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Racial legislation in Montana 1864-1955

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RACIAL LEGISLATION IN MONTANA

1864 - 1955

By

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Racial Legislation in Montana, 1864-1955

Director: Ellis Waldron

Legislation expressly relating to racial minorities was identified in the territorial and state statutes from their inception in 1864 to final repeal of a miscegenation statute in 1953. Legislative documents were examined for evidence of the source and of support and opposition to their enactment. Roll call votes of legislators were analyzed in terms of published information about their birthplace, education, occupation and affiliation with partisan, religious and fraternal groups.

Legislative procedures and comparison of texts indicated that early territorial statutes restricting the suffrage and legal capacities of negroes and Indians were carried over with minor adaptations from pre-existing law of Idaho Territory. The notable exception was repeated refusal of the Montana territorial legislature to ban interracial marriage, with some direct intervention by legislators who had Indian wives.

The most controversial racial statute of the territorial period was one to segregate negro children in public schools; it was adapted from a California law in 1872 but exempted Indian children from its scope; repeal came in 1895.

An influx of Japanese laborers in the 1890s seems to have furnished the impetus for a miscegenation statute in 1909 -- one that did not reach marriage of whites with Indians. Principal supporters of the measure were Democratic legislators from urban-industrial districts with racial minorities present and legislators with limited education, trades and labor occupation and less prestigious fraternal affiliation. Legislators with entrepreneurial, professional and agricultural occupations tended to oppose the measure but it was eventually enacted with support of a minority of Republicans.

The miscegenation statute was repealed in 1953 with strong nonpartisan support, apparently responsive to the return of Korean War veterans with Oriental wives, and to judicial application of the "equal protection" clause of the Fourteenth Amendment in federal courts. Evidently in response to the same developments, antidiscrimination statutes were enacted with minimal opposition in 1955.

PREFACE

The thesis explores legislative roots of racial policies in Montana from territorial beginnings through statehood. Full sets of legislative journals, session laws and codifications of statutes were at hand along with vital information about Montana territorial and state legislators, sufficient to sustain some roll call analysis.

Holdings of relevant newspapers for the period when racial legislation was enacted were extremely limited but an article by historian J. W. Smurr, "Jim Crow Out West" was particularly useful for evidence of response to territorial legislation.

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CHAPTER 1

RACIAL LEGISLATION AT THE TERRITORIAL THRESHOLD: BANNACK STATUTES OF 1864-1865

The Civil War between the states had passed the midpoint but the outcome was still far from clear when the First Legislative Assembly of Idaho Territory met in December, 1863 and January, 1864 to enact extensive codes of statute law for the region that included what would soon become Montana Territory.

A year later the verdict of the war may have seemed more certain when the First Legislative Assembly of Montana Territory met from December 12, 1864 to February 9, 1865. Sherman had marched through Georgia to reach Savannah two days before the Montana legislators gathered in Bannack to start their work, and he had completed a devastating swing back through the Carolinas before their session adjourned.

The Montana legislators secured several copies of the 1864 Idaho Laws to guide their own work. A comparison of texts and the timetable of their work make it clear that they simply reenacted great portions of the statute law that had been in effect when Montana Territory was still the eastern portion of Idaho Territory.

The Idaho legislators before them undoubtedly had derived their statutes from states earlier formed, and perhaps primarily from California whose jurisprudence has always been influential in

the other western states. The early racial statutes of Montana Territory were no exception. Foregoing exhaustive and possibly impracticable search for ultimate origins, it seems clear that the Montana statute law in general and the racial statutes in particular derived largely from those of Idaho Territory, reflecting a regional norm of the time.

Nonetheless, Montana legislative records were searched to determine what may have been peculiar to the new Territory.

There were several significant racially oriented provisions in Montana's "Bannack" statutes of 1864-1865 and one of them provoked an enigmatic and overriden gubernatorial veto. Slavery was not yet prohibited but the involuntary taking or enslavement of people from Montana to elsewhere was made a criminal offense "against the persons of individuals." The competence of non-whites to take part in court proceedings was restricted. Voting for public officials and at school meetings was restricted to adult white male citizens with sufficient residence in the Territory. Sale of "ardent spirits or firearms to Indians" was prohibited in one of the earliest substantive acts of the legislature.

Most of these racial provisions were included in extensive codes to "regulate civil and criminal proceedings" prepared by a Joint Code Committee of four members and introduced into each chamber. Criminal practice acts were introduced as House Bill 52 and Council Bill 28. Civil practice acts were introduced as House Bill 18 and Council Bill 109. House Bill 18 and Council Bill 28

became the chosen instruments for their respective codes, and a criminal code originated in the Council.

Other proposals of racial legislation were transformed into statutes of general application, or defeated. Blacks, Indians, Chinese and persons of mixed blood were singled out for special treatment by these racial statutes. Somewhat later, Japanese and other "orientals" would be included in Montana's racial legislation.

Congress proposed the 13th Amendment abolishing slavery a few days before the first Montana territorial legislature adjourned and ratification of that amendment in December, 1865 abolished slavery throughout the states and territories. The 14th Amendment with provisions for equal legal protection of all citizens was ratified in 1868 and ratification of the Fifteenth Amendment in 1870 prohibited restriction of the suffrage on grounds of race, color or previous servitude. But the effective application of those post-Civil War amendments remained a subject of intense controversy a century later, and nine decades would elapse before all traces of racial legislation would finally be expunged from Montana law.

The political climate in Bannack suggested that relations could be stormy between Governor Sidney Edgerton, a radical abolitionist Republican from Ohio recently appointed by President Lincoln, and a legislature with a narrow balance of power between Republicans and Democrats in both chambers, representing a voting populace that contained substantial numbers of Southern

sympathizers. There was concern about relations with the native Indian populations, some far from peaceable, and the governor in his opening remarks to the legislature recommended "steps for the extinguishment of the Indian title in this Territory in order that our lands may be brought into market."[1]

Bannack was a "hell-for-leather" gold mining camp, Montana's first boom town situated in the extreme southwest corner of the new territory only a few miles from Idaho. By 1864 it had already been outpaced by the Alder Gulch gold camp seventy miles eastward where Virginia City would soon become the first Territorial Capitol.

Sale of Liquor and Firearms to Indians

An 1864 Idaho statute prohibited "the sale of Ardent Spirits, Firearms, or Ammunition, to Indians."[2]

On December 29, 1864, Representative Isaac Buck (R., Jefferson) introduced House Bill 39 to accomplish the same purpose in

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[1]1864-5 House Journal 21. The formal style of legislative documents is acknowledged in the bibliography. In this and subsequent references brief citations are employed: House of Representatives Journal (H. J.); Council Journal (C. J.); Senate Journal (S. J.); statutes enacted by territorial sessions (T. Laws); statutes enacted by state legislative sessions (Laws); the series designation is preceded by the calendar year(s) of the session and followed by a specific page reference. All references are to Montana material unless another jurisdiction is indicated.

On the general political climate see Clark C. Spence, Territorial Politics and Government in Montana, 1864-89 (1975) 20-35; Michael P. Malone and Richard B. Roeder, Montana A History of Two Centuries (1976) 70-86, the best recent histories.

[2]1864 Idaho T. Laws 582.

Montana Territory. The House seems to have approved it without reference to a committee, but the Council amended the second section regarding competence of witnesses in trials under the statute, apparently to acknowledge a right accorded Indians in federal legislation. The House unanimously approved its passage as amended and the governor signed the measure into law on January 6, 1865.[3]

Section 1 of the statute, differing from the Idaho statute only in punctuation, provided:

> Any person who shall, after the passage of this act, sell, barter, give or in any manner dispose of, any spiritous or malt liquor to any Indian, or Indians, or any fire-arms or ammunition of any description whatever, to any hostile Indians within this Territory, shall be deemed guilty of a misdemeanor, and upon due conviction thereof before any court of competent jurisdiction, be fined in any sum not exceeding five hundred dollars, or be imprisoned in the county jail for any term not exceeding six months, or both such fine and imprisonment, in the discretion of the court.

Section 2 of the statute, as amended by the Council, provided:

> Indians, as provided for by law of Congress, shall be competent witnesses in the trial of all causes embraced in the provisions of this act.[4]

Reference of the Idaho statute to competence of whites as witnesses was deleted from the Montana statute, presumably as a redundancy,

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[3]1864-5 H. J. 31, 53, 66, 79; 1864-5 C. J. 66, 71, 72. Buck was a native of Ohio who had arrived in the Territory earlier in 1864.

[4]1864-5 T. Laws 347.

and a specific grant of jurisdiction to justices of the peace in the Idaho statute was omitted. Both the Idaho and Montana statutes concluded with a section giving the legislation immediate effect upon signature by the governor.

This first racial enactment of the Montana territorial legislature preceded completion of work on the general criminal code by about three weeks and its section on competence of Indians as witnesses differed substantially from general limitations on their competence as witnesses in the civil and criminal practice codes later adopted.

Voting Limited to White Males

On December 27, 1864 Representative Francis Bell (Madison) introduced House Bill 33 "relative to Elections." An amendment to change the general election day from the First Monday of September to the second Tuesday of October was rejected but the House adopted an Elections Committee amendment to reduce residence requirements from those of Idaho Territory and to include among voters those aliens who had declared their intention to become citizens.[5] The Council unanimously approved the measure without further amendment on January 13 and the governor approved the statute January 17, 1865.[6]

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[5]1864-5 H. J. 47, 74(where the measure was incorrectly cited as House Bill 23), 84.

[6]1864-5 C. J. 118, 1864-5 H. J. 106.

The Idaho territorial election statute of 1864 had restricted voting in all elections to "white male inhabitants, over the age of twenty-one years" who had "resided in the territory four months, and in the county thirty days."[7]

The next forty-six sections of the Montana territorial law were virtually identical to the Idaho statute.[8]

Racial Restriction in School Board Elections

Section 16 of the statute establishing a "common school system" provided:

> Every white male inhabitant over the age of twenty-one years who shall have paid or be liable to pay any district tax, shall be a legal voter at any school meetings, and no other person shall be allowed to vote.[9]

Frank M. Thompson (R., Beaverhead) introduced this measure as Council Bill 38 on December 29, 1864. It was referred to the Education Committee which voted unanimously for its passage after minor amendments. The Council approved it but the House made amendments relating to administration and allocation of funds. The Council concurred in all but one of these amendments, which the

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[7] 1864 Idaho T. Laws 560.

[8] 1864 T. Laws 375-376. The full text of Section 1: "That all white male citizens of the United States, and those who have declared their intention to become citizens, above the age of twenty-one years, shall be entitled to vote at any election for Delegate to Congress, and for territorial, county and precinct officers; provided, they shall be citizens of the United States, and shall have resided in the Territory twenty days, and in the county ten days, where they offer to vote, next preceding the day of election.

[9] 1864-5 Laws 443.

House then retracted. The amended measure then passed both houses with a unanimous vote and the governor signed the school system bill into law on February 2, 1865.[10]

The 1864 Idaho legislature apparently made no provision for the establishment of a common school system.

Racial Limitation on Poll Tax

On January 9, 1865 Charles S. Bagg (Madison) introduced Council Bill 61 "for the collection of the revenue." Two days later the measure was debated at length and on January 12 the Council approved a series of amendments. On January 17 the amended measure was passed by unanimous vote and sent to the House.[11] The House passed the measure with two further amendments on January 26 and the Council accepted those amendments the next day. The governor approved the revenue measure on February 6.[12]

Section 16 provided:

> Each white male inhabitant of this Territory over twenty-one and under fifty years of age, and not by law exempt, shall pay a poll tax, for the use of the Territory and county, of three dollars. . .[13]

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[10]1864-5 C. J. 57, 110, 123; 1864-5 H. J. 135; 1864-5 C. J. 209, 271. Thompson was a 32-year-old attorney from Massachusetts who had come to the region in 1862.

[11]1864-5 C. J. 100, 108, 115, 139. Bagg was a 48-year-old attorney born in New York. None of the amendments appear to have involved the section relating to a poll tax.

[12]1864-5 H. J. 114, 143, 147, C. J. 262.

[13]1864-5 T. Laws 429.

With one difference in punctuation that language was identical to Section 52 of the Idaho revenue statute which presumably was its source.[14] Since voting was limited to white males, this limitation of the poll tax was a logical and legal corollary of that restriction.

Racial Limitation on Witnesses in Trials

The adoption of codes of civil and criminal law and of rules for their practice in the courts of the new Montana Territory were among the first substantive concerns of the Legislative Assembly at Bannack.

On the fifth legislative day, December 20, 1864, each chamber named two attorney-members to serve on a Joint Code Committee with instructions to report "at as early a day as possible." Later the same day each chamber instructed its sergeant-at-arms to secure "bound volumes of the late Idaho Statutes for the use and benefit of the members . . . with as little delay as possible" -- three copies for the Council and six copies for the House.[15] The next day the Joint Committee was authorized to employ "such clerk or

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[14] 1864 Idaho T. Laws 418.

