰

In spite of Hedges' editorial efforts against the bill in the Helena Daily Herald, it passed the Council and was sent to the House. The Helena Independent backed the bill, and it entered the House as a Democratic measure.⁴¹ The bill was written by McAdow, one of Potts' Democratic friends,

⁴⁰ Ibid., January 13, 1877.

⁴¹ Ibid., February 6, 1877.

and since the Independent was recognized as the governor's "mouthpiece," it is possible that Potts advocated the bill as part of his economy program.

On February 6, 1877, in the Helena Daily Herald, Hedges attacked the school office consolidation bill as a bit of "shallow styled reasoning" common to those who were known to support it.⁴² In the same editorial he pointed out that the bill provided for a salary of \$800 per annum for the district superintendents, and that district officers had to visit all the schools in the district at their own expense. According to Hedges, the district superintendents' wages were less than the average school teacher's and scarcely more than the wages of a domestic servant; hence only "bummers" would take the job.⁴³

The legislature compromised with those who believed that the county and territorial superintendents should be continued. Although the position of territorial superintendent was continued, a bill was passed consolidating the offices of county treasurer and county superintendent of schools in five counties.⁴⁴

Far more important than the consolidation bill and its effect upon the schools was the legislation concerning the establishment of teachers' institutes. These institutes had been held in several cities on a voluntary basis for several years. The tenth session of the legislature, responding to urging by Hedges and other friends of education, legalized the meetings.

⁴² Ibid., February 6, 1877.

⁴³ Ibid. .

⁴⁴ Session Laws, 1877, p. 217.

The teachers' institute bill provided that the county superintendents of any county containing more than ten organized districts could at their own discretion hold an annual teachers' institute. The county superintendent was allowed twenty-five dollars for providing buildings, fuel, lights, stationery or any other expenses connected with the institutes. Section 2 of the institute bill was subject to different interpretation. This section seemed to require as a condition of holding a teaching certificate the attendance of all teachers at the meetings of the institutes, but non-attendance was one of the greatest handicaps the institutes had to overcome.⁴⁶

Following passage of the teachers' institute bill, the Tenth Legislative Assembly adjourned. Contemporaries paid it great compliments. Fisk hailed the Tenth Assembly as the best in the history of the territory. In the months succeeding adjournment the schools continued to enjoy modest support by the people. Even the best school districts, however, suffered from lack of finance, and the vaunted Helena Graded School announced on March 1, 1877, that the school would close for lack of funds.⁴⁷ The Helena school board promised to reopen the school if the parents would contribute a per capita amount to pay the teachers' salaries. The subscription plan failed and a petition was circulated by some of the parents to vote a special tax of one mill for the support of the graded school.⁴⁸ The people voted

⁴⁵ Ibid., p. 397.

⁴⁶ Ibid., p. 398.

⁴⁷ The Helena Daily Herald, March 1, 1877.

⁴⁸ Ibid., March 19, 1877.

for the tax on April 11, 1877, and Hedges complimented the citizens of Helena for their support of the schools.⁴⁹

It is interesting to note that one of the arguments used to get the people to vote for the special tax to reopen the school was the promise of the great sum of money that would be brought into town by families who would move to Helena to take advantage of the schools. This promise of an economic benefit to be gained from a good school system was indicated in the following report from the Herald: "Tenements are already in brisk demand to accommodate the families who move during the autumn to give their children schooling."⁵⁰ Efforts to keep the schools open and to increase enrollment were successful throughout the territory in 1877. One school was even forced to adapt that modern sacrifice to expediency, the split shift.⁵¹

Although the years 1877, 1878 and 1879 were marked by noteworthy increases in school enrollment, the legislatures were dominated by the railroad question - should the territory vote a subsidy to help build the railroad to Montana? Two legislative sessions convened in 1879, and both were

⁴⁹ The Helena Daily Herald, April 16, 1877.

⁵⁰ Ibid., October 8, 1877.

⁵¹ "Owing to the want of a sufficient number of seats and desks to accommodate the present number of pupils, the largest number ever enrolled here; and being unable to rent a suitable room at a reasonable price, our school board has been forced to make one room accommodate two sets of pupils. The hours for those formerly in room no. 6 are from 9 to 10:45, and from 12:30 to 2:15. For those in no. 7 from 10:45 to 12:30 and from 2:15 to 4:00. Bells are rung at 15 minutes and again at five minutes before these hours excepting the first hour, when the bells are struck as usual. This arrangement will give the warmer portion of the day to the younger pupils during the cool winter months and seems the only arrangement possible under the circumstances." Ibid., December 10, 1877.

taken up almost entirely by the railroad subsidy question. Potts made no mention of education in his message, and the only bill passed concerning the schools was one which required the territorial Superintendent to report annually instead of biennially.

The report of the Superintendent of Public Instruction for the year 1879 showed that the average pay of teachers and the average attendance of students in the schools had both decreased since 1877.⁵² Superintendent Smith also expressed the doubt that much of a gain had been made in the number of schools in operation since 1873. According to Smith, the number of schools turning to a graded program had increased and the county superintendents listed each classroom in the new graded school as a separate school. The theme of Smith's 1879 report seemed to be that interest in the support of the schools was lagging.

Many people in Montana agreed with Smith that educational interest was not what it should have been. In August, 1880, a teacher wrote a letter to The Helena Daily Herald asking the people to "wake up" on school matters.⁵³ According to this teacher, there were some families in the Helena district that did not send their children to school at all, and one of these families had seven children of school age and lived within two hundred yards of the school house.

Potts message to the twelfth session of the legislature reflected the general lack of interest in educational progress. The governor's report

⁵² "Montana," Report of the Commissioner of Education, 1879, p. 282.

⁵³ Letter to the Editor, signed J. S. Frey; The Helena Daily Herald, August 3, 1880.

contained nothing of importance concerning the schools. The one short page was devoted to such educational platitude as, "education is economy," "ignorance is waste," etc., etc..⁵⁴

Fortunately for the Montana schools, the legislature acted upon the more specific suggestions made by the territorial superintendent and other school leaders. The territorial superintendent had called an educational council meeting in Helena, on January 4, 1881.⁵⁵ The council recommended the establishment of district superintendents instead of county superintendents. The council also recommended the establishment of a Board of Education with the power to control the examination of teachers and the regulation of textbooks.⁵⁶

Just a few days after the Helena educational meeting the legislature took up the proposition of uniform textbooks for all of the schools in the territory. Governor Potts threw his support behind the textbook law. In a special message he submitted propositions from two textbook companies to furnish the public schools of Montana with books.⁵⁷ The governor commented favorably on the propositions, as shown by the following excerpt from his message:

...I commend the proposition to your favorable consideration. I believe a uniformity in books essential to the success of our

⁵⁴ Council Journal, Twelfth Session, 1881, p. 20.

⁵⁵ The Helena Daily Herald, December 5, 1880.

⁵⁶ Ibid., January 5, 1881.

⁵⁷ Council Journal, Twelfth Session, 1881, p. 52.

school system. This proposition has been so favorably endorsed by the teachers and school officers of this territory as to commend it to your favorable consideration.⁵⁸

Fisk and Sanders were opposed to the uniform textbook law and took the lead in criticising it.⁵⁹ The attacks came only from laymen since the teachers and school officers seem to have been solidly in favor of uniform textbooks for all of the schools. The House passed the uniform textbook law with but little opposition, but in the Council a bill was passed to appoint a committee to look into the feasibility of uniformity.⁶⁰ The committee was composed of Egbert Smith, Robert Howey and Cornelius Hedges, all of whom had served as territorial superintendent.

