KA-NI-ACHE

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A century should be time enough for objectivity to take over in assessing an incident which some contemporary sources, and others relatively close to the present, have left obscure and confused. It was October 3, 1866, on a terrace along the south (right) bank of the Purgatoire River about five miles west of Trinidad, that U. S. Cavalry and citizens of the locality clashed with a band of Mohuache Utes under their chief, Ka-ni-ache. It turned out to be the last altercation of its kind in the vicinity. The encounter was not large-scale, and its significance today lies in its causes, as they tell something of the Utes in the late historic period, and in its place as an episode in the life of an influential Indian of the time.

The Mohuaches,[1] one of several groups collectively known as the Southern Utes, roamed in prehistoric times generally to the east of the Sangre de Cristo and Culebra mountain ranges from the site of present Denver into northern New Mexico.[2] There is abundant evidence, however, that the Mohuaches in historic times often were found in the San Luis Valley and the vicinity of Taos.[3] In the late seventeenth century and early eighteenth century they allied themselves with the southward moving Comanches, posing a grave danger to the Jicarilla Apaches, the Pueblo Indians, and the Spaniards.[4] By the end of the first quarter of the eighteenth century the Spaniards had effectively broken up the alliance. Friendship of Ute for Comanche shifted to enmity, and from 1726 to 1786 their relations were bitter,[5] the

[1] This is the spelling that will be used herein; it is the one used commonly in the annual reports of the Commissioner of Indian Affairs, 1855-1866. There are numerous variations.
[2] Marvin K. Opler, "The Southern Ute of Colorado," *Acculturation in Seven American Indian Tribes*, ed. Ralph Linton (New York: D. Appleton-Century Co., 1940), pp. 126-27.
[3] Albert H. Schroeder, "A Brief History of the Southern Utes," *Southwestern Lore*, XXX (March, 1965), 53-78.
[4] *Ibid.*, 59. Opler, "The Southern Ute of Colorado," *Acculturation*, p. 161, suggests that the Comanches were not regarded by the Utes as an unmixed blessing.
[5] Ernest Wallace and E. Adamson Hoebel, *The Comanches, Lords of the South Plains* (Norman: University of Oklahoma Press, 1952), pp. 4-5; Opler, "The Southern Ute of Colorado," *Acculturation*, p. 162.

Utes and Spaniards cooperating against the Comanches. When the Comanches concluded peace with the Spaniards in 1786, the Utes developed an alliance with the Jicarilla Apaches to ward off the Comanches and their Plains associates, the Kiowas.[6]

About 1820, a new factor was introduced which greatly affected the Mohuache Utes. Cheyennes and Arapahoes appeared in the country along, and south of, the Arkansas River.[7] This meant new enemies for the Mohuaches and Jicarillas who made seasonal excursions onto the plains to hunt buffalo.[8] For a time the Cheyennes and Arapahoes fought the Comanches and Kiowas as well; peace came among those groups in 1840,[9] but strife between the Plains tribes and the foothills Mohuaches and Jicarillas persisted down to the reservation period. Buffalo hunts and raids on the plains by the latter frequently placed them athwart the commercial link of the Santa Fe Trail.

It was in early 1849 that the Mohuache chief Ka-ni-ache (One Who Was Taken Down)[10] made an appearance in the historical record. He was about thirty-one years of age[11] and a man of proven worth, having achieved the high rank of band leader of the Mohuaches. In the pre-reservation Ute culture the old decentralization of family-unit camps had been supplanted by the band camp, a transformation made possible when the Utes acquired the horse in the late seventeenth century. Each camp usually had three of four men of this rank,[12] but, at least in the eyes of the American military, Ka-ni-ache outranked the others and was referred to as head chief.[13]

The vicinity of the eighteenth-century settlement of Abiquiu, on the Chama River southwest of Taos, New Mexico, for a long time had been a popular Ute gathering place. In 1849, an eighty-man company of New Mexico Volunteers was stationed there under the command of Captain William Chapman.[14]

[6] Wallace and Hoebel, *The Comanches*, p. 286; Opler, "The Southern Ute of Colorado," *Acculturation*, p. 162.
[7] George Bird Grinnell, *The Fighting Cheyennes* (Norman: University of Oklahoma Press, 1956), pp. 6-7; Wallace and Hoebel, *The Comanches*, p. 283.
[8] Schroeder, *Southwestern Lore*, XXX (1965), 63.
[9] Wallace and Hoebel, *The Comanches*, p. 276.
[10] Charles J. Kappler (ed.), *Indian Affairs: Laws and Treaties* (Washington: Government Printing Office, 1904), II, 993. There are numerous variations of the name. Also, there seems to be the possibility that there may have been two contemporaries with similar names. Among the lesser chiefs and men who signed the Ute Treaty of 1849 is the name "Quixache tuate." Could this have been a father-son situation? *Ibid.*, 587. The data available does not point to either possibility. That we are dealing here with one man from 1849 to 1880 is the greatest probability.
[11] Early Far West Notebook VI, p. 8, Cragin Collection, Pioneers' Museum, Colorado Springs.
[12] Opler, "The Southern Ute of Colorado," *Acculturation*, p. 64.
[13] "Captain Chapman and Coniachi," MS, Schroeder Collection, State Records Center and Archives, Santa Fe, New Mexico. Referred to hereafter as Schroeder MS.

Relations with the Utes had been strained since the American take-over in 1846, and troops under Lieutenant Joseph H. Whittlesey, First Dragoons, were about to campaign against them, meaning in this case both the Mohuache and Capote Utes.[15] Efforts were being made toward peace, however, and Captain Chapman asked Ka-ni-ache to bring the other chiefs in for a parley.

Ka-ni-ache agreed and said he would have them in Abiquiu within twenty days. He rode hard through the winter landscape to persuade them to come in for talks. Success rode with him. He and the other chiefs were within two days' journey of Abiquiu when they learned that Lieutenant Whittlesey and the Dragoons had taken the field, and they refused to go any further. Ka-ni-ache could not budge them, so he returned to Abiquiu alone at the end of the twenty-day span he had set. He may not have expected reward for his efforts, but it is a safe assumption that he had not anticipated what befell him there. Captain Chapman ordered his arrest, and he was thrown into prison.

The place of incarceration was a guarded room in which three other prisoners already were languishing. They were Mexicans who were suspected of complicity in the murder of old trapper Bill Williams and Dr. Benjamin Kern, survivors of the disastrous fourth Fremont expedition searching for a feasible railroad route through the San Juan Mountains.[16] Early in the spring of 1849, Williams and Kern had returned with some Mexican help to their old camp on Embargo Creek in expectation of recovering some cached property. It was generally accepted that Williams and Kern were killed by Utes.[17]

The fact that the Mexicans had been apprehended with clothing and instruments of the deceased in their possession certainly placed them under suspicion. It appears that they were

[14] *Ibid.*; Francis B. Heitman, *Historical Register and Dictionary of the United States Army From its Organization, September 29, 1789, to March 2, 1903* (Washington: Government Printing Office, 1903), I, 296. Chapman graduated from West Point in 1831, as a Brevet Second Lieutenant in the Fifth Infantry. He was a veteran of the Mexican War.
[15] Heitman, *Historical Register*, I, 1032. Whittlesey graduated from West Point in 1844, joining the First Dragoons in 1847. He was also a veteran of the Mexican War. Forbes Parkhill, *The Blazed Trail of Antoine Leroux* (Los Angeles: Westernlore Press, 1965), pp. 114-20; Alpheus H. Favour, *Old Bill Williams: Mountain Man* (Chapel Hill: University of North Carolina Press, 1936), pp. 177-78.
[16] Schroeder MS.
[17] The Mexicans may have been spared by the Utes, who were interested only in Williams, Kern, and their possessions. Favour, *Old Bill Williams*, pp. 177-78, quoting Assistant Surgeon H. R. Wirtz. Another source says that the Utes killed Williams by mistake and that they took him to their village and gave him a chief's burial. W. T. Hamilton, *My Sixty Years on the Plains; Trapping, Trading, and Indian Fighting* (New York: Forest & Stream Publishing Co., 1909), p. 196.

with the Williams-Kern party, but they insisted that the Indians had all the other stolen articles.[18]

There is no evidence that Ka-ni-ache was involved in the killing, but perhaps the stress and strain of the moment made the custody of any Ute chief a potentially useful factor. At any rate, Ka-ni-ache later asserted that, on the third day of his imprisonment, he overheard a sentinel say that he would be hanged the next morning. To escape that fate, Ka-ni-ache stripped himself of everything but his moccasins and blanket, and waited his chance. At the propitious moment he sprang out of the guardroom; the sentinel fired at him, and he threw off the impeding blanket, escaping with only two slight wounds.[19]

This case of misapprehension, mistaken identity, or whatever it was, may have been resolved or simply conveniently overlooked later that year. The Utes signed a peace treaty with the United States on December 30, 1849; among other things, it acknowledged American jurisdiction and provided for the establishment of military posts and agencies. The ceremony took place at Abiquiu; Lieutenant J. H. Whittlesey and Edward M. Kern, brother of the murdered doctor, were witnesses. Indian Agent James S. Calhoun signed for the government, and the main negotiator for the Utahs was their principal chief, Quixiachigate.[20] It is the opinion of Dr. Omer Stewart, authority on the Utes and professor of anthropology at the University of Colorado, that Quixiachigiate and Ka-ni-ache probably are one and the same. In a personal communication with the writer, Dr. Stewart stated that the clue is probably the letter "x" in the name; it is likely that it should be an "n," as such errors are common in translation. The remainder of the name in the treaty may not really be a part of it. The photostatic copy of the original handwritten document in the possession of Dr. Stewart leaves little doubt that the letter "n" was changed to "x" in the printed version. Thus Quix(n)iachi is another variation on the name.

[18] Schroeder MS; *A Transcript of the Fort Sutter Papers, Together with the Historical Commentaries Accompanying Them*, MSS 127 and 128 (printed copy), Western History Department, Denver Public Library, hereafter referred to as *Fort Sutter Papers;* LeRoy R. and Ann W. Hafen (eds.), *Fremont's Fourth Expedition: A Documentary Account of the Disaster of 1848-1849*, Vol. XI of *The Far West and the Rockies Historical Series, 1820-1875* (Glendale, Calif.: The Arthur H. Clark Co., 1960), p. 171. Micajah McGeehee's narrative published in the above states that they could never determine whether the murders had been committed by Indians or Mexicans.

[19] Schroeder MS. A couple of years after the episode, Indian Agent John Greiner expressed his opinion that the Utes who killed Williams and Kern were led by Chico Vleasquez, a well-known chief. *Fort Sutter Papers*, MS 129.

[20] Kappler (ed.), *Indian Affairs*, II, 585-87.

The world in which Ka-ni-ache achieved stature among his people was one of declining power, increasing scarcity of game, continuing warfare with the Plains tribes, and mounting pressure of white incursions. The Mohuaches were dependent on the chase as their support, and the decade of the fifties saw generally a situation of diminishing returns from this source. The growing scarcity caused the Mohuache Utes and their close associates, the Jicarilla Apaches, to range more widely, especially into the country of the Plains enemies north of the Ratons and east of the Sangre de Cristos. In 1851, for instance, Mohuache Utes raided a settlement on the St. Charles, a tributary of the Arkansas in Colorado.[21]

The Ute claims to the country embracing the tributaries of the Arkansas above Bent's Fort assured continuation of feuds with the Cheyennes and Arapahoes. Both sides were well supplied with firearms, but for a while, at least, the Plains groups seemed to have the best of it. The Utes did not dare to venture very far onto the plains in search of buffalo,[22] but the Plains tribes made many successful livestock raids into the mountain territory of the Utes.[23] This situation turned the Utes to stealing from settlers on a greater scale and, when really hard pressed, to killing their own horses and mules for food.[24]

Incursions from the plains were so serious in the spring of 1852 that the Utes did not actively oppose the army's plans for a fort in the San Luis Valley. In fact, some of them felt that the proposed military post would help to deflect intrusions by the Plains tribes.[25] The outcome, of course, was the construction of Fort Massachusetts on Utah Creek near the foot of towering Mount Blanca. The Utes did not seem to realize that the primary purpose of the new fort was to protect commerce and settlers in the valley; indeed, they seemed naively certain that an influx of settlers in the San Luis Valley would not be one of their problems.

Ka-ni-ache came into the Taos Pueblo in March, 1852, and talked with Indian Agent John Greiner; he said that the Mohuaches had been camped for some time on the Conejos

[21] Annie Heloise Abel, "Indian Affairs in New Mexico Under the Administration of William Carr Lane: The Journal of John Ward," *New Mexico Historical Review*, XII (April, 1941), 288.

[22] U. S., Congress, Senate, *Report of the Commissioner of Indian Affairs for 1854*, 33d Cong., 2d Sess., 1854, Ex. Doc. No. 1, pp. 377-78.

[23] Annie Heloise Abel (ed.), "The Journal of John Greiner," *Old Santa Fe*, III (July, 1916), 203.

[24] U. S., Congress, Senate, *Report of the Commissioner of Indian Affairs for 1854*, 33d Cong., 2d Sess., 1854, Ex. Doc. No. 1, p. 378.

[25] Abel (ed.), *Old Santa Fe, III* (1916), 195-203.

road to see if settlers came to take their lands; since they did not, Ka-ni-ache concluded that the agent had forbidden them. The Mohuaches, he said, would separate into two parties and all would be back in four months to see what the agent had to give them.[26] It was Greiner's impression, at least, that the presence of a fort and the absence of settlers made the Utes feel that they were under the special protection of the government.[27]

This period of calm and trust lasted well into the summer, but in mid-July, Greiner, who had been down at Ácoma for some time, left Santa Fe for Fort Massachusetts to visit the Utahs, the Jicarilla Apaches, and some of the Pueblos on the Rio Arriba in the hope of ending the trouble that had developed during his absence to the south.[28] From Taos on Monday, July 19, 1852, he sent two Pueblo Indians ahead to tell the Utes that he wanted to meet them at the fort on Wednesday.[29] Greiner's journal does not indicate the nature of the troubles, but he probably believed that he could pacify the Utes who were, in his opinion, the easiest of any tribe in the territory to manage and who, if they were well treated, could be relied on at all times.[30] On the way to Fort Massachusetts Greiner heard that the Utes had returned with plenty of buffalo meat, the animals having been found just one day east of the Sangre de Cristò Pass.[31] But he never saw Ka-ni-ache's people. He stayed at the fort all day on July 22, but his Taos runners came back with the information that the Utes had broken camp on the Conejos and moved to the west. Greiner's entry for the day ends with the tantalizing and laconic statement that "no Indians [are] ever seen at the fort they are afraid to come."[32] About a month later, however, it was learned that the Utes were peaceful and that J. M. Francisco had been given a six-month license to trade with them.[33]

The Jicarilla Apaches were the most obstreperous of the Indians in northeastern New Mexico during the first half of the 1850's. Matters became so critical in 1854 that a campaign was directed against them by Lieutenant Colonel Philip St. George Cooke, who pursued them east of the Sangre de Cristos onto

[26] *Ibid.*, 195.
[27] *Ibid.*, 203.
[28] *Ibid.*, 229.
[29] *Ibid.*, 231.
[30] *Ibid.*, 203.
[31] *Ibid.*, 231.
[32] *Ibid.*, 232.
[33] *Ibid.*, 238.

the Huerfano, the Purgatoire, and into the Raton Mountains.[34] Sometimes Mohuache Utes were involved with the Jicarillas, but the record does not indicate that Ka-ni-ache's band was among them.

Some of the Mohuaches became more hostile when, in the summer of 1854, many of them were destroyed by smallpox, which some of the survivors thought had come from disease-ridden blankets that had been intentionally issued to them.[35] This may explain, in part, why Mohuaches under Blanco, along with the Jicarillas, turned to violence on Christmas Day, 1854, when they killed the traders at Fort Pueblo on the Arkansas. Retribution was in the form of the two-pronged campaigns against them by troops under Colonel Thomas T. Fauntleroy and Lieutenant Colonel Ceran St. Vrain (New Mexico Volunteers), using Fort Massachusetts as a base in the spring of 1855.[36]

It is not known to what extent Ka-ni-ache may have been involved in the events leading up to and including the 1855 campaigns, but he was not particularly restrained as a result of them. In the summer of 1856, he was on the Arkansas with twenty-seven of his Mohuache warriors. They rode up to a high bluff on the south side of the river about fifteen miles below Fort Pueblo. Across the river they saw a large wagon drawn by six plodding oxen, with seven horses tied on behind. Piled high on the wagon were sacks of corn and wheat flour. Three men, two nearly full-grown boys, and a woman walked alongside the wagon goading the oxen, while two children and another woman rode horses.

It is probable that Ka-ni-ache knew that here was the old trader and scout, Charley Autobees, who had lived on the Huerfano River since 1846, with a party of friends and relatives, including Charley's squaw, Sycamore, and other Arapahoes. It is also more than likely that the Mohuache chief knew that the corn and wheat were being hauled to the Arkansas-Platte divide for trading with the Arapahoes at Bijou Basin. In fact, the Ute probably had been looking for Autobees and his party. The Arapahoes were their enemies.

[34] Hamilton Gardner, "Philip St. George Cooke and the Apache, 1854," *New Mexico Historical Review*, XXVIII (April, 1953), 115-32.
[35] Blanche C. Grant (ed.), *Kit Carson's Own Story of His Life as Dictated to Col. and Mrs. D. C. Peters About 1856-57 and Never Before Published* (Taos, New Mexico: Santa Fe New Mexican Publishing Corp., 1926), p. 216.
[36] For the most recent and complete discussion of these campaigns see Morris F. Taylor, "Action at Fort Massachusetts: The Indian Campaign of 1855," *The Colorado Magazine*, XLII (Fall, 1965), 292-310.

Autobees had just decided to leave the wagon in search of an antelope for their supper when Sycamore called out and pointed to the Utes silhouetted on the bluff. Juan Chiquito, one of Autobees' sons, quickly untied one of the horses, jumped on its back, and rushed off in the direction of the Huerfano, presumably to get help. Autobees and Sycamore prodded the oxen frantically as the Utes rode down from the bluff and splashed through the river to give chase. As the heavily-laden wagon lumbered across the mouth of the dry Chico, a northern tributary of the Arkansas, its wheels settled in the heavy sand and came to a halt. The Utes were still some distance away, so Autobees unhitched the oxen and tied them to a tree, while the women and children piled sacks around the edges of the wagon so they might hide below them. By then Ka-ni-ache and his warriors had galloped up and surrounded the wagon. He came forward and demanded that the Arapahoes be handed over at once, stating that he had no quarrel personally with Autobees.

The party refused to comply, and the Mohuaches began shooting. The fight commenced about ten in the morning; some of the children dug into the sand beneath the wagon, and the men in the wagon had to jump about to make it difficult for the Utes to take aim while they were loading their own guns. Sycamore fought alongside the men, especially when Autobees was wounded in the right arm; after that Sycamore loaded his rifle and held it for him so that he might shoot it with his left hand. Just about nightfall Ka-ni-ache was wounded, and the Utes withdrew. Besides Autobees only two oxen made up the casualty list in his party, although two of the children under the wagon had been grazed by the same bullet. Sycamore's dress had bullet holes in it. Autobees later claimed that seven Ute saddles were empty as a result of his marksmanship. The trading party went back to the Huerfano that night.[37]

The extent or seriousness of Ka-ni-ache's wound is not a matter of record. In December of 1856, however, he was at Kit Carson's house in Taos, where Carson was the Ute agent. The two men discussed the country claimed by the Mohuaches, and Ka-ni-ache indicated that their land was from La Jara north to the Arkansas, including the entire San Luis Valley. Carson re-

[37] Early Far West Notebook X, pp. 4-6, Cragin Collection, Pioneers' Museum, Colorado Springs; Janet Lecompte, "Charles Autobees," *The Colorado Magazine*, XXV (April, 1958), 140-42.