[15] 1864-5 C. J. 17, 22; 1864-5 H. J. 28. House members were Washington J. McCormick (Ind., Madison), a 29-year-old college graduate and native of Indiana who had come to the region in 1863 and Alexander E. Mayhew (D, Madison), 34-year-old native of Pennsylvania who had some college training. Council members were Charles S. Bagg (Madison), 48-year old native of New York and Frank M. Thompson (R, Beaverhead), 31-year-old native of Massachusetts who came to the region in 1862. All were attorneys.

clerks as they may require" to accomplish the codifications.[16]

As in Idaho and most other American jurisdictions that had previously faced the matter, the "common law of England" became the "law and the rule of decision" in Montana Territory when "not in conflict with special enactments of this Territory."[17]

On December 21, Representative McCormick introduced House Bill 18 "to regulate proceedings in civil cases," which was promptly read twice and referred to the Judiciary Committee. Work apparently began forthwith to prepare a code of civil procedures.[18] The House Judiciary Committee reported and recommended passage of the measure on January 12 and debate continued through the next week.[19] On January 19 the House passed an amended measure by unanimous vote and it reached debate in Council Committee of the Whole the same day.[20] The Council further debated the measure on January 20 and assigned it to a select committee which proposed

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[16]1864-5 C. J. 22; 1864-5 H. J. 30. D. D. Chamberlain, sergeant-at-arms of the Idaho Legislative Assembly, was eventually paid $300 for "money expended in procuring the Idaho statutes," 1864-5 H. J. 91, 99, 106.

[17]1864-5 T. Laws 356. Council Bill 42, 1864-5 C. J. 70, 87, 112; 1864-5 H. J. 75. The measure passed the Council by unanimous 7-0 vote and the House by a 6-5 vote after failure 5-5 of a motion to table. The Montana statute differed in unimportant details from that of Idaho, 1864 Idaho T. Laws 427.

[18]1864-5 H. J. 30. Harry Burns was eventually paid $400 for services in preparing a "civil and commercial code for Montana Territory," 1864-5 H. J. 210, but only after some haggling over the appropriate amount, C. J. 277, 280, 1864-5 H. J. 205.

[19]1864-5 H. J. 66, 96, 98, 99, 102, 112, 113.

[20]1864-5 H. J. 114, C. J. 155.

further amendments on January 23; the Council unanimously passed the amended measure that same day.[21] On January 24 the House approved the measure as amended by the Council and it was sent to the governor on February 8.[22] Governor Edgerton promptly vetoed it stating his objections to Section 324. Later that day the House passed the "bill without number" over the governor's veto by a 9-2 vote and the Council did the same the next day with only one member supporting the veto.[23]

The 1864 Idaho Civil Practice Act had contained this racial exclusion of witnesses:

> Third, Chinamen or persons having one-half or more of China blood; Indians, or persons having one-half or more of Indian blood, and negroes, or persons having one-half or more or negro blood, in an action or proceeding to which a white person is a party.[24]

Section 320 of the Montana Civil Practice Act as finally adopted, made the following persons "incompetent to testify . . .

> Sixth, a negro, Indian or Chinaman, where the parties of the action are white persons, but if the parties to an action or either of the parties is an Indian, negro, or Chinaman, a negro may be introduced as a witness against

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[21] 1864-5 C. J. 155, 159, 161, 176, 177.

[22] 1864-5 H. J. 133, 134, 138, 199.

[23] 1864-5 H. J. 204, 1864-5 C. J. 286, 288. Representatives Milo Courtright (Jefferson) and E. B. Johnson (Missoula) and Council member Frank M. Thompson (R., Beaverhead) supported the veto. Thompson was a 31-year-old attorney born in Massachusetts who came to the region in 1862.

[24] 1864 Idaho T. Laws 156.

> such negro, an Indian against such Indian, or a Chinaman against such Chinaman. A negro within the meaning of this act is a person having one-eighth or more of negro blood, an Indian is a person having one-half or more of Indian blood, and a Chinaman is a person having one-half or more of Chinese blood.[25]

This must have been the section to which Governor Edgerton objected with the assertion that it "attempted to grant rights and privileges to Chinamen, Indians, and persons of African descent [which it] denies to white men." This was the entire veto message:

> I beg leave to return...with my objections..."An act to regulate proceedings in Courts of Justice in the Territory of Montana."
>
> The objectionable section of this act is numbered 324 wherein it is attempted to grant rights and privileges to Chinamen, Indians and persons of African descent. Which the same Section denies to white men. I am fully aware of the patriotic course pursued in the present Civil War by the Negro population of the United States entitling them to the lasting gratitude of the nation, but I cannot acknowledge that those services are of more value or more unselfish than similar labors performed by the white men.
>
> And if in this respect, the Honorable members of the Legislative Assembly should differ with me, I submit that this would not justify the invidious distinction against the white race in this Section attempted.
>
> Why should the litigent Negroes [!] have greater facilities afforded them by law to show to a jury the facts upon which they base their most important rights than two white men similarly circumstanced?
>
> Our Juries and Courts are composed exclusively of white men and I consider the Caucasian race competent to weigh evidence coming from any witness of any race wisely, justly and well.

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[25] 1864-5 T. Laws 110-111.

I feel it my duty to meet at the threshold this effort at Class Legislation to claim for the white man the right which you accord to the Negro. The right to introduce the evidence of any and every description tending to establish the right of the litigant and should this species of Class Legislation be permitted to pass unnoticed, how soon might we not expect some further infringement upon the rights of whites.

The especial friends of the Negro should be satisfied that the African has an equal right in Court and should not thus attempt to assert for him a legal superiority.

If this species of legislation is to be practiced I greatly fear that the Negro population of the States, now eminently a floating population will swarm hither in vast numbers to enjoy special favors which are thereby accorded them.

When suitors in our Courts earnestly ask why they may not have law according to them the right to use the evidence of a Negro to establish their rights. Will it be a satisfactory answer to such interrogator to say "because you are a white man".

While sympathizing with the ardent patriotism of the honorable members of the Assembly in their laudable desire to recognize and reward in some fitting manner the unselfish devotion to our country and flag displayed by the African race, yet I will not allow that sympathy to lead me so far astray from the obvious rule of common justice as to permit this infringement upon the rights of my own white race.

I hope the two houses of the Assembly will yet so amend this section as to grant to white persons the privileges in the section as it now stands granted only to colored persons. And I would respectfully submit that the passage of a Joint Resolution by your Honorable Bodies tendering to the Negroes the thanks of this Territory for their heroic sacrifices and labors for the preservation of the Republican will in a

> less objectionable manner accomplish all you contemplate by the passage of the section I cannot approve.[26]

Both houses seemed to regard the governor's objection as insubstantial. They promptly overrode the veto and only one member of the Council, a fellow-Republican, supported the governor's position. The language to which the governor objected was an exception to the general eligibility of persons to perform as witnesses, so the legislative position seems to have been that the capacity of whites otherwise legally competent as witnesses simply was not at issue. But the governor was an attorney who had served as chief justice of Idaho Territory before appointment as governor of Montana Territory, and his sole supporter in the Council also was an attorney.

The ironic tone of the last two paragraphs in the governor's veto message suggests that he may have seized upon an ambiguity to lecture the legislature on the rights of liberated blacks. His relations with the legislature were stormy and he left the Territory soon after the close of the session.

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[26] 1864-5 H. J. 201-202. The governor's remarks have no sensible application to any other sections of the chapter on witnesses. Moreover it must be noted that whatever the section numbers in the original bill, it was passed over the veto without change. In preparation of the civil practice code for printing, it appears that a shift of four numbers in the designation of sections from those of the enrolled bill was required. Part of the sixth paragraph of the message seems to have been omitted from the text printed in the House Journal.

Whatever the explanation of this curious episode, an important racial restriction came to be included in the civil court processes of the new territory.

The distinctive definition of a Negro as a person "having one-eighth or more of Negro blood" probably originated in a provision of the 1864 Idaho Criminal Code that prohibited the giving of testimony against whites by any black, mulatto, Indian or Chinese in criminal trials. Some problems of definition were resolved there by declaration that a person of one-eighth Negro blood was a mulatto and excluded from testimony against whites, while persons with one-half Indian or Chinese blood were disabled as witnesses.[27]

With differences only in punctuation, language of the Idaho statute became Section 13 of the Montana Criminal Practice Act:

> No black or mulatto person, or Indian, or Chinese, shall be permitted to give evidence in favor of or against any white person. Every person who shall have one-eighth part or more of negro blood shall be deemed a mulatto; and every person who shall have one-half of Indian blood shall be deemed an Indian.[28]

Racial Exclusion From Jury Service

Section 490 of the 1864 civil practice act restricted jury service in probate matters to "persons having the qualifications of electors."[29] Since only resident white males of appropriate age

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[27]1864 Idaho T. Laws 437.

[28]1864-5 T. Laws 178.

[29]1864-5 T. Laws 140.

could vote, this amounted to a racial exclusion in at least one form of civil process.

On December 24 Anson S. Potter introduced Council Bill 28 "to regulate proceedings in criminal cases" and the measure passed the Council under suspension of rules two days later.[30] On December 27 the House referred the measure to its Judiciary Committee, where it seems to have died.

On January 5, Representative McCormick introduced House Bill 51 "to regulate proceedings in criminal cases" and the next day the Council asked the House to "act upon and forward, with as little delay as practicable, the civil and criminal code."[31]

On January 9 the House debated and passed House Bill 51 without negative vote and the Senate began to debate the House measure two days later. After extensive consideration and substantial amendment the Council passed the House version of the criminal practice code 5-2 on January 20.[32] The House accepted the Council amendments on January 24 and the governor approved the bill on February 7.[33]

It does not appear from journal references to the Council debate that provisions involving racial legislation were involved in

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[30]1864-5 H. J. 45.

[31]1864-5 C. J. 91.

[32]1864-5 C. J. 114-118, 120, 125, 154, 155, 160.

[33]1964-5 H. J. 134, 138, 192.

the items controverted between the two chambers.[34]

On December 24 Anson Potter introduced Council Bill 27 "concerning crimes and punishments" which received three readings under suspension of rules and passed unanimously the same day.[35] Three days later the House read the measure twice and referred it to the Judiciary Committee.[36] A fortnight later, January 12, the House committee reported the measure with some amendments which were accepted by an 8-3 vote; the measure then passed the House 10-0 the same day.[37]

On January 17 the Council asked the House for a "definite statement of the amendments" and immediate return of the measure to the Council,[38] which then debated the measure, accepted some House amendments and rejected others.[39] A conference committee was constituted to reconcile the differences and both chambers accepted its recommendations. The measure was enrolled by January 30, but the Journals seem not to have recorded the governor's approval.[40]

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[34] 1864-5 C. J. 154 indicated that sections 150-174 were at issue between the chambers.

[35] 1864-5 C. J. 33.

[36] 1864-5 H. J. 45.

[37] 1864-5 H. J. 93, 95.

[38] 1864-5 C. J. 148.

[39] 1864-5 C. J. 156, 157.

[40] 1864-5 H. J. 131, 137, C. J. 190, 191, 194.

An Anti-Slavery Statute

The criminal code included a kidnapping or enslavement statute prohibiting involuntary taking of any person, "white or colored or . . . Indian" from the territory to another place for purposes of enslavement. The statute read:

> Sec. 50. Every person who shall forcibly steal, take, or arrest any man, woman, or child, either white or colored, or any Indian, in this Territory, and carry him or her into another county, state, or territory, or who shall forcibly take or arrest any person or persons whomsoever, with a design to take him or her out of this Territory, without having established a claim according to the laws of the United States, shall, upon conviction, be deemed guilty of kidnapping, and be punished by imprisonment in the Territorial prison for any term not less than one nor more than ten years for each person kidnapped or attempted to be kidnapped.
>
> Sec. 51. Every person who shall hire, persuade, entice, decoy, or seduce, by false promises, misrepresentations, and the like, any negro, mulatto, or colored person, or Indian, to go out of this Territory, or to be taken or removed therefrom for the purpose and with the intent to sell such negro, mulatto, colored person, or Indian into slavery or involuntary servitude, or otherwise to employ him or her for his or her own use, or to the use of another, without the free will and consent of such negro, mulatto, or colored person, or Indian, shall be deemed to have committed the crime of kidnapping, and upon conviction thereof shall be punished as in the next preceding section specified.[41]

With the change of one inappropriate word ("whomsoever" for "whatsoever") these sections reenacted language of an 1864 Idaho statute.[42]

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[41] 1864-5 T. Laws 186.

[42] 1864 Idaho T. Laws 444; compare also Section 87 of the Idaho Criminal Practice Act, 1864 Idaho T. Laws 245.

Arguably this was a racial statute only because negro slavery was still a fact of life in a significant portion of the nation.

Interracial Marriage

An Idaho territorial statute "to prohibit marriages and cohabitation of Whites with Indians, Chinese and persons of African descent"[43] had been in effect for not quite a year when Representative Alexander E. Mayhew introduced House Bill 19 with an identical title at Bannack on December 21, 1864. The measure was read twice and referred to the Judiciary Committee.[44] Two days later, with rules suspended, it was read a third time "at length" for possible adoption. On a motion of Representative James Stuart, it was recommitted to the Judiciary Committee where it died for lack of further action.[45] Stuart, along with his brother Granville, were among the earliest white settlers, having come to the region in 1857. When the Stuart brothers settled at Gold Creek in the Deer Lodge Valley in 1862, both took Indian wives.[46]

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[43] 1864 Idaho T. Laws 604.