While the textbook committee appointed by the legislature was looking into the various propositions advanced by the book companies, the Helena Daily Herald advanced the argument that Montana did not need a uniform textbook because a good teacher could do just about as well with one book as another, or even without any book.⁶¹ A teacher immediately answered the anti-textbook article in the Herald by pointing out that Montana stood alone in having no law governing text books.⁶² According to the teacher, each new instructor who came into a school was "liable and likely" to

⁵⁸ Ibid., p. 52.

⁵⁹ The Helena Daily Herald, January 5, 1881.

⁶⁰ Council Journal, Twelfth Session, 1881, p. 134.

⁶¹ The Helena Daily Herald, January 6, 1881.

⁶² Ibid., January 22, 1881.

induce the trustees to authorize the expense of a set of new books which "may be either the latest in the textbook line or the time honored and venerable author in which he was himself trained up."⁶³ The following passage, taken from the same article in the Herald, summed up the arguments for the textbook law on the grounds of economy:

In any case it is pretty certain to be different from the books used before and the people are subject to the expense of purchasing new books, and the bookseller to the annoyance of seeing his old stock, which he ordered in response to the last teacher's requirements become worthless lumber on his shelves. The bookseller, however, gets even by adding the amount lost on the old books to the price of the new and the people get even by cussing the dealer for the exorbitant prices of his books. The dealer rejoins by cussing a system which subjects him to such constant loss and all hands cuss the teacher. The latter individual moves on the next year to the next district to repeat the performance very likely with still a different set of books.⁶⁴

The controversy continued until the textbook law was finally passed. The act required textbook uniformity throughout the entire territory and the books selected were to be used exclusively in the public schools. The act did allow the district trustees authority to grant use of supplementary texts in emergencies.⁶⁵ Adopted books were not to be changed for four years, and the publishers were to be bonded. Any district that did not conform to the textbook law might lose 25 percent of the county school fund, which was to be apportioned among the conforming districts.⁶⁶ Of

⁶³ The Helena Daily Herald, January 22, 1881.

⁶⁴ Ibid. .

⁶⁵ Session Laws, 1881, p. 78.

⁶⁶ Ibid. .

special interest was a provision in the law that required the publishers of the geography books that were adopted to include a map of "Montana improved," captiously implying that geography books of the time ignored this western territory.⁶⁷

The school system continued to progress during the biennium 1881-1883. In June, 1881, a most important court judgement was rendered in Bozeman. At a school election to decide on the question of a supplementary tax for the schools, the election judges excluded the votes of non-taxable residents of the district; that is, those who had no property assessable for school tax purposes. The matter was referred to the district court and Judge Conger decided that an elector who was entitled to vote in school tax elections was one who owned property.⁶⁸

Superintendent of Public Instruction Howey, in his 1881 report to the Commissioner of Education, reported a healthy growth and progress of the school system.⁶⁹ According to Howey, more districts had been organized, more school houses had been built, and more days had been added to the school term. He reported that teachers were better qualified and that the average salary of teachers had jumped as much as eight dollars a month.⁷⁰ Superintendent Howey explained that the low enrollment of census scholars was not due to the inefficiency of the schools but to the sparseness of the

⁶⁷ Ibid., p. 78.

⁶⁸ The New North West, June 3, 1881.

⁶⁹ "Montana," Report of the Commissioner of Education for 1881, p. 297.

⁷⁰ Ibid., p. 297.

population and the consequent distance of many pupils from school.⁷¹ He reported that one district in Meagher County contained over 4000 square miles and another in Gallatin County was 3 miles wide and 100 miles long. The school house in the Gallatin County district stood near the center and it was next to impossible for all the parents to send their children to school. Howey ended his report by calling for a compulsory education law.⁷²

Not everyone agreed with Howey that the schools were in excellent shape. Captain Mills of the Deer Lodge New North West editorialized on the subject "Are the Schools Doing What They Should?" Mills voiced the refrain so familiar to modern schoolmen that the schools taught nothing that was of any value in real life, as indicated in the following excerpt:

The public school graduates seem to know so little, are so little prepared to meet the practical questions of life, have so little of the quality understood as common sense; that wonder is constantly expressed as to what they have been taught in the years they have attended school.⁷³

According to Mills, the trouble was in the prevailing course of studies. The school curriculum was but a preparation for the high school and the college, whereas it should have been a preparation for active life.⁷⁴ Of those who entered school, Mills believed that only one in ten ever reached

⁷¹ Ibid., p. 297.

⁷² Ibid., p. 298.

⁷³ The New North West, September 8, 1882.

⁷⁴ Ibid., September 8, 1882.

high school and that a much smaller proportion went to college. Mills also expressed the belief that too much red tape was gradually accumulating around the system. Teachers were required to prepare and make out many examination papers and so many reports that their energies were wasted with the "classroom" becoming secondary. No mention was made by Mills of compulsory education, but the other papers were strongly in favor of it.

The thirteenth session of the legislature met in 1883. This was Potts' last legislative session. For the first time in its history the territory was free of debt. The governor in his message announced that all territorial bonds had been retired. Concerning education Potts asked for a compulsory education law. The nature of his request is given in the following portion of his message:

The report will show the number of absentees of school age to be very large. The public provides for schools for all, and they should be required to avail themselves of their benefits. I recommend enactment of a law requiring the attendance of all children of school age. I am aware that such a law would be arbitrary, but it is not more so than to require citizens who have no children to pay a school tax. The school fund is created to educate all classes at the public expense and the taxpayer has a right to demand that every child should attend school.⁷⁵

The records indicated that of all the educational measures introduced during the thirteen years of his administration, Governor Potts worked most vigorously for compulsory attendance. Potts' scrap book contained many clippings concerning this bill. The idea of tax money being allowed "to go to waste" went against the parsimonious nature of the governor.

⁷⁵ Council Journal, Thirteenth Session, 1883, p. 30.

The legislature responded and passed a compulsory education law which made it mandatory for every "parent, guardian or other person" having charge of a child between the ages of 8 to 14 years of age, to "send such child or children to a public or private school."⁷⁶ The school had to be taught by a competent instructor, and the term had to last for at least 12 weeks each year of which 6 were to be consecutive, unless excused by the trustees "for just cause."⁷⁷ An important amendment which was tacked on to the compulsory education law concerned segregation in the schools. In view of the controversy over the segregation issue, it was a surprise to find little opposition to its repeal in 1883. The bill prohibited the exclusion from the public schools of any child on the basis of race or color.⁷⁸

The Thirteenth Legislative Assembly came to an end with the repeal of the segregation clause of the 1872 school law. Montana now had a public school system that was free to all pupils. The period from 1877 to 1883 was extremely progressive as far as school development was concerned. Laws had been passed which legalized teachers' institutes, required uniform textbooks throughout the territory, and repealed the segregation clause requiring separate schools for the colored. The entire period from 1873 to 1883 was one of modification of the 1872 school law. There were not as many changes in the school law during the years 1873-1877, because of the depressed economic condition of the territory. By 1883, all major changes in the

⁷⁶ Session Laws, 1883, p. 1149.

⁷⁷ Ibid., p. 1149.

⁷⁸ Ibid., p. 1150.

school system which had been established by the 1872 school law had been completed. The law per se sometimes is no more important than its interpretation. An examination of territorial newspapers indicated that there were three provisions of the law which received most of the newspaper coverage. In the next chapter, these three important provisions of the law have been presented for presentation in order to examine the school law in operation; the provisions of the school law concerning the work of the Superintendent; the provisions of the law concerning the operation of the teachers' institutes; the provisions of the law which required separate schools for the colored.