When Blanco threatened Kit Carson at his home in Taos, Ka-ni-ache succeeded in disarming the Mohuache chief.

ported that the claim was just about what was generally conceded to them and where they had lived for thirty years. In his letter to Governor David Meriwether relating details of the meeting, Carson, a notoriously bad speller, came out with one of the most wide-of-the-mark attempts to cope with the Mohuache chief's name—"Cany Attle." Also Carson referred to him as the principal chief of the Mohuaches.[38]

Evidently Ka-ni-ache usually came to Carson's house when he visited Taos, and the two men were on very friendly terms. Toward the end of Carson's tenure as Indian agent there was an episode which strengthened this relationship. One day the Mohuache chief Blanco, who had been humbled by the Fort Massachusetts campaigns in 1855, came to Carson's house with some of his followers. Blanco, still on his horse, called Carson to the door, and the Indian's demeanor at once put the agent on his guard. Blanco refused to dismount, although the others of his group had done so in order to eat. This strange procedure was closely watched by Ka-ni-ache, who was with Carson when the others arrived. Ka-ni-ache, too, was alerted by Blanco's odd behavior, so that when Blanco finally drew his gun on Carson, Ka-ni-ache was able to rush forward and wrest the gun from him.[39] Just what Blanco's motives were is not clear, but apparently Carson did not try to follow up with any stringent measures against the man.

Ka-ni-ache was still the leading figure of the Mohuaches, who, according to Kit Carson, numbered about three hundred fifty males and four hundred females.[40] In the summer of 1857, Carson characterized them as friendly toward the government and not addicted to drink. He was fearful, however, that the Taos Agency was too close to settlements that would provide strong temptations for them. He was concerned also with the growing game scarcity which plagued both the Mohuaches and the Jicarilla Apaches, about six hundred of whom were based on his agency. He warned that the Indians probably would have to be fed by the government to prevent their committing more and more robberies,[41] and his problems were considerably increased when the large Tabeguache band of Utes, with about

[38] Schroeder, *Southwestern Lore*, XXX (1965), 68.
[39] Early Far West Notebook VIII, p. 67, Cragin Collection, Pioneers' Museum, Colorado Springs.
[40] U. S., Congress, Senate, *Report of the Commissioner of Indian Affairs for 1857*, 35th Cong., 1st Sess., 1858, Ex. Doc. No. 11, p. 567. In another place in the same report (p. 562), Carson is said to have estimated the Mohuaches at six hundred persons.
[41] *Ibid.*, 562.

seven hundred males, was attached to the Taos Agency.[42] The range of this largest of the Southern Ute bands extended as far north as the headwaters of the Rio Grande and the mountains of the extreme upper Arkansas. In 1859, the year of the gold rush into the Pikes Peak region, the game was largely destroyed and the Indians (Tabeguaches) nearly driven out. Friction with the miners resulted in violent encounters, bringing death to several miners and eight or nine Indians.[43]

Hopes for peace between the Mohuache Utes and the Plains tribes were crushed on September 13, 1858. About twelve to thirteen hundred Mohuache and Tabeguache Utes had assembled on the Conejos, where talk turned to a willingness to make peace with the Plains groups if Kit Carson would accompany them to a council. This favorable turn of events was abruptly terminated when an express rode in from Captain Thomas Duncan, commandant at Fort Garland, warning that a large body of Cheyennes and Kiowas had passed the fort looking for Utahs. Both bands of Utes were astonished and angered that an invasion of Ute country would come at the very moment that they were considering peace with their old enemies. While this setback was bad enough, Agent Carson was also concerned with an attitude he observed, especially among the Mohuaches and Capotes, which was reported to Washington as "a growing spirit of insubordination strangely manifested among them, which he fears will have to be subordinated by the military. . . ."[44]

The next year, 1859, Carson noted a decrease among the Mohuache and Tabeguache Utes, which he attributed to disease and to warfare with other tribes. Hunger still dogged them. It was not the custom of the Mohuaches to stay close to the agency once they had received their government gratuities; after receiving their presents they usually withdrew from the settlements until hunger forced them to return.[45]

In the autumn of 1861, the Mohuache Utes and Jicarilla Apaches experienced a major change of scene when the Taos Agency was closed to them, and a new agency was provided for them east of the mountains at Maxwell's Ranch on the Cimar-

[42] U. S., Congress, Senate, *Report of the Commissioner of Indian Affairs for 1858*, 35th Cong., 2d Sess., 1858, Ex. Doc. No. 1, p. 546.
[43] U. S., Congress, Senate, *Report of the Commissioner of Indian Affairs for 1859*, 36th Cong., 1st Sess., 1860, Ex. Doc. No. 2, pp. 711-12.
[44] U. S., Congress, Senate, *Report of the Commissioner of Indian Affairs for 1858*, 35th Cong., 2d Sess., 1858, Ex. Doc. No. 1, p. 537.
[45] U. S., Congress, Senate, *Report of the Commissioner of Indian Affairs for 1859*, 36th Cong., 1st Sess., 1860, Ex. Doc. No. 2, p. 712.

ron River. The willingness of the Taos liquor dealers to sell to them seems to have been the primary cause of their removal, although some of the Jicarillas continued to be attached to the Abiquiu Agency.[46] Kit Carson was not in favor of the new location,[47] but the new agent, W. F. M. Arny, thought otherwise. The

When Indian Agent W. F. M. Arny (top, sixth from right) posed for this photograph with a group of Indians about 1861, Mountain Man Jim Baker (third from right) was an interested observer.

Mohuaches and Jicarillas based in the valley of the Cimarron totalled about fifteen hundred men, women, and children, and the lack of game remained a serious matter. But Arny was happy to report in September, 1862, that depredations had been reduced by about one-half since the opening of the agency. There had been only one case of drunkenness, while smallpox had been checked by vaccination with virus furnished by the surgeon general of the United States Army.[48]

[46] U. S., Congress, Senate, *Report of the Commissioner of Indian Affairs for 1861*, 37th Cong., 2d Sess., 1862, Ex. Doc. No. 1, p. 126.
[47] Letter from C. Carson to W. P. Dole, October 17, 1862, enclosed in letter from H. P. Bennet to W. P. Dole, February 24, 1863, Letters Received by the Bureau of Indian Affairs from the New Mexico Superintendency, R. G. 75, National Archives.
[48] U. S., Congress, House, *Report of the Commissioner of Indian Affairs for 1862*, 37th Cong., 3d Sess., 1862, Ex. Doc. No. 1, p. 387.

Colorado's new territorial governor, John Evans, who was also *ex officio* superintendent of Indian affairs, tried in 1862 to arrange a peace settlement between the Cheyenne-Arapahoe combination and the Utes, but the Plains Indians regarded this as unwarranted interference in their affairs.[49] One supposes that the Utes shared this opinion from the fact that on one of their raids they came within a mile of Fort Lyon on the Arkansas, where they stole eighty Cheyenne horses. Upper Arkansas Agent S. G. Colley attributed the raids generally to near-starvation, noting that there was not a buffalo within two hundred miles of the fort and very little other game. The killing of thousands of buffalo by white hunters helped to bring this about.[50]

The Mohuache Utes not only had to contend with Cheyenne, Arapahoe, and Kiowa attacks from the east, but they were also subject to raids from the Navajos to the west as well.[51] There was retaliation, of course, but it seems that it was partially caused by the same destitution which caused the Utes to penetrate far out onto the plains. Ka-ni-ache was involved in at least one of these forays against the Navajos when he led a party of thirty Mohuaches through Taos on his way westward; with them was a mixed band of sixty Mohuaches and Jicarillas under the Mohuache named Ancotash (Red).[52]

In the spring of 1863, Ka-ni-ache and his warriors were on the Cucharas in southern Colorado. For some unexplained reason, they had beseiged Colonel J. M. Francisco's new fortified adobe residence; inside were seventeen or eighteen men, including Francisco, his partner Henry Daigre, and Hiram Vasquez. From the point of view of those inside, the situation looked critical, and the decision was made that Hiram, the son of the famous Colonel Louis Vasquez, should try to reach Fort Lyon for help.

About 8 P.M. on a mild evening, Vasquez and his mule carefully picked their way through the brush along the banks of the Cucharas. In the darkness they eluded a Ute sentinel northeast of the plaza, and then the mule carried her rider at a brisk pace to the Rattlesnake Buttes about forty miles to the north-

[49] *Ibid.*, 186.
[50] U. S., Congress, House, *Report of the Commissioner of Indian Affairs for 1863*, 38th Cong., 1st Sess., 1863, Ex. Doc. No. 1, pp. 252-53.
[51] Schroeder, *Southwestern Lore*, XXX (1965), 70.
[52] U. S., Congress, House, *Report of the Commissioner of Indian Affairs for 1862*, 37th Cong., 3d Sess., 1862, Ex. Doc. No. 1, p. 393. The translation of Ancotash's name is found in Kappler (ed.), *Indian Affairs*, II, 944.

east, reaching that place about 2 A.M. Then they proceeded forty miles to the Arkansas River, where Vasquez and his mule stopped only long enough to drink copiously before starting out on the last third of the journey, the mule at this stage slackening her pace a bit. By late afternoon they were at the fort, having completed a remarkable journey of one hundred twenty miles in less than twenty-four hours.[53] The sources are so taken with Vasquez' exploit that they fail to say whether or not troops hurried to the scene and raised the seige.

Experience in fighting Navajos and familiarity with their country account for the employment of Ute scouts by Kit Carson in his very successful expedition against the Navajos begining in the spring of 1863.[54] Ka-ni-ache has been described as "Carson's prized scout,"[55] although Carson mentions him only in one incident. Colonel Carson with his Field and Staff, about seventy men of the First Cavalry, New Mexico Volunteers, and the Utes (number not stated) left Fort Defiance for Pueblo Colorado, on July 22, 1863. Along the way Carson left his command and pushed ahead with the Utes. At a point on the Rio de Pueblo Colorado they encountered a small party of Navajos, killing three men. Among the captives was a Pah-Ute woman who told Carson that a strong group of Navajos with many sheep, cattle, and horses was at a water hole about thirty-five miles to the west. Carson and the Utes hurried off in pursuit and arrived at the water hole about 5 A.M. the next morning. They found their quarry had left there the previous evening. The chase was resumed; after about two hours, however, the horses were giving out, and they had a waterless stretch of ninety miles ahead of them. Carson, supported by the "superior knowledge" of Ka-ni-ache, ordered them to turn back.[56]

The Utes left the expedition on August 8, 1863. Carson gave as their reason the fact that they had captured all the livestock and prisoners they could effectively handle, but the Utes pretended that they were dissatisfied because some of the

[53] Early Far West Notebook VI, p. 34, Cragin Collection, Pioneers' Museum, Colorado Springs; Eugene Parsons, "A Rare Character of the Rockies," *The Trail*, XVI (December, 1923), 15-16. In the obituary of Francesquita Bustos, *The Trail*, XV (January, 1923), 24, it is stated that the ride was made by Col. Francisco to Fort Bent. Lauren C. Bray, "Hiram Vasquez, Frontiersman," *The Colorado Magazine*, XXXVIII (January, 1960), 68-70, links Vasquez' ride with Ka-ni-ache's appearance at Francisco Plaza after his fight with the settlers and cavalry in 1866.

[54] William A. Keleher, *Turmoil in New Mexico, 1846-1868* (Santa Fe: The Rydal Press, 1952), p. 305.

[55] Edwin L. Sabin, *Kit Carson Days, 1809-1868: Adventures in the Path of Empire* (rev. ed.; New York: The Press of the Pioneers, 1935), II, 767.

[56] *Ibid.*, 862-64.

animals had been withheld from them.[57] It was Carson's opinion that "the Utes more than come up to the expectations I had formed of their efficiency as spies. . . ."[58]

The departure of Ka-ni-ache and his warriors followed another clash with Navajos, in which one of the enemy was killed and a number of horses and sheep captured. The Mohuaches headed back to the base camp, and at about 3 P.M., August 10, a sentinel, posted on a high rock overlooking a great expanse of country, signaled that Indians were approaching. With the use of a glass it was possible to discern them at about a mile's distance, and their manner of riding left no doubt that they were Indians. Only when they were closer was it realized that they were Ka-ni-ache and his men coming in without Colonel Carson and the troops. With them were twenty-five or thirty horses taken from the Navajos, but one of the officers at the camp had it from Ka-ni-ache that Carson had kept eight horses and a thousand sheep. The chief, it was reported, strongly resented this and headed for home in "high dudgeon."[59]

A series of raids from the plains came in the late summer of 1863. A small party of Cheyennes stole Mohuache horses near the Cimarron Agency in August; the Utes gave chase and managed to kill one Cheyenne. A bit later a large group of Cheyennes and Arapahoes returned and ran off forty head of Lucien B. Maxwell's horses. On September 4, about forty-five to fifty Arapahoes surrounded the agency, then in charge of Levi J. Keithly, and demanded Utahs. The agent was glad that there were none in the immediate vicinity, and the Arapahoes headed toward Red River. It was not long before the Mohuaches and Jicarillas heard about this, and soon a mixed party was in pursuit. When contact was made there was an indecisive fight, with one Arapahoe killed and one Ute wounded.[60]

A council of Ute bands was held in October on the Conejos, at or near the agency of that name in Colorado. It had been summoned by Governor Evans, who headed a commission to conclude a treaty with the Utes. The secretary of the commission was none other than John G. Nicolay, private secretary to President Abraham Lincoln, who had been sent out at the re-

[57] *Ibid.*, 866-67.

[58] *Ibid.*, 864.

[59] Raymond L. Lindgren (ed.), "A Diary of Kit Carson's Navajo Campaign, 1863-1864," *New Mexico Historical Review*, XXI (July, 1946), 231. The diary is thought to be that of Capt. Eben Everett.

[60] U. S., Congress, House, *Report of the Commissioner of Indian Affairs for 1863*, 38th Cong., 1st Sess., 1863, Ex. Doc. No. 1, p. 233.

quest of William P. Dole, commissioner of Indian affairs.[61] Others present were Michael Steck, superintendent of Indian affairs for New Mexico; Lafayette Head, the agent at Conejos; and Major Whitely. Tabeguaches, Weeminuches, Capotes, and some Mohuaches attended, but it appears that Ka-ni-ache and his Mohuaches from the Cimarron Agency declined the invitation. The recent Plains Indian attacks were given as the reason for their refusal to go to the Conejos,[62] but it is likely that the explanation had a hollow ring then as now.

Earlier in the year Ouray had been among the Ute, Cheyenne, and Arapahoe chiefs taken to Washington for the purpose of impressing them with the white man's power. Ouray had been properly awed and he was very influential at the Conejos council.[63] The result was preparation of a treaty by which the Utes would give up their claim to the San Luis Valley and take a reservation west of the Continental Divide.[64] However, when it came to signing on the dotted line, only Ouray's Tabeguaches did so, but this did have some practical effect because they were the largest of the Southern Ute groups. On Ka-ni-ache's shoulders rested the leadership of resistance to bartering away the homeland of the Utes. Kit Carson placed his trust more and more in Ouray, while Ka-ni-ache lost favor with the well-known frontiersman.[65] A strong friendship was damaged.

A rather direct outcome of the refusal of most of the Mohuaches to agree to a treaty was an order by the secretary of the interior in January, 1864, assigning them to the Colorado superintendency, where they were to join the Tabeguaches.[66] This directive was ignored by Ka-ni-ache and his people.[67] Evidently the year 1864 was a fairly good one for the Cimarron Utes. Disease did not ravage them; they reported only six deaths during the year. Hunting in the winter and spring was so successful that they were able to bring in dressed skins to trade

[61] Helen Nicolay, *Lincoln's Secretary: A Biography of John G. Nicolay* (New York: Longmans, Green and Co., 1949), pp. 172-74. This source indicates that Commissioner Dole was present at the council. Nicolay's report as special agent and secretary can be found in the 1863 commissioner's report.
[62] U. S., Congress, House, *Report of the Commissioner of Indian Affairs for 1863*, 38th Cong., 1st Sess., 1863, Ex. Doc. No. 1, p. 243.
[63] LeRoy R. Hafen (ed.), *Colorado and Its People* (New York: The Lewis Historical Publishing Co., 1948), I, 309-10.
[64] Kappler (ed.), *Indian Affairs*, II, 856-59.
[65] Hafen (ed.), *Colorado and Its People*, II, 62; Sabin, *Kit Carson Days*, II, 763.
[66] U. S. Congress, House, *Report of the Commissioner of Indian Affairs for 1864*, 38th Cong., 2d Sess., 1864, Ex. Doc. No. 1, p. 325.
[67] *Ibid.*, 201-02; U. S., Congress, House, *Report of the Commissioner of Indian Affairs for 1865*, 39th Cong., 1st Sess., 1865, Ex. Doc. No. 1, p. 347.

for provisions, and in addition have enough to make some of their own clothing. Few depredations were reported. Their decline in numbers came from war with tribes to the east and west.[68]

In the early winter a campaign against the Kiowas and Comanches, who were threatening wagon trains and military supply lines along the Santa Fe Trail, culminated on November 25 in a stinging defeat of the Plains tribes. The action took place near a ruined adobe trading fort, a remnant of William Bent's Fort Adobe dating from around 1846 and abandoned in 1848.[69] It was on the Canadian River about two hundred miles east of Fort Bascom, New Mexico. The engagement often is referred to as the Battle of Adobe Walls.[70] Kit Carson was in command of the troops, and he recruited seventy-five Mohuache Utes and Jicarilla Apaches at Maxwell's Ranch as scouts.[71] Ka-ni-ache again was a part of the unit.[72] Their personal friendship was very evident when they could agree on external matters such as joint action against the Plains tribes.

The contemporary Sand Creek Massacre of Cheyennes and Arapahoes in southeastern Colorado (November 29, 1864) radically upset tribal patterns and broke up the agency of the Upper Arkansas. Only the Tabeguache and Middle Park Agencies were left in Colorado, the latter being headquartered at Denver. During those months the Mohuaches and Jicarillas continued to resist pressures for their removal from Cimarron to the Conejos and Bosque Redondo respectively.[73]

Depredations in the summer of 1865, though relatively minor, caused alarm and brought an investigation by the military. There were fifteen lodges of Mohuaches about fifteen miles south of the Huerfano near the Purgatoire road and a like number about twelve miles farther south on the Apishapa, but it was said that there were about four hundred close to the Spanish Peaks. Lieutenant Frank Murrell, First Colorado Cavalry, reported to his superior officer that "the present improprieties were caused by actual want. Their resources are very

[68] U. S., Congress, House, *Report of the Commissioner of Indian Affairs for 1864*, 38th Cong., 2d Sess., 1864, Ex. Doc. No. 1, p. 344.
[69] David Lavender, *Bent's Fort* (Garden City, N. Y.: Doubleday and Co., 1954), pp. 247, 310, 405n.
[70] *Ibid.*, 413n; Robert M. Utley, *Fort Union National Monument, New Mexico* (Washington: [Department of the Interior, National Park Service], 1962), p. 39.
[71] Keleher, *Turmoil in New Mexico*, p. 249.
[72] Sabin, *Kit Carson Days*, II, 267.
[73] U. S., Congress, House, *Report of the Commissioner of Indian Affairs for 1865*, 39th Cong., 1st Sess., 1865, Ex. Doc. No. 1, p. 191.

limited, being principally game. They cannot get down to where the buffalo range. . . ." The Mohuaches denied responsibility for the property losses, blamed the Apaches, and gave the Lieutenant assurances of their friendliness, claiming to have been among those who served with Colonel Carson against the Comanches the previous fall. Several days later, five settlers on the Purgatoire, in a letter dated from Gray's Ranch, asked the military authorities in Denver for protection against the Utes.[74]

No help came from the military, and the stealing of livestock continued into the spring and summer of 1866. About the turn of the year settlers in the Trinidad area had petitioned for aid from Colorado Territorial Governor Alexander Cummings. One unfortunate settler, Isaac Van Brimmer, lost twenty-three cows out of a relatively small herd. He personally protested to Ka-ni-ache, who told him not to be disheartened; the cows left to him would drop calves, Ka-ni-ache said, and soon the size of his herd would be restored.[75] Ka-ni-ache apparently saw nothing odd about his serving the white man at one moment and working against him the next. He was able to keep quite separate his willingness to cooperate against a common enemy from the problem of his people in their perpetual search for food.