[44] 1864-5 H. J. 30. Mayhew was a 34-year-old attorney born in Pennsylvania, who had come to the Territory in 1864.

[45] 1864-5 H. J. 36.

[46] James was 32 years old, his brother Granville 30 years old in 1864. Both were miners, born in West Virginia. On their marriages see J. M. Hamilton, History of Montana From Wilderness to Statehood (1970) 215. Both were Democrats and Granville began more than a decade of legislative representation of Deer Lodge County in 1871.

A Public Health Regulation

On December 27, Representative Francis Bell (Madison) introduced House Bill 34 to prohibit and penalize the sale of impure or adulterated food and liquor to Indians. The measure passed the House on third reading the next day by unanimous vote after brief consideration by the House Judiciary Committee.[47]

On December 30 the Council Committee on Indian Affairs reported difficulty in determining the intent of the measure:

> The Committee . . . report that they have . . . not been able to arrive at any conclusion as to what provision the bill contains, making it the duty of a Committee on Indian Affairs to make a report thereon, unless it is that certain evil disposed white persons have been in the habit of selling whiskey that has been adulterated with fresh beef, dried apples, dried peaches, tea, tobacco and strychnine, to poor Indians who are the original inhabitants of our Mountain Territory, thereby rendering them unfit and incapable of appreciating their duty and rights as sovereigns of the soil.
>
> Your Committee cannot censure with too much severity persons who have been in the practice of adulterating whiskey with tea, tobacco and strychnine, and selling or giving the same to Indians within the limits of this Territory, causing degradation, dissipation and intoxication. Your Committee also feels called upon to censure the carelessness of certain persons having connection with a certain class of Indians residing within this Territory, by which some of the fairer portion of them have become inoculated with certain infectious diseases, such as small pox...and in many instances the disease has spread among the liege lords. If it is the intention of the proposed bill to correct some of these evils, as your Committee might infer...they would...report the same back with the following Section to be attached as an amendment:

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[47] 1864-5 H. J. 46, 49. The House Journal reported no title for the bill but the Council Journal referred to it as an "act providing punishment for certain offences," 1864-5 C. J. 61.

> Section 7. No person or persons shall sell, barter, dispose of, or give to any Indian living within the limits of this Territory any spirituous or intoxicating liquors, whether the same be adulterated or unadulterated, under the penalty prescribed by the United States in An Act to regulate trade and intercourse with Indians in Indian countries.[48]

The measure was referred to the Judiciary Committee which reworked it into a pure foods statute of general application without specific racial reference. The governor approved it on January 7, 1865.[49]

Its provisions were as follows:

> Sec. 1. If any person shall knowingly sell any kind of diseased, corrupted, or unwholesome provisions, whether for meat or drink, without making the same fully known to the buyer, he shall be punished by imprisonment in the county jail not more than six months, or by fine not exceeding five hundred dollars, or by both such fine and imprisonment.
>
> Sec. 2. If any person shall fraudulently adulterate, for the purpose of sale, any substance intended for food, or any wine spirits, or malt liquor, or other liquor, intended for drinking, with any substance injurious to health, he shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding two hundred dollars; and the article so adulterated shall be forfeited and destroyed.
>
> Sec. 3. If any person shall fraudulently adulterate, for the purpose of sale, any drug or medicine, or sell any drug or medicine knowing it to be adulterated, or offer the same for sale, he shall be punished by imprisonment in the county jail not more than one year, or by fine not exceeding three hundred dollars; and such adulterated drugs and medicines shall be forfeited and destroyed.

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[48] 1864-5 C. J. 61-62.

[49] 1864-5 C. J. 62, 69, 70; 1864-5 H. J. 73, 79. Sections 1 and 4 had similarities to what seemed to have been in the original measure.

> Sec. 4. If any person shall inoculate himself, or any other person, or shall suffer himself to be inoculated, with the small-pox within this Territory, with the intent to cause the prevalence or spread of this infectious disease, he shall be punished by imprisonment in the Territorial prison not more than three years nor less than one year.[50]

So the First Montana Territorial Legislative Assembly meeting in a remote gold camp in the southwestern corner of the new territory during closing months of the Civil War carried forward several racially restrictive statutes from Idaho territorial antecedents. Sales of liquor and firearms to Indians was prohibited; the competence of Indians, negroes and Chinese to serve as jurors and witnesses in civil and criminal trials was limited; suffrage and application of a poll tax were limited to white males in general and school elections. A prohibition of the transportation of any person, white, negro or Indian for purposes of enslavement was arguably a racial statute only because negro slavery was still a fact of life in a significant part of the nation.

But the Bannack legislature refused to follow Idaho in banning interracial marriages because prominent early settlers in Montana had married Indian women and were in a position to block that legislation. Idaho's prohibition of sale of adulterated food and liquor

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[50]1864 T. Laws 345. An 1864 Idaho statute may have been the prototype of this enactment. Section 131 of the Idaho criminal code provided: "If any person or persons shall knowingly sell any flesh of any diseased animal, or other unwholesome provisions, or any poisonous or adulterated drink or liquors, every person so offending shall be fined not more than five hundred dollars, or imprisoned in the county jail not more than six months." 1864 Idaho T. Laws 467.

to Indians was transformed into a general public health statute.

CHAPTER 2

RACIAL LEGISLATION IN THE RECONSTRUCTION PERIOD, 1866-1895

The aborted Second Session of the Montana territorial legislature that met in the spring of 1866 enacted that "any person who is a qualified voter in this Territory, and a bona fide resident of the county, shall be competent to serve as a grand or petit juror."[1] This did not precisely exclude jury competence of persons who were not qualified voters (such as resident white women?) but that presumably was the intent.

Two other measures expressly racial in intent were proposed but failed to secure adoption in the Second Session.

On March 12 Representative Robert W. Mimms introduced House Bill 27 to prohibit marriage and cohabitation of whites with Indians, negroes and Chinese.[2] Chairman Robert B. Parrott (D., Jefferson) of the Judiciary Committee recommended deletion of the reference to Indians and the measure passed the House with that amendment.[3] In the Council Erasmus D. Leavitt lost a motion to kill the measure at first reading and despite House deletion of reference to Indians the measure was referred to the Committee on Indian

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[1] 1866 (2d Session) T. Laws 27, Section 9 of an "Act concerning jurors."

[2] 1866 (2d Sess) H. J. 35. Mimms was a 35-year-old native of Kentucky representing Jefferson, Gallatin and Edgerton counties.

[3] 1866 (2d Sess) H. J. 38, 46, 47, 52, 54. Parrott was a Canada-born attorney who came to the Territory in 1864.

Affairs. That committee effectively killed the measure by recommending deletion of substance after the enacting clause.[4]

Representative J. N. Rice (Madison) introduced House Bill 51 "to tax Chinese" and it was referred to the Judiciary Committee which prepared some amendments. On a motion of Representative Mimms the measure was taken from the table with the committee amendments and passed 9 - 1 with three abstentions. The next day Judiciary Committee Chairman Parrott said the committee was "not clearly of the opinion that the Legislature has the legal right to tax Chinese more than any other persons" and recommended reconsideration of the measure. It had already reached the Council which rejected it at first reading.[5]

Because the First (1864-5) Session had failed to reapportion legislative representation as stipulated by Congress, all legislation enacted in the Second and Third Sessions of 1866 was nullified by Congress.[6]

The Fourth Session of 1867 reenacted numerous laws passed during the prior sessions, including the references to race in statutes regarding voting and the civil practice act with references

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[4]1866 (2d Sess) C. J. 93, 127, 129, 130. The Council sustained what amounted to an adverse committee report.

[5]1866 (2d Sess) H. J. 90, 93; 1866 (2d Sess) C. J. 227, 231, 239. Rice, a miner, was 38 years old; he died later in 1866.

[6]14 U. S. Statutes 426-427. Spence (1975) 35-57 provided a lively account of the "Bogus Legislature Fiasco."

to witnesses and jury service.[7] But the poll tax restriction seems to have disappeared. Continued restriction of the suffrage to adult white males with sufficient residence and those who had declared intention to become citizens seems to have been in clear violation of Congressional legislation of January 24, 1867 to implement provisions of the Fifteenth Amendment to the United States Constitution:

> ...there shall be no denial of the elective franchise in any of the Territories of the United States, now, or hereafter to be organized, to any citizen thereof, on account of race, color or previous condition of servitude; and all acts or parts of acts, either of Congress or the Legislative Assemblies of said Territories, inconsistent with the provisions of this act are hereby declared null and void.[8]

Language of the 1864 prohibition of liquor sales to Indians was revised and a license tax on laundries was added to the license revenue statute.[9] On its face the license tax was not racial legislation but it was understood to be levied on a business primarily conducted by Chinese.[10]

When the Fifth Session of the Territorial Legislative Assembly convened in December, 1868, Acting Governor James Tufts included remarks about the "Indian problem" and the "Mongolians . . .

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[7]1867 T. Laws 96 (voting); 70 (jurors); 210 (witnesses).

[8]14 U.S. Statutes 379-380.

[9]1867 T. Laws 88 (liquor sales); 240, Act of Dec. 13, 1867, Section 21: "that all male persons in this Territory who are now or who may hereafter be engaged in the laundry business, shall pay a license of ten dollars per quarter."

[10]Malone (1976) 65-66.

so fast multiplying" in the territory. This session increased the laundry license tax from $10 to $15 a quarter.[11]

Addressing the Sixth Session in December, 1869, Governor James Ashley urged repeal of the laundry tax, calling it "oppressive" and "intended to compel Chinamen to pay an unlawful and unjust tax." But he preferred migration into Montana of "the hardy races of men and women from Great Britain and Northern Europe . . . to any race from a tropical climate, whether white or black." He praised adoption of the Fifteenth Amendment to the United States Constitution designed to guarantee voting rights of citizens without regard to race, color or prior servitude and urged adoption of "the exact words" of that amendment into Montana's election laws. Ashley proposed a "proper protest and memorial" to the national government opposing ratification of a treaty with the Flathead Indians "or any of the numerous tribes or bands of Indians which are roving all parts of the Territory."[12]

The Seventh (1871-1872) Territorial Legislative Assembly adopted a general recodification of the territorial statutes, and racial restrictions on voting and on service as witnesses in trials disappeared. Now "all male citizens" could vote in general

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[11] 1868-9 T. Laws 55, Section 16 of the Revenue Law. 1868-9 H. J. 24 (Tufts).

[12] 1869-70 H. J. 26-44. Ashley was considered to be a radical Republican; the legislature accepted few of his proposals and President Grant replaced him in December, 1869 with Benjamin Potts; Spence (1975) 58, 75.

elections and "every elector" could vote for school trustees. To this extent Montana territorial statutes were brought into conformity with requirements of the Fourteenth and Fifteenth Amendments to the United States Constitution, and with 1867 congressional enforcement.[13]

But prior racial restrictions on jury service, liquor sales to Indians and the laundry license tax aimed at Chinese were retained[14] and a new chapter in racial policy was introduced with legislation to require segregated schools for black children despite their small number.[15] The 1870 census had reported only 183 negroes among a total population of 20,595.[16] Moreover, Indian children not under white guardianship were specifically excluded from computation formulas for the allocation of school funds to localities.[17]

A restriction prohibiting aliens from obtaining title or profits from mining property and expropriating existing titles of aliens in such property was adopted, and the legislation was not on

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[13]1871-2 T. Laws 125 (witnesses), 460 (voting). A corrupt practices statute made it a misdemeanor to interfere with "any elector."

[14]1871-2 T. Laws 303 (liquor sales); 506 (jury competence); 589 (laundry tax).

[15]1872 T. Laws 627-628.

[16]1870 Census 196.

[17]1872 T. Laws 632, Section 49: Provided, that Indian children who are not living under the guardianship of white persons, shall not be included in the apportionment list.

its face racial legislation:

> No alien shall be allowed to acquire any title, interest or possessory or other right to any placer mine or claim, or to the profits or process thereof, in this territory.[18]

But the statute appears in fact to have been aimed primarily at Chinese who were reworking placer deposits in the gold fields.[19]

The existing prohibition of liquor sales to Indians and "mixed breeds" was retained as Section 145 of the criminal laws:

> If any person shall, directly or indirectly, sell, barter, or give intoxicating liquor, whether fermented, vinous, or spiritous, or any decoction or composition of which fermented, vinous, or spiritous liquor is a part, to any Indian or half-breed Indian in this territory, he shall be deemed guilty of a felony, and, upon conviction thereof, shall be punished by fine (of) not less than one hundred dollars, nor more than five hundred dollars, and shall be imprisoned in the territorial prison for a term not exceeding three years. It shall be the duty of the judges holding the several district courts in this territory to give this act in charge to the grand jury at each term of their court.[20]

Racial Segregation in the Public Schools

Early in the Seventh (1871-2) Session Representative Daniel Searles (Lewis & Clarke) introduced House Bill 6 relating to the common school system and it was referred to the Education

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[18] 1871-2 T. Laws 593.

[19] Malone (1976) 66, noting that the U.S. Commissioner on Mining Statistics condemned this legislation as a foolish restriction on the reworking of marginal sites.

[20] 1871-2 T. Laws 303.