CHAPTER VII

SOME IMPORTANT PROVISIONS OF THE 1872 SCHOOL LAW IN OPERATION

Although the foundation of the Montana school system had been passed in 1872, in the decade 1873-1884 many important modifications were made in the common school system. By 1884, the legal organization had been completed. An examination of territorial newspapers and personal records indicated that three provisions of the law were considered most important by school leaders and teachers in the 1870's. These three provisions of the school system during the period 1873-1884; the operation of the territorial Superintendent of Public Instruction's office; the organization and work of teachers' institutes; the racial segregation of Montana's territorial schools are presented in the subsequent sections.

The Office of the Territorial Superintendent of Public Instruction in Montana: 1873-1884

One of the most important provisions of the 1872 school law regulated the duties and authority of the office of territorial superintendent. This office had been the center of party strife for years. In 1869, the legislature, overcome by partisan bitterness against Governor Ashley, had even tried to abolish the office. Ashley vetoed the bill, the Council finally upheld the veto, and Council member Collins of Meagher County delivered a speech against the "contemptible party spirit in which the bill was fostered and engineered."¹

¹ The Helena Daily Herald, January 18, 1870.

Although the bill to abolish the territorial superintendent's office did not pass, when Governor Potts arrived in Montana in 1870 the office was vacant. The 1872 school law added to the duties and powers of the superintendent, making him an important school officer. Governor Potts delayed in making an appointment in order to have time to make a careful selection. Editor Fisk of the Herald explained Potts' delay in appointing a superintendent by accusing the governor of making a political deal with the Democrats to divide up the political offices equally between the two parties to win Council confirmation of territorial appointees. Potts remonstrated and the ensuing feud marked the beginning of the open split between Potts and the Fisk-Sanders group of the Republican Party. The first of many newspaper editorials appeared in the Helena Daily Herald castigating the governor:

We are fully sensible of the obstinate nature of the executive. In this trait of character we painfully realize that he is scarcely, if a wit, behind his accidenty, Andrew Jackson, whose apostacy to his party brought shame to his political followers.²

In the same editorial Fisk went on to say that the Helena Daily Herald had reluctantly sponsored Potts when he had first arrived in Montana. But like "Atlas shouldering the world," the task had become too much, and the rumored political deal with the Democrats was the last straw.³ Of course, Fisk's voice was that of the most radical Republican in Montana. Fisk was an Ashley supporter who could see nothing but the hand of treason in everything the Democrats did.

² The Helena Daily Herald, January 9, 1872.

³ Ibid., January 9, 1872.

Many moderate Republicans disagreed with Fisk and supported the rumored efforts of Potts to conciliate the territorial Council by allowing it to name the Superintendent of Public Instruction. Fisk admitted, in the following editorial, that some Republicans supported the governor:

As the hour approaches when the nominations can no longer be postponed, an increased nervousness is perceived in the movements of Potts. This nervousness may be, say some, considerable augmented by the loud "you hadn't better do it Potts" which comes from every true Republican, and which warnings are by no means counter balanced by the outspoken approval of prominent "Democrats" who claim that he is displaying noteworthy pluck in this endeavor of the Council.⁴

Fisk even claimed that the governor had left the capital as a result of "executive panic" and could nowhere be found. The headline of the Helena Daily Herald for January 10, 1872 was, LOST, A GOVERNOR!⁵ Newspaper representatives had failed to find the governor and had reported that the executive office was locked. Fisk used satire to explain the governor's absence, as reported in the following Helena Daily Herald editorial:

It is known that the governor, in imitation of the giant in the story book, carried his office key suspended about his neck on a scarlet cord. Might not one or the other of his brogans, marked with the numbers "4-14-44" have tripped him in an unwary moment, and the cord have done the rest of the work?⁶

⁴ The Helena Daily Herald, January 11, 1872.

⁵ The Helena Daily Herald, January 10, 1872.

⁶ Ibid., January 10, 1872. The reference to the Vigilante marking is interesting, that is, "4-14-44" as compared with "3-7-77." Pott's gigantic proportions were well known and even his friends told jokes about his colossal avoirdupois. Does this story support those historians who believe "3-7-77" indicated the dimensions of the grave?

Since there was nothing in any of the other territorial papers concerning the "lost executive" episode it seemed quite likely that the entire Herald story was a Fisk attempt to ridicule Potts. There was likewise no evidence in any of the other newspapers nor in the governor's personal letters that indicated any attempted barter of the superintendent's office with the Democrats. On January 12, 1872 Potts handed in the name of Cornelius Hedges to the Council for confirmation as territorial Superintendent of Public Instruction.⁷

Fisk took credit for having caused the governor to change his mind, and in the same article announced the Council's rejection of Hedges.⁸ Hedges served anyway, and won the support of all elements by his devotion to duty. In 1874⁹ Hedges was reappointed, immediately confirmed by the Council, and even the Helena Daily Herald thanked Potts for making such a worthy selection.⁹ The Helena Independent expressed the belief that Hedges was a "little too quiet" as a territorial officer and Fisk immediately came to Hedges' defense as shown in the following article:

In the past few years to the neglect of his law practice and private interests, he has discharged the responsible duties of Superintendent of Public Instruction, traveling at stated periods from county to county, visiting nearly every school district in Montana, and inaugurating plans and facilities for the teaching the youth of the country calculated to lift popular education in Montana to the standards reached in the best free schools of the states.¹⁰

⁷ The Helena Daily Herald, January 13, 1872.

⁸ Ibid., January 13, 1872.

⁹ The Helena Daily Herald, January 14, 1874.

¹⁰ The Helena Daily Herald, July 14, 1874.

Hedges made the school visitations mentioned by Fisk with a salary scarcely sufficient to cover his expense of travel. In general the territory appreciated his efforts to improve the schools but his side adventures into politics were less appreciated as evidenced by the following excerpt from the Virginia City Madisonian:

Hon. Cor. Hedges of Helena arrived to talk in this city the first of the week. Mr. H. talks better on educational topics than he did on politics when he stood for Congress on the Republican ticket last August.¹¹

In spite of the enemies made while running for office, Hedges was re-appointed and confirmed in 1876, but by 1878 he had fallen into executive disfavor. In his diary notes of January 14, 1878, the following notation indicated this executive disfavor:

Astonished by news from Mills that Gov. had appointed Clark Wright my successor - kept growing madder all day over it - changed many plans - Hope it may prove for the best - that I may ask only noble revenge - cleaning out my desk to turn over to my successor.¹²

Mills was acting-governor while the governor was out of the state, but Potts had given the order to fire Hedges. Potts' friends questioned the wisdom of Hedges' dismissal and some of the Democratic newspapers were actively against it, as reported in the following Madisonian editorial:

Acting governor Mills has appointed Rev. Wright to the position of territorial Superintendent of Public Instruction. Mr. Wright is

¹¹ The Madisonian, April 15, 1875.

¹² Cornelius Hedges, Diary, January 14, 1878. Microfilm, Montana State University History Department, Bozeman.

well known in Montana as a preacher of more than ordinary ability, but whether in selecting him for this position, the acting governor has found the right man remains to be seen. If Mr. Wright performs the duties of the office as efficiently as Hedges, the best superintendent in Montana history....¹³

Fisk, in a Herald editorial, agreed with the editor of the Madisonian and claimed that no reason had been given for firing the Superintendent other than that Hedges would not bow down to Potts.¹⁴ The dismissal, however, is easy to explain. Potts was not one to condone disloyalty, and Hedges' extra-curricular editorial and political activities with the Fisk brothers were bound to bring him into disfavor with the chief executive. In his diary Hedges made frequent references to "taking over the Herald" while Fisk "want to Washington to get rid of Potts."¹⁵ Working for Fisk was giving "aid and comfort to the enemy" and there can be no doubt that from Potts' point of view the Fisk-Sanders group was the enemy. Potts hated both Fisk and Sanders; he told delegate Maginnis that the best rule of thumb in Montana politics for an honest man was to oppose anything that Fisk and Sanders were for.¹⁶

It is evident then that internal Republican politics were responsible for Hedges' dismissal and Wright's appointment. Wright was a well-known citizen of Helena, pastor of the Broadway Methodist Church and held in high

¹³ The Madisonian, January 19, 1879.