Matters took an ugly turn in the San Luis Valley with the discovery of a dead Tabeguache youth, presumably murdered, only about three hundred yards northeast of Fort Garland. It was reported that Brevet Brigadier General Kit Carson and Brevet Lieutenant Colonel Albert H. Pfeiffer were having all they could do to prevent an outbreak.[76] Carson had been com-

Kit Carson's long-time companion, A. H. Pfeiffer.

mandant at that post but a short time when the incident happened, and on top of that touchy situation came the killing, also in August, 1866, of Ka-ni-ache's son, not a great distance from Cimarron.

One version says that the chief's son, having no luck hunting, came to a ranch and asked for a sheep. It so happened that a small band of Utes shortly before had taken one sheep and wantonly killed two others. Ka-ni-ache's son was told to take one of those two, but he refused, preferring to kill one himself. When the Mexican herder told him he could not kill another sheep, the Ute drew an arrow upon him, whereupon the herder promptly shot him.

The herder fled to Fort Union, where he was followed by Ka-ni-ache and twelve warriors, including two brothers of his slain son. Ka-ni-ache was described as being not unreasonable, but his sons could scarcely restrain themselves in their desire to avenge their brother. While they were there fresh units of infantry and cavalry arrived and camped near the fort. This was very discouraging to Ka-ni-ache, who was heard to say "Soldados, soldados, soldados, todos soldados." The man who witnessed this thought that Ka-ni-ache and his sons were pacified with a few presents.[77]

Far from that, however. Danger of an embroilment with the Mohuache chief brought intervention by the highest officials—Acting Governor W. F. M. Arny and Major General James H. Carleton, commander of the military district. Two companies, probably Third Cavalry, were sent to Maxwell's Ranch, and other troops were deployed to endangered areas. The Acting Governor went to Cimarron, where he met Colonel Pfeiffer, who came from Fort Garland with a small escort. Together they tried to persuade Ka-ni-ache to go to Fort Garland until the court in Mora County assembled to try his son's killer.[78]

[74] *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies* (Washington: Government Printing Office, 1896), Series I, Vol. XLVIII, Part II, 952-53, 989-90. The Jicarilla Apaches were restive enough in the summer of 1865 to cause troops to be sent against them in the mountains between Las Vegas and Santa Fe. *New Mexican* (Santa Fe), July 7, 1865, p. 2.

[75] *Daily Rocky Mountain News Supplement*, April 25, 1866, p. 1.

[76] Letter from Kit Carson to Maj. De Forest, August 9, 1866, Records of Fort Garland, Letters Sent, June, 1866-June, 1869, p. 38, R. G. 98, National Archives (microfilm, State Historical Society of Colorado Library). Referred to hereafter as Records of Fort Garland, Letters Sent. See also the *New Mexican* (Santa Fe), August 25, 1866, p. 2.

[77] James F. Meline, *Two Thousand Miles on Horseback: Santa Fe and Back* (New York: Hurd & Houghton, 1867), pp. 289-91. Other accounts are in gen-

Lucien B. Maxwell lost forty horses in an Indian raid.

Conditions at the Cimarron Agency were in a deplorable state in the summer of 1866. Colonel A. B. Norton, superintendent of Indian affairs for the territory of New Mexico, went there in June and was shocked by the condition of the hungry and near-naked Indians. No agent was there, and no goods had been distributed for almost a year. Norton immediately instructed Lucien B. Maxwell to feed the Indians to a maximum of $500 per month until new instructions came from Washington.

Maxwell's efforts were simply inadequate, and Carleton realized that a continuing shortage of food would bring an increase in depredations and possibly a general uprising. To forestall this, Carleton ordered Lieutenant George J. Campbell, in command of the detachment at Cimarron, to begin issuing rations on August 25 of one-half pound of meat and one-half pound of wheat meal per day to each man, woman, and child. The total issue would amount to about $3,000 per month. Campbell and his men were there at Maxwell's request, but there had been no friction except for a minor quarrel between a drunken Indian and two soldiers.[79]

eral agreement, except that the *New Mexican* (Santa Fe), October 27, 1866, p. 2, said that the slain Ute was a Capote and Ka-ni-ache's son-in-law.

[78] *New Mexican* (Santa Fe), August 25, 1866, p. 2; Special Order No. 54, Records of Fort Garland, Special Orders, February, 1865-December, 1869, p. 61, R. G. 98, National Archives (microfilm, State Historical Society of Colorado Library). The evidence given the grand jury at Mora seemed insufficient to indict. Frank D. Reeve, "The Federal Indian Policy in New Mexico, 1858-1888," *New Mexico Historical Review*, XIII (April, 1938), 170-71.

[79] Reeve, *New Mexico Historical Review*, XIII (1938), 168, 171.

Fears of a general uprising were so substantial that orders had been issued from Santa Fe on July 26, 1866, for construction of a military post at some point on one of the upper tributaries of the Arkansas in Colorado. Protection of settlements on the Fountain, upper Arkansas, Huerfano, and Purgatoire Rivers was its justification. It was to be called Fort Stevens in honor of the late Major General Isaac Ingalls Stevens. It was not intended to be permanent; the limits of the military district of New Mexico were to be temporarily extended to the dividing ridge between the Arkansas and Platte Rivers, as far east as the crossing of the Purgatoire by the Raton Road at Fort Lyon.[80] At Fort Union, newly arrived Captain and Brevet Lieutenant Colonel Andrew J. Alexander was ordered to make Company G, Third Cavalry, and Companies F and H, Fifty-Seventh U. S. Colored Troops, ready to proceed to the new locale. Colonel Ceran St. Vrain and Brigadier General Kit Carson joined Alexander there and chose the site for the new post on "a plateau at the foot of the Spanish Peaks."

It is to be doubted that the existence of Fort Stevens was intended to be as brief as it was. General William Tecumseh Sherman hurriedly paid a visit of inspection while the post was under construction. Living quarters were incomplete, and Colonel and Mrs. Alexander were using the hospital tent for a sitting room, where they entertained the famed general. Sherman simply decided that there was no need for a post at that point,[81] and he then went on to a council with the Utes on September 22 and 23 beside the Rio Grande some thirty miles northwest of Fort Garland.[82]

Ka-ni-ache heeded the pleas from the Acting Governor and others to go to Fort Garland until the inquiry into his son's death was concluded. He arrived at that post on August 23, accompanied by a Ute named Sessaribi (his son?). Kit Carson was dismayed, though perhaps not surprised, to learn in a talk with them that they were bent upon revenge. The commandant of Fort Garland saw in their demands a deadly hatred for Mexicans and no hope of acceptance of a money settlement.[83]

[80] Commands, Department of the Missouri, Vol. 540, 77-78, R. G. 98, National Archives. Gen. Stevens was a veteran of the Mexican War and was killed in the Civil War battle at Chantilly, Virginia, in 1862. Heitman, *Historical Register*, I, 923.

[81] James H. Wilson, *The Life and Services of Brevet Brigadier-General Andrew Jonathan Alexander, United States Army* (New York: n.p., 1887), p. 96. See also the documents concerning Fort Stevens following this article.

[82] James F. Rusling, *Across America: Or the Great West and the Pacific Coast* (New York: Sheldon & Co., 1874), pp. 112-41.

[83] Letter from Kit Carson to Maj. De Forest, August 24, 1866, Records of Fort Garland, Letters Sent, pp. 37-38.

The case was transferred to Santa Fe, and the final outcome was a settlement for $400.[84] Ka-ni-ache returned to Cimarron and his people, whose destitution was not greatly relieved. Preparations were made to range north over the Raton Pass into Colorado, perhaps with the intention of trying to hunt buffalo on the plains. One contemporary report had it that Ka-ni-ache hastened their departure because of an altercation he had with Lieutenant Campbell, who, while drunk, had drawn a pistol on Ka-ni-ache.[85] Another source says that there was much ill feeling at Cimarron because of wanton slaughter of sheep by the Utes;[86] this appears to be another way of saying that the Utes were raiding flocks because of their hunger, an explanation, at least from the Indians' standpoint, that could hardly be described as wanton. At any rate, the Mohuaches started out with their tepees, camp gear, women and children, and horses. They passed "Uncle Dick" Wootton's toll gate, and when they came to the Purgatoire River they went west and upstream a mile or so, making camp on the south bank near the site of the later coal mining camp of Sopris.[87]

When Ka-ni-ache and his band of Mohuaches came down out of the hills to the Purgatoire they came into a countryside that was already taut with fear. In June over three hundred lodges of Utes and Jicarilla Apaches hunted buffalo on the plains south of the Arkansas without much success.[88] The pangs of hunger were not relieved from that source, and the rate of depredation increased as a result. Shavano and his Tabeguache Utes raided in the vicinity of the Huerfano. At one ranch they took one horse, two cows, twenty sheep, and all the coffee, sugar, flour, powder, and lead they could find. Before they left, they severely whipped one of the ranch herders, and the rumor spread that three men had been killed in the area.[89]

Settlers looked with apprehension to the hills and to the

[84] Reeve, *New Mexico Historical Review*, XIII (1938), 170-71.
[85] Letter from Lieut. Col. A. J. Alexander to the Assistant Adjutant General, October 2, 1866, Letters Received by the Bureau of Indian Affairs from the New Mexico Superintendency, R. G. 75, National Archives. Hubert Howe Bancroft suggests that this alleged encounter with Campbell was the chief explanation for Ka-ni-ache's subsequent rampage. *History of Nevada, Colorado and Wyoming 1540-1888*, Vol. XXV of *The Works of Hubert Howe Bancroft* (San Francisco: The History Publishing Co., 1890), p. 471n. This is surely a great oversimplification of a really involved matter.
[86] Sabin, *Kit Carson Days*, II, 767.
[87] Howard Louis Conard, *"Uncle Dick" Wootton, the Pioneer Frontiersman of the Rocky Mountain Region: An Account of the Adventures and Thrilling Experiences of the Most Noted Hunter, Trapper, Guide, Scout, and Fighter Now Living* (Chicago: W. E. Dibble & Co., 1890), p. 55.
[88] Letter from Brig. Gen. Carson to Maj. Roger Jones, June 10, 1866, Records of Fort Garland, Letters Sent, p. 8.
[89] Letter from Brig. Gen. Carson to Maj. De Forest, June 14, 1866, *ibid.*, 11.

plains as well. Danger seemed to concentrate on the Huerfano, where, in early September, Plains Indians were very troublesome around Doyle's Ranch.[90] Danger was on such a scale that Lieutenant Colonel Alexander, at the moribund little post of Fort Stevens, on the Santa Clara, sent a message across the mountains to Brevet Brigadier General Christopher Carson at Fort Garland. Carson advised Alexander to take a detachment of mounted men to the mouth of the Huerfano for a first-hand look; if there were any Utes in the vicinty Alexander should engage them as spies.[91]

Although the Cimarron Utes seem not to have directly added to the strains of the summer, they, along with the Jicarillas, grew more restless as their destitution was not really relieved. And the Utes were greatly exasperated over some amendments added by the United States Senate to the recent treaty concluded with Governor Evans and his commission.[92] Carson feared a general war, especially if there were an attempt to force them to a reservation.[93] Ute hatred for the Mexican people was thought to be another dangerous feature.[94] As a result of these several factors, Carson wrote ominously in early October that there was "in one continuous line from the Purgatoire to the Tierra Amarilla a feeling of discontent" raging among the Indians.[95]

In a sense, the rather sudden appearance of Ka-ni-ache and his people on the Purgatoire was, for the settlers, the culmination of months of worry and alarm. It is quite possible that Ka-ni-ache was not fully aware of the fear that his presence aroused, and any personal truculence he may have displayed brought a reaction of defense and resentment.

Horse stealing may have started a series of unfortunate developments. When Justice of the Peace William R. Walker, "Uncle Dick" Wootton's son-in-law, failed to recover the horses for the settlers, the Indians contemptuously rode their horses through the crops growing in the bottoms. A courier galloped out of Trinidad heading for Fort Stevens. The Utes denounced Walker as the one who sent for soldiers; he disclaimed this, saying that Ramon Vigil had done it. That sent twelve young war-

[90] Letter from Brig. Gen. Carson to Lieut. Col. Alexander, September 12, 1866, *ibid.*, 51.
[91] Letter from Brig. Gen. Carson to Lieut. Col. Alexander, September 15, 1866, *ibid.*, 53.
[92] Letter from Brig. Gen. Carson to Maj. Jones, June 10, 1866, and to Maj. De Forest, August 24, 1866, *ibid.*, 9, 37.
[93] Letter from Brig. Gen. Carson to Maj. Jones, June 10, 1866, *ibid.*, 9.
[94] Letter from Brig. Gen. Carson to Maj. De Forest, August 24, 1866, *ibid.*, 38.
[95] Letter from Brig. Gen. Carson to Maj. De Forest, October 3, 1866, *ibid.*, 61.

riors up the river towards Vigil's little plaza where Raton Creek joined the Purgatoire; they met Vigil on the way, but somehow he turned their wrath. The Mohuaches continued upstream on their way to the Ute encampment. Passing Juan Gutierrez' place (later George Simpson's), they killed a couple of horses. An hour or two later, two more Mohuaches rode hard out of Trinidad to warn their people that troopers had arrived; Gutierrez saw the pair coming, and shot and killed one of them.[96]

At least that is what happened in the version set down by Ramon Vigil's son. An official appraisal differs from it in important aspects. The superintendent of Indian affairs for the Territory of New Mexico was informed that Ka-ni-ache and his band were on their way past the Gutierrez place when Gutierrez came out and accused the chief of stealing corn. Ka-ni-ache indignantly denied this, yet at the same time said in effect that some of his people had done so to relieve their hunger. While the two were having their controversy, Gutierrez' son allegedly shot and killed one of the Mohuache men. The rest of the warriors ran to their horses and stood ready to defend themselves and the camp. At this moment, according to the report to the superintendent, Company G, Third Cavalry, commanded by Lieutenant Colonel Alexander, sounded the charge without provocation. Ka-ni-ache and his warriors retreated in good order, and then turned on the troopers, killing one, wounding two, and winning the fight.[97] Then the entire band faded into the foothills of the Sangre de Cristo Mountains.

This abbreviated account must be treated cautiously. Extant military correspondence offers other inferences about the pattern of the encounter. Colonel Alexander had talked with Ka-ni-ache on either October 1 or 2, asking why he had allowed his people to take or destroy the settlers' property. The Mohuache leader's reply was that the land belonged to the Utes, and when his people were hungry he would take food for them to eat. Alexander was also convinced that Ka-ni-ache was still angry over his run-in with Lieutenant Campbell at Cimarron.[98]

A white man had warned that the Utes were about to attack. It was October 3, 1866, and Colonel Alexander ordered

[96] Interview with Nicholas Vigil, CWA Interviews (Las Animas County, 1933-34), Pam 359/12, p. 161, State Historical Society of Colorado Library.
[97] Letter from John D. Henderson, agent, to Col. A. B. Norton, *New Mexican* (Santa Fe), December 1, 1866, p. 1. The date and place of the battle is also noted in Heitman, *Historical Register*, II, 427.
[98] U. S., Congress, House, *Report of the Commissioner of Indian Affairs for 1866*, 39th Cong., 2d Sess., 1866, Ex. Doc. 1, p. 161.

Colonel A. J. Alexander took his troops to Fort Stevens.

his cavalry company to mount. A trumpet blared, and the troops galloped out of Trinidad, heading westward up the Purgatoire. About five miles out they saw what appeared to be a Mohuache attack upon a ranch. Very probably, it was the moment when Ka-ni-ache and his men were on the defensive after one of their number had been shot by Gutierrez' son. Apparently the cavalry officer did not try to find out just what was going on, but ordered the charge to be sounded. The Utes retreated and took a stand, as has been noted above.[99] They had to abandon their tepees and other gear when they disappeared into the hills.[100]

Colonel Alexander reported that his pursuit of the Mohuaches had to be called off when his men ran out of ammunition. He listed his casualties as one man killed and two wounded; of the latter, one was wounded by a musket ball in his knee and the other by an arrow in his side. But on the subject of the Indians' casualties a major discrepancy appears; about thirteen were killed, the Colonel said.[101]

Kit Carson learned of the fighting the next day, and he thought it substantiated his fear that a general uprising was imminent; he wrote that "this is bound to result in a general war with all the Utes."[102] This proved to be an error in judg-

[99] *Ibid.* A contemporary letter commenting on the fight said that the Utes numbered about 150; it did not say whether this referred to the size of the entire band or meant that Ka-ni-ache had that number of warriors with him. *Daily Rocky Mountain News*, October 27, 1866, p. 2.
[100] *New Mexican* (Santa Fe), December 1, 1866, p. 1.
[101] Two communications to the *Rocky Mountain News* support the Colonel's contention in this matter. *Daily Rocky Mountain News*, October 11, 1866, p. 4, and October 27, 1866, p. 2. The latter account also says that young Gutierrez shot and killed the two Utes.
[102] Letter from Brig. Gen. Carson to Capt. Deus, October 4, 1866, Records of Fort Garland, Letters Sent, p. 63.

ment. The Ute chief Ouray came to Fort Garland to tell Carson that he had no intention of fighting and would try to restrain his young men.[103] On October 9, he camped with about ninety or a hundred lodges some nine miles from the fort, and sent a runner to Ka-ni-ache, asking him to come in and quit fighting.[104]

Ka-ni-ache and his people moved north through the canyons and foothills. Audacity and hunger compelled them on October 6 to try a surprise raid on the cattle herd at Fort Stevens, but without success.[105] Apparently the wife and children of the Mohuache killed at Gutierrez' place stayed behind and were prisoners on the Purgatoire; also the Utes lost thirteen horses and mules in their hasty abandonment of camp near Trinidad. Another man and one or two women, perhaps unable to keep up the pace, were left at Francisco's plaza on the Cucharas.[106]

Ka-ni-ache's band continued north and then west up the Huerfano, where they took prisoner a Mrs. McClure and her four children, presumably as hostages, and there were reports of two or three killings by the Mohuaches. Colonel Alexander, with ammunition replenished either at Trinidad or Fort Stevens, resumed pursuit with fifty of his own men and seventy-five civilians from the Trinidad area. Carson did not believe that Ka-ni-ache could be overtaken, but he feared that if Ka-ni-ache's band reached Ouray's camp, Alexander might in time attack it, thinking it was entirely comprised of hostile Indians.[107]

The Mohuaches came voluntarily into Ouray's camp, and they gave up their prisoners when Carson promised that the Mohuache prisoners on the Purgatoire would be returned.[108] Nearly a thousand Utes were encamped close to Fort Garland,

[103] Letter from Brig. Gen. Carson to Maj. De Forest, October 7, 1866, *ibid.*, 64-65.
[104] Letter from Brig. Gen. Carson to Maj. De Forest, October 11, 1866, *ibid.*, 67.
[105] Wilson, *Brevet Brigadier-General Andrew Jonathan Alexander*, pp. 97-98.
[106] Letter from Brig. Gen. Carson to Maj. De Forest, October 11, 1866, Records of Fort Garland, Letters Sent, p. 69.
[107] Letter from Brig. Gen. Carson to Gen. Carleton, October 8, 1866, *ibid.*, 65-66. Two letters, dated October 8 and 9, respectively, were published stating that three men had been killed by the Mohuaches. *Daily Rocky Mountain News*, October 12, 1866, p. 1. The second letter also said that all the horses for twelve miles along the Huerfano were stolen, and that stock had been run off Zan Hicklin's place on the Greenhorn. A third letter to the same paper, October 18, 1866, p. 2, said that the severed head of one of the Utes' victims was carried on a saddle.
[108] Letter from Brig. Gen. Carson to Maj. De Forest, October 11, 1866, Records of Fort Garland, Letters Sent, p. 69. There is evidence that Ka-ni-ache went first to Lafayette Head's Ute Agency at Conejos. *New Mexican* (Santa Fe), October 13, 1866, p. 2. Another Mohuache band under Ancotash had come up from the Cimarron country and joined the big camp near Fort Garland. U. S., Congress, House, *Report of the Commissioner of Indian Affairs for 1866*, 39th Cong., 2d Sess., 1866, Ex. Doc. No. 1, pp 160-61; Letter from Brig. Gen. Carson to Maj. De Forest, October 7, 1866, Records of Fort Garland, Letters Sent, p. 66.

including Ka-ni-ache's group, and Carson thought they should stay there for the time being. Carson was opposed to all the Utes going down to Cimarron, as some wanted, and he especially thought it important that Ka-ni-ache be kept away from the east slopes of the mountains.[109] Colorado Territorial Governor Alexander Cummings arrived at the fort at 3 P.M., October 15, and Colonel Norton, the Indian affairs superintendent for New Mexico, was trying to arrange a council in Taos in a few days' time.[110] Carson thought it would be well for General Carleton to come to the fort and talk directly with Ka-ni-ache.[111]

Perhaps the running fight between the Mohuaches and the cavalry was no more than a "severe skirmish," as Colonel Alexander put it,[112] but it was symptomatic of the times. In its aftermath, controversy over details continued. Ka-ni-ache denied that he had lost thirteen men, insisting that his only fatality was the Mohuache shot before the fight with the cavalry commenced.[113] This was essentially repeated a few days later by Agent Henderson who pointed out that, to his knowledge, Colonel Alexander never produced the bodies.[114] Many years later a Trinidad resident, who probably witnessed the fight, supported Henderson's contention;[115] of significance is the fact that Kit Carson's correspondence does not indicate that Ka-ni-ache's assertion was incorrect.