Committee of which he was chairman. On December 27 the committee recommended passage of the measure with an amendment to Section 4 and two days later the House passed it 19-3 with one abstention.[21]

The Council added amendments and passed the measure 11-1 with one abstention.[22] The House accepted the Council amendments and the governor signed the measure into law on January 12, 1872.[23]

Section 34 of the legislation provided:

> The education of children of African descent shall be provided for in separate schools. Upon the written application of the parents or guardians of at least ten such children to any board of trustees, a separate school shall be established for the education of such children, and the education of a less number may be provided for by the trustees, in separate schools, in any other manner, and the same laws, rules, and regulations which apply to schools for white children shall apply to schools for colored children.[24]

Section 49 provided:

> All county school moneys apportioned by county superintendent of common schools shall be apportioned to the several districts in proportion to the number of school census children between four and twenty-one years of age, as shown by the returns of the district clerk, for the next preceding school year: Provided, That Indian children, who

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[21]1871-2 H. J. 32, 55, 65, 75. Searles was a 43-year-old farmer born in New York who had come to the region in 1868.

[22]1871-2 C. J. 83, 88. Education Committee Chairman Timothy E. Collins, a Democrat representing Meagher, Gallatin and Chouteau counties, was a banker born in Ireland who came to the territory in 1864; this was his second term in the legislature.

[23]1871-2 H. J. 112, 133.

[24]1871-2 T. Laws 627-628.

> are not living under the guardianship of white persons, shall not be included in the apportionment list.[25]

School Segregation as a Public Issue

Of racial legislation enacted during Montana's territorial period, the segregated school law appeared to have generated the most public controversy.

An assumption that it was the product of Southern influence in the Territory would not be borne out by an examination of the legislators who enacted it. Historian J. W. Smurr concluded that the 1871-1872 legislature was a non-Southern body elected by a predominantly non-Southern electorate; moreover the committees on education in both chambers were non-Southern in their membership, as was the governor who signed the measure into law.

Smurr concluded that Montanans of that period gave its politics the character of a border state where "thinking on the Negro problem has always been peculiar, neither Northern nor Southern, but tending toward the latter . . . [with] a policy that was varied and uncertain." In those circumstances a Negro might expect "to enjoy some civil rights but often to suffer the deprivation of equal school facilities."[26]

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[25] 1871-2 T. Laws 632.

[26] Smurr (1957) 166.

A more recent systematic examination of the birthplace of all Montana legislators confirms Smurr's observations. Most 19th-century legislators came from New England, the Middle Atlantic States, Virginia and the Upper Ohio Valley. There were "few Southern natives among Montana legislators, even in the territorial period," while about two-thirds of those who served in the early territorial period were from border states.[27]

A California statute enacted in 1870 furnished the model for Montana legislation of 1872, with nearly identical wording. California segregated "Negroes and Indians" alike and where there were fewer than ten of them in any school district their education could be provided for "in separate schools, or in any other manner."[28]

Montana adapted the statute to permit Indian children to attend school with whites but deleted the word "or" so that "children of African descent" would be segregated regardless of their number.

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[27]Ellis Waldron, Montana Legislators 1864-1979, Profiles and Biographical Directory (1980) 3. Border states were defined to include Missouri, Tennessee, Kentucky, Maryland, Virginia, West Virginia, Delaware and the District of Columbia. "Through the 1885 session, natives of Southern states held only four of 366 positions for which birthplace is known."

[28]1865-66 California Statutes 383, "An Act to Provide for a system of Common Schools," Secs 57-59.

As noted above Granville Stuart, Chairman of the Council Committee on Education, had several children by his Indian wife. Support of a measure containing the full text of the California statute would have deprived his own children of the benefits of a public education.[29]

The limited number of votes opposing this measure, its scope in relation to the one provision involving segregation, and lack of information about the partisan affiliation of many members obviate meaningful roll call analysis of the vote. Two of the three votes in opposition in the House, Dixon (D., Deer Lodge) and Vivion (D., Big Horn) and the sole opposing vote in the senate (Beck, Meagher) were cast by attorney-members but twice as many attorneys voted for the measure in each chamber.[30]

The practice of school segregation in Deer Lodge provoked wry comment in a Helena newspaper:

> There is triumph for the Caucasian, and blue blood has got full satisfaction. The little colored boy is ousted from the public school, and Deer Lodge will now go on her way to glory.[31]

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[29]Smurr (1957) 198 observed that "the marriage of white men to Indian women was a heritage of the fur trade in Montana, more important there than in California. Strong disapproval of such unions came with the gradual elevation of society into the polite form. Since Montanans were so racial minded it is strange that the bill spared the Chinese. There were better than ten times more of those than colored people in 1870," citing Ninth Census (1870), vol. 1, 46.

[30]1871-2 H. J. 75, 19-3 with one not voting; 1871-2 C. J. 88, 11-1 with one not voting.

[31]Smurr (1957) 170.

Cornelius Hedges, Territorial Superintendent of Public Instruction, attacked the policy in a letter to the editor:

> The prejudice that invoked the action of the Deer Lodge Trustees and has glutted itself in the petty triumph of excluding from school privileges an inoffensive little boy because he is guilty of the awful crime of carrying in his veins a tincture of African blood, is not one iota more unreasonable, more unjustifiable or more hateful than the spirit that dictated the 34th section of our school law. To my mind the deliberate action of men selected to make laws for a free state and people from their supposed superiority and fitness for such high duties, seems infinitely worse. And I would simply ask that all the indignation so justly aroused be directed against those who are most responsible.[32]

Even Governor Potts who signed the measure into law later characterized it as "an exclusion law":

> I cannot believe that any considerable number of our citizens are willing that any child be excluded from the privilege of an education at the public expense on account of color.[33]

In 1876 E. T. Johnson of Helena presented a petition to the legislature signed by 106 Helena citizens protesting the segregation statute.[34] Representative George W. Beal (D, Deer Lodge), Chairman of the Committee on Education and Labor, responded:

> Mr. Speaker--Your Committee on Education and Labor, to which the petition of E. T. Johnson and others was referred have had the same under consideration. However much your Committee may regret the prejudices of the people against mixed schools, your Committee are compelled to recognize it as an existing fact. The provisions of the law as it now

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[32] Smurr (1957) 170.

[33] Smurr (1957) 171, 200.

[34] 1876 H. J. 404.

> exists bear heavily upon the various school districts. The equal school privileges which by the constitution and laws of the United States are secured to colored children, frequently lead to the necessity, under section 33 of the school law, of expending large sums of money for the education of a few colored children. There is no district within this Territory in which there are ten children of African descent, who wish to avail themselves of the privileges of our common schools. But as a lesser number are entitled to schools as good, and for as long a period as is given other children, the school privileges given to white children have to be largely curtailed in order that the separate colored school may be kept. While your Committee would not compel mixed schools, it is nevertheless of the opinion that cases may occur where the districts would desire that the one or more children of color should have some proper place in the regular school room, rather than that the fund for school purposes be divided, and the entire educational facilities impaired by maintaining two schools, one of which is for no more than from one to a half dozen scholars, and it is the further opinion of your Committee that each district should regulate its own affairs in this matter, and they ask leave to bring in the following bill and recommend its passage, all of which is respectfully submitted.[35]

From newspaper accounts, Smurr observed:

> When the school fund had run dry, and it was again suggested that segregation lay at the bottom of it, the people of Helena voted a new levy but did not discontinue segregation. They were even willing to maintain a separate school for only nine pupils, the number enrolled in the South Side School during the 1879-80 term.[36]

Attempts to integrate the handful of black children in Fort Benton (1881) and Helena, respectively, faced opposition from white parents who collectively withdrew their children from school.

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[35] 1876 H. J. 404. Beal, serving his only term in the legislature, was a 48-year-old physician with some college education, a native of Ohio who came to the territory in 1864.

[36] Smurr (1957) 173.

In March, 1882 Territorial School Superintendent Hedges gave notice in local newspapers that because of a financial shortage, schools would close a month earlier unless the citizens voted on a new source of income. The Helena Daily Herald (May 12, 1882) supported integration as the answer. The Democratic Helena Daily Independent (May 13) countered by saying that there was no connection between segregation and the tax problem. The Independent had summarized its argument earlier that year:

> Were all race distinctions abolished, amalgamation would inevitably result in the end. It would begin first among the poorer whites, who would then intermarry with the wealthier Negroes, and would afterwards extend among all classes. We believe that the Caucasian race is superior to the African, and that such amalgamation would have a tendency to degrade our nation to a level with the Mexican and South American races. In fact, the Mongrel-Mulatto breed, which results from amalgamation is inferior to both the black and white races...It is a wise law of nature that monsters never breed.
>
> The great underlying question is, whether we are in favor of amalgamation with the colored race? If not, then we must preserve race distinctions...If the black race is admitted to the same public school, why not admit them to our parlors and tables? After this, what next?[37]

The school issue raised other anti-Black sentiment. C. C. Cullen, a physician, claimed:

> ...any law, constitutional or legislative, that will authorize, or permit to be introduced an alien race into the domestic or social structure of any people is, not unusual, but, most productive of evil, and it may be

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[37] Smurr (1957) 182.

> called a weak attempt to remove the law of race antipathy, which is natural, by substituting in its place an abortive law of race amalgamation, which is unnatural, because it has a tendency to weaken the ties of consanguinity, whereby the purity of a race is preserved and its original strength and vigor maintained--as shown in the cases of Mexico and Peru.[38]

May, 1882 brought victory for some blacks when Helena citizens voted 195 to 115 against racial segregation in their schools. To keep from being outdone, the Independent -- while accepting the results -- warned that integration had failed in Chicago and predicted failure in Helena.[39]

In 1883 the Thirteenth Session of the legislature amended the territorial school law to include a compulsory attendance provision concluding with a proviso that "no child shall be refused admission to any public school on account of race or color."[40]

The Helena Daily Herald called the proviso "a breath of intelligence and an elevation above party and creed" that would free people from "a relic of a past age." The Butte Miner also expressed support for the proviso.[41]

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[38] Smurr (1957) 182.

[39] Smurr (1957) 183, 201, note 113.

[40] 1883 T. Laws 57.

[41] Smurr (1957) 184.

The practice of school segregation seems to have faded away after enactment of the 1883 proviso, but the original segregation requirement was retained in the 1887 recodification of territorial statutes.[42]

Final repeal of the school segregation statute came in connection with another general recodification of statutes by the Fourth Session of the state legislature in 1895. In 1894 the State Superintendent of Public Instruction had recommended its repeal.[43] The revision of the school laws, Senate Bill 39, passed the Senate 18-0 with three senators absent, and passed the House of Representatives 48-0 with 12 absent or not voting.[44]

Smurr remarked the possible consequences of the school segregation on literacy of the negro population in Montana:

> If segregation was responsible for keeping Negroes in ignorance the following figures will be found interesting. In the year 1900, or about the time the old system could be expected to show results, the rate of illiteracy for adult Montana Negroes was nineteen times greater than for whites. It even exceeded the rate for foreign born whites, a most telling fact, since many of these had come from European nations where free schooling of any kind was sometimes not to be had. According to a later count the highest rate for the Territory was in the county dominated by Helena--the former stronghold of the segregated system. The legislature of 1895 that definitively repealed the old law was so busy with electing a United States Senator, recodifying

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[42]Smurr (1957) 185; 1887 Revised Statutes 1192, Section 1892 of the School Law.

[43]Smurr (1957) 185, 202 citing Third Biennial Report of the Superintendent of Public Instruction (1894) 258.

[44]1895 S. J. 290, H. J. 386. All but three of those not voting had not participated in the immediately preceding roll call.

the statutes, and arguing over which textbook lobby should receive its blessing, that it had no time to reflect on such matters. The press was also indifferent.[45]

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[45] Smurr (1957) 185.

CHAPTER 3

THE MONTANA MISCEGENATION STATUTE, 1909-1951

Repeal of the territorial school segregation statute in 1895 left the Montana statutes comparatively free of racial legislation except that involving the presence of substantial Indian population on and near several major reservations.

The 1903 legislature prohibited use of firearms by Indians outside reservations, despite recognition that the measure violated 1855 treaty obligations with the Flathead, Kootenai and Pend d'Oreille Indians of northwestern Montana. The measure seems to have been directed at Cree Indians, roving, landless refugee fragments of Plains tribes who had sometimes turned their attention to cattle after the buffalo herds were eliminated.[1]

Senate Bill 90 was introduced late in the session, sponsored jointly by the Senate Committees on Livestock, and Fish and Game. It was approved by the Senate in a 12-9 vote on March 3, after an amendment to particularize the disposition of arms seized in its enforcement.[2] The House rejected a Judiciary Committee minority report which protested that the measure violated treaties of 1855 with the Flathead and associated tribes and warned that "if an effort is made to enforce it, life and property may be destroyed."[3]

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[1]Hamilton (1957) 390.

[2]1903 S. J. 188, 197.

[3]1903 H. J. 280, minority report by Rep. James M. Self (R., Missoula), an attorney.

The majority report of the House Judiciary Committee conceded the treaty violation but recommended concurrence because members of the treaty tribes "cannot be affected by said bill, because of the [1855] treaty, and the same may be the means of ridding the State of Montana of the renegade Cree Indians coming from Canada."[4] The House approved the measure by a 50-6 vote on the final day of the session.[5] There was little evidence of partisan alignment on the measure; opposition was limited to legislators of western counties closest to the Flathead Reservation.