¹⁴ The Helena Daily Herald, January 15, 1878.

¹⁵ Cornelius Hedges, Diary, op. cit., March 27, 1876.

¹⁶ Potts to Maginnis, May 17, 1876. Maginnis Letter File, Montana State Historical Society Library, Helena.

esteem by his fellow citizens. The Herald warned Potts that Wright was not the man to "bolster up the dynasty of a weak and scandalized gubernatorial administration."¹⁷ Fisk didn't seem to doubt Wright's ability to help the schools. Editor Wilkinson, writing in his Democratic newspaper The Bozeman Times, was less complimentary, according to the following editorial:

With the Rev. Wright, I have no personal acquaintance and no cause of complaint, except that he is of those who believe an Indian Agent (particularly if he is a Methodist) is an honest man. He is understood to belong to the Indian Ring which has robbed the Indian and the government, and has caused the Indian wars in recent times. He is intolerant and proscriptive, as his speech at the Methodist conference in Bozeman last summer proved. He is in the service of a church, whose rules require him to go when and where he may be ordered to. He is, therefore, unsettled and liable to leave the territory before the term of his appointment expires.¹⁸

Wilkinson intimated in the same article that Wright's appointment was due to two reasons. Potts wanted to appoint one of President Hayes' church members to a territorial office - Hayes was supposed to have been a very strong Methodist - to help the governor win reappointment.¹⁹ Also, since Hedges was not a "Ring man," he "must walk the plank and give place to a Puritan carpetbagger, who enters into the plans of the mighty Potts."²⁰

Whether Wilkinson's judgement that Wright was a poor choice for

¹⁷ The Helena Daily Herald, January 15, 1878.

¹⁸ The Bozeman Times, January 24, 1878.

¹⁹ Ibid., January 24, 1878.

²⁰ Ibid., January 24, 1878. The "Indian Ring," and 1870-1880 crime syndicate, was accused of drawing off huge sums of money into private pockets from the annuities paid by the government to the Indians. Nelson Story of Bozeman was supposed to be the guiding spirit and every prominent man in the territory at one time or another was accused of belonging.

territorial superintendent was correct or not, Wright lasted in the job only one year, and was replaced by W. Egbert Smith as territorial superintendent in 1879. The Helena Daily Herald emitted its usual blast at Potts by claiming that the only reason that Smith had been appointed was because it became "absolutely clear" to Potts that unless a fit man was named superintendent the legislature would abolish the office.²¹ Smith, said to be a man of good education and high ability, was heartily endorsed by most Montana citizens, but some question was made of his legal right to the office. Smith was postmaster in Butte, and a letter to the Helena Daily Herald, signed "enquirer," expressed surprise that Smith had accepted the territorial office.²² Both the postal regulations and the 1873 territorial laws prohibited a person from holding two offices at the same time. Nothing seemed to come of this accusation against Smith, and he served with distinction until the appointment of Robert H. Howey, who held the office of superintendent until the end of Potts' administration in 1883. From 1883 to 1885, Hedges was once again called to the office.

Hedges, Wright, Smith, and Howey were all able men and each of them worked hard at being superintendent. The people of Montana, as evidenced by newspapers, personal diaries and journals, were more concerned with getting good men to serve as territorial superintendents than any other appointed territorial office. It is also true that the politics connected with the appointment and confirmation of the territorial superintendent were

²¹ The Helena Daily Herald, February 22, 1879.

²² The Helena Daily Herald, March 17, 1879.

more bitter and partisan than any other office which seemed to reflect the importance attached to the schools and education by the people of territorial Montana.

The political nature of their appointment to office did not seem to hinder any of the four men who served during the period 1873-1884 in the performance of their duties. Under the 1872 school law one of the most important duties of the territorial superintendent was to visit the schools of the territory, and Potts strongly supported these visitations. Visiting the schools had to be a labor of love because the salary and travel expense certainly were not enough to cover travel costs. The hardships of a territorial superintendent's school visitations were unbelievably severe, much greater than the salary rewarded. The following account, taken from Hedges' diary, of one of his visitation tours gives some idea of the handicaps the superintendent had to overcome:

Mon. Dec. 9, 1872. Started on my school visiting. Rode with driver and heard his stories of mining life and Indian life. Got off at Hills - visited school - Prof. Schoores, Mrs. Adso. Rode up on (?) horse to Jefferson City - visited school there - lectured in evening - had a full house.

Dec. 10. staid over night at Merrimors, left at 10 $\frac{1}{2}$. dined at Cook's (Captain Hiram Cooks, postmaster at Boulder) reached Whitehall and staid over night - Ben Sanford, bedfellow, snored.

Dec. 11. started at 5 - rode to Fish Creek (between Whitehall and Silver Star) got there early - visited school taught by Miss Jordon - lectured there in evening - staid with Jordon all night.

Dec. 12. didn't get up in time for stage. Jordon carried me to Silver Star. Miss Callaghan teacher. staid with Johns, Gordon, Olson.

²³ Potts to Hedges, October 31, 1872. Potts Letter Book, Montana State Historical Society Library, Helena.

Dec. 13. Breakfast early, took stage about 8 - reached Lovell's about 8 (near Barretts, 9 miles south of Dillon.)

Dec. 14. Spent night on floor in parlor with D. H. Weston - were got up at 2¹/₂ to breakfast and start. I was alone to Argenta - very cold and sleepy - got to Argenta at daylight (by his route about 18 miles from Lovells) C. G. Hall teaching school. stopped two hours, called at Smiths. started for Bannack at 9¹/₂ - two ladies and trunks uncomfortable ride, very cold, most froze when got in, didn't get any dinner till 3 - met a great many men - James Festes, Co. Supt. - left blanks with him - Dunlap very kind. Called in evening on Mr. and Mrs. Taylor, teacher - elegant educated lady - Ball in Masonic Hall in honor of Fred Peck and Tim Bray going states. Got to bed 12.

Dec. 15. poor beds but slept well. took breakfast about 10 - walked out to Plummer's gallows and grave. Heard Hugh Duncan preach - went down gulch with Sherman - saw Mills, went into Waddams house. very cold weather - spent evening at Masonic Hall till late - had bed to myself.

Dec. 16. Bill at Goodrich House 6.00 and visited school til 11 - rode over to Argenta with Duncan, stopped at French's - spent evening with Hall, and hearing Duncan preach - had a terrible cold bed - lay awake and shivering all night.

Dec. 17. Hall settled my Bill at Argenta. rode with Duncan to his home - dined at Sim Estes - Duncan sang, cold, windy, no snow - reached Duncan's after dark - retired early and rested well.

Dec. 18. Rode over to Sheridan, Dave McCrain, visited school, rode to Virginia in afternoon and put up at Crescent Hotel. Got no letter from home - room with Harry Norton.

Dec. 19. Got pants mended \$1 and called at office of Montanan - paid \$6.00 for subscription. Called on Gov. (Potts) and Rodgers (auditor) visited Marshall's school in afternoon - Johns in from Silver Star in eve. Wrote in room.

Dec. 20. Visited school again fore and afternoon, lectured in evening at Council chamber - audience very large - Good Templars overhead made much confusion.

Dec. 21. Spent day making calls - dined at Hickmans (territorial treasurer) - took supper at Marshalls, visited Montana lodge in evening - installed Tilton (D.W. of Montana Post) and Johns of Silver Star. staid after lodge was over to get posted in commandary work.

Dec. 22. Severe storm all day - staid in room reading Harpers for Jan.