Nor does Carson's correspondence support a later account which says that Ka-ni-ache and his band were defeated and captured by Utes under Shavano, who then brought the Mohuaches in.[116] No contemporary sources support this. Also Agent Henderson scoffed at the story that Lieutenant Campbell had pulled a gun on Ka-ni-ache, insisting that the officer enjoyed the friendship and confidence of the chief.[117]

[109] Letter from Brig. Gen. Carson to Capt. H. S. Farnsworth and L. B. Maxwell, October 14, 1866, Records of Fort Garland, Letters Sent, p. 71.
[110] Letter from Brig. Gen. Carson to Maj. De Forest, October 18, 1866, *ibid.*, 73.
[111] Letter from Brig. Gen. Carson to Maj. De Forest, October 18, 1866, *ibid.*, 68.
[112] U. S., Congress, House, *Report of the Commissioner of Indian Affairs for 1866*, 39th Cong., 2d Sess., 1866, Ex. Doc. No. 1, p. 161.
[113] *New Mexican* (Santa Fe), November 3, 1866, p. 2. That paper in its issue of December 22, 1866, p. 1, cast further doubt on the Indian casualty list as submitted by Alexander.
[114] *Ibid.*, December 1, 1866, p. 1.
[115] J. M. Stoner, "On the Frontier in the Early '60s," *The Trail*, XI (November, 1918), 14-15.
[116] Bancroft, *History of Nevada, Colorado, and Wyoming*, p. 471n. Bancroft also states that the fight took place in 1867, which seems to be a matter of plain error. The *Daily Rocky Mountain News*, November 8, 1866, p. 2, quoted Maj. Head, agent at Conejos, that Ka-ni-ache had surrendered himself and promised to restore or make restitution for all stolen property. The Major also said that Ka-ni-ache gave up because no other Ute bands had joined him.
[117] *New Mexican* (Santa Fe), December 1, 1866, p. 1.

A small council was held at Taos, attended by Henderson, Lucien B. Maxwell, Kit Carson, Ka-ni-ache, and Ancotash. At this gathering Henderson became convinced that Ka-ni-ache and his Mohuaches were not to blame for the clash on the Purgatoire; responsibility rested with Colonel Alexander and his hasty action. Henderson recommended that Ka-ni-ache and his band be allowed to return to Maxwell's ranch on the Cimarron at once, so that they might receive their annuities to help relieve their destitute condition. Permission was granted, and Henderson returned across the mountains from Taos with them. He reported that they were delighted with their goods, and were more contented than they had been in seven years.[118]

Henderson paid a visit to the Cimarron Agency in December and found everything quiet there. But up in Trinidad the citizens were still in a state of shock and anger. Retaliation seemed to be their guiding light if the report in the Santa Fe *New Mexican* was right, and some of them, at least, were keeping things stirred up by passing "gassy" resolutions to kill all Indians who might visit the valley of the Purgatoire.[119]

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[118] *Ibid.*
[119] *Ibid.*, December 22, 1866, p. 1.
EDITOR'S NOTE: The concluding part of this study will appear in the Spring, 1967, issue.

FORT STEVENS

Fort Stevens might appropriately be known as Colorado's forgotten fort. The short-lived post was named in honor of Isaac Ingalls Stevens, who had been killed during the early part of the Civil War. Born in 1818, Stevens had a colorful, many-faceted career. He was graduated from the United States Military Academy in 1839 and saw action during the Mexican War. In 1853 President Franklin Pierce appointed him to serve as the first governor of Washington Territory, a post he held until 1857. In that year he was elected delegate to Congress from the territory. With the outbreak of the war he joined the Union forces, and was promoted to major-general in July, 1862; he died the following September in the battle of Chantilly.[1]

The fort which was to have borne his name was never completed. Only two months elapsed from the date it was established, in July, 1866, until it was decided that a post was not necessary at that location.[2] Construction was halted in September, and the troops and supplies already at the site were transferred elsewhere. The story of Fort Stevens is an intriguing bit of Colorado history, and we are pleased to present the following documents concerning its brief existence.[3]

[1] Joseph Schafer, "Isaac Ingalls Stevens," *Dictionary of American Biography* (Centenary Edition; New York: Charles Scribner's Sons, 1946), XVII, 612-14. For more detailed biographical information, see Hazard Stevens, *The Life of Isaac Ingalls Stevens* (2 vols.; Boston and New York: Houghton Mifflin Co., 1900) and Joseph T. Hazard, *Companion of Adventure: A Biography of Isaac Ingalls Stevens, First Governor of Washington Territory* (Portland, Ore.: Binfords & Mort, Pub., 1952).

[2] Even so, stores had already been requisitioned for the new fort; in addition to the usual staples, the men would have feasted on such delicacies as peaches, raspberries, blackberries, and pineapples. (Eight barrels of whiskey were also requested.) The requisition for stores, and a copy which is evidently a receipt, are in the State Historical Society of Colorado Library.

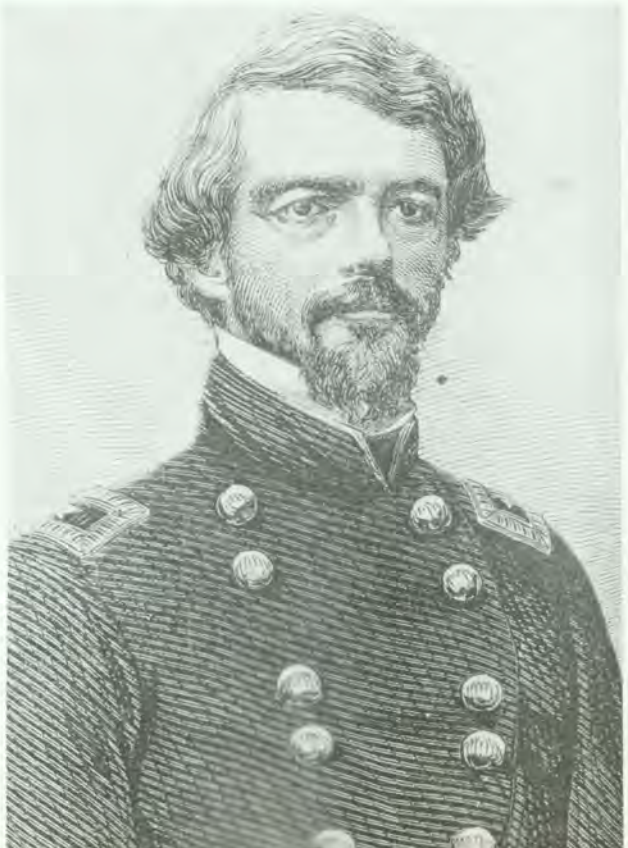
[3] The orders relating to Fort Stevens may be found in Commands, Department of the Missouri, R. G. 98, National Archives. They were located and transcribed by Mrs. Enid T. Thompson, librarian of the State Historical Society, on a recent trip to Washington.

HEAD QUARTERS, DEPT. OF THE MISSOURI
SANTA FE N. M. JULY 26, 1866

GENERAL FIELD ORDER
No. 5

I. For temporary purposes, the limits of the District of New Mexico are hereby extended to include the part of Colorado lying south of the dividing ridge between the waters of the Arkansas and Platte rivers, and as far east as Pueblo, on the Arkansas and the crossing of Purgatoire by the Raton road to Fort Lyon.[4]

II. At some point within the region of the Upper Huerfano or the Cucharas, the commanding officer of the District of New Mexico will establish a military Post to be garrisoned by one Company of Infantry and two Companies of Cavalry to cover the settlements along the Fontaine-qui-Bouil, Upper Arkansas, Huerfano and Purgatoire Rivers, from incursions of the Ute Indians, as also to protect those settlements from raids that may be made by the Indians of the Plains—After being fully es-



Major General I. I. Stevens

tablished, the Post will draw its supplies direct from the General Depots at Fort Leavenworth, Kansas

Subject to the approval of the Secretary of War this Post will be designated "Fort Stevens" in commemoration of the name and services of General I I Stevens deceased—

by command of Major Genl Pope[5]
JOSEPH M. BELL
Asst Adjt General

HDQ. DISTRICT OF NEW MEXICO[6]
FORT UNION, Aug. 15, 1866

GENERAL ORDERS
No 20

In Compliance with orders from Department Headquarters, a military post will at once be built on one of the upper tributaries of the Arkansas river, the exact point to be here after designated, when fixed by a board of officers. This post will be known as Fort Stevens.

The troops, which are to proceed without delay to establish and build this post are: Capt. & Br. Col. Andrew J. Alexander's Company G, U. S. 3rd Cavalry,[7] and Companies F & H of the 57th U. S. Colored troops.

These troops will at once be moved to a camp by themselves, near Fort Union, N. M.,[8] when Col. Alexander will, with all possible dispatch, put them in complete readiness at all points to proceed to the post they are to occupy.

[4] Fort Lyon was established in 1860 near present-day Lamar. It was first called Fort Wise, but was named Fort Lyon in 1862 in honor of Brig. Gen. Nathaniel Lyon, who had been killed in 1861. The post was abandoned June 9, 1867, after the Arkansas River flooded, and the second Fort Lyon was built on the Arkansas a little below the mouth of the Purgatoire. It was finally abandoned in 1889. Robert W. Frazer, *Forts of the West: Military Forts and Presidios and Posts Commonly Called Forts West of the Mississippi River to 1898* (Norman: University of Oklahoma Press, 1965), pp. 39-40, 41-42.

[5] Maj. Gen. John Pope had at one time been in command of the Army of Virginia. His forces met defeat at the second battle of Bull Run.

[6] In 1866 the District of New Mexico, along with Missouri, Kansas, and Colorado, was under the Department of the Missouri, which in turn was part of the larger Division of the Missouri, comprised of the Departments of Arkansas, Missouri, Platte, and Dakota. See Francis Paul Prucha. *A Guide to the Military Posts of the United States, 1789-1895* (Madison: The State Historical Society of Wisconsin, 1964), p. 152, for army organization at this time.

[7] Alexander had seen action during the Peninsula Campaign and the battles of Gettysburg and Atlanta. Francis B. Heitman, *Historical Register and Dictionary of the United States Army from its Organization, September 29, 1789, to March 2, 1903* (Washington: Government Printing Office, 1903), I, 156. See also the account of Alexander's activities in the preceding article.

[8] Fort Union was located northeast of Las Vegas, New Mexico. Founded in 1851, it was an important supply center until it was abandoned in 1891. For the most recent and complete history of the post, see Chris Emmett, *Fort Union and the Winning of the Southwest* (Norman: University of Oklahoma Press, 1965).

The chiefs of the Quartermaster Subsistance, Medical and Ordnance Department of New Mexico, will furnish on Col. Alexander's requisitions all means of transportation and supplies necessary to give effect to what is here ordered.

JAMES H. CARLETON[9]
Brvt. Brig. General, U.S.A.
Commanding

FORT STEVENS, COLORADO TERRITORY

GENERAL ORDERS No 24:

HEAD. DIST. OF NEW MEXICO, SANTA FE,
September 26, 1866

By direction of superior authority the building of Fort Stevens, Colorado Territory is stopped, and that post is hereby discontinued. Its garrison will be disposed of as follows:

Co. G, U. S. 3rd Cavalry will take post at Fort Garland, Colorado Territory[10]

Co.'s F & H, 57th regiment of the U. S. Colored Troops will be held in readiness to march with the regiment to which they belong, to the East to muster out of Service. Further instruction will be given in relation to the movement of these two companies.

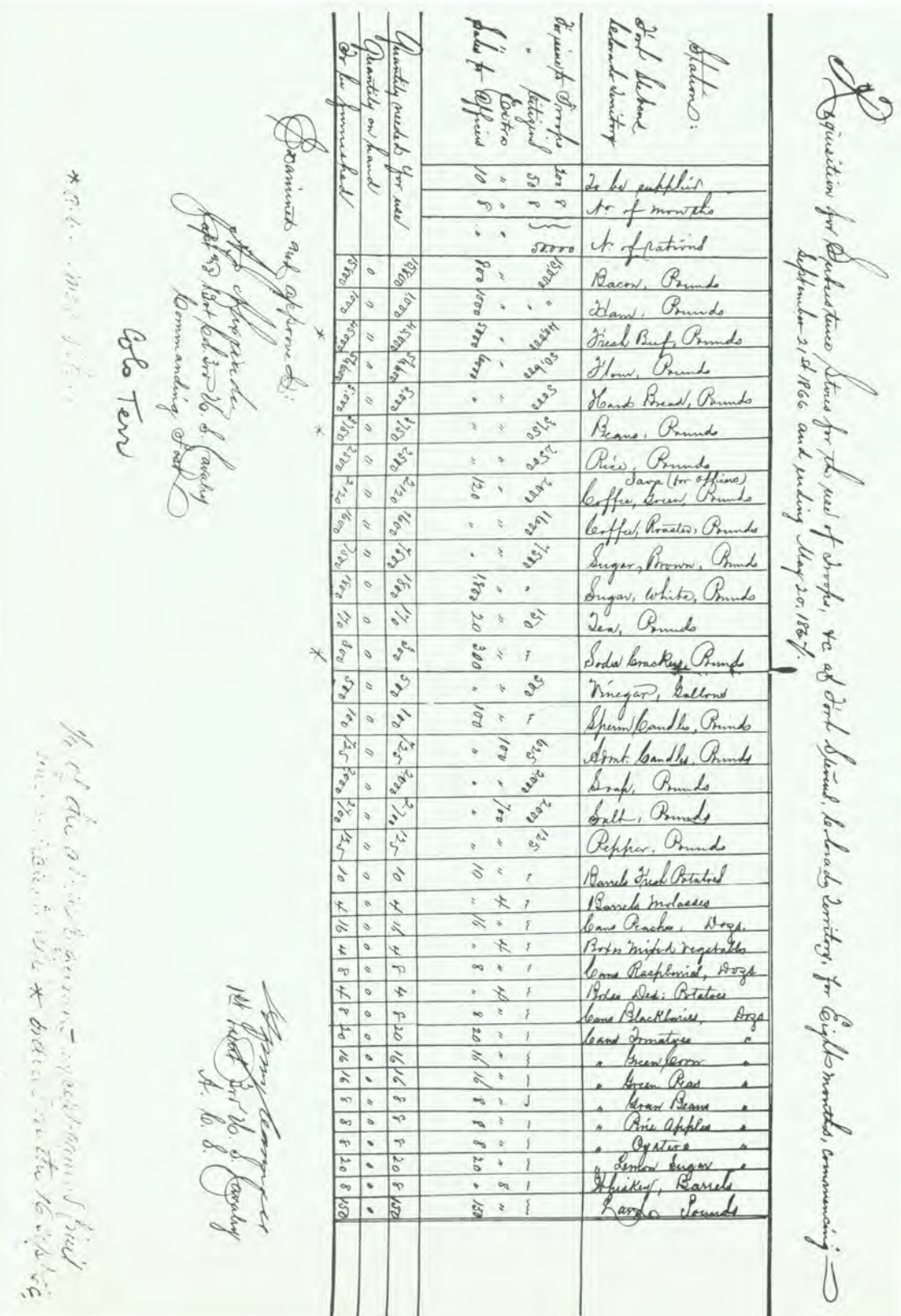
The two pieces of artillery, now at Fort Stevens, and the ammunition, implements, etc., which pertain to them, will be taken to Fort Garland.

The materials, tools, means of transportation, supplies, stores, medicine, etc. now at Fort Stevens will as far as needed, be sent at once to Fort Garland; the remainder will be returned to the appropriate depots near Fort Union, and at Santa Fe, New Mexico.

The Chiefs of the different staff departments will give such detailed instructions as will carry this order into full effect.

By Command of Brevet Brigadier General Carleton
A. W. DE FORREST
Brt. Major, U. S. Vol
Aide-de-camp

[9] Carleton had served in both the Mexican War and the Civil War. Heitman, *Historical Register*, I, 282.
[10] For a recent account of Fort Garland see Duane Vandenbusche, "Life at a Frontier Post: Fort Garland," *The Colorado Magazine*, XLIII (Spring, 1966), 132-48.



THE WORST MENACE TODAY

RED SCARE IN DENVER

BY PHILIP L. COOK

When the Colorado legislature passed a law entitled "To Prevent the Display of the Red Flag in Public," it was evident that the lawmakers were concerned over the threat of Communism. The representatives of the state alerted the citizens to the dangers in their midst with the enactment of the above bill on March 7, 1919.[1]

Today, the increasing activity of anti-Communist extremists would make it appear as if the Reds were a new discovery. The fears are nothing unique, but they become more intense at times. This social fever soared to such heights in 1919 and 1920 that the name "Red Scare" has been permanently affixed to the era.

Denver, Colorado, somewhat geographically isolated from the unrest that characterized the great industrial cities, nevertheless developed the fever. A typical culminating result of hysteria, mob violence, was also present in the Colorado capital. As in other cities affected by the Red Scare, the labor movement in Denver was the main victim.

In 1919 and 1920, postwar frustrations caused by such things as inflation, unemployment, and prohibition aggravated the fears of Communism until a world revolution seemed imminent. In addition, some newspapers, on occasion, still practiced yellow journalism, and opportunistically exploited the Bolshevik Revolution.

During the war, the federal and state governments had tried to ensure conformity by passing espionage, sedition, and alien laws. Socialists and International Workers of the World found their activities curbed. But Bolshevism had reared its head to become the great new world threat, and the wartime mood as to how to deal with radicals still prevailed. Liberals and progressives, as well as radicals, were suspect—the com-

[1] Colorado, General Assembly, *Session Laws*, 22d Sess., 1919, S.B. 30, pp. 573-74.

mon denominator of Bolshevism applied to all. The new "ism" seemed to have infested the whole country. Nor was the West, the traditional home of free men, immune from radical activity.

Much unrest in the harvest fields and mines, both before and during the war, was the result of IWW agitation; but Communism had not made the inroads in the West that it had in the East. Across the nation, the rising fear of Bolshevism spread, due to a series of events which, when given the proper setting—postwar frustrations—and when fired by paranoid imaginations, created the nationwide hysteria.

It began on February 6, 1919, with a general strike of 110 local unions in Seattle which reverberated across the nation. Bold headlines in Denver notified the public that "Bolshevik Reign Looms in Seattle Strike." Squelched by the presence of federal troops who were called in on the urging of Mayor Ole Hanson, plus the mounting disapproval of the residents of Seattle, the strike collapsed on February 10, and quiet prevailed.[2]

Evidently Denver was not greatly alarmed about the Red menace at this time, for only minor news space was given to a Bolshevik meeting on the afternoon of February 23, 1919, at Howe Hall on California Street in the heart of the city. It was a joint meeting of the Denver Council of the Workmen's Soldiers', Sailors', and Marines' Soviet with the Denver branch of the International Welfare Brotherhood. Resolutions were adopted: "That the United States recognize the Bolshevik government of Russia, that the deportation of all Reds be stopped instantly, and that political prisoners and conscientious objectors be given pardons." Demands for pardons were also made for Bill Haywood, the IWW leader; Victor Berger, Socialist congressman; and several others. Additional appeals were made for government ownership of utilities, the reseating of Berger in Congress, a public vote on all peace plans and prohibition, and the withdrawal of all allied troops from Russia. President Woodrow Wilson and local federal officials were to receive copies of the resolutions. But that was not all—if these demands were not met by July 4, the Denver Council would call a nationwide strike. At an evening meeting a speaker vigorously criticized proposed anti-red flag legislation in the Colorado legislature; however, the act was passed.[3]

[2] Robert K. Murray, *Red Scare: A Study in National Hysteria* (Minneapolis: University of Minnesota Press, 1955), pp. 59-60, 64; *Denver Post*, February 7, 1919.
[3] *Rocky Mountain News*, February 24, 1919.