The operative Section 1 of the statute provided:

> Any Indian who while off of, or away from, any Indian Reservation carries or bears, or causes to be carried or borne by any member of any party with which he may travel or stop, any pistol, revolver, rifle or other fire arm, or any ammunition for any fire arm, shall be guilty of a misdemeanor. And such arms shall be seized, confiscated and sold by the officer making the arrest and the proceeds from such sale shall be disposed of as follows: when seized and sold by an officer of the Stock Association the proceeds shall be sent to the State Treasurer and by him placed to the credit of the Stock Inspector and Detective Fund; when seized and sold by a Game Warden the proceeds shall be placed to the credit of the Fish and Game Fund; and when seized and sold by any other peace officer the proceeds shall be turned over to the County Treasurer and placed to the credit of the General Fund in which county the arrest and seizure is made.[6]

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[4]1903 H. J. 280.

[5]1903 H. J. 284.

[6]1903 Laws 158.

The Miscegenation Statute of 1909

Census data for the first two decades of Montana statehood suggest that experience with and public response to problems of racial minorities other than Indians might be a marginal reflection of regional patterns.[7]

As blacks migrated to the western frontier after the Civil War their ranks seemed to thin with distance from the Old South. They constituted 1.6 percent of the Montana population in 1890; that proportion was less than in the Dakotas but greater than in Idaho, Washington, Oregon and California. The proportion of blacks to total population in Montana declined to 1.1 percent in 1900 and 1910 and since has not exceeded one percent.

Among blacks in Montana the balance between sexes was closer than in the white population during the first decades of statehood. In 1900 there were 149 negro males to 100 negro females when there were 159.7 white males to 100 white females. In 1910 there were 136 black males to 100 negro females when there were 152 white males to 100 white females. Most negroes lived in urbanized western counties.

The pattern was quite different for Orientals, where the impact of trans-Pacific migration was greatest on the West Coast. There were 2,532 Chinese in Montana in 1890 representing 1.8

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[7] 13th U. S. Census (1910), v. 2, Population - Montana, 1147, Table 2, Sex, for the State; 1150, Table 14, Indian, Chinese and Japanese Population, by Counties (1890, 1900, 1910).

percent of the total population; about half of them lived in major urban centers of the western counties; fewer than 100 were female. The national program of Chinese exclusion initiated in 1882 was reflected in a 31 percent decline of Chinese population in Montana from 1890 to 1900, and another 26 percent decline by 1910.

Meanwhile after an 1885 treaty opened the way for Japanese to work in Hawaiian sugar fields there was a dramatic increase in immigration of Japanese men to Hawaii and the western states. There were only six Japanese in Montana in 1890, but 2,441 in 1900 including fewer than 100 Japanese women. As in California, and by contrast to negroes and Chinese, the Japanese tended to locate in agricultural areas; two-thirds of the Japanese in Montana in 1900 were located in Chouteau, Flathead, Missoula and Valley counties -- none then having a major population center.

In 1907 the United States negotiated a "Gentleman's Agreement" with Japan to limit migration of Japanese laborers into the United States. The number of Japanese in Montana declined 35 percent from 1900 to 1910; by that year there were 1,585 Japanese in Montana, fewer than 100 of them women, and nearly half still located in the same four counties -- Chouteau, Flathead, Missoula and Yellowstone.

On February 5, 1901 the California legislature petitioned Congress to extend the Chinese Exclusion Act to exclude Japanese

laborers,[8] and the Montana legislature soon reflected the same concern. On February 28, 1901, Representative Thomas McTague (Ind. D., Deer Lodge) introduced Joint Memorial 8 "Prohibiting and Regulating Chinese and Japanese Emigration."[9] On March 6 the House Judiciary Committee recommended adoption and the measure passed the House with 59 unanimous votes for approval; 11 did not vote.[10] The Senate Labor and Capital Committee favorably reported the measure and it passed the Senate unanimously with 17 votes; seven did not vote. Governor Toole signed the measure on March 9, 1901. In the memorial the Legislative Assembly:

> . . . most respectfully, but urgently ask for the passage of a law, extending all laws now in force, prohibiting and regulating the coming to this country of Chinese persons and persons of Chinese descent and more especially the Act of Congress of May 5, 1892, for a further period of ten years from the expiration of the same on May 5th, 1902. And your memorialist would ask further, that such laws be extended to include Japanese laborers and those of Japanese descent; and the Secretary of State is hereby requested to forward a copy of this memorial to our Senators and Representatives in Congress.[11]

Analysis of abstentions from this vote revealed some curious features. The House roll call came in a substantial series, two immediately preceding and ten following. Representative McTague, nominal sponsor of the measure, voted in two prior roll calls and four immediately following, but did not vote on his own memorial.

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[8]1901 Calif. Assembly J. 387; 1901 Calif. Senate J. 341.

[9]1901 H. J. 218.

[10]1901 H. J. 259.

[11]1901 Laws 215.

One member seems to have been absent from the entire series and two others voted on prior measures but were absent from most of those that followed. Four of the 10 members who abstained while voting on prior or subsequent roll calls represented counties noted above that had substantial numbers of Japanese immigrants.[12]

The enactment of a Montana miscegenation statute in 1909 is probably best understood in relation to this pattern of Japanese immigration. Several territorial efforts to enact a prohibition of interracial marriage foundered on refusal to ban marriages of whites with Indians. The numbers of negroes and Chinese were declining relative to a rapidly expanding white population while the influx of Japanese men into a population predominantly white male accentuated a pattern commonly found where miscegenation statutes had been enacted elsewhere:

> [Miscegenation] is most likely to occur under colonial conditions where the new settlers are a group racially alien and composed entirely or almost entirely of men.[13]

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[12]1901 H. J. 259. Urquhart (D., Lewis & Clarke) seems to have been absent from the session; Pendergass (Labor, Missoula) and Thoroughman (D., Cascade), voted on prior roll calls but missed subsequent votes. Those abstaining from this roll call but voting on others in the series, who represented the counties with Japanese immigrants were Bourne (R., Chouteau); Dixon (R., Missoula); McTague (Ind. D., Deer Lodge); and Shanley (R., Valley). The 1901 Senate Journal was not available for this analysis.

[13]Philip Wittenberg, "Miscegenation," 10 Encyclopedia of the Social Sciences (1933) 531.

There seems to have been no prohibition of interracial marriage in English law when colonies were first established in North America, but anti-miscegenation statutes developed as the colonists encountered native populations and introduced black slaves from Africa. At one time or another 38 states enacted anti-miscegenation statutes during the 19th century, but nine of them repealed such statutes after the Civil War.[14]

As noted earlier, attempts to enact such legislation failed at least twice in the Montana territorial legislature, apparently in reference to the frequency of marriages of white men with Indian women during the earlier decades of settlement.[15]

By 1910 at least 25 states had prohibited racial intermarriage either by constitutional provision or by statute. These included the 11 former Confederate states, five Border states which had at some time allowed slavery, Indiana and eight western states -- Arizona, California, Colorado, Idaho, Montana, North and South Dakota and Wyoming.[16]

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[14]Harvey Applebaum, "Miscegenation Statutes: A Constitutional and Social Problem," 53 Georgetown Law Journal (1964) 49; Richard Bardolph, The Civil Rights Record: Black Americans and the Law, 1849-1870 (1970) 84.

[15]See above pages 19 and 24.

[16]Restrictions in western states against marriage of whites with "Mongolians" dated in Arizona from 1887 Ariz. Rev. Stats. Sec. 2091; California from 1905 Calif. Stats, p. 182; South Dakota from 1913 S. Dak. Laws c. 266; Wyoming from 1913 Wyo. Laws c. 57. Colorado, North Dakota and Idaho banned miscegenous marriages of whites only with negroes and mulattoes.

Montana joined this company in 1909 with legislation that remained in effect until 1953.

On February 6, 1907 Senator Charles S. Muffley (D., Broadwater) introduced a measure to prohibit miscegenous marriage:

> A Bill for An Act prohibiting marriage between white persons and negroes, or persons of negro blood, and between white persons and Indians, Chinese and Japanese, and making such marriage void, and prescribing punishment for solemnizing such marriages.[17]

The measure was introduced "by request" -- a flag commonly indicating that the sponsor assumed no particular responsibility for its fate -- and referred to the Committee on Public Morals. On February 18 the chairman of that committee, Senator Edward Cardwell (D., Jefferson), moved for the committee that the measure be indefinitely postponed and the Senate accepted the motion, killing the measure.[18]

Senator Muffley introduced the measure again in the 1909 session, evidently with greater determination to secure its passage. Recognizing the failures previously to ban marriage of whites with Indians, the latter were excluded from the scope of Senate Bill 34, introduced on January 14, 1909. Again the measure was referred to the Committee on Public Morals but this time Muffley was chairman of that committee -- one of three committees headed by Democrats

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[17] Senate Bill 71, 1907 S. J. 140.

[18] 1907 S. J. 206.

during that session despite Republican control of the chamber by a four-vote margin.[19]

The measure encountered unusual and stubborn opposition on the way to enactment and eight roll call votes -- four in each house -- were sufficient to sustain more than the usual amount of roll call analysis.

Muffley's committee recommended passage (1909 S. J. 72) and after debate the Committee of the Whole recommended passage (1909 S. J. 99); when it came engrossed for passage Senator Thomas Everett (R., Chouteau) secured its reference back to the Committee on Public Morals (1909 S. J. 112) which again recommended passage with the unusual notation, "said bill having been introduced by [Chairman] Muffley." With a second by Senator Jeremiah McCarthy (D., Gallatin)(1909 S. J. 129) it again went to debate in Committee of the Whole which again recommended passage (1909 S. J. 155). When the measure came engrossed for passage at third reading Senator Everett tried unsuccessfully to have it referred to the

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[19]1909 S. J. 46. Muffley, a miner with common school education, had been born in Alder Gulch, Montana in 1864, grandson of Dr. Don Byam who presided at the trial and execution of George Ives at Nevada City in December 1864. That demise of notorious member of the "Plummber Gang" that was terrorizing the frontier gold towns seems to have sparked formation of the Montana Vigilantes whose sturdy brand of frontier justice soon established something resembling a rule of law in the Territory, Malone (1976) 62. See also Hamilton, (1957) 243 ff.

Judiciary Committee; Senator John Edwards (R., Rosebud) seconded, Senator Muffley demanded a roll call vote and the maneuver was rejected 20-6 with one senator not voting.[20]

The Senate then passed the measure on third reading, 15-11 with one not voting.[21]

In the House of Representatives the Committee on Education deleted Section 4 of the measure and recommended concurrence as amended (1909 H. J. 202, 238). When the amended measure came engrossed for passage it was returned to the Senate for correction of its history (1909 H. J. 276, 286, S. J. 239) -- an unusual maneuver. When that had been done, the House again debated it in Committee of the Whole and inserted a new fourth section:

> Section 4. Every such marriage mentioned in either of the foregoing sections which may hereafter be contracted or solemnized without the State of Montana shall be utterly null and void within the State of Montana.

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[20]1909 S. J. 171. Senate Roll Call #1: Aye (6) -- Donlan, Edwards, Everett, Metcalf, Meyer, Selway. No (20) -- Albright, Annin, Cardwell, Cockrell, Conrow, Cowgill, Daly, Fairbanks, Haviland, Long, Muffley, McCarthy, McCone, McDonnell, Rae, Romney, Sanders, Sykes, Tooley, Truscott. Absent and not voting (1) -- Kessler. See Appendix 1 for biographical detail.

[21]1909 S. J. 171. Senate Roll Call #2: Aye (15) -- Albright, Annin, Cardwell, Cockrell, Conrow, Daly, Fairbanks, Haviland, Long, Muffley, McCarthy, Romney, Sanders, Sykes, Truscott. No (11) -- Cowgill, Donlan, Edwards, Everett, Metcalf, Meyer, McCone, McDonnell, Rae, Selway, Tooley. Absent and not voting (1) -- Kessler.

A roll call vote was demanded on adoption as amended and the measure was cleared for final passage by a 29-25 majority with 17 not voting.[22]

On third reading the next day (February 18) the House rejected the measure 24-32 with 15 not voting (1909 H. J. 300) and returned it to the Senate with notice of that rejection (1909 S. J. 257).

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[22]1909 H. J. 287. House Roll Call #1: Aye (29) -- Brewster, Berkin, Byrnes, Crouch, Cummings T. A., Duncan, Elliott, Garber, Giovanetti, Groff, Hanifen, Hutchinson, Lehrkind, Lowney, Maxwell, MacGinnis, McCoy, Norton, O'Donnell, Pierson, Roy, Smith, Thompson, Ward, Warren, Whaley, Wilham, Woody, Mr. Speaker. No (24) -- Allen, Burke, Butzerin, Christler, Cluston, Connelly, Cummings H. T., Derry, Edgerton, Eliel, Gray, Hammond, Harbert, Hunter, Jacobson, Kilgallon, Pomeroy, Safley, Shaw, Shoemaker, Swick, Werner, White, Witmer, Wood. Absent and not voting (17) -- Arnett, Bogart, Clayberg, Coit, Crutchfield, Dowling, Frank, Gibson, Hall, Hayes, Kelsey, King, Largey, Metzel, Mitchell, Murray, Owenhouse. See Appendix 1 for biographical detail.