Dec. 23. Bill at Hotel \$15.00 - rode to Sheridan, didn't suffer - Johns was co passenger - staid with McCrain, lectured at school house in evening, good audience. found Cady who owed me \$5.00.

Dec. 24. Took coach at 9 $\frac{1}{2}$ for Gaffneys (Tash ranch near Twin Bridges) Hampton, tres. for Meagher C. for company, Cady came to Gaffneys and promised to pay me in Feb. - started at 2 $\frac{1}{2}$ again in coach - changed at bridge, got to Whitehall about 11.

Dec. 25. Met James King on way to states. Maj. Brooks treated us all to egg nogs - changed to lumber wagon - hard riding but good driver, fair meal at Beavertown (just over the Boulder hill on the Helena side) four passengers got on at Jefferson, and became awfully crowded - passengers fell off - reached Helena about 7 $\frac{1}{2}$.²⁴

In this 17 day school visitation trip Hedges covered 360 miles over the worst roads in the severest of weather and visited every school along the way. Bad roads, poor traveling, and cold and "buggy" beds were common place and accepted conditions of the superintendent's obligations during territorial days, but occasionally even Montana citizens were startled by a territorial officer's perseverance and dedication. In exercising his travel duties, Hedges in January, 1874, crossed the continental divide in the middle of a severe storm. The Deer Lodge New North West eulogized his dedication to service in the following report:

...It will be a nice story to tell the folks in the states, if a man lives to tell it, that he crossed the Rocky Mountains in an open sleigh with the mercury 40 or 50 below zero; but unless there is urgent necessity for it a man had better stay indoors under such conditions and when he goes to the states tell the folks about

²⁴ Cornelius Hedges, Diary, op. cit., entries for December, 1872.

some person less prudent who took such chances. Mr. Hedges thought he had to go and went. We hope he made the trip safely.²⁵

These school visitations, as reported by the New North West in the above passage, were of a serious and dedicated nature, but the superintendent had no real power. The superintendent's job was to comment, suggest, report and inform. For example, in 1878, Superintendent Wright wrote to all county superintendents and published the letter in the newspapers, asking the county school leaders if the counties had taken advantage of the township law.²⁶ The township statute stated that if the 20 acres in each township that had been set aside for colleges had not been utilized for higher education, the land might be taken over by the county for the support of the common schools. But Wright really had no power to compel the counties; he could merely bring the law to the attention of the proper officers.

The superintendents served on committees, helped revise school law, promoted better teaching conditions, organized teacher associations and worked for the improvement of instruction. All four who served during Governor Potts' administration were dedicated to the cause of education, but none of the four devoted all of his time to the job. Hedges found time to run for Congressional Delegate, practice law, operate mines, and even served as probate judge while holding the office of superintendent.

One of the only ways open to the superintendent to fulfill his obligation to improve instruction was through the use of the county teachers'

²⁵ The New North West, January 13, 1874.

²⁶ The Helena Daily Herald, April 4, 1878.

institutes.

The County Teachers' Institutes
in Territorial Montana

One of the most important amendments to the 1872 school law dealt with county teachers' institutes. Teachers' institutes had been organized on a county basis before they found their way to the statute books. The Madison County Teachers' Institute seems to have been the first, and was typical of other Montana teachers' institutes. The reported object of the institute, organized in Virginia City in 1875, was "the improvement of its members in the science and art of teaching" and the general advancement of educational interests.²⁷ Any "practical teacher," school officer, or "friend of education" could join the institute by subscribing to the bylaws, and - at least in the early days - laymen sometimes outnumbered teachers in the membership. The Madison County Institute was to meet each year between the first of April and the first of May, the exact days to be set by the president of the institute. The Madison Institute, as did all institutes, had an executive committee of three members which was to prepare a plan of exercises and to assign work to members in advance of regular sessions. The committee was also to limit time of presentation and discussion at the meetings.²⁸

²⁷ Madison County Institute, Convention and Minutes, 1875-1883. Handwritten and unpublished, Montana State Historical Society Library, Helena.

²⁸ Ibid. .

The program of the institute reflected its aims. At one such meeting the opening address was delivered by Amos Purdum on "The Objects and Aims of teacher's Institutes," and was followed by W. I. Marshall's presentation of "The Origin and Progress of the Art of Writing," in which he discussed penmanship in general and Spencerian in particular, illustrating "by reference to the Spencerian charts of writing, drawing, and numerous blackboard exercises."²⁹

The minutes of the next day recorded that W. A. Mean, to whom the subject of Elocution and Orthography had been assigned was absent.³⁰ Absence was a constant difficulty faced by the institutes. Teachers were not interested enough to attend. Even Hedges, in his diary, referred to the poor attendance of teachers and lack of participation when they did attend.³¹

The territorial superintendent usually attended the meeting and led the discussions. In the evening the superintendent lectured on educational subjects. Hedges was particularly active in making speeches in support of the schools as reported in the following Madisonian excerpt:

Supt. Hedges has been delivering lectures on educational subjects. The first lecture cost a dollar a head for admission and was poorly attended. The second was free, and a fair attendance. Either of the lectures would have been a credit to Horace Mann and yet our people failed to turn out to hear them.³²

²⁹ Ibid. .

³⁰ Ibid. .

³¹ Cornelius Hedges, Diary, op. cit., September 28, 1875; November 26, 1875; November 27, 1875; December 29, 1875.

³² The Madisonian, April 15, 1875.

Teachers were just not interested enough to pay to hear speeches on the schools or school matters.

Lack of interest and participation continued to hamper the effectiveness of the institutes so in 1878 Superintendent Wright suggested that a roll call vote be held at all meetings of the institutes and that any teachers who were absent or tardy should be required to pay a fine.³³

In spite of poor attendance by the teachers there was one noticeable characteristic of these institutes which was to their credit. All work of the institutes was concerned with improving the learning situation in the classroom and not "the benefits of teacher's retirement," or "the new social security law" or similar topics that seem to dominate so many of today's teachers' association meetings.

The topics of discussion at the teachers' institutes reflected their concern over major classroom activities connected with pupil and learning: "The Best Methods of Teaching Reading," "What facilities are Earliest Developed in the Child," "Methods of Teaching Mental Arithmetic," "Does the Teacher Learn the Child - No, The Child does the Learning."³⁴ The participants of the institutes recognized the value of participation - experience - in the learning situation. "Learning by doing" was a watchword in Montana educational circles long before John Dewey became active, and members of the institutes practiced what they preached. "Object Lessons" occupied much of the discussion period at every teachers' institute. When the topic

³³ Madison County Teachers' Institutes, op. cit., October 15, 1879.

³⁴ Ibid.

was "teaching of reading" the institute actually broke up into a model class, and a well-known teacher conducted the class, using his best teaching methods. Sometimes a teacher would bring his or her regular class to demonstrate methods, for example: "Lena Hewitt then brought in one of her classes and illustrated her method of teaching geography."³⁵

The members of the institutes also examined textbooks and whenever new methods of using the textbooks made their appearance, the institute's membership would pass judgement on them. The institute's great concern over new and better methods is shown by the following resolution which was passed unanimously by the 1878 Madison County Institute:

Whereas, with our present method of spelling it is not only impractical, but impossible to become perfect spellers, and Whereas, with the aid of the Phonetic system of spelling, all may become better readers and spellers in one third of the time now required to learn and spell and read only tolerably well, therefore, be it resolved: That we are in sympathy with the Spelling Reform Movement, which has for its object the introduction of the Phonetic to take the place of the common Orthography and will use our influence in that behalf.³⁶

This resolution of 1878 is of special interest in view of the recent (1966) controversy over the teaching of reading in Madison County. One hundred years later the controversy is still unresolved in Madison County.