Without mincing words, the law stated that:

> . . . the displaying of the Red Flag, the emblem of anarchy, in public, or in any place where the public tends to congregate . . . tends to foment and cause trouble . . . encourages riots and lawlessness and inculcates disrespect for the laws of the United States and of the state of Colorado, as well as for the Flag of our Country, and thus endangers the peace and safety of our people; . . .

Violators would be guilty of a felony, the penalty to be from one to ten years in prison.[4] Regardless of the lack of news value of radical meetings, it cannot be said that the Colorado lawmakers were unaware of Bolshevism. However, Denver's seclusion in the Rockies gave it less reason to be nervous than eastern and West Coast cities.

On March 11, U.S. postal officials revealed the names of newspapers actively spreading Bolshevist doctrine. Such a propaganda statement as ". . . every strike is a small dress rehearsal for the big one," plus other similar evidence, indicated to the post office that revolution was being encouraged. Denver news readers received this information via the startling headline: "Reds Plan Reign of Terror."[5] Sporadic comment in Denver papers accompanied and illuminated the intensified national efforts to curb radical movements.

On April 30, postal inspectors in New York discovered seventeen bombs intended for prominent officials, including Postmaster General A. S. Burleson and Attorney General A. Mitchell Palmer, and therefore, federal officials and many municipal officers were making an all out effort to round up IWW leaders.[6] May Day festivities in Boston, New York, Cleveland, and Chicago were marred by disturbances which were apparently initiated either by the police or by law-abiding citizens—a point which the press failed to note.[7]

On the night of June 2, eight cities were alerted by bombings, one of which was intended for the Attorney General. Naturally, such actions as these called for an increasing tempo in the Red roundup.[8] The American people were beginning to fear that the country was being beset by a foreign revolutionary movement. Sensing the mood of the public, Congress began preparing more comprehensive legislation to deal with radicals. It made a special appropriation to the Department of Justice

[4] Colorado, General Assembly, *Session Laws*, 22d Sess., 1919, pp. 573-74.
[5] *Denver Post*, March 11, 1919; *Annual Report of the Postmaster General for the Fiscal Year Ended June 30, 1920* (Washington: Government Printing Office, 1920), pp. 125-26.
[6] *Denver Post*, April 30, 1919; May 1, 1919.
[7] *Ibid.*, May 2, 1919; Murray, *Red Scare*, pp. 73-77.
[8] *Denver Post*, June 3, 1919.

of $500,000 to aid in ferreting out the subversives.[9]

In the meantime, Denver was being influenced by various national and international problems. In addition to the irritation of strikes in the local building trades throughout 1919, the possibility of nationwide strikes in the steel and coal industries, and on the railroads as well added fuel to the rising hostility in Colorado against radicalism.

President Wilson's speeches during his tour on behalf of the League of Nations were sprinkled with references to Bolshevism, and thus westerners were assured by the President himself of the imminent dangers. In Des Moines, Wilson warned that opportunists were in control of the Russian government and said that the seeds of revolt were spreading. He asked:

> . . . do you honestly think my fellow citizens that none of that poison has gotten into the veins of this free people? Do you know that the whole world is now one single whispering gallery? Those antenna of the wireless telegraph are the symbols of our age.
>
> All the impulses of mankind are thrown out upon the air . . . all the suggestions of disorder are spread thru the world.

Unless the right kind of peace were achieved, the President continued, the poison would spread ". . . until it may be that even this beloved land of ours will be distorted by it." Those Denverites who did not read the text of the message were able to glean the essentials from the headlines: "Treaty Vital to Head Off Bolshevism," and "Bolshevism Menaces Nation."[10]

Throughout his tour, Wilson continued in the same vein; however, the burden of his remarks was always on the League. But apparently, the sensational press placed maximum emphasis on Bolshevism in the speeches whenever possible. At the same time that the President was urging Americans to be aware of radicalism, Denverites were becoming more concerned about the local Communists.

The Denver *Catholic Register*, although not as sensational as other Denver papers, was nevertheless alarmed about the radicals in the city. Out of an audience of twenty-two hundred people gathered at the Broadway Theater on September 7, to hear a lecture on socialism, the *Register* estimated that "400 were open Bolshevists." This, the paper stated, "opened the eyes of many in the city to the number of rabid Lenine [*sic*]-and-Trotsky brand of Bolshevists there are here." Vigorously

[9] Murray, *Red Scare*, pp. 77-81.
[10] *Denver Post*, September 7, 1919.

UNCLE SAM. "MAKE YOUR CHOICE! KEEP WASHINGTON'S GOVERNMENT — OR BE SMOTHERED AND CONSUMED BY TROTZKYISM!"

applauding or heckling the speaker, not a single member of this crowd of Bolshevists, according to the paper, could speak English plainly. "It is certain," continued the *Register*, ". . . that the Russian soviet government has a number of paid agents in Denver today."[11] Here indeed was something for the thoughtful Denverite to consider. Nor did such an announcement as that by Leon Trotsky, Bolshevik minister of war, in September, that the great war against capitalism would be fought in the United States, England, and the Far East help to calm the fears.[12]

In September and November of 1919, nationwide steel and coal strikes gripped the country and apprehensions rose. Consequently, when Federal Judge A. B. Anderson issued an injunction on November 8, to halt the coal strike, the Denver *Post* could editorialize on

> the righteous decision of Judge Anderson as ringing . . . true to Americanism, to the Constitution . . . and to the Laws of our country. It was a necessary and timely rebuke to the anarchists, to bolshevists and to the foreign labor leaders who have come to this country to destroy it.[13]

It could hardly be said that this paper was pro-labor or even neutral. Perhaps this factor has some bearing on the riots which occurred in August, 1920, in which Denver's leading daily paper was sacked by a mob.

[11] *Denver Catholic Register*, September 11, 1919.
[12] *Denver Post*, September 24, 1919.
[13] *Ibid.*, November 8, 1919. For a general account of the injunction see Selig Perlman and Philip Taft (eds.), *Labor Movements*, Vol. IV of *History of Labor in the United States 1896-1932*, ed. John R. Commons (New York: Macmillan, 1935), pp. 471-72.

More important than the strikes in arousing the nation was the roundup of radicals by federal officials on November 7, when some 400 arrests were made in eighteen cities in the Midwest and East.[14] Through January, the Department of Justice continued to apprehend suspects. Meanwhile, Attorney General Palmer and the press urged an increase in deportations. Materials for bombs discovered in the Russian People's House, a meeting place for Socialists in New York City, on November 25, increased the pressure for action. On December 21, the "Soviet Ark," the *Buford,* left New York for an unknown destination with 249 deportees aboard. Of these, 199 had been captured in the November raids.[15]

Pueblo, the steel center of the Rocky Mountain region, with its large immigrant population, was particularly suspect in this anti-foreign era. Also, because of the steel strike, tensions were running high. On November 15, Pueblo police raided IWW headquarters and seized two of the leaders and one-half ton of radical literature.[16] On November 22, a delegation of Pueblo citizens called on the governor in Denver and urged the passage of laws to stamp out "bolshevism and anarchism."[17]

Meanwhile, Denver "fathers" took steps to make their own city more secure by drafting a bill to regulate Reds. This stringent measure, in keeping with national legislation, would prohibit

> any persons or group . . . from speaking or reading literature in any public place, street or elsewhere intended or inclined, or in any manner tending to incite . . . any rebellion . . . or any forcible resistance of the authority of the United States or the state of Colorado.

The penalty for a violation of this proposed ordinance would be a $300 fine, ninety days in jail, or both. The author of the bill stated that "we are not attempting to curb free speech, but we must curb all forms of anarchy."[18]

As if anticipating the action of the city council, the Denver police had closed Howe Hall on California Street, the meeting place of radicals. The group then attempted to hold its meeting in the street, but a bystander, an American Legionnaire, took exception to remarks made about the nation. A brawl ensued and the police intervened. Speakers then advised those assembled to attend the council meeting to "protest the overriding of the Constitution." Legion members said that they too would be there "to deal with these Reds the way they deserve."[19] At the next city council meeting, representatives of labor protested this ordinance curbing speech and assembly, as did one hundred radicals, the latter in silence. However, the law was passed. Representatives of the Denver Trades and Labor Assembly and the Building Trades Council cited the ordinance as laudable in intent, but said that in function it would hamper labor organizations in pursuing their legitimate interests.[20]

[14] *Rocky Mountain News,* November 8, 1919; *Denver Post,* November 8, 1919.
[15] Murray, *Red Scare,* pp. 205-07. Denver papers carried front page accounts of these deportations.
[16] *Denver Post,* November 16, 1919.
[17] *Ibid.,* November 22, 1919.
[18] *Proceedings of the Council, City and County of Denver,* November 17, 1919, pp. 628, 630; *Denver Post,* November 18, 1919

On November 24, the Denver police arrested six men who were attempting to distribute IWW literature. An announcement from the manager of safety stated that "a general clean-up" of "radicals" and "Bolsheviks" would be made immediately. Federal officials said that the radicals had violated no federal law and that this was a matter for Denver to handle.[21] So the city began to clean house. On November 28, six IWWs were given ten hours to leave the city or serve out a $120 fine.[22] The next day another IWW was apprehended and fined $60 and costs for vagrancy.[23]

National leadership too was attentive to the security of the country. President Wilson in his annual message to Congress asked for federal power to deal in criminal courts with individuals who, through violence, would overthrow the "time-tested institutions."[24]

Colorado Governor Oliver H. Shoup, in a vigorous message to the special session of the legislature in December,

Governor Oliver H. Shoup

recommended similar legal remedies. He spoke of "the need for legislation to curb and eradicate the threats against our form of government."[25] To accommodate the Governor, a sweeping enactment was proposed, which by an emergency clause became effective inmmediately upon its passage on December 19, 1919. Entitled "An Act for the Suppression of Anarchy and Sedition and to Provide Penalties for Violation Thereof," it gave broad definitions to sedition and anarchy. For violations of the act, the penalties were up to twenty years in prison or a fine not to exceed $10,000, or both.[26]

Adding their voices to the rising clamor about the dangers were other prominent local and national figures. Well-known Denver Rabbi William S. Friedman returned from touring the eastern states to warn that "the greatest and gravest crisis" of America's history was at hand, and that unless something was done to quell the industrial unrest, chaos was sure "to descend upon us . . ."; now within our own borders, Bolshevism and the possibility of a Soviet regime endangered the nation.[27] And the hero of two wars, General Leonard Wood, speaking at nearby Fort Collins, also expressed his alarm. His only motto for dealing with Reds, he asserted, was "S.O.S.—ship or shoot. I believe we should place them all on ships of stone, with sails of lead and that their first stopping place should be hell. We must advocate radical laws to deal with radical people."[28] Many Americans were expressing similar sentiments.

Across the nation, the tocsin continued to be rung by the sensational press with a constant stream of comment about Bolshevism. Through the fall of 1919, the reports of the trial of thirty-three IWWs in Kansas City,[29] and the Armistice Day massacre of American Legionnaires, in Centralia, Washington, with the subsequent trial, nourished the public's fears.[30] Inter-

[19] *Proceedings of the Council*, November 24, 1919, p. 636; *Denver Post*, November 24, 1919.
[20] *Rocky Mountain News*, November 23, 1919, gives labor's reasons for opposing the ordinance; *Denver Post*, November 25, 1919.
[21] *Rocky Mountain News*, November 25, 1919; *Denver Post*, November 25, 1919.
[22] *Denver Post*, November 28, 1919.
[23] *Rocky Mountain News*, December 2, 1919. See also the issue of November 26, on closing the hall.
[24] *Denver Post*, December 2, 1919.
[25] *Ibid.*, December 3, 1919.
[26] Colorado, General Assembly, *Session Laws*, 22d Sess., Extraordinary Sess., 1919, p. 3, *Denver Post*, December 9, 1919; Colorado State Federation of Labor, *Legislative Report Proceedings: Annual Meeting of the Executive Board*, January 5-6, 1920.
[27] *Denver Post*, September 15, 1919.
[28] *Rocky Mountain News*, December 16, 1919.
[29] *Ibid.*, December 16, 1919.
[30] After November 12, 1919, the Centralia murders and trial were featured in all Denver papers—especially the *Denver Post*.

nationally, the Russian civil war frequently made the front page.

For these apprehensions, Americanism became the cure-all. Full page advertisements stated: "Right is Might—1920 Democracy Will Stand No Other Force—The Mighty Power of Americanism—A Bulwark of Defense Against Foreign Influences." Thus the Denver *Times* on the first day of the new year boldly appealed for patriotism. On the same day, the Denver *Post* ran a series of speeches by various public-spirited celebrities. Governor Shoup asked for tolerance for the "cementing of Americanism. . . . The agitator[s] . . . mind is warped, his spirit is soured and there is in him none of that sweet spirit of toleration from which must come the rehabilitation of the nation." What was needed, he proclaimed, was ". . . the spirit that declares it is a joy to live in the U.S.A., it is a privilege to live in Colorado. . . ." The Episcopal Bishop of Colorado, Reverend Irving P. Johnson, in a foreboding mood, stated that the New Year bells rang out as a "tocsin . . . a warning . . . to be on guard . . . against the radical, raw, ruthless elements. . . . The duty of the Church is plain . . . fundamental Americanism. . . . The temples . . . must be the armories of American citizenship." But perhaps the best reasoned statement on Americanism was that made by Dr. George Norlin, president of the University of Colorado. He said that the word had been "bandied about so recklessly that it seems to have little or no content. . . . To cherish liberty in the midst of,

excesses . . . this is how to be a good American."[31]

Patriotic fervor inspired new memberships in the American Legion. The Denver *Post* paid the initiation fee and the first month's dues to the veterans' organization for its employees, and urged other employers to do likewise, stating: "Every Denver businessman can insure himself and [the] nation against Red menace by paying for employees entrance into Posts."[32] Half-page newspaper advertisements stating the "non-political, non-partisan, and non-military" nature of the Legion encouraged membership as the member represented a "One Hundred Per Cent American."[33]

Making their patriotism retroactive, the Leo Leyden Post in Denver decided to deal with war "slackers." Native son Jack Dempsey had spent the war years in a shipyard, and according to his California draft board his deferment was legitimate. However, other athletes had served in the armed forces in some capacity and the Denver Legionnaires felt that Jack was no exception. After passing a resolution barring Dempsey from fighting in Colorado, the post asked other states to do the same.[34] Finally, the post decided to exclude all athletes who were "slackers"' from appearing in the state.[35]

Other patriotic groups expressed their consternation with un-American activities. The Society of Sons of the Revolution, in its December, 1919, meeting, was alarmed over the "widespread conspiracy" threatening to overthrow the ideals handed down by the "fathers of the republic." Labor unrest, especially the demand for the closed shop, was dangerous, and the coal strike smacked of Bolshevism.[36] Another group, the "Sons of Colorado," declared that the state line should be a "dead line" which the radicals should not cross.[37]

Some spokesmen tried to analyze the cause of the unrest. Catholic Bishop John Tihen, of Denver, supported labor; he cited the unfair daily press and employers. Industry, he said, had misused immigrant workmen and had not allowed them to become Americanized; "having sown the wind, [they] are now repeating the whirlwind."[38] Meanwhile, the hysteria remained unabated as the Department of Justice continued to alert the nation to the Red menace.

[31] *Denver Post*, January 1, 1920.
[32] *Ibid.*, December 9, 1919.
[33] *Ibid.*, January 1, 1920.
[34] *Denver Times*, January 7, 1920; January 14, 1920; January 15, 1920.
[35] *Ibid.*, January 10, 1920.
[36] *Denver Post*, December 13, 1919.
[37] "Principles of the 'Sons of Colorado,'" *The Trail*, XII (January, 1920), 21-22.
[38] *Denver Catholic Register*, November 27, 1919.

Attorney General Palmer had achieved much success with the November raids, and with the press clamoring for deportations, plans were laid for the January catch which would be the largest yet. The Department of Justice announced on December 31, that it expected to round up three thousand foreign agitators within the next several months.[39]

Convinced that the recently formed Communist and Communist Labor parties were the seedbeds of the revolutionary cause in America, the Attorney General decided to make an all out effort against them. It was necessary to work with the Department of Labor due to its jurisdiction over deportations.[40] With well-developed plans on the night of January 2, the Department of Justice carried out raids on the homes, headquarters, and meeting places of suspects in thirty-five cities. They were charged with attempting to overthrow the government by force and violence.[41]

Evidence obtained in the raids supposedly proved the existence of the most "menacing revolutionary plot yet unearthed"; fortunately, according to the Department of Justice, it was nipped in the bud at the right time.[42] Over five thousand persons were taken into custody across the nation. Federal officers in Denver, with eleven warrants, arrested eight suspects on January 2. Seven of these had Communist Party membership cards. Three were also IWWs. In the home of Panagio G. Panagoupoulos, secretary of the local IWW, a trunk was found which was full of radical literature, drafts of the Soviet constitution, and records of IWW meetings. No bombs were found.

Roy O. Samson, head of the Department of Justice in Colorado, stated that if the raid had not been limited to foreigners, seventy-five more might have been apprehended. The occupations represented by the Denver Reds were: elevator operator, mechanic, seamstress, waiter, cook's helper, and housewife.[43] One more, a cleaning shop proprietor, was picked up the next day.[44] By January 5, there was no notice of local Communists on the front page of the Denver *Post*, while the nationwide roundup was itself decreasing in news value.

In Colorado, federal officials who had spent several weeks

[39] *Rocky Mountain News*, January 3, 1920.
[40] Murray, *Red Scare*, pp. 210-22, questions tactics of the Department of Justice in making arrests.
[41] *Rocky Mountain News*, January 3, 1920.
[42] *Ibid.*, January 4, 1920.
[43] *Denver Post*, January 3, 1920.
[44] *Ibid.*, January 4, 1920.

investigating the Communist Party were satisfied that it was not strong in the state. Denver, with the only real organization, had about fifty members, thirty-nine of whom were native Americans.[45] Reports of the arrests were sent to Washington, where hearings were to be conducted; word would be awaited from the Department of Labor as to the possibilities of deportation.[46] The tenth alleged alien Red, an Italian stonecutter named John Robesco, surrendered, and W. R. Mansfield, the U. S. Immigration Inspector, announced that hearings would begin.[47] The Denver *Express*, a voice of dissent against the three major dailies, proclaimed by headline on January 7: "Denver Red Scare Petering Out Rapidly." The next day this newspaper expressed skepticism about the whole thing. Entitled "Jackson Day" the editorial asked:

> How would . . . [Jackson] view the spectacle of Federal spies and agents conducting dragonades throughout the country arresting hundreds of Russian Jewish tailors and Greek and German restaurant waiters under the pretext that a few thousand ignorant and foolish lunatics and degenerates are about to overthrow this government?[48]

On January 10, however, the Department of Justice announced that it planned a third major roundup; thus Americans were not allowed to forget about the Reds.[49] In the Colorado capital the specter of Communism no doubt was sustained by the timely showing at the auditorium of the movie "The Red Viper." Complete with intrigue and bombs, it depicted the Communist net in America.[50]

Through January, the Department of Justice continued to make arrests, mainly in the East and Midwest. But in spite of vociferous rumblings, there were indications that the Red Scare was losing its hold on the public. Floods of telegrams had urged the President to oppose the Graham-Sterling sedition bill. Nearly seventy such bills had been proposed in Congress in the fall and winter of 1919-1920, and this drastic proposal was a culmination of the efforts of both houses. It did not pass, and the Denver *Express* believed that Democratic politicians were beginning to fear Palmer and overplayed the Red issue.[51]

However, the bearded Red monster was not slain yet, for on

[45] *Ibid.*, January 5, 1920.
[46] *Ibid.*, January 6, 1920.
[47] *Denver Express*, January 8, 1920.
[48] *Ibid.*
[49] *Denver Times*, January 10, 1920.
[50] *Denver Express*, January 6, 1920.
[51] Proposals would have seriously limited free speech and assembly, and would have imposed rigid postal censorship with long jail sentences and fines as high as $50,000. See U. S., *Congressional Record*, 66th Cong., 2d Sess., LIX, Part 3, 2207-11; *Denver Express*, January 22, 1920; Murray, *Red Scare*, pp. 230-31.