[23]1909 H. J. 300. House Roll Call #2: Aye (24) -- Allen, Byrnes, Crouch, Cummings T. A., Duncan, Elliott, Groff, Garber, Hayes, Hutchinson, Lehrkind, Lowney, Maxwell, Metzel, MacGinniss, McCoy, Norton, Owenhouse, Pierson, Smith, Ward, Warren, Whaley, Wilham. No (32) -- Arnett, Bogart, Brewster, Berkin, Butzerin, Coit, Connelly, Cummings H. T., Eliel, Frank, Gibson, Giovanetti, Gray, Hall, Hammond, Hunter, Jacobson, Kelsey, Kilgallon, King, McDowell, Pomeroy, Roy, Safley, Shaw, Shoemaker, Thompson, Swick, Werner, White, Witmer, Wood. Absent and not voting (15) -- Burke, Christler, Clayberg, Cluston, Crutchfield, Derry, Dowling, Edgerton, Hanifen, Harbert, Largey, Mitchell, Murray, O'Donnell, Woody. See Appendix 1 for biographical detail.

The next afternoon Representative Joseph Roy (D., Deer Lodge) secured reconsideration of the measure by a 27-18 vote (no roll call, 1909 H. J. 332) and it was returned from the Senate (1909 S. J. 258). The controversial Section 4 was again revised:

> Section 4. Every such marriage mentioned in either of the foregoing sections which may be hereafter contracted or solemnized without the State of Montana by any person, who has, prior to the time of contracting or solemnizing said marriage been a resident of the State of Montana, shall be null and void within the State of Montana.

A roll call vote was demanded on recommendation of passage with that amendment and that committee report was adopted 36-26 with nine not voting.[24]

The evident purpose of the amendment was to limit the extra-territorial effect of the measure for Montana residents to those who contracted a miscegenous marriage elsewhere with intent to evade its effect in Montana. This was a fairly common feature of miscegenation statutes, probably reflecting difficulties in court enforcement of statutes that ignored problems of extraterritorial

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[24]1909 H. J. 341-342. House Roll Call #3: Aye (36) -- Allen, Bogart, Berkin, Burke, Byrnes, Crouch, Cummings T. A., Duncan, Elliott, Frank, Garber, Giovanetti, Groff, Hanifen, Hayes, Hutchinson, Largey, Lehrkind, Lowney, McDowell, Metzel, Mitchell, Murray, MacGinniss, McCoy, Norton, O'Donnell, Owenhouse, Pierson, Roy, Ward, Warren, Whaley, Wilham, Wood, Woody. No (26) -- Arnett, Brewster, Butzerin, Clayberg, Coit, Connelly, Cummings H. T., Derry, Gibson, Gray, Hall, Hammond, Hunter, Jacobson, Kilgallon, King, Pomeroy, Safley, Shaw, Shoemaker, Smith, Thompson, Swick, Werner, White, Witmer. Absent and not voting (9) -- Christler, Cluston, Crutchfield, Dowling, Edgerton, Eliel, Harbert, Kelsey, Maxwell. See Appendix 1 for biographical detail.

application of marital laws.[25]

When reengrossed for third reading the House passed the measure on February 24 by a 42-18 vote with 12 not voting.[26]

When the House-amended measure returned again to the Senate, Senator Thomas Everett (R., Chouteau) made another attempt to refer it to the Judiciary Committee, with a second by Senator Charles Kessler (R., Lewis & Clarke). Senator Muffley again demanded a roll call vote and Everett's maneuver was defeated, 10-14 with three not voting.[27]

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[25]Philip Wittenberg, 10 Encyclopedia of the Social Sciences (1932) 533.

[26]1909 H. J. 368. House Roll Call #4: Aye (42) -- Allen, Arnett, Bogart, Brewster, Berkin, Burke, Byrnes, Coit, Cummings T. A., Dowling, Duncan, Edgerton, Elliott, Frank, Garber, Giovanetti, Groff, Hammond, Hanifen, Hayes, Hunter, Hutchinson, King, Lehrkind, Lowney, Maxwell, Metzel, Murray, MacGinnis, McCoy, Norton, O'Donnell, Owenhouse, Pierson, Roy, Smith, Ward, Warren, Wilham, Witmer, Wood, Woody. No (18) -- Butzerin, Connelly, Cummings H. T., Derry, Hall, Jacobson, Kelsey, Kilgallon, McDowell, Pomeroy, Safley, Shaw, Shoemaker, Thompson, Swick, Werner, White, Witmer. Absent and not voting (11) -- Christler, Clayberg, Cluston, Crouch, Crutchfield, Eliel, Gibson, Gray, Harbert, Mitchell.

The House Journal record of the roll call is faulty. Witmer was recorded both for and against the measure; because he had opposed the measure in three previous votes, he was scored against in this roll call. Neither Largey nor Whaley were accounted for in the House Journal record; they were counted here as not voting. See Appendix 1 for biographical detail.

[27]1909 S. J. 282. Senate Roll Call #3: Aye (10) -- Cardwell, Cowgill, Edwards, Everett, Fairbanks, Meyer, McCone, McDonnell, Rae, Selway. No (14) -- Annin, Cockrell, Conrow, Daly, Donlan, Haviland, Kessler, Muffley, McCarthy, Romney, Sanders, Sykes, Tooley, Truscott. Absent and not voting (3) -- Albright, Long, Metcalf. See Appendix 1 for biographical detail.

The Senate then immediately passed the measure by a 17-6 vote, with four not voting.[28]

On March 4, 1909, Governor Norris signed the measure into law.[29] This was the full text of the miscegenation statute:

> An Act Prohibiting Marriage between White Persons and Negroes, Persons of Negro Blood, and between White Persons, Chinese and Japanese, and making such marriage Void; and prescribing punishment for Solemnizing such Marriages.
>
> Be it enacted by the Legislative Assembly of the State of Montana:
>
> Section 1. Every marriage hereafter Contracted or Solemnized between a White Person and a Negro or a person of Negro Blood or in part Negro, shall be utterly Null and Void.
>
> Section 2. Every marriage hereafter Contracted or Solemnized between any White Person and a Chinese Person shall be utterly Null and Void.
>
> Section 3. Every marriage hereafter Contracted or Solemnized between a White Person and a Japanese Person shall be utterly Null and Void.
>
> Section 4. Every such marriage mentioned in either of the foregoing Sections which may be hereafter contracted or solemnized without the State of Montana by any person, who has, prior to the time of contracting or solemnizing said marriage been resident of the State of Montana shall be null and void within the State of Montana.

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[28] 1909 S. J. 282. Senate Roll Call #4: Aye (17) -- Annin, Cardwell, Cockrell, Conrow, Daly, Donlan, Fairbanks, Haviland, Kessler, Muffley, McCarthy, McCone, McDonnell, Romney, Sanders, Sykes, Truscott. No (6) -- Cowgill, Edwards, Everett, Rae, Selway, Truscott. Absent and not voting (4) -- Long, Albright, Metcalf, Meyer. See Appendix 1 for biographical detail.

[29] 1909 S. J. 386. A Democrat, Norris was an attorney born in Kentucky who came to Montana in 1888 and represented Beaverhead County in the 1897 and 1899 sessions of the State Senate.

Section 5. Any Person or Officer who shall Solemnize any such Marriage within the State of Montana, shall be guilty of a misdemeanor and upon conviction thereof be punished by a fine of Five Hundred Dollars or imprisonment in the county jail for one month.

Section 6. All Acts in conflict with this Act are hereby repealed.

Section 7. This Act shall be in full force and effect from and after its final passage.[30]

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[30]1909 Laws C. 49.

Analysis of the Roll Call Votes

Each of four roll call votes in the House was a forthright vote on merits of the proposal.

Two of the four Senate roll call votes were on its merits, but the two attempts by Senator Everett to refer the measure to the Senate Judiciary Committee seem to have been efforts to defeat the measure. Only three of the seven Judiciary Committee members favored enactment of the bill in votes on its merits. Chairman Edwards and member Clarence Tooley (R., Meagher) opposed the measure on its merits both times; Senators Thomas Long (D., Flathead) and William Meyer (R., Park) voted for the second reference to the committee but abstained from final vote on passage that immediately followed the unsuccessful procedural vote. For these reasons votes in the Senate favoring reference of the measure to the Judiciary Committee were scored as votes against its merits.

Appendix 1 records the four votes of each member of each chamber on the miscegenation measure, along with a listing of biographical and service information about the member.

Regional Support

Enactment of the miscegenation statute occurred during a period of considerable population movement in Montana. The state population increased 70 percent from 1890 to 1900, and 54 percent from 1900 to 1910 while negro population increased only 20 percent from 1900 to 1910, Chinese population declined 26 percent and Japanese population declined 35 percent in the decade after 1900. But those matters had not yet been confirmed by the 1910 census, when the legislation was adopted in 1909.

Census statistics did show what had happened in the previous decade from 1890 to 1900. The total negro population grew by fewer than 200 from 1890 to 1900 and Chinese population declined by nearly 800 in the same decade. But the number of Japanese increased dramatically, from six in 1890 to 2,441 in 1900.

Another factor of mobility may have influenced public perceptions of racial matters even more significantly. With the decline of historic gold and silver mining in the southwest and aggregation of copper mining into large-scale industrial operations there, the negro and Chinese population of the historic southwestern counties declined while the number of negroes and Chinese increased modestly almost everywhere else in the state.

Japanese never settled in the older western industrial centers, moving rather directly into newly developing agricultural areas across the entire Yellowstone and Musselshell valleys of southern, central and eastern Montana -- notably several hundreds

each in Flathead, Missoula, Chouteau and Valley counties.

So absolute decline in the number of the Chinese and Japanese from 1900 to 1910 may have been masked by their movement into less populous, newly settled agricultural counties all the way from Idaho to North Dakota.

State Labor Commissioner J. H. Hall doubtless believed he expressed a common concern when he addressed the matter of immigration in the 1909-1910 Report of the Bureau of Agriculture, Labor and Industry:

> I am not in favor of excluding persons of any white nationality from uniting with us if they are worthy, come with the purpose of becoming citizens, learn our language, adopt our habits of living and become part and parcel of the body of our citizenship. We cannot be blind, however, to the fact that the character of the immigrants that have recently been coming to this country in yearly increasing numbers if very different. . . . Now immigrants herd together, live in a manner not in accordance with American ideas, take little pains to learn our language or to become acquainted with our laws and institutions, and in many cases have no idea of making this their permanent home. In fact many of them hoard their earnings and send them abroad. . . .
>
> This condition has become somewhat acute in Montana and a remedy for it is worthy of most serious consideration. No one can consider this question fairly who looks upon a strange and foreign race in the mass; there are good and bad men, desirable and undesirable citizens among them all -- and among us all; but on the other hand no one can consider this question properly who does not put upon the American home, the American standard of living, the American standards of intelligence, morals and citizenship, their full value. . .
>
> There is need for an amendment to the immigration laws that will put immigrants through a mesh of finer screen while excluding none really capable of becoming true Americans. The matter has been presented to Congress but no action has been taken. The patriotic, blind Senator Gore recently said that. . . . the better way was not to raise ineffectual walls to keep out goods manufactured by paupers; but to erect a

> wall that will prohibit those paupers themselves from invading the Republic.[31]

The thinly veiled racial undertones of that discourse probably referred to the recent spread of Japanese in substantial groups, and of Chinese and negroes in smaller but recognizable numbers, into newer less urbanized areas of the state. (Maps 3:1, 3:2, 3:3).

Those migrations were modest indeed in proportion to the total population (Table 3:1). In 1910 negroes comprised more than one percent of the population in only two western industrial counties -- Deer Lodge (Anaconda) and Lewis & Clark (Helena). They comprised more than one-half percent only in Broadwater, Cascade, Meagher, Missoula, Powell and Sanders counties in western Montana and Yellowstone County (Billings), the principal urban center in the lower Yellowstone Valley.

Chinese in 1910 comprised more than one percent of the population in only two counties, Lewis & Clark (Helena) and Sanders County, newly developing in northwestern Montana. They comprised more than one-half percent in only three other counties where their roots ran back to territorial placer mining days -- Beaverhead, Granite and Silver Bow.

Japanese, more recent entrants, would by 1910 comprise more than one percent of the population in five widely scattered

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[31]Part II, Labor, 3-4.