Each institute had a "question box" which was opened at a regular time and discussed on the floor of the meeting, some of the discussions

³⁵ Ibid., October 16, 1878.

³⁶ Ibid., October 17, 1878.

became quite heated. Formal debates resulted from these discussions and were organized for the evening sessions, as indicated by the following notation from the 1878 Madison County Institute:

On the motion of Carr the following question was chosen for debate at the M. E. Church at 7:30. Resolved: That corporal punishment be abolished from our common schools. On motion the following were appointed to lead in the debate. Affirmative; A. H. Leonard, Wm. Hosell, Negative; M. S. Fleon, Judge Williams.³⁷

The evenings of the institutes were not all taken up by debates and usually the citizens of the town held "socials" for the teachers attending the convention.³⁸

It is easy to underestimate the importance of these early efforts of the teachers' institutes to improve instruction, but in view of the limited opportunity to attend high school and the complete absence in Montana of teacher training institutions, whatever help a teacher received in the way of in-service training had to be at the institutes.

The institutes were almost entirely devoted to the improvement of instruction and did not discuss such things as teachers' salaries or the politics of school legislation. There was no reference made at any of the institutes concerning modification of the school law, not even the controversial Section 34 of the 1872 school law which provided for separate schools for the colored children.

³⁷ Ibid., October 16, 1878.

³⁸ The Helena Daily Herald, March 12, 1879.

Separate Schools for the Colored

One of the least known sections of the 1872 school law required separate schools for the colored children. Bill Smurr's well-written 1957 essay "Jim Crow Out West," told the segregation story in detail and only newly discovered material was included in this study.³⁹ Potts signed the 1872 school law, but he had never agreed with the segregation clause and each legislative session he had worked for its repeal. Potts also worked closely with Montana's congressional delegates in an attempt to put congressional pressure upon the Montana legislature to repeal the segregation clause. Delegate Clagget tried to attach repeal of the clause to the bill which provided for the apportionment of the United States lands to the Montana schools. According to the Helena Daily Herald, the bill included the following provision: "Nor shall any person be deprived of an equal benefit from said fund on account of race or color."⁴⁰ The bill apportioning land on a non-segregated school basis failed and would have affected Montana little had it passed since no school land survey had been taken. No United States land was turned over to the territory until after statehood.

Montana was not alone in segregating its schools on the basis of color. Section 34 of the 1872 school law, the segregation clause, had been copied from the California model but it evidently reflected the spirit of a great portion of the citizens of Montana in the 1870's as revealed by the

³⁹ J. W. Smurr, "Jim Crow Out West," Historical Essays on Montana and the Northwest, edited by J. W. Smurr and K. Ross Toole, p. 149.

⁴⁰ The Helena Daily Herald, December 18, 1872.

following report from the Avant Courier:

The usually smooth surface of society in this, the social city, was ruffled a short time since by the announcement that the doors of the public schools at this place had been thrown open to some colored urchins of African descent, by two Democratic trustees, both eminent disciples of Escalopius. The result was not a little _____ (?) among the classes of our community who approach slowly and unremittingly the inevitable logic of events. Some parents withdrew their children, others permitted to remain (sic.) But there is no question that the trustees have planted themselves firmly in the esteem and grateful remembrance of the colored portion of our community as also of all who believe in the quality of men before the law, and determination to see so far as they had the power, that the rights of none should be abridged "on account of race, color, or previous condition of servitude."⁴¹

Not just in Virginia City but in all sections of the territory segregation of the schools was practiced. In August, 1873, a little colored boy was turned out of school in Deer Lodge, and Hedges editorialized against the Deer Lodge action in The Helena Daily Herald.⁴² The question arose in Helena in 1876, and once again Hedges editorialized against segregation, pointing out that negroes had to pay taxes and yearly contribute their share to the school fund and so were entitled to attend the public schools.⁴³ In the same article Hedges attacked the "separate but equal doctrine" on the grounds of economy, claiming that it cost 600 dollars a year more to maintain separate schools. Hedges' astonishment that Montanans would wish to educate and "enlighten" the heathen Chinese and the Indians but not the

⁴¹ The Avant Courier, October 18, 1871. The story concerned Virginia City, not Bozeman. Virginia City was known as the "social city" during the days that it was the capital of the territory.

⁴² The Helena Daily Herald, August 19, 1873.

⁴³ Ibid., March 4, 1876.

negro is shown by the following passage from the Herald article:

This privilege must not extend to and include the Black. That in substance, is the doctrine preached by The Independent. The Independent objects to mixed schools. That is to say, the pagan Chinese may be taught, but the christian black must be turned away.⁴⁴

The protests of Hedges in the Herald were in vain, however, and in 1878, three colored children were removed from the Helena schools, and according to The Independent, "in deference to the feeling of the entire community."⁴⁵ The Independent was a Democratic newspaper and the Herald was a Republican newspaper and in general the Democrats in Montana tended to support segregation while the Republicans opposed separate schools, reflecting the Civil War orientation of the two parties. The catalog of the Helena Graded School reported separate schools in operation as late as 1880.⁴⁶

Petitions from citizens to repeal the segregation clause of the school law were constantly being received by the legislature. The petitions were buried in the Education Committee of the House and seldom even reached the floor. In 1876, however, the Education Committee of the House did report back to the floor in answer to a petition submitted by "E. T. Johnson, colored, and others." The committee report revealed much of the pro-segregation attitude of the territory and is as follows:

⁴⁴ The Helena Daily Herald, August 26, 1876.

⁴⁵ The Helena Daily Independent, April 13, 1878.

⁴⁶ The Catalog of the Helena Graded School, 1879-1880, op. cit., p. 1.

However much your committee may regret the prejudices of the people against mixed schools, your committee are compelled to recognize it as an existing fact. The provisions of the law as it now exists, bear heavily upon the various school districts. The equal school privileges which by the constitution and laws of the United States are secured the colored children frequently lead to the necessity under Section 34 of the school law, of expending large sums of money for the education of a few colored children.

There is no district within this territory in which there are ten children of African descent who wish to avail themselves of the privileges of our common schools. But as a lesser number are entitled to schools as good, and for as long a period as is given to white children, the school privileges given to white children have to be largely curtailed in order that the separate colored children may be kept.

While your committee would not compel mixed schools it is nevertheless of the opinion that cases may occur where the districts would desire that the one or more children of color should have some proper place in the regular school room, rather than that the fund for school purposes be divided and the entire educational system be impaired by maintaining two schools, one of which is for no more than from one to half dozen scholars, and it is the further opinion of your committee that each district should regulate its own affairs in this matter.⁴⁷

The committee report hit at the heart of the segregation problem in Montana. According to the 1872 school law separate schools for the colored were to be opened whenever the parents of ten children of African descent would petition the district but if there were less than ten negroes they simply could not attend any public school. The amendment proposed by the Education Committee in 1876 was to allow the districts autonomy in regulating segregation, but the amendment was voted down. Separate schools continued in Montana until 1883, when Section 34 of the 1872 school law providing for segregated schools in Montana was repealed on the grounds of economy.

⁴⁷ House Journal of the Ninth Session, 1876, p. 339.

Four men served as superintendent during the 1873-1884 period. All four were able and dedicated school officers. They furthered the cause of education by visiting schools, serving on committees, writing articles for newspapers, speaking on school problems and promoting in-service training of teachers. One of the most important ways in which superintendents worked for better in-service training was by exercising leadership at the teachers' institutes. Teachers' institutes were provided for by an amendment to the school law in 1877. Teachers' institutes worked hard to improve instruction in the classrooms of the Montana schools and did not concern their meetings with discussion of political problems which arose under the school law. The most important educational-political problem was the segregation of the schools on the basis of color. For eleven years the Montana schools had been segregated but in 1883, the legislature repealed the separate schools for the colored clause on the basis that the separate schools were too expensive to maintain.