April 27, 1920, the Denver *Post* headlined "Reds Planning to Overthrow U.S. on May Day." In New York the American Legion had information pointing to a revolution which would follow May Day demonstrations. The officer responsible for this data stated: "We must take some action unless we do not believe in the American form of government."[52] And on April 29, the Attorney General announced that more than twenty top U. S. officials were earmarked for assassination. But federal agent Samson, in Denver, said that the danger of an uprising in Colorado was slight because there were only 250 members of the Communist Party in the state.[53] In spite of such dire predictions, May 1 passed into history without any disturbances. That evening J. Edgar Hoover, director of the General Intelligence Division of the Department of Justice, in charge of gathering information on radicals, stated that "while the night is not over, it looks as if the expected disturbance has been headed off."[54] On May 1, the *Rocky Mountain News* had editorialized: "If Attorney General Palmer were not an avowed candidate for the presidential nomination, our gooseflesh would rise more readily in reading the revelations from his department of justice. . . ." And on May 3, the same newspaper voiced the hopes of the nation as it asked, ". . . Mr. Palmer, . . . please give us a rest. . . ."

Denver indeed wanted a rest, as there were other pressing problems; the high cost of living was being loudly condemned and profiteering was being equated with Bolshevism as a danger to America. The Lower Cost of Living Club had held a mass meeting in January at the Auditorium and had heard one speaker say "our patriotism hasn't stood the test" and a minister complain that he was "tired of seeing the American flag waving over the business houses of profiteers."[55] Denver labor, much criticized for strikes and unrest, also was concerned about profiteering. To the secretary treasurer of the Colorado State Federation of Labor it "appeared that the armistice was a signal for the profiteers, big business and others, to take up the cudgel."[56]

Colorado labor's official attitude on radicals was stated in

[52] *Denver Post*, April 27, 1920.
[53] *Rocky Mountain News*, April 30, 1920.
[54] *Ibid.*, May 2, 1920; Murray, *Red Scare*, p. 194.
[55] *Denver Express*, January 7, 1920.
[56] *Ibid.*, January 1, 1920.

August, 1919, when at its annual convention it condemned the IWW and similar groups.[57] Further evidence of this attitude was seen in the expulsion of one of the vice presidents of the state federation because he was a member of the IWW.[58] There is no record of any radical conspiracies within the labor movement in Denver during 1919-1920.

On the national scene, the searchlight of Americanism was focused upon unions in a devastating manner. John Kirby, Jr., a prominent figure in employer circles, speaking at the National Association of Manufacturers' annual convention in 1920, stated that organized labor had always been controlled by Reds.[59] Since 1902, the NAM had been motivated primarily by its anti-union interests and the campaign to weaken organized labor became the reason for the existence of many similar employer organizations.[60] The implication was clear. Anyone who advocated the closed shop or who interfered with a man's God-given right to a job by forcing him to join a union was "un-American." The idea fit the mood of the times and it worked perfectly for the employer. The NAM, amply supplied with funds, carried on a national crusade for the open shop; Rotary Clubs, Chambers of Commerce, and other civic-minded groups enlisted in the campaign.[61] Judge Elbert H. Gary, chairman of the United States Steel Corporation, in opposing attempts at mediation of the steel strike, said that that strikers wanted "the closed shop, Soviets, and the forcible distribution of property."[62] At the outset of the strike, Gary received a cablegram from J. P. Morgan in London:

> Heartiest congratulations on your stand for the open shop, with which I am as you know, absolutely in accord. I believe American principles of liberty are involved and must win out if we all stand firm.[63]

Such sentiment was not lost on Denver employers.

[57] Colorado State Federation of Labor, *Twenty-Fourth Annual Convention: Official Proceedings and Officers Reports*, August 11-14, 1919.
[58] *Denver Times*, January 10, 1920.
[59] Albion G. Taylor, *Labor Policies of the National Association of Manufacturers* ("University of Illinois Studies in the Social Sciences," Vol. XX, No. 1; Urbana: University of Illinois Press, 1928), pp. 41-42.
[60] *Ibid.*, 14-15.
[61] Various reasons for employers' support of the open shop movement are given in Allen M. Wakstein, "The Origins of the Open-Shop Movement, 1919-1920," *The Journal of American History*, LI (December, 1964), 460-75.
[62] Foster Rhea Dulles, *Labor in America* (New York: T. Y. Crowell and Co., 1949), p. 235. A commission set up by the Inter-Church World Movement found no evidence of "sinister intrigue" claimed by employers. See *Report on the Steel Strike of 1919 by the Commission of Inquiry, the Inter-Church Movement* (New York: Harcourt, Brace and Howe, 1920), and *Public Opinion and the Steel Strike: Supplementary Reports of the Investigators to the Commission of Inquiry, the Inter-Church World Movement* (New York: Harcourt, Brace and Co., 1921).
[63] *Denver Post*, September 23, 1919.

Concern for the cause of labor was shown by the Denver *Express* when on February 25, 1920, it cautioned that "the frequency with which the word 'Bolshevism' is applied to union labor is astounding to a sane thinker." The writer then noted that many Denver employers were beginning to urge an open shop war. In fact, the Employers' Association, whose president, Herbert George, had a long history of anti-union activities, distributed a circular stating: "A regular 'open shop' campaign is to be started in Denver. . . ."[64] The Denver *Catholic Register* questioned the open shop movement. "Kill trade unionism," the paper reasoned, "and Bolshevism will be with us. Many businessmen do not seem to have awakened yet to the fact that Bolshevism and unionism are natural enemies, and that a crack at the trade unions is a first class help to the Reds."[65] This movement to squash unions was inseparable from the Red Scare and although the issue of Bolshevism rapidly declined, it could be resurrected and refurbished for particular purposes, as in the case of the Denver Tramway Strike of August, 1920.[66]

The Denver Tramway Company, with over one thousand employees, was a major force in Denver's political and economic life, and as a public carrier, its affairs were of vital interest to the city. In July, 1918, the employees organized Local Union 746 of the Amalgamated Association of Street and Electric Railway Employees of America, and for the next two years it made fruitless attempts to secure higher wages. Studies by

By the time this crowd had gathered at Fifteenth and California, one streetcar had been stripped of its protective screens.

impartial private and governmental groups also failed to solve problems of wages and fares. In May, 1920, the company announced a forthcoming wage cut, whereupon the union declared its intention to strike; the city issued a temporary restraining order against both disputants. This was later changed to an injunction, and labor officials, interpreting the new ruling as non-applicable to the union, decided to go ahead with strike plans for August 1. The union officials were later indicted for contempt of court.[67]

When the strike began, the company made immediate plans to break it. Strikebreakers were imported, and on August 4, a piecemeal service in protected streetcars with armed motormen and conductors was inaugurated. The strikebreakers were enlisted and organized by "Black Jack" Jerome, a well-known professional strikebreaker.[68] On the evening of August 5, riots broke out in which streetcars were overturned and certain

areas of Denver's downtown district were at the mercy of a mob. The Denver *Post* building was sacked, but fortunately the presses received little damage. Two persons were killed in the riots and thirty-three were injured. On the evening of

[64] *Denver Express*, February 26, 1920.
[65] *Denver Catholic Register*, April 29, 1920.
[66] All Denver papers carried accounts of the strike. In addition, a general account of the whole history of the strike is given in *The Denver Tramway Strike of 1920* (Denver: The Denver Commission of Religious Forces, 1921).
[67] *Ibid.*, 7-24.
[68] *Ibid.*, 24-27.

August 6, at the East Side Tramway barns, five persons were killed and twenty-five injured when strikebreakers fired on a crowd.[69] American Legion volunteers and the army restored order by establishing martial law. The union was broken and did not reorganize until 1933.[70]

When the Denver *Post* declared that the strike was set in action by a "foreign agitator," it revived the Bolshevist bogeyman. The anti-union sentiment held by this paper during the strike was well-expressed after the violence had subsided by its statement that: "The rank and file of the Tramway employees . . . had listened to the serpent tongue . . . of the IWW, the Soviet, and the revolutionists."[71] Actually, no proof was found that the union was responsible for overturning streetcars or sacking the daily newspaper; rather, it seems apparent that the mob sympathized with the union due to the paper's partisan coverage of the strike on behalf of the Tramway Company.[72] After investigating the strike, General Leonard Wood ordered the strikebreakers deported immediately and stated that the "Tramway officials committed a colossal blunder" in importing them.[73]

The Tramway Company in its official publication, *The Tramway Bulletin*, for September, devoted the entire fifty-six pages to the "true story" of the strike. Directed especially to new employees, it also received wide public circulation. According to this "white paper," the early history of the Tramway Company witnessed splendid relations with its employees before the formation of a union. The author then related the early days of the strike—first the strikebreakers arrived, and then another element began pouring into Denver.

> It was the IWW. From every harvest field they came. From the mining districts, from faraway Montana . . . flocking to Denver like the vulture swamps toward the carrion. . . . From the south, from the north and east they came, gaunt men, narrow-eyed men, bearded men, treacherous men—all with a purpose. There was a strike. There was trouble brewing—and they could help in the spilling of blood.[74]

Bolshevism, it appeared, was the convenient scapegoat for

[69] *Denver Express*, August 6, 1920; *Denver Tramway Strike*, pp. 61-62.
[70] *Denver Street Railwaymen's Year Book, 1945* (Denver, 1945), p. 17.
[71] *Denver Post*, August 2, 1920; August 11, 1920.
[72] *Ibid.*, August 2-5, 1920. These issues show extreme anti-union attitude with praise for the strikebreakers. The *Denver Express*, August 3-5, 1920, charged the *Denver Post* with being the Tramway organ and also being irresponsible in strike coverage.
[73] *Denver Express*, August 23, 1920. The August 9 issue indicates the cooperation of the union in helping the army prevent acts of violence.
[74] Thomas A. Arnold, "The Trial of the Serpent," *The Tramway Bulletin*, XI (September, 1920), 5, 14.

many ills. Edward Keating in *The Story of Labor* says that the strike was due to the "open shop" movement.[75]

Like other cities across the nation, Denver had forgotten about the specter of a revolution, and although a riot could arouse the city momentarily, no one except the yellow press could sustain the threat of a Bolshevist uprising for any length of time. It quickly faded out of the news. As a measure of the national hysteria, both Republican and Democratic presidential conventions tended "to assure the nation that nothing was amiss."[76]

On May 5, 1920, the secretary of labor ruled that membership in the Communist Labor Party did not warrant deportation. The result was the cancellation of an order for the expulsion of Carl Miller, one of the Denver Reds who was a test case.[77] The Department of Justice was unhappy with this ruling; and it was especially perturbed after the June 24 decision of Federal Judge George W. Anderson that membership in the Communist Party was not a deportable offense.[78] But the scare, as such, had run its course and such things as political conventions loomed more important. Murray in his extensive study states that at no time "either before or during or after the Red Scare did the radical movement in this country ever approach anything remotely near revolutionary proportions."[79]

Perhaps the most significant manifestation of the Red Scare, not only in the Denver area but also throughout the nation, was in the increasing emphasis on Americanism. Legislation of the 1920's against immigrants, the hostility to foreigners, the teachers' loyalty oaths, the burning of textbooks, and in Colorado in 1924, the rise of the Ku Klux Klan,[80] are social aspects directly related to the Red Scare. Economically, the wage earner was the main casualty of the era because of the drive to crush organized labor. Denver, like other major cities in the nation, had succumbed, in a measure, to the passing parade of fears.

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[75] Edward Keating, *The Story of Labor* (Washington: Rufus H. Darby Printing Co., 1953), pp. 70-71.
[76] Murray, *Red Scare*, p. 261.
[77] *Rocky Mountain News*, May 6, 1920.
[78] *Denver Post*, June 24, 1920.
[79] Murray, *Red Scare*, p. 278.
[80] See James H. Davis, "Colorado Under the Klan," *The Colorado Magazine*, XLII (Spring, 1965), 93-108.

WILLIAM N. BYERS AND THE COLORADO AGRICULTURAL SOCIETY

BY DERYL V. GEASE

During Colorado's pioneer era William Newton Byers, founder and editor of the *Rocky Mountain News*, played a decisive role in the promotion of the territory's agricultural industry. Byers, a man of unusual foresight and vision, never missed an opportunity to discuss the economic necessity of farming for the isolated settlements along the eastern slope of the Rockies. Speaking principally in the editorial section of the *News,* he reasoned with, coaxed, and prodded Colorado's settlers into cultivating the rich soil found in the river and stream valleys.

Byers promoted agriculture with a practical as well as a theoretical knowledge of the subject. Since he was an experienced farmer (spending his childhood on a Ohio farm, and later cultivating 160 acres along the Platte River in Colorado as early as 1859), he possessed a realistic understanding of the industry's enormous difficulties that were caused, in part, by the necessity of irrigation, chronic tool and seed shortages, and a restricted growing season.

Always an advocate of cooperative, as distinguished from merely individual, efforts to advance the fortunes and solve the problems of agriculture in Colorado, Byers began to promote the organization of an agricultural society and fair in August, 1860.[1] Such an undertaking would exhibit to the world that the territory's farmers were united in their quest for a strong agricultural industry and that the crops grown in Colorado were as fine as could be produced anywhere under any

[1] *Rocky Mountain News*, August 1, 1860.

conditions. For these reasons Byers held that an agricultural society would be a great benefit to the territory.

Surprisingly, the farmers were slow to accept the idea. This was perhaps due to the press of daily problems, as well as to their staunch individualism and their unwillingness to travel such a great distance for a meeting. Their reluctance, however, did not discourage Byers and other foresighted men, who realized that the best thing to do was to keep the idea alive by discussing it as frequently as possible. Thus, throughout 1860 and 1861 men such as Thomas Gibson, editor of the *Weekly Colorado Republican and Rocky Mountain Herald* (Denver), Edward Bliss, associate editor of the *News*, and A. H. Miles, a Golden farmer, aided Byers in promoting the organization of such a society.

In the summer of 1861, a meeting of all people interested in the formation of an agricultural society was proposed. The meeting was tentatively scheduled to convene in Denver on July 31, and every interested individual was urgently requested to attend. To emphasize its importance, thirty-two men signed the call. Of these thirty-two, it has been observed that most of them were not farmers but business and professional men who were quick to recognize the need for agriculture's organized, systematic development. In short, they realized agriculture's primary importance in a society whose principle base was mining. If the farmers were not vigorous, mining would be seriously handicapped.[2]

Byers was prompt to give editorial support to the proposed meeting. He noted that if the proposition met with general approval, a society could be organized and preparations begun for an agricultural exhibition.

> There is no country in the world where farmers would gain more by a free interchange of opinions, than in the Territory of Colorado.
>
> Almost every man who engages in agriculture here, had everything to learn. The climate, soil and peculiarities of the country are entirely different from what he had been accustomed to in the states, hence the advantage to be gained by a knowledge of the experience of his neighbor as well as of himself, whereby he may sooner learn how to farm successfully and with a certainty of profitable results.

Byers declared that he had no doubts that "a very creditable

[2] Alvin T. Steinel, *History of Agriculture in Colorado: A Chronological Record of Progress in the Development of General Farming, Livestock Production and Agricultural Education and Investigation, on the Western Border of the Great Plains and in the Mountains of Colorado, 1858 to 1926* (Fort Collins: The State Agricultural College, 1926), pp. 54-55.

exhibition of agricultural products could be gotten up this fall." The stimulation and interest that a fair could engender would lead to general improvement in the territory's agricultural activity.[3]

Once again, however, the society's promoters were disappointed by the apathy of the farmers and the general public. It was not until late in the summer of 1862 that the idea began to gain popular endorsement, and even then many persons were reluctant to enter wholeheartedly into the movement. As a result, they had to be pleaded with continually and persuaded throughout the remainder of the pioneer period.

In August, 1862, a public statement by Robert Stubbs, a farmer of South Park, Colorado, added support to the cause. Stubbs observed that it was a well-established fact that everything could be raised in Colorado that could be produced in northwestern states, and in such quantity that home consumption would not be restricted. To the problem of agricultural development Stubbs proposed two solutions, of which the first was the dissemination of agricultural information through the press.

> Perhaps through the medium of the press would be one of the best means of arriving at the desirable object. The papers of the Territory would doubtless open their columns for the practical herdsmen and farmers to give their experience in their respective avocations, and offer such suggestions as might present themselves.

The other was the organization of agricultural societies.

> The formation of agricultural societies, and the holding of agricultural fairs, would doubtless be very beneficial to the best interests of the Territory. Such has been the case in New York, in Ohio, in Illinois, and wherever else such societies have been in existence. Would it not be well to get up a fair to be holden [*sic*] in Denver in the latter part of September? Such a fair would give a good opportunity for the formation of an agricultural society, and of enlisting an interest in the subject.[4]

On the day after Stubbs had delivered his speech, William Byers reported that he was in possession of a letter from Stubbs, in which he outlined much of what his address had covered. After reviewing the letter, Byers strongly recommended Stubbs's two proposals to farmers and ranchers.[5] Surely these people could see that valuable information would be exchanged if they would only organize an agricultural society and fair. The fair might be a small exhibition compared to

[3] *Rocky Mountain News*, June 19, 1861.
[4] Stubbs's speech is quoted in Steinel, *History of Agriculture*, p. 55.
[5] *Rocky Mountain News*, August 14, 1862.

others in the States, but an honorable showing could be made. The important thing was to try. Even if the first attempts were small, the agricultural promise of the territory would at last be exhibited for the world to see. But once again, despite Byers' urging, the farmers failed to act, and another chance escaped.

1863 was a landmark year for those men who had promoted an agricultural fair so fervently. In March of that year the Colorado Agricultural Society was organized in Denver. After three exasperating years enough interested people had been found, but it is uncertain how many of this group made their living by farming.

Two days before the meeting occurred, Byers printed a lengthy editorial discussing the merits of the undertaking. As in previous years he emphasized the fact that such an organization represented an enormous step forward. Farming was different in Colorado; it required new techniques and new ideas. Men who had learned their fathers' style of farming were forced to forget it. Since all were faced with the same difficulties and had so much to learn, a strong agricultural society representing a community interest would prove far better at finding solutions than the isolated efforts of individuals.

> While one is gaining knowledge by experiments in irrigation, his neighbor may be gaining a like advantage by experimenting upon different modes of planting. Then by interchange of views, each will receive the full benefit of both. Such is an illustration of the advantages to be gained by the organization of an Agricultural Society, but it will be a hundred fold greater than it could be by the consultation of two neighbors.[6]

The initial meeting to form an agricultural society, held on March 14, was short and decisive. Byers reported that a "large number of farmers" was in attendance even though he did not say how many there were. A. H. Miles of Golden was elected to the post of chairman, while W. T. Muir, a Denver judge, and William Byers were elected the first secretaries. Upon a motion from the floor, the chairman was authorized to appoint a three-man committee for the purpose of drafting a constitution and set of by-laws. This responsibility was delegated to Secretaries Muir and Byers, while Thomas Gibson was appointed the committee's third member. A second committee whose membership is uncertain was appointed to make preparations for a fair.[7] Following the appointment of the respective committees, the

[6] *Ibid.*, March 12, 1863.
[7] *Ibid.*, March 19, 1863.

meeting was adjourned until March 28, 1863. At that time the group would reconvene to hear a report on the organization's constitution and by-laws.

During this two-week interim the organization was perfected. On March 28, the following officers were elected: Richard Sopris, a professional soldier and captain in the Colorado militia, president; Robert Stubbs, farmer, vice president; William Byers, secretary; and Simon Cort, Denver merchant, treasurer. A five-man executive committee composed of two farmers, a Denver merchant, a brick contractor, and a lawyer were chosen at this time. Thus, of the nine officers selected, only three were farmers. Following the election, the committee on the constitution and by-laws presented its report. In a series of detailed articles the purpose and functions of the society and its officers were outlined. Article I named the association the Colorado Agricultural Society. Article II stated that the object of the society "shall be to promote the interest of stock raising and husbandry in all its branches, and every means and measure which will conduce to the benefit of its members." Article III described the procedure for joining the society. A prospective member had to sign the constitution and pay a two-dollar fee for a one-year membership or ten dollars for a lifetime membership. The remaining articles enumerated the responsibilities of the officers and the executive committee.[8] The principal purpose of the society, according to one historian, was apparent in the provision describing the president's duties. Briefly, it stated that "he shall superintend the preparations of fairs or exhibitions."[9] The society's members voted to accept the constitution and by-laws without amendments. They would remain unchanged for eight years.