TABLE 3:1

MINORITY RACES IN MONTANA, 1910

Percent of Total County Population

COUNTY	POPULATION	NEGRO	CHINESE	JAPANESE	INDIAN
Beaverhead	6446	.40	.51	.45	.05
Broadwater	3491	.54	.06	1.20	--
Carbon	13962	.04	--	.29	.03
Cascade	28833	.50	.02	.29	.33
Chouteau	17191	.33	.23	.91	7.03
Custer	14123	.67	.22	.19	.01
Dawson	12725	.09	.11	.06	--
Deer Lodge	12988	1.00	.20	.08	.05
Fergus	17385	.37	.14	.04	.70
Flathead	18785	.14	.32	.78	1.83
Gallatin	14079	.35	.44	.39	--
Granite	2942	.34	.85	.07	.07
Jefferson	5601	.21	.41	1.07	--
Lewis & Clark	21853	1.97	1.50	.21	.48
*Lincoln	3638	.03	.14	1.57	.16
Madison	7229	.37	.14	.48	.33
Meagher	4190	.72	.48	.93	--
Missoula	23596	.56	.31	1.06	4.69
Park	10731	.20	.35	.47	.03
Powell	5904	.73	.24	1.13	.17
Ravalli	11666	.11	.18	.37	.12
Rosebud	7985	.23	.05	.31	34.54
Sanders	3713	.51	1.02	.70	4.82
Silver Bow	56843	.46	.56	.13	.02
Sweet Grass	4029	.02	.35	.27	.65
Teton	9546	.07	.03	.25	6.45
Valley	13630	.11	.07	.16	13.02
Yellowstone	22944	.73	.22	.65	2.01
State	376053	.49	.34	.42	2.86

* Part of Flathead County in 1909

counties -- Broadwater, Jefferson, Lincoln (still in Flathead in 1909), Missoula and Powell (Deer Lodge) counties. But they also comprised more than three-fourths of a percent in Chouteau, Flathead, Meagher, Sanders and Yellowstone counties, rather widely distributed across the state.

An examination of support for the miscegenation statute in relation to the distribution of racial minorities in the state seems an obvious starting point for interpretation of the legislative support for the measure.

Maps facilitate such an analysis and several were prepared to aid in the interpretation of vote on final enactment of the miscegenation statute. Maps 3:1, 3:2 and 3:3 compare numbers of Chinese, Japanese and negroes in each county in 1900 and 1910 to demonstrate migration during the decade preceding adoption of the legislation.[32]

Maps 3:4, 3:5 and 3:6 display presence in each county of the three minority races in 1910, in three categories: 100+, 25-99,

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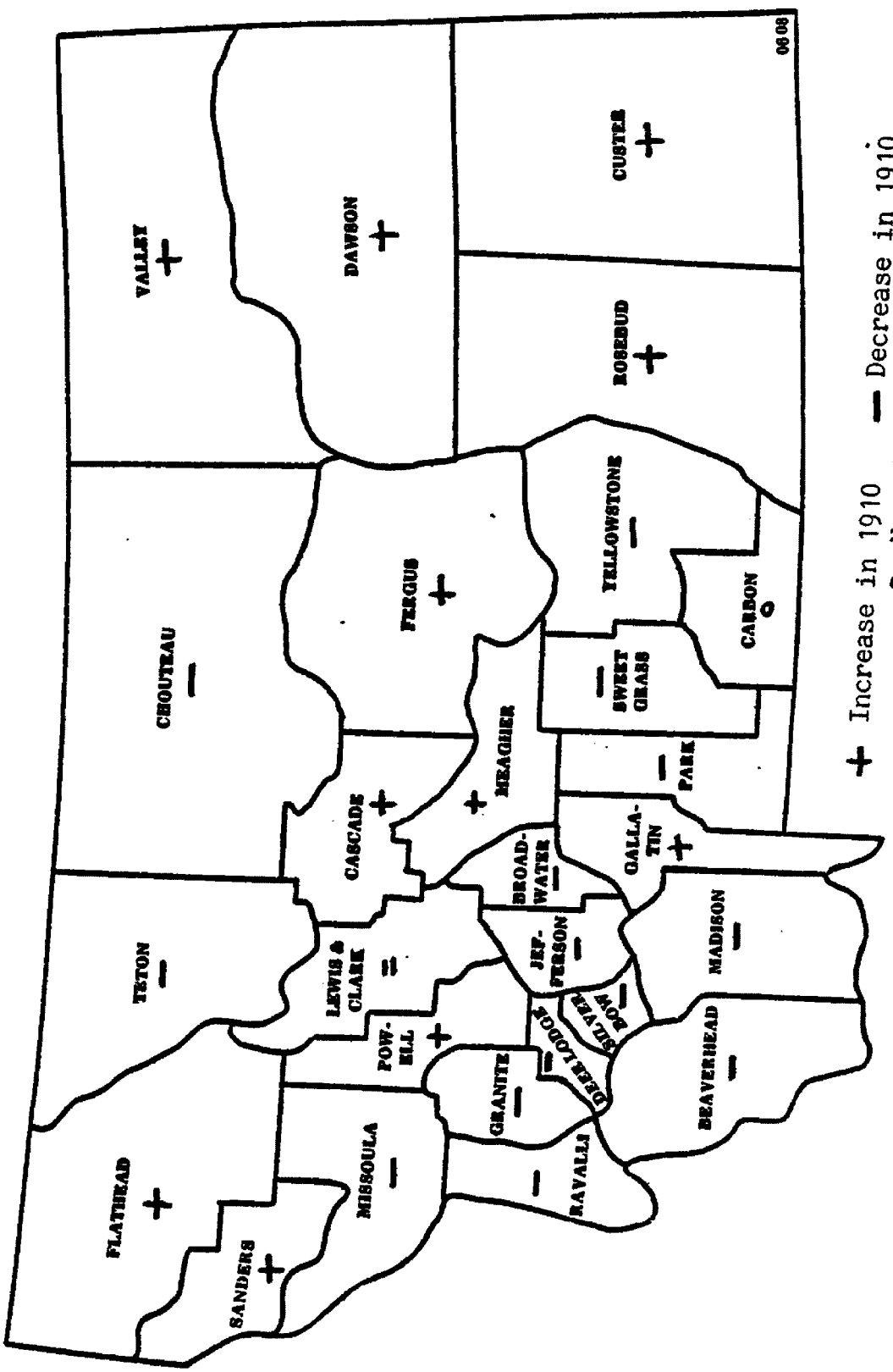
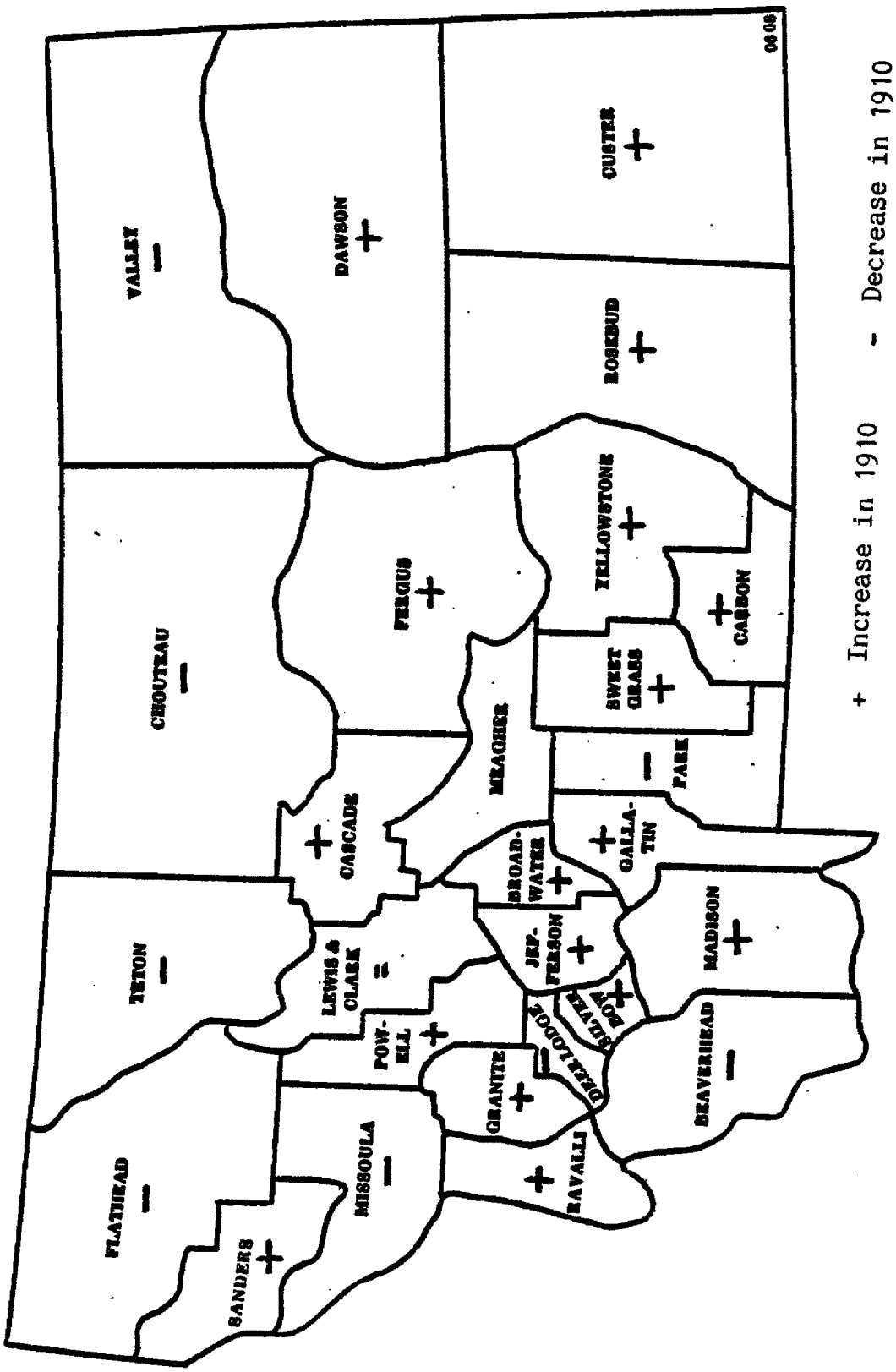
[32]Indian population was relatively stable during the decade and Indians were not included within the reach of the statute. This is not to suggest however that the presence of substantial numbers of Indians in a vicinity might not have influenced the vote of representatives in that area.

Four new counties were created during the decade 1900-1910: Lincoln from Flathead, after the vote on miscegenation; Sanders from northwestern Missoula; Powell from northern Deer Lodge; and Rosebud from western Custer. Three of these were displayed in the maps as having an increase in the number of Japanese during the decade; two showed an increase in the number of Chinese.