Factors other than the dedication of the superintendents, in-service training provided by teachers' institutes and the elimination of the segregation clause from the school law, operated in determination of classroom effectiveness. Some of the most important of these factors, the question of how teachers handled discipline, the question of how much public support was enjoyed by the schools, the problem of maintaining standards in hiring teachers and the problem of subject area training for teachers are presented in the next chapter.

CHAPTER VIII

SOME IMPORTANT FACTORS INFLUENCING INSTRUCTION IN FRONTIER MONTANA SCHOOLS: 1874-1884

The legal organization of the school system had been completed with the passage of the 1872 school law and its important amendments during the years 1873-1884. School officers and teachers were provided with the legal structure under which Montana's frontier youth were to be educated. Examination of territorial newspapers, personal journals and records of teachers' institutes indicated that school leaders in the 1870's considered four factors most important in influencing classroom instruction. The questions of (1) how much public support was enjoyed by the schools in the period 1873-1884, (2) how the Montana schools handled discipline problems, (3) what qualities were considered in hiring school officers and teachers, (4) what in-service training was provided for teachers in the various subject areas, are presented in the subsequent sections.

Strong Public Support of Montana Schools: 1873-1884

The 1872 school law with its important amendments, had established a public-supported, free, non-sectarian school system that was open to all "scholars" regardless of race, color or creed. Unlike the 1865 system, the 1872 system enjoyed strong public support that lasted throughout the remainder of the territorial period. In spite of general acceptance of the public system, however, occasionally the voice of a frontier Jeremiah prophesied the system's doom but the friends of education always rallied to its defense.

In the 1870's the principal charge levied against the schools by the occasional critics was that they were irreligious, and, therefore, immoral and "nurseries of vice."¹ Frequently The Helena Daily Herald and other newspapers were called upon by the friends of education to support the schools against this accusation. Editors Fisk and Hedges of the Herald tried to point out that the public schools were simply not designed to teach "religion any more than our factories or workshops."² They argued that the schools were designed only for intellectual training, as shown by the following Herald editorial:

...They do not meddle with religion, simply because they have a large, independent field which fully occupies all their time, attention and effort. When it comes to the matter of religion there is such a diversity of opinion that there could not be any unity of action. Everyone who is attached to any form of religion thinks that it is the true one and every other form false. The wisest course, then, is to confine the works of the public schools to those matters which are to the advantage of all, and let each provide for the religious training of their children at their home or at their churches.³

In the same 1879 article Editor Fisk argued that the work of the schools in no way interfered with the church program, and that it was as ridiculous to charge the schools with being irreligious as it was to charge that the trades were irreligious because every motion of the hands is not accompanied with prayer and reading the bible."⁴ Fisk finished his editorial by

1 The Helena Daily Herald, September 23, 1879.

2 Ibid., September 23, 1879.

3 Ibid., September 24, 1879.

4 Ibid., September 24, 1879.

directing the following editorial barb toward his "copperhead" contemporaries:

If any portion of mankind still believes that ignorance is better than education; that it tends to make men happier, more virtuous, useful, and honorable, they will probably oppose free schools because their existence rests upon the belief of the contrary. There are some who believe that free institutions are irreligious and that mankind is better off in a condition of servitude.⁵

The religious opposition to the schools was thus shouted down, and the separate system which survived enjoyed active support from most of the territory's population. The absence of active opposition enabled the schools to concentrate on the promotion of learning, which in the long run is the most important goal of an educational system. One indication of how a teacher promoted learning was shown by the way in which discipline was handled in the classroom.

Rigid Discipline in the Montana Schools: 1873-1884

The philosophy of a school is sometimes indicated in its attitudes and policies concerning discipline. The frequently reported Nineteenth Century cliches such as "spare the rod and spoil the child" and "teaching 'rithmetic to the tune of a hickory stick" would seem to indicate that there was complete agreement in the Nineteenth Century among school people all over the United States that discipline should be summary and severe. Students were often near the age and size of the teachers and usually came from homes where the parents gave the teachers little or no help with the discipline problem.

⁵ Ibid., September 23, 1879.

The characters in The Hoosier Schoolmaster could have come from the gold camps of Montana as well as from the farms of Indiana.

It was claimed by Martha Edgerton Plassmann that by 1876 the older boys in a Montana school were accustomed to carrying revolvers to the classroom.⁶ Principal Herbert Percy Rolfe overcame this trouble by making the boys his aids (sic.) "in preserving order, and the revolvers were left at home."⁷ Mrs. Beal also said that some of the Bozeman "boys were somewhat pugilistic."⁸ According to Mrs. Beal, the teacher and some of "the boys" got into a scrap and one of the scholars caught up a slate and hit the teacher over the head. Mrs. Beal reported that the teacher's head went through the slate, "leaving his head and face framed, which so amused some of the boys, who are men now, that they always think of Mr. King as the teacher who was framed."⁹

Under the examples reported by Mrs. Beal and Mrs. Plassmann, it was not surprising to find rigid discipline in western schools and, indeed, on some occasions to find that western discipline was extreme. An example was given in a court case reported in 1875 in the Helena Daily Herald in which a teacher had sentenced a boy to go up and down the stairs 1,280 times.¹⁰ It was further reported that the same teacher sometimes required pupils to

⁶ Martha Edgerton Plassmann, in The Dillon Examiner, March 19, 1924.

⁷ Ibid. .

⁸ Mrs. W. J. Beall, in The Bozeman Chronicle, December 31, 1908. Clipping in the Bozeman School file, Montana State Historical Society Library, Helena.

⁹ Ibid. .

¹⁰ The Helena Daily Herald, December 1, 1875.

stand on one leg for an hour or more; at other times young offenders were forced to hold a large bible or dictionary in their extended hands. Some of this teachers's lighter punishments included the fastening of a quill or a split stick upon the pupil's nose, or standing upon two large pebbles with bare feet, or digging wood out of a snow bank for an hour without mittens. Heavier punishments included beatings which sometimes left marks "on the body for a month or more." ¹¹ This discipline was too much even for hardened westerners, and the teacher was found guilty and sentenced to jail. ¹²

Not all teachers during this period believed that western discipline should be rigid and severe. Mrs. Raymond Herndon, the first public school teacher in Montana, claimed that even in tough, young Virginia City she never had to use corporal punishment. Mrs. Herndon used the "honor system," as shown by the following passage from her reminiscences:

My methods of discipline were to put the larger pupils on their honor by a lecture on the first day, asking the children what we were there for and what relation I stood toward them. Of course, they all answered "to help us learn." Then as each name was registered, the pupil stood before me if old enough to understand the nature of the pledge and I asked: "Do you promise on your word to do all in your power to promote the interests of this school and to help to keep order, for without order we cannot accomplish the best results with our studies.

Of course, they all promised and there was no antagonism between the teacher and pupil. I then treated them like ladies and gentlemen and only occasionally had to remind them of their pledge. There is never any trouble with the little ones if the larger set them an example. There was never an occasion for corporal punishment. If two boys fought at recess, which boys are prone to do sometimes, I tied them

¹¹ Ibid., December 1, 1875.