On April 2, 1863, Byers published an enthusiastic editorial discussing the society's second meeting. Stating that he considered the organization of the society "one of the most important steps ever taken by our people," he expressed an earnest hope that interest would not decline. Appealing to the pride of Colorado's settlers, he declared that "every man who is interested in the advancement of Colorado should become

[8] The 1863 constitution had seven articles. It is described in Steinel, *History of Agriculture*, p. 56. When the society's constitution was rewritten in 1871, the new document also contained seven articles. The first two were exact copies of the 1863 document. *Transactions of the Fifth and Sixth Annual Exhibitions of the Colorado Agricultural Society, Held at Denver* (Denver: The Denver Tribune Association Print., 1872), pp. 11-13. Two years after the rewritten constitution was approved the society changed its name to the Colorado Industrial Association.
[9] Steinel, *History of Agriculture*, p. 56.

ROCKY MOUNTAIN NEWS *Editor William N. Byers urged farmers to cooperate in improving Colorado agriculture.*

a member and contribute his might to the success of the society." The future plans and activities of the society were then outlined.

> Henceforth at the meetings of the association—which will be once a month or oftener—some subject of interest to the members will be discussed for general information. At the next meeting the question proposed is that of irrigation, which is unquestionably the most vital and important that can present itself to the farmers of the territory.

The editor concluded his report by announcing that the *News* was reserving a portion of the paper for agricultural topics. An appeal for articles was issued.

> There are many farmers well qualified to write, who have had two and three years' experience in this country and we hope to hear often from them as well as from new beginners. We shall also make such selections as we can that will be beneficial here from eastern agricultural journals. It is earnestly hoped that every farmer, from the Cache la Poudre to the Arkansas, who possibly can, will attend the next meetings and become members of the society.

Evidently the farmers throughout the territory were not as enthusiastic as Byers. They failed to respond to or support the society's activities, though they did take advantage of the opportunity to write letters to the *News*'s agricultural department. Following his April editorial, Byers said little more about the society during 1863. Its meetings were reported when they occurred, but he did not report the proceedings in detail. During the next three years the society's activity received little attention in the *News*. Byers, however, had not lost interest. He continued as an active participant in the society's affairs, even though his paper was preoccupied with other matters, such as the Civil War, the Indian menace, and the decline of the territory's mining industry.

Early in 1864, the society was reorganized and chartered as a corporation by an act of the territorial legislature. The original constitution and by-laws were retained, and the legislature voted an appropriation of $500 for premiums at the society's proposed fair.[10] On March 5, 1864, the society met for the purpose of closing the old organization's business. Later, the new association was called to order and the territorial charter formally accepted.[11] The grant was gratefully received, but due

[10] Colorado Territory, Legislative Assembly, *An Act to Incorporate the Colorado Territorial Agricultural Society*, 3d Sess., 1864, pp. 221-23. It was approved on March 7, 1864.

[11] The exact time or date the new association was called to order cannot be determined. It must have been after March 7, when the legislature approved the act.

to the press of other issues it was left unused. General conditions in Colorado were too unstable and money was too much in demand to be used on an educational and promotional activity that promised little or no cash return.[12]

Throughout 1865 there was little change in the situation. Though called for September of that year, the fair failed to materialize. The society's only important action was the election of executive officers and directors. Sopris was re-elected president while Amos Widner, a Boulder County businessman, became vice president; D. A. Chever, real estate promoter, became secretary; and J. H. Eames, billiard hall proprietor, became treasurer.[13] Robert Stubbs, William Byers, and seven others were chosen directors.[14] In 1866 Byers again found time to devote editorial space to the affairs of the society. This time, significantly, it was not the meetings that he discussed, but its long-delayed fair. During the remainder of the pioneer period, Byers would promote the fair and territorial agriculture with equal intensity.

On July 11, 1866, Byers printed a lengthy editorial entitled "Colorado Agricultural Society." Reviewing the society's rechartering and elections, he reported that the organization's business affairs committee had purchased forty acres two miles east of Denver. The total purchase price had been $1,200. The society planned to use this land for the construction of the buildings and race course that its yearly fairs would require. In order to meet construction costs, the business affairs committee had been authorized to issue $10,000 worth of bonds for public sale. The interest on the bonds would be paid annually, and the society's property and improvements would be used as security. All those who truly wished to have a fair that September were urged to buy the bonds. Byers closed the editorial with a cogent statement comparing the importance of the territory's agriculture and mining industries. Declaring agriculture to be "paramount in value to our mineral" resources, he asserted:

> There would be nothing cheering in the coming year for the miners, were it not for the plenteous harvest, that this season promises our farmers. By a judicious encouragement and advancement of our agricultural affairs, the Territory can be made to produce a surplus over the wants that must flock within her mineral fields. This advancement in agriculture is the only means by which our mines can be developed, for unless we can become self-sustaining, we may not hope that the necessities of life can be furnished here at rates that will warrant extensive mining operations except in our richest and best paying gulches and lodes.[15]

[12] Steinel, *History of Agriculture*, pp. 57-58. The territory's general condition during the 1860's is also discussed in LeRoy R. Hafen (ed.), *Colorado and Its People* (New York: Lewis Historical Publishing Co., 1948), I, 301-21.

[13] *Rocky Mountain News*, April 5, 1865. Elections were held on a yearly basis during the society's brief eight-year existence. The majority of the organization's executive posts were usually filled by local businessmen and politicians rather than by farmers.

[14] Article I of the territorial act incorporating the society listed Byers as one of the original corporation directors. Colorado Territory, Legislative Assembly, *An Act to Incorporate the Colorado Territorial Agricultural Society*, 3d Sess., 1864, p. 221.

One week later Byers published another editorial under the same title. The sale of the society's bonds had not been good. Once again people showed their reluctance to support the society and its activities. This irritated Byers considerably. After expressing sorrow at how "narrow-minded" people were for not investing in the society's bonds, owing, he supposed, to the low ten per cent interest rate, Byers bitterly denounced "the man who allows his avarice to view the matter of agricultural improvement in the light of ordinary speculation." Anyone in this category was "mean enough to sell his mother's corpse for manure." Concluding on a calmer note, Byers said that the society's bonds were fully secured and that he hoped people would quickly purchase them. Even though the interest rate was low, the encouragement that would be given to agriculture would more than compensate for this small drawback.[16]

Early in August, 1866, Byers published a third editorial on the agricultural society. He informed his readers that the fair would be held on September 20 to 22, and all who wished to make entries should do so promptly. He then launched another attack on local businessmen who still refused to buy bonds. Asserting that it was time to abandon the "catch penny policy," he declared that "it does not argue much in favor of the farseeing acumen of our businessmen, when they allow a present penny to blind and shut them away" from such an important enterprise as the agricultural fair. If they bought the bonds they would be receiving something that would "pay a thousand fold, for the money asked for." Byers ended by appealing for a little insight on the part of local businessmen.

> Through the development of the agricultural resources of the Territory, lies the only avenue that leads to wealth and power, and if our merchants and dealers cannot see this, and this effort to establish a society for the promotion of the object named, is allowed to fail through their penuriousness, they will deserve the longer struggle to get ahead. If there was the smallest possible chance for the loss of the money invested, it

[15] *Rocky Mountain News*, July 11, 1866.

[16] *Ibid.*, July 18, 1866.

> might justify this tardiness in taking up the bonds, but when it is the great interest of the Territory that is promoted—this parsimony seems unaccountable.[17]

Even though the sale of the bonds was slow, the preparations for the fair progressed, and late in September, on the dates that Byers had announced, Colorado's first agricultural fair was opened to the public. After three hectic but enjoyable days, the *News* pronounced the fair a great success. There was one problem, however. In building its fairgrounds and holding a fair the same year, the society had incurred a considerable debt. The exact amount as reported to the president of the territorial legislature council was $7,756.[18] The debt was to be paid by the $10,000 bond issue and future fair receipts. On December 27, 1866, the legislature received the official report and sent it to the Agriculture Committee. One day later the committee reported to the council president that the society's report had been examined and found acceptable. The committee recommended that a thousand copies of the report be printed as pamphlets and distributed in both houses.[19]

The following year, the fair was again successful. In a message to the legislative council of the territorial assembly, Acting Governor Frank Hall declared that the society's "second annual exhibition . . . elicited the most flattering commendation from strangers present, while the uniform excellence of the products displayed, challenged competition from any section of the Great West."[20] The society took in a total of $3,500 in gate receipts. With this money it was able to pay off $1,000 of its debt.[21]

Throughout 1867 and 1868 Byers and his editorial staff continued their support of the agricultural society. But during these two years, mining assumed an equal role with agriculture in Byers' thinking. In contrast to his earlier views, Byers now placed agriculture and mining on an equal footing since the latter had finally come out of the depression it had entered in the early 1860's. The miner and the farmer were now working hand-in-hand to provide Colorado with a self-sustaining, self-sufficient economy.

[17] *Ibid.*, August 8, 1866.
[18] *Transactions of the Fifth and Sixth Annual Exhibitions*, p. 129.
[19] *Council Journal of the Legislative Assembly of the Territory of Colorado. Sixth Session. Convened at Golden City, December 3, 1866* (Central City: David C. Collier, Printer, Miners' Register Office, 1867), pp. 49, 54.
[20] *Council Journal of the Legislative Assembly of the Territory of Colorado. Seventh Session. Convened at Golden City, December 2, 1867* (Central City: Printed by David C. Collier, Register Office, 1868) p. 13.
[21] Steinel, *History of Agriculture*, p. 59.

An excellent example of Byers' thinking on this subject was an editorial entitled "Colorado's Inducements for Immigration." Speaking generally, he said that Colorado possessed not only a "mineral field, boundless as the human imagination in its rich resources," but also "an agricultural area that, in its superior yield of crops, has scarcely a parallel." Mining depended on farming.

> These two branches of industry, mining and agriculture are thus made self-sustaining, as the mineral lands cannot be made to grow the productions necessary for the sustenance of the miners. Neither could our long lines of communication be made available for marketing the crops of our agriculturalists.[22]

Farming depended on mining. Byers noted that freight rates were too high to permit export of farm produce to the eastern states.[23] However, this worked to the advantage of Colorado's farmers.

> Thanks to the existence of these long lines of transport, the states cannot compete with our home farmers, who are thus enabled to always shave [*sic*] a home market at the highest remunerative rates, for all that they can raise. Thanks, too, for that divison of the mineral and agricultural lands that makes them a sustaining power to each other.[24]

During 1867 and 1868, the agricultural fair was expanded to include examples of the territory's mining industry. The agricultural exhibits were also enlarged to present a broader representation of the territory's crops. The fair had become territorial in scope. The important thing that should never be overlooked, Byers contended, was that mining and agriculture were allies. The farmers furnished the necessary produce and thus reduced the cost of mining. The mines supplied a large market that made the farms more profitable.[25]

Late in 1869, many farmers in the southern and northern portions of the territory became dissatisfied with the fair sponsored by the Colorado Agricultural Society. Its location at Denver was limiting their exhibits too much. The farmers in southern Colorado therefore organized the Southern Colorado Agricultural Society with a fair of their own. At the same time, in the northern part of the territory, a small fair was established

[22] *Rocky Mountain News*, May 8, 1867.
[23] According to Byers' estimates the freight rates in Colorado's pre-railroad days were from "six to ten cents per pound." William N. Byers, "The Centennial State," MS dated 1884 (photocopy, State Historical Society of Colorado Library). Robert Perkin adds that these rates went as high as twenty-five to forty cents per pound. *The First Hundred Years: An Informal History of Denver and the Rocky Mountain News* (Garden City, N. Y.: Doubleday, 1959), pp. 155-56.
[24] *Rocky Mountain News*, May 8, 1867.
[25] *Ibid.*, September 16, 1868.

at Boulder. In 1871, one year after the founding of various agricultural colonies in the northern section of the territory, the Northern Agricultural Society was formed. At the time of its organization, land was purchased in Longmont (Chicago Colony) for a regional fair.

To all of this activity the *News* gave its hearty approval. It was true that the Colorado Agricultural Society was declining in territorial importance, but this was less significant than the fact that agriculture and mining interests were exhibiting their commodities throughout the territory. The world could now see that Colorado's economy rested on two firm and growing industries, not just one. Byers could take pardonable pride in that demonstration.

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THE FIGHT FOR AN EIGHT-HOUR DAY

BY DAVID L. LONSDALE

From 1860 to 1900 the dominant economic factor in Colorado was mining. Around 1860 prospectors were finding that the free gold of Colorado's rivers and streams was being depleted. Since the average prospector was unable to get the capital needed to extract the gold from the quartz in which it was firmly imbedded, most of the mines were soon owned by firms in the East.

In such counties as Clear Creek, Gilpin, and Montrose, hard rock miners dominated local politics and sent labor-minded legislators to Colorado's General Assembly. In Denver the Democratic Party, with labor's support, generally managed to win elections. But in such counties as Las Animas and Huerfano, where the Colorado Fuel and Iron Company operated, the corporation dominated politics. As the fight for labor legislation unfolded, farm owners and local businessmen allied with corporation representatives. This coalition not only retarded labor legislation but also completely eliminated organized labor in some districts.

The Populist movement of the 1890's brought the election of Governor Davis H. Waite, a labor sympathizer. Because Democrats and Populists controlled the Senate (while the Republicans held only a one-vote majority in the House), labor began to push for reforms. At the top of the list was a general eight-hour law. As debate progressed, the bill was modified until it applied only to employees of the state and municipal governments.[1]

Again in 1895 the eight-hour supporters proposed a new law but met stiff opposition. Mine and mill owners quickly

[1] Colorado, General Assembly, House, *House Journal*, 9th Sess., 1893, pp. 1099, 1235.

denounced the bill as unconstitutional. All agreed to ask the Colorado Supreme Court for an advisory opinion. In its opinion *In Re Eight Hour Law*, the court stated that the act would be in violation "of the right of parties to make their own contracts,"[2] a right guaranteed by the Bill of Rights and protected by the Fourteenth Amendment of the United States Constitution. The court further declared the proposed act violated the Colorado constitutional prohibition against class legislation. The 1895 bill and a further legislative attempt in 1897 were dead. Labor's only alternative seemed to be negotiation for the eight-hour day.

Between the General Assemblies of 1897 and 1899, a new factor entered the picture. In 1895 the Utah legislature had passed an eight-hour law for mine, mill, and smelter workers which had been upheld by the Utah[3] and the United States Supreme Courts.[4] Labor groups of Colorado came to the General Assembly of 1899 with renewed hope and introduced an eight-hour bill which was an exact copy of the Utah statute. On March 16, 1899, the governor signed the bill, which was to go into effect on June 15.

As June 15 approached, there were conflicting reports about how the employers intended to interpret the act. In the hard rock districts the general agreement seemed to be that the miners would have an eight-hour day without reduction in pay. But the managers of the newly formed American Smelting and Refining Company, generally referred to as the "Smelter Trust," and the coal mine operators decided to cut wages if workers went on an eight-hour day.[5]

The coal mine operators clarified their view of this matter in a bulletin posted on May 10, 1899. The notice read:

> First—On and after May 10, 1899, the period of employment of all persons heretofore employed by the day will be by the hour. Second—Workingmen employed in underground mines or workings, or institutions for the reduction of ores or metals will be at liberty to work more than eight hours per day, if they elect, and will be paid for the number of hours of actual labor. Third—Except in cases of emergency, where life or property may be in imminent danger, no such workingmen shall be required to labor more than eight hours per day. A failure to work more than such a number shall not be deemed a cause justifying discharge from the service of the company. This notice shall be the sole contract of employment for all workingmen so far as relates to the period of employment. No superintendent or other agent shall have the authority to change or agree to the violations of any of the provisions.[6]

[2] Colorado, General Assembly, House, *House Journal*, 10th Sess., 1895, p. 711.
[3] *Holden v. Hardy*, 46 Pac. 756 (1896).
[4] *Holden v. Hardy*, 169 U. S. 366 (1898).
[5] *Rocky Mountain News*, May 13, 1899; May 21, 1899.

Prepared by Judge David C. Beaman, the legal counsel of the Colorado Fuel and Iron Company, this notice was predicated on the interpretation of the word "employment" in the law to mean "contract." Thus, where previously the Colorado Fuel and Iron Company had contracted for a twelve-hour day, the contract now consisted of hourly wages, voluntary overtime, and an eight-hour day. Miners who worked eight hours per day would take home a lesser wage. The Colorado Fuel and Iron Company had found its solution—the men went to work.

The Smelter Trust adopted the same tactics and posted a notice at the Durango smelter on May 31, whereupon the workers drew the fires and went on strike.[7] In Denver, where the trust had the Omaha, Grant, and Globe smelters, the fires were drawn and the workers struck on June 16.

If the intent of the law was to guarantee to the workers the same wage for eight hours as for twelve, then Judge Beaman's interpretation was invalid. But the law was not explicit on this point, and the court might declare the law unconstitutional. It soon became apparent that the only solution was a speedy decision by the state supreme court on the constitutionality of the eight-hour law.

A case was instituted by the operators of the Grant Smelter in Denver whose foreman, William E. Sweeney, had offered overtime pay to Thomas Morgan. John M. Waldron, chief attorney for the trust, intended to argue the interpretation but not the constitutionality of the Eight Hour Law.

Thomas M. Patterson, a lawyer and editor of the *Rocky Mountain News*, and John H. Murphy, a labor lawyer who had won the Utah case, appeared as friends of the court. They forced Waldron to agree that the issue at stake was not the owners' interpretation but the constitutionality of the Eight Hour Law. Briefs were filed in June, and oral arguments were to be heard on July 1.

Waldron's brief thoroughly covered the arguments against the law. Objections were raised on three main counts: the law (1) violated the due process of law clause of the Fourteenth Amendment; (2) was class legislation; and (3) deprived the in-

[6] *Ibid.*, May 13, 1899.
[7] *Ibid.*, June 1, 1899.

dividual of his right to contract freely for his labor.[8] To refute the precedents set by the Utah and United States Supreme Courts, Waldron cited the significant difference between the constitutions of Utah and Colorado. The Utah Constitution specifically stated that the legislature could pass acts regulating employment hours for miners; but the Colorado Constitution, although it had a section establishing regulations for the health, safety, and welfare of the general public, did not single out any special group.[9] Waldron dismissed the United States Supreme Court's decision in *Holden* v. *Hardy* as not binding on the Colorado court. What might not be a violation of the federal constitution might very well be a violation of the state constitution, in which case the United States Supreme Court must bow to the Colorado Supreme Court.

The defense brief was presented by John Murphy and Colorado Attorney General David Campbell. They reminded the court that legislative acts should be declared unconstitutional only with caution, lest the separate but equal functions of the court and the legislature be impaired. By citing recent decisions that broadened interpretations, they brushed aside the question of class legislation. To refute the contention that the law violated the right to contract, Murphy quoted *Holden* v. *Hardy*:

> . . . it is common knowledge that at the present day, owing to the unequal plane upon which parties stand, there is no contractual relations in the sense which the books define contracts. One party dictates and the other is compelled to accept.[10]

In reply to the contended difference between the Colorado and Utah Constitutions with regard to health, safety, and welfare, Murphy pointed out that the Colorado Constitution provided for safety devices which would protect the health of employees. It was thus reasonable to assume that the framers of the constitution would have accepted shorter working hours to protect the health of employees.

On July 17, 1899, the court announced it would hand down its decision but defer its opinion until the fall term. The court explained this as an attempt first to end the strike and later to clarify the issue. A unanimous verbal opinion held the Eight Hour Law to be unconstitutional.

[8] Colorado. State Archives and Records Service. *Supreme Court Record of Colorado*, Cases 4066 and 4067, p. 4.
[9] *Ibid.*
[10] *Rocky Mountain News*, June 29, 1899.

The opinion, handed down by the court in September and written by Chief Justice John Campbell, is of interest in comparing the Colorado court's reasoning with that of the Supreme Court of the United States. Justice Henry B. Brown, speaking for the United States Supreme Court, had maintained that the employer and employee were not on the same level for bargaining purposes. The employer laid down the rules and the employee had to obey them. He asserted: "In such cases self interest is often an unsafe guide and the legislature may properly interpose its authority."[11] Justice Brown set forth the paradox of the case thus:

> It may not be improper to suggest in this connection that although the prosecution in this case was against the employer of labor, who apparently under the statute is the only one liable, his defense is not so much that his right to contract is infringed upon, but that the act works a peculiar hardship to his employees, whose right to labor as long as they please is allegedly to be thereby violated. The argument would certainly come with better grace and greater cogency from the latter class.[12]

Justice Campbell, in his opinion, countered with the following statement: ". . . it is beyond the power of the legislature under the guise of the police power, to prohibit an adult man who desires to work thereat from working more than eight hours a day, on the ground that working longer may, or probably will, injure his own health."[13]

The reactions of the two courts to the conflicting parties were therefore opposite. Throughout the *Holden* v. *Hardy* opinion, the impression is that the court was interested in the welfare of the workingman and was willing to make any reasonable, properly legal concessions for his well-being. On the other hand, the Colorado decision, *In Re Morgan*, indicates more concern with the possible consequences to the sanctity of property than with the health or welfare of the individual workman.

Justice Campbell's opinion established, so far as the court was concerned, that the Colorado Constitution governed in this instance and that a law might be perfectly correct under the laws of other jurisdictions and still be invalid under Colorado's constitution.

The main theme of Justice Campbell's opinion ruled the Eight Hour Law in violation of the Colorado Bill of Rights,

[11] *Holden* v. *Hardy*, 169 U. S. 398 (1898).
[12] *Ibid.*
[13] *In Re Morgan*, 26 Colo. 427-28 (1899).

which guarantees to all persons their "natural and inalienable rights to personal liberty, and the right of acquiring, possessing, and protecting property."[14] The right to contract for labor is included within property rights and cannot be infringed upon by legislation unless there is specific provision to do so. The legislature and the counsel for the law, Attorney General Campbell (no relation to the Chief Justice) had maintained that this specific right is granted in the police power of the state to protect public health. But Justice Campbell expressed the following principle which had guided his decision:

> Any law which goes beyond that principle, which undertakes to abolish rights, the exercise of which does not involve an infringement of the rights beyond what is necessary to provide for the public welfare and the general security, cannot be included in the police power of the government.[15]

Chief Justice John Campbell handed down a significant decision in the fight for an eight-hour law.

This implies that only such acts as are clearly necessary for the safety, comfort, and well-being of society should be under the police powers of the state. The framers of the Colorado Constitution could not have intended to prohibit their passage, but in the light of this principle neither could they have intended to restrict property rights by police power, where those property rights did not involve "the public welfare and the general security." Justice Campbell then went on to test the Eight Hour Law for miners and smelters and found it in no way applicable to the general public, only to the individual miner or smelter.[16]

The attitude of the Colorado justices was in sharp contrast to the United States Supreme Court's decision in *Holden* v. *Hardy*. United States Supreme Court Justice Brown, after citing the many instances in which state constitutions provided for safety precautions on railways, mines, public buildings, and in other dangerous areas, asked why it was not as much in the interest of the states to provide regulations for the public health. He cited many instances in which this had been done. Indeed, he might have cited the Colorado Constitution. He then referred to the Utah Eight Hour Law:

> The enactment does not propose to limit the hours of all workers, but merely those who are employed in the underground mines or in smelting, reduction, or refining of ores or metals. These employments when too long pursued, the legislature has judged to be detrimental to the health of the employees, and so long as there are reasonable grounds for believing that this is so, its decision upon this subject cannot be reviewed by the Federal Courts.[17]

It is interesting in the light of this that the opponents of the law had not at any time attempted to prove that mining and smelting were not injurious to the workers. In subsequent battles this would be attempted.

Justice Brown went on to say that while more than eight hours of work would not generally be considered unhealthy, it should be so considered when it was performed underground or in a smelter where individuals were subjected to noxious fumes and gasses. The United States Supreme Court and the Utah Supreme Court both agreed that it was within the province of the legislature to determine what a reasonable

[14] *Ibid.*, 420.
[15] *Ibid.*, 423.
[16] *Ibid.*, 427.
[17] *Holden* v. *Hardy*, 169 U. S. 395 (1898).

workday would be under such conditions. Justice Brown had written:

> Granting that the period of labor each day should be a reasonable one, twelve hours a day would be less injurious than fourteen, ten than twelve, and eight than ten. The legislature has named eight.[18]

In conclusion Brown stated:

> Though reasonable doubt may exist as to the power of the legislature to pass a law, or as to whether the law is calculated or adapted to promote health, safety, or comfort of the people, or to secure good order or promote the general welfare, we must receive them in favor of the right of that department of government.[19]

The Colorado court, nowhere in its opinion, took into account the unhealthy aspect of mines and smelters. In one part of the opinion, to which Justice Campbell himself referred as incidental remarks, argument by absurdity was used to show what could happen if legislatures were allowed to decide how to protect citizens. The legislature might pass laws to keep citizens out of jails, hospitals, or poorhouses. If the legislature can limit the day's work to eight hours on the basis of health, there is nothing to prevent it from deciding that idleness leads to drunkenness and gambling and therefore to lengthen the day to sixteen hours to prevent idleness. In conclusion, the Colorado Chief Justice wrote:

> Such legislation does not denote an advance in the law of the domestic relations. On the contrary, it is a distinct and emphatic return, a retrogression, to that period in English history when parliament busied itself in passing numerous acts interferring with the freedom of conscience in religious matters . . . and which was one, among other causes that prompted them [our ancestors] to found here a government under which it would be impossible thus to interfere with the purely private affairs of the citizen.[20]

In these words the court struck down the Eight Hour Law and discharged the defendant, Sweeney, from the charges. The fight which labor thought won in March was lost in July and would have to be waged again.

The court's action left labor with only one recourse—proposing and passing a constitutional amendment. Public opinion seemed definitely on the side of the worker, so there was good reason to feel that an amendment could be carried. The fact that the opponents had never attempted to prove that the occupations were not hazardous seemed to indicate that there

[18] *Ibid.*, 396.
[19] *Ibid.*, 397.
[20] *In Re Morgan*, 431.

should be a provision for regulation of hours in the constitution. The political situation also seemed to favor the amendment. In the election of 1900, the Democratic-Populist coalition was returned to control the legislature. So apparent was the public sympathy for the Eight Hour Law that all three groups—the Democrats, the Populists, and the Republicans—approved the idea in their platforms.

When the Thirteenth General Assembly met in January, 1901, an amendment was quickly offered. The only problem that appeared was the form the amendment should take. Labor wanted an eight-hour law put into the constitution. Some friends of labor, however, held that such a law was not proper and that the amendment should merely allow the legislature to enact a law regulating hours. Changes could then be made as conditions warranted. When passed by the legislature and signed by the governor, the amendment only *enabled* passage of an eight-hour law.

The amendment would not appear on the ballot until November, 1902, but labor used the intervening months to keep the public aware of the importance of the measure. All political parties endorsed the measure and the amendment passed by a vote of 72,980 to 26,266.[21]

Passage of the amendment meant that the newly-elected legislature would have a chance to deal with the problem. The Republicans had succeeded in gaining control of the House of Representatives and had elected their gubernatorial candidate, James Peabody. The Senate remained under control of the Democrats.

When this mixed assembly took up the matter of the eight-hour law, each house had its own version. The Senate prepared a bill which granted all workers in mines, mills, and smelters an eight-hour day and provided penalties of from $150 to $250 for a violation and specified that each day's violation constituted a separate offense. The House version granted the same eight-hour day and called for a fine of from $10 to $50 for a violation. Because it failed to stipulate that each day's violation constituted a separate offense, an employer could violate the law day after day and be fined only $50. Both houses refused to give in.

Throughout the session there had been considerable speculation whether Peabody would sign an eight-hour bill. The

[21] *Rocky Mountain News*, November 5, 1902.

failure to pass the bill had left Peabody's stand still in question But Governor Peabody had to call a special session of the Assembly because the Appropriations Act had been declared void by the Colorado Supreme Court. An eight-hour bill could be added to the agenda of the special session. Still avoiding a definite stand, Peabody referred this decision to the leaders of both houses, who did not agree to reconsider the bill. The special session adjourned without discussing the problem.

With all hope for an eight-hour day law gone until the session of 1905, labor decided to turn to other methods to gain its ends, and a series of strikes occurred which was to make the year 1903 remarkable in the annals of labor. The business interests had anticipated that such action would occur. Accordingly, they adopted a plan first practiced in Omaha, Nebraska, and formed citizens' alliances in which businessmen could work together to fight against labor demands. The first alliance was formed in Denver and effectively put down a strike by teamsters and candy workers.

When the miners of Idaho Springs went on strike for an eight-hour day, in the course of which the Sun and Moon Mine was dynamited, an alliance was hastily formed by the owners and the businessmen. This group rounded up the labor leaders of the Western Federation of Miners and ran them out of town as agitators.[22] The leaders appealed to Governor Peabody for protection, but he informed them that until the established law in the local community had been appealed to, he could do nothing.[23] Since it was the local law itself from which the leaders needed protection, they had no way of gaining re-entrance and the union was broken in Idaho Springs.

In Denver the Smeltermen's Union had gained almost one hundred per cent membership. When the Eight Hour Law was defeated, the leaders called out the men. In this instance, there was violence on the first night of the strike because the workers refused to draw the furnaces before quitting.[24] This refusal meant that most of the furnaces were "frozen" and could be brought back into production only at considerable expense. The Smelter Trust decided to reopen one smelter, the Globe, with imported labor. The trust obtained an injunction from the local courts which prohibited the union or any of its

[22] *Rocky Mountain News*, June 29, 1903; *Denver Post*, June 29, 1903.
[23] *Denver Post*, August 11, 1903; United States, Congress, Senate, *Labor Disturbances in the State of Colorado, 1880-1904*, 58th Cong., 3rd Sess., 1905, Doc. No. 122, p. 157.
[24] *Ibid.*, 138.

leaders from interfering with the imported labor and the Globe Smelter was opened.[25] Eventually many of the smelter workers drifted off into other employment or left town for other smelters. Although the strike dragged on for months before dying a natural death, there was no effective resistance to the trust.

The most celebrated strike of the year 1903 occurred in Cripple Creek. The strike began with the smelter workers in Colorado City striking for the eight-hour day and calling upon the miners of Cripple Creek not to dig ore for the owners, who shipped it to Colorado City. This ploy proved effective. With the aid of Governor Peabody, a meeting was arranged between the owners and the leaders of the union, "Big Bill" Haywood and Charles Moyer. An agreement was worked out between the Portland and Telluride Mills and the Western Federation of Miners to reopen.[26] However, the superintendent of the American Refining and Reduction Company, James MacNeill, refused to accept the same terms for his mill. Moyer was induced to make different terms with MacNeill which provided for the rehiring of union members but not for union recognition. MacNeill did not rehire union members and refused to grant the pay increase given by the Portland and Telluride Mills. Feeling they could not compete, these two plants rescinded their raises. The miners went out again, this time not for shorter hours, but for wages. And again the smelter workers called upon the miners of Cripple Creek to support their strike, whereupon the Western Federation of Miners, parent organization of both locals, approved the request.

Meanwhile, the owners had formed the Mine Owners' Protective Association, and the local businessmen had organized the Citizens' Alliance. Violence erupted and the state militia was summoned. Under escort of the guardsmen, the leaders and the more violent members of the union were escorted out of town; some were taken to the Kansas border and advised not to return to Colorado. With the Western Federation of Miners eliminated from Cripple Creek, the owners dominated the industry.

The violence that occurred discredited both the union and Governor Peabody, who had called out the militia. In the long

[25] *Rocky Mountain News*, July 8, 1903.
[26] Colorado. State Archives and Records Service. Records of the Office of Governor: James H. Peabody, 1903-05. Correspondence, DB "Strikes and Investigations."

run the cause of eight-hour legislation was hindered by the unsavory reputation of the Western Federation of Miners and its leaders, particularly Haywood—who finally won the distinction of burial in the Kremlin.

Although the associations and the alliances had subdued the unions, the legislature still faced the people's 1900 mandate for an eight-hour law. The next General Assembly was to be elected in November, 1904. Former Governor Alva Adams was nominated by the Democratic Party and the Republicans named Governor Peabody as their candidate. Stormy campaigns indicated a probable close election, and both parties accused each other of fixing votes as election day approached. The Republicans devised a scheme to do something about the situation. Governor Peabody and the Colorado chairman of the Republican Party petitioned the Colorado Supreme Court for an injunction against the Democratic election officials in Denver and for "watchers" to supervise the polling places.[27] In a completely cooperative spirit, the court awarded the injunction and appointed the watchers, who had been recommended by the Republican chairman. A similar injunction was denied to the Democratic Party, which had petitioned to supervise the election in Huerfano and Las Animas Counties, where the Colorado Fuel and Iron Company had been accused of influencing voting results for years.

On election day, Governor Adams won a ten thousand-vote majority, and the Democratic Party secured a slight majority in both houses. The Republican chairman charged fraud and called on the watchers to testify. Their testimony caused the Colorado Supreme Court to throw out the vote count in five heavily Democratic precincts in Denver, a loss sufficient to change the Denver delegation to the Assembly from Democratic to Republican and enough to give the Republicans a majority in both houses.[28]

After the legislature convened and after Governor Adams was inaugurated, Governor Peabody petitioned the Assembly for an investigation of the gubernatorial election. The Assembly complied and an investigation was made. If one is willing to accept the majority of the local press reports at that time, all of the evidence was in favor of Governor Adams.[29] The Republi-

[27] *Denver Post*, November 3, 1904; *Rocky Mountain News*, November 4, 1904.
[28] *Denver Post*, December 6, 1904; Emma F. Langdon, *The Cripple Creek Strike* (Denver: The Great Western Publishing Co., 1905), p. 413.
[29] Langdon, *Cripple Creek Strike*, pp. 217-18; *Rocky Mountain News*, March 5, 1904; *Denver Post*, March 4, 1904.

can strategists, however, called for party solidarity and had a majority against Governor Adams. But at the last moment, those Republicans who had had reservations about the advisability of renominating Governor Peabody banded together to swing the balance of power. They agreed to unseat Governor Adams only if Governor Peabody would agree to resign immediately after securing the office in order to allow Lieutenant Governor Jesse F. McDonald to take the office. Peabody could do nothing but reluctantly accept the ultimatum, and he submitted his signed resignation in advance of the vote. Colorado had three governors in twenty-four hours. The new governor was McDonald.[30]

While this political trial was in progress, the labor committee had been working on a eight-hour bill, which was now introduced in the House. Again the House bill had the same weak penalty clause as the 1902 version. The Senate, however, was considering an entirely new bill, one that was not just weak but was deliberately meaningless. It singled out for the eight-hour-day privileges all miners and all working in close proximity to furnaces. The bill was intended for diggers and stokers, who comprised less than twenty per cent of the working crew. In actual practice most of these workers had been granted an eight-hour day, and the Senate bill would exclude those workers who most needed an eight-hour law.[31]

The Republicans in the House refused to go along with this subterfuge and forced their version through. Even with the weak penalty clause, the bill was at least honest. However, before the bill was sent to the governor, the House Engrossing Committee reported that it had found substantial errors in it. Without citing any specific errors, the committee recommended that the bill be recommitted to the Labor Committee for changes. This was not necessary, for the normal procedure would have been to send the bill back to the Committee of the Whole. It was obvious that the Engrossing Committee and the Labor Committee wanted to make changes of intent.[32]

The Labor Committee finally returned the Senate version of the bill. Then, according to the *Rocky Mountain News* and the Denver *Post*, the lobbyists for the two major firms most concerned—the Colorado Fuel and Iron Company and the

[30] *Rocky Mountain News*, March 16, 1904; *Denver Post*, March 16, 1904; "The Situation in Colorado," *Miners' Magazine*, VI (March 23, 1905), 11.
[31] *Rocky Mountain News*, January 25, 1905.
[32] *Denver Republican*, February 4, 1905; *Denver Post*, February 4, 1905.

Smelter Trust—summoned reluctant Republican representatives to the House Speaker's office and convinced them to vote for the bill. The much watered-down, senseless Senate version of the bill passed into law.[33]

This bill satisfied the public demand for an eight-hour law. Try as it might to point out the uselessness of the bill, labor was unable to arouse public sympathy. For the next six years nothing was done about improving the eight-hour legislation.

Governor McDonald was followed by another Republican, Henry Buchtel. But in 1908 the Progressives succeeded in electing a Democratic governor, John Shafroth, and a Democratic legislature. Once again labor's hopes for an effective eight-hour law ran high, but no eight-hour bills were introduced during Shafroth's first term. In fact, Governor Shafroth was so exasperated at this General Assembly for not fulfilling its campaign promises that he went to the newspapers with a severe indictment of it.[34] Next he called a special session of the Assembly and challenged it to make good some promises. The most notable work of this special session resulted in a proposed amendment for initiative and referendum, passed into law in 1910.

Initiative and referendum, Democratic Governor John Shafroth, and a Democratic majority in the Colorado General Assembly were approved by the electorate in 1910. In 1911 a true eight-hour law for mine, mill, and smelter workers was passed, known as the Hurd Bill.[35]

Steadfast opponents determined to make a stand against the law. They circulated petitions to refer the law to the people at the next election.[36] The required ten per cent of the electorate of the previous election signed, and the operation of the Hurd measure was suspended until the people might have a chance to express their views. What had been good for the reformers—intitiative and referendum—now turned out to be good for the corporation managers.

While the act remained suspended, the corporation managers moved to have another eight-hour bill drawn up, one

[33] *Rocky Mountain News*, February 15, 1905; *Denver Post*, February 15, 1905.
[34] Colorado. State Archives and Records Service. Records of the Office of Governor: John Shafroth, 1909-13. Correspondence, DB 4.
[35] Colorado, General Assembly, *Session Laws*, 18th Sess., 1911, H.B. 46, pp. 454-55.
[36] *Rocky Mountain News*, August 2, 1911; *Denver Post*, August 2, 1911; *Denver Republican*, August 2, 1911; *Denver Post*, August 1, 1911.

more suitable to their interests.[37] Once again their canvassers collected enough signatures to place this alternate bill on the ballot by initiative. There would be at least two eight-hour bills on the ballot and, to add to the confusion, thirty-two other items. Since this was the first year for initiative and referendum, there was naturally much to initiate and much to refer. This posed the formidable problem of voter education. As far as labor was concerned, the dilemma was how to instruct the people to vote "yes" for the Hurd bill and "no" against the corporation-sponsored bill; too much negative emphasis might defeat both measures, and too much positive emphasis might pass both measures. Enthusiasm favored the positive approach, so the educational dilemma gave birth to a new problem, not provided for in the Initiative and Referendum Amendment: both conflicting bills were passed.

The General Assembly of 1913, unable to solve this conundrum, turned to the Colorado Supreme Court for an opinion. The court would not, indeed could not, in this anomaly, hand down an opinion. Both bills were now law. Both were valid. Both were eligible to be litigated in the Colorado Supreme Court. It would be in that court that the legality of either act might be tested. Any advisory opinion at this time might tie the hands of the court in future litigation. Having made all of this clear, however, the court advised the Assembly of the fact that it had carefully and closely examined the Initiative and Referendum Amendment, and that it found that the amendment expressly stated that nothing in its contents should be construed to diminish the power of the General Assembly to legislate. This being the case, there was no reason that the legislature could not repeal the two laws and, as a legislature, write and pass a new one.[38] This the Assembly did, passing a new law modeled on the Hurd Bill. So, after a fight which lasted twenty years the mine, mill, and smelter workers had an eight-hour day.

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[37] *Denver Post*, October 20, 1912; Editorial, *Miners' Magazine*, XII (May 2, 1912), 3.
[38] *In Re Senate Resolution No. 4*, 54 Colo. 262 (1913).