¹² Ibid., December 1, 1875.

together by the wrists and made them sit together until they were good friends and ready to shake hands. I am and always have been opposed to corporal punishment in the schools. Children are not brutes and do not have to be driven like oxen or mules.¹³

Many teachers and school officers agreed with Mrs. Herndon in theory, but found it hard to apply in practice. Hedges wrote of the dilemma concerning discipline that in a modified degree still faces school administrators in the upper grades today; how are students to be disciplined if not by corporal punishment? Hedges admitted in an article written for the Helena Daily Herald in 1876, that the "spirit of the age" was opposed to the infliction of corporal punishment as brutalizing and ineffectual, but how were the schools to be governed when pupils refused to obey wholesome ordinances?¹⁴ The only penalty held in reserve was the expulsion of the offender "with the disgrace and still worse the consequent defective education that must necessarily ensue."¹⁵

There was even disagreement over the effectiveness of expulsion in a day when the big problem was to get the children into schools. Hedges' own daughter, little Edna Dornetia Hedges, made some interesting notations in her diary concerning discipline in general and expulsion specifically. On November 1, 1878, she noted in her diary:

This morning Henry Kliensmich was called up to the platform and Mr. Rolfe shook him. (In front of all the children?) He said

¹³ Letter from Sarah Raymond Herndon to Mrs. R. Howey, n. d., Montana Schools file, Montana State Historical Society Library, Helena.

¹⁴ The Helena Daily Herald, March 23, 1876.

¹⁵ Ibid., March 23, 1876.

leave me alone and Mr. Rolfe punished him. Mrs. Darnell cried about it. (Edna's teacher.)¹⁶

Evidently expelling Henry didn't do much good, for he was continually getting expelled and he always got back in, as shown by Edna's report that "Henry Kliensmich was expelled again from school but came back at noon."¹⁷ If expulsion did not meet the need of the schools for discipline and corporal punishment was not effective, how was the discipline to be provided?

Hedges recognized the answer to discipline problems, which is as true today as it was in 1876, that teachers must win the cooperation of the children through love and confidence. Hedges also pointed out in an article in the Helena Daily Herald that the cooperation of parents was necessary in order to maintain discipline. His statement appeared as follows:

When independence first begins to dawn upon young people, it is apt to make some ill exhibitions of itself, but there is no fixed purpose about it. With careful training it can be brought to bear in the right direction. A manly appeal to better nature - a skillful turn of ambition into a higher sphere will generally suffice to work the cure. There is no disguising the fact that there are very many hostile influences outside of the school house and home, that attack the larger children and young ladies and young gentlemen in our community, and continually operate to distract their attention from their studies and lead to frivolity if not dissipation.

We have been led into these remarks by learning that some of the older scholars in our public schools are showing signs of uneasiness, restive under discipline, and complaining that they are not learning much, talking of leaving school. There is something wrong that needs immediate attention on the part of parents. Scholars who are doing well never want school to close. If they respect themselves and

¹⁶ Edna Hedges Palmer, Diary. Friday, November 1, 1878. Montana State Historical Society Library, Helena.

¹⁷ Ibid., November 4, 1878.

teachers they will aid in maintaining discipline and take pride in so doing, rather than seek the vile applause of the vulgar and bad by insubordination.¹⁸

The teachers varied in their acceptance of Hedges' advice. Just as is true today, some teachers maintained order by winning the children's respect, and some tried to maintain discipline by fear. Wilbur E. Sanders evidently had a teacher who used fear to keep the students in line, for he noted in his diary a teacher "so mean" that "one could hardly smile without some kind of punishment."¹⁹

The matter of discipline was warmly discussed whenever teachers got together. Professor Corum said that he had tried every progressive method recommended, but that he always came back to the rattan.²⁰ Others disagreed, and one brave soul even ventured the opinion that a "little whispering" was not objectionable.²¹ The debate over discipline continued during the entire territorial period, and was taken up formally in almost every teachers' institute.

The only official school board policy on the subject of discipline was found in the catalog of the Helena Graded School. The Helena policy was based upon pupil self-government, as reported in the following excerpt:

¹⁸ The Helena Daily Herald, March 23, 1876.

¹⁹ Wilbur E. Sanders, Diary. October 10, 1877. Montana State Historical Society Library, Helena.

²⁰ "Minutes of the Deer Lodge Teachers' Institute," The New North West, January 8, 1876.

It is the aim of the officers and teachers to govern the school by appealing to the reason and conscience of the pupil. Corporal punishment is the last resort and only to be inflicted in cases of obstinate and wilful misconduct. Every effort is made to lead the pupils to govern themselves, and cheerfully obey all the regulations, not from fear, but from a sense of duty.²²

Then followed the regulations by which pupils were to be governed:

1. Every pupil is expected to attend school punctually and regularly, to conform to the regulations of the school and to obey promptly and cheerfully all the directions of the teacher; to observe good order and propriety of deportment; to be diligent in study, respectful to teachers, and kind and obliging to school mates; to refrain entirely from the use of profane and vulgar language and to be clean and neat in person and clothing.
2. Pupils are required in all cases of absence or tardiness to bring on their return to school an excuse in writing from their parents or guardians assigning good and sufficient reasons for such absence.
3. All pupils who have fallen behind their grade by absence or irregularity of attendance by indolence or inattention shall be placed in the grade below, at the discretion of the teacher.
4. No pupil shall be permitted to leave school at recess or at any other time before the regular hour for closing school except in case of sickness or on written request of parent or guardian.
5. Any scholar who shall be absent one week without giving notice to the teacher shall lose all claim to his or her particular desk for the remainder of the term and shall not be considered a member of the school.
6. Each scholar shall have a particular desk and shall keep the same and the floor beneath in a neat and orderly condition.²³

The philosophy of pupil self-government expressed by the Helena Graded school was forward looking, and the rules and regulations were not

²² Catalog of the Helena Graded Schools, 1879-1880. Helena; Fisk Bros., 1879, p. 15.

²³ Ibid., p. 16.

too much different from what can be found in some school guidebooks today.

Teachers varied in the way they handled discipline in the territorial Montana schools. Some teachers used severe methods with corporal punishment as their basic practice, while others used progressive methods; maintaining discipline by winning the respect and confidence of the children. One of the most forward looking schools was the Helena Graded School, where discipline was based upon pupil self-government.

Maintaining discipline was a joint effort by teachers, trustees and parents. In the long run the best way to ensure good discipline in the schools was by selecting good teachers to teach in the classrooms, and good trustees to run the schools. In the following section the qualities educational leaders in territorial Montana thought teachers and trustees should have to serve in the school system are discussed.

Tenure and Qualifications of Territorial Teachers and Trustees

The importance of selecting good teachers and good trustees to serve in the school system was understood by the friends of education in territorial Montana. Hedges wrote an article in the Herald in which he stated that the school trustees should not only be the best men in the community by every criterion but also, each trustee should have experienced having children in the school system.²⁴

²⁴ The Helena Daily Herald, August 24, 1876.

Teachers as well as trustees were to have special qualifications. Investigation of various records such as newspapers and magazine articles revealed no participation on the part of Montana school leaders in the debate over the relative merits of men versus women as teachers. Men received higher salaries for teaching than did women, but this writer was not able to find any evidence of discrimination against women in the Montana schools. On the national scene the issue of which sex made the best teachers waxed much warmer, and Dr. Putnam Jacobs even claimed that the "recognized" inferior ability of women teachers was due to their eating habits; they "stuffed themselves" to the point where intellectual activity was impossible, as reported in an article by Dr. Jacobs in the North American Review:

The apparent inability of the female sex to comprehend any fixed relationship between food and work is the cause of many of its woes.²⁵

A Harper's Magazine editorial in 1873 claimed to the contrary that not only did women teachers do as well as men but that in some states women even served as school officers and did their jobs very well. Women excelled as teachers, said this report in Harper's and "outside of the family she nowhere seems so truly to occupy her appropriate sphere."²⁶ By 1878 Harper's Magazine concluded in an editorial that the issue of which sex made the best teachers had been settled in favor of the female sex, as reported in the

²⁵ Dr. Putnam Jacobs. "Education," The North American Review, Volume CXXXVI, p. 229.

²⁶ Harper's Magazine, Volume 47, June to November, 1873, p. 945.