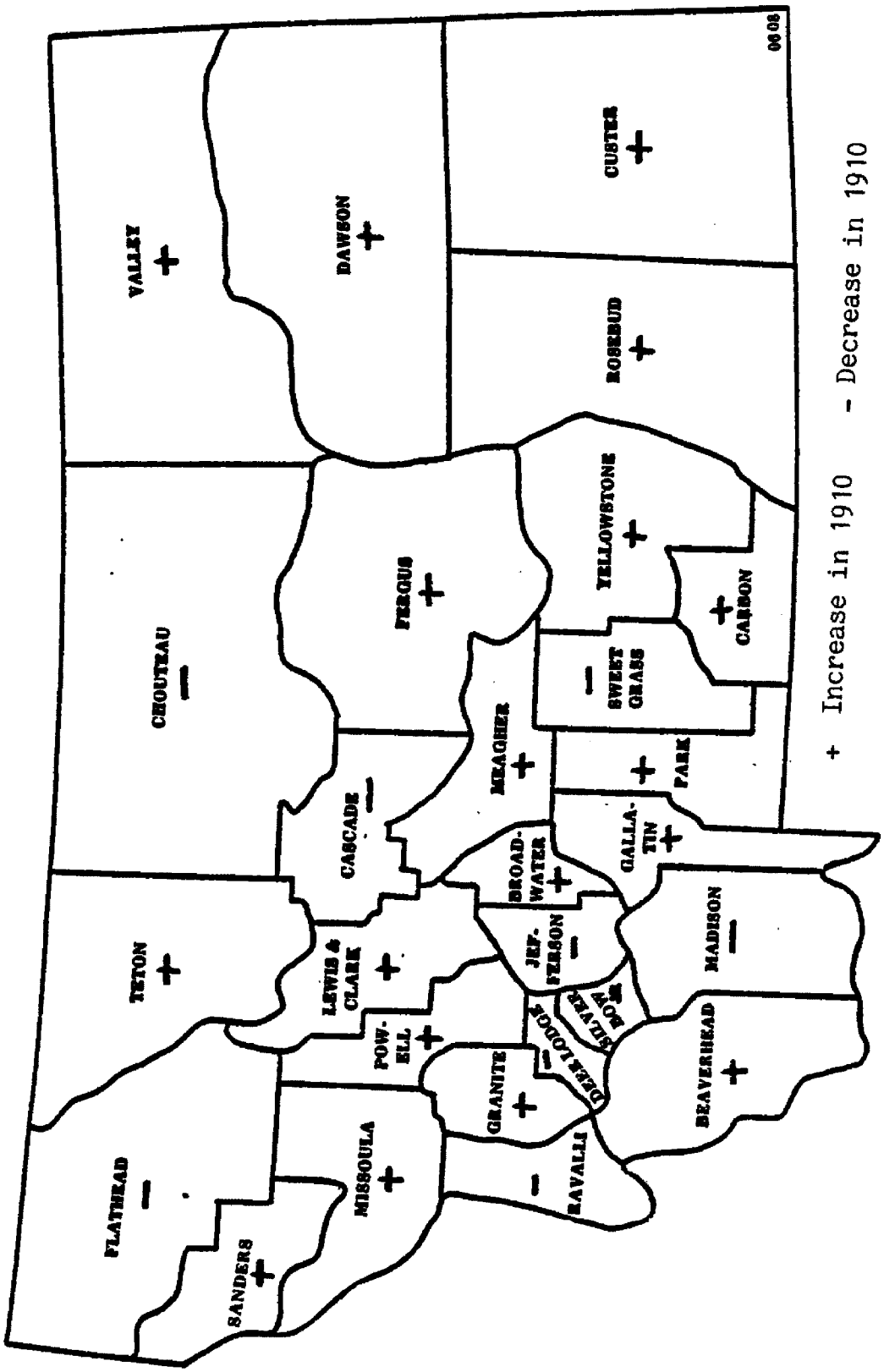
MAP 3:1 CHINESE POPULATION BY COUNTY, 1910 ± 1900



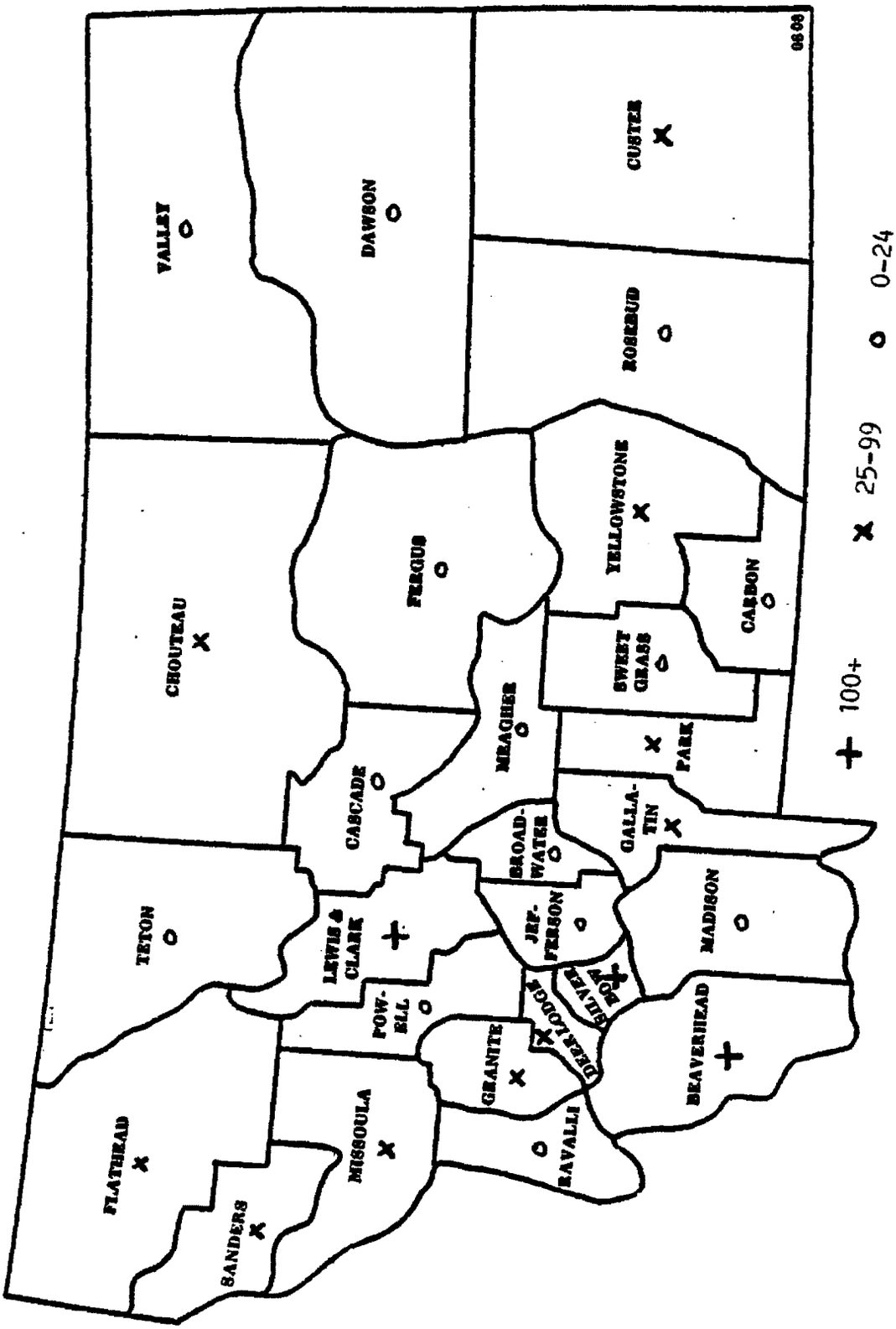
MAP 3:2 JAPANESE POPULATION BY COUNTY, 1910 ± 1900



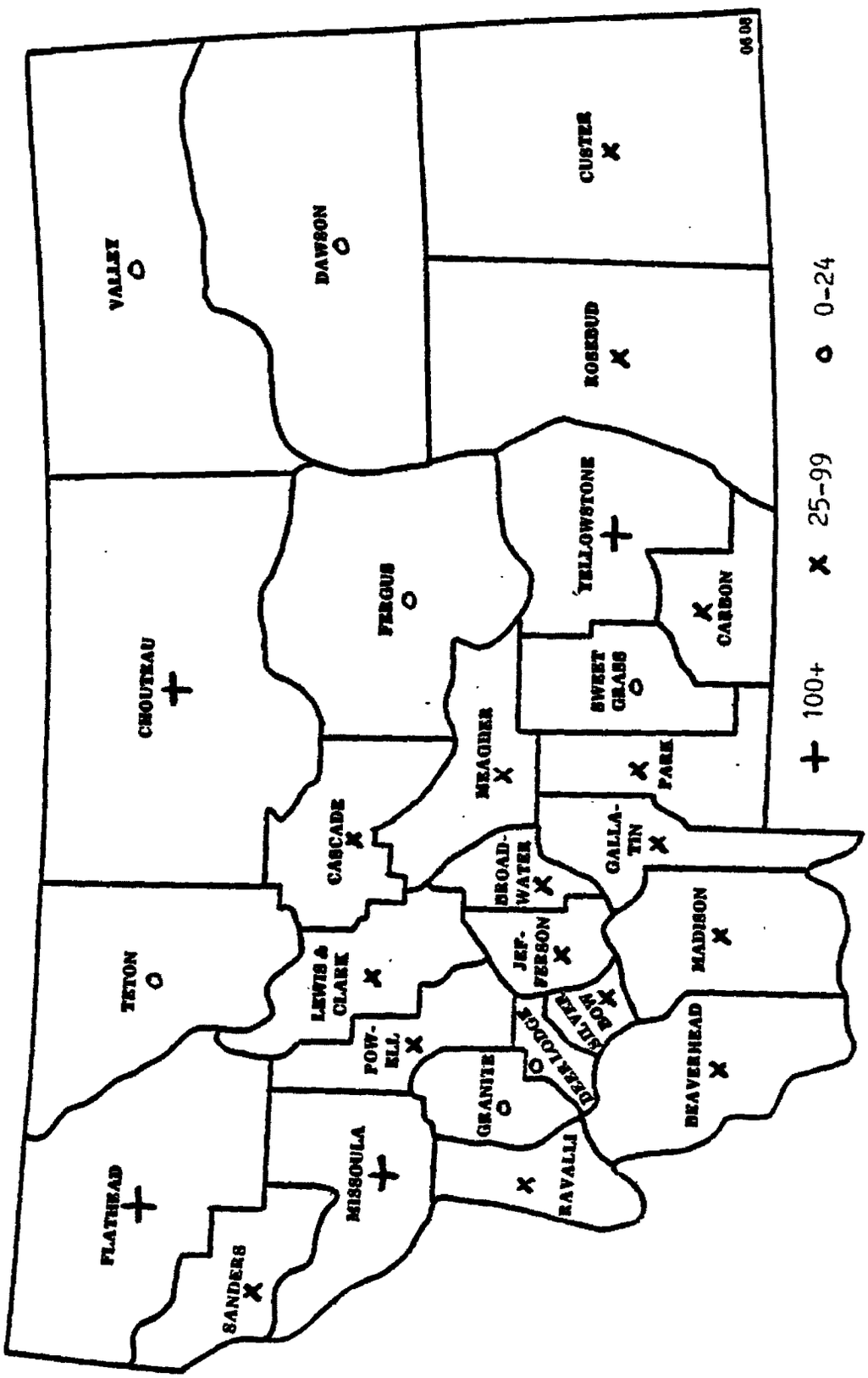
MAP 3:3 NEGRO POPULATION BY COUNTY, 1910 ± 1900



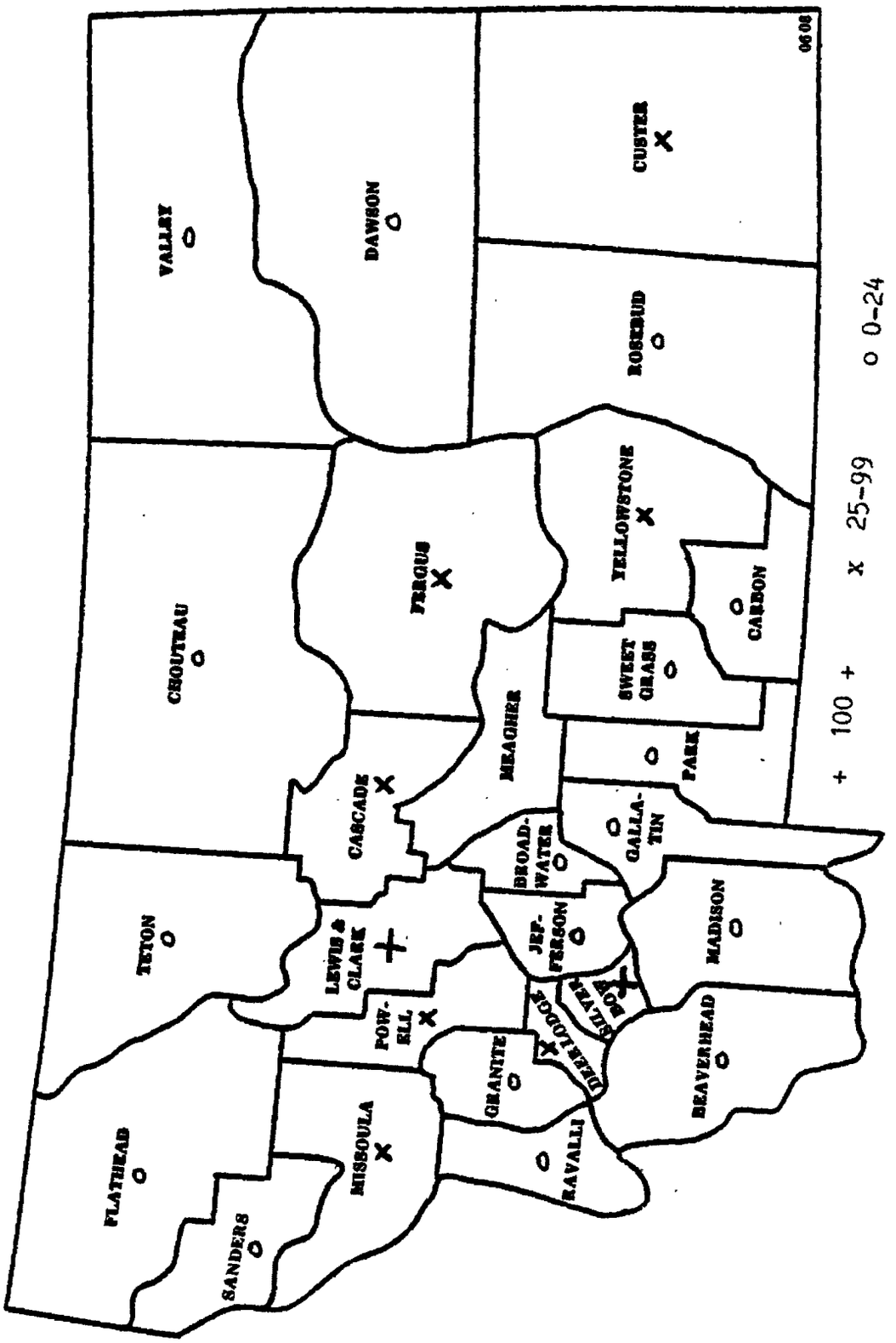
MAP 3:4 DISTRIBUTION OF CHINESE BY COUNTY, 1910



MAP 3:5 DISTRIBUTION OF JAPANESE BY COUNTY, 1910



MAP 3:6 DISTRIBUTION OF NEGROES BY COUNTY, 1910



0-24. The data invite comparison with percentages of total population displayed in Table 3:1.

Maps 3:7 and 3:8 show Senate and House votes for, against and not voting on final adoption of the miscegenation statute, by county. Maps 3:9 and 3:10 furnish detail of partisan distribution of vote on final passage for each county.

Examination of the final Senate vote (17 aye, 6 no, 4 not voting) in relation to Maps 3:4, 3:5 and 3:6 (Number of Chinese, Japanese and negroes in each county, 1910) revealed the following:

Chinese: 9 of 17 favorable votes, 2 of 6 negative votes and 2 of 4 not voting, from counties with 25+ Chinese:

Aye: Custer (R), Deer Lodge (D), Gallatin (D), Lewis & Clark (R), Missoula (R), Park (R), Sanders (R), Silver Bow (D), Yellowstone (R) (9 of 17).

No: Beaverhead (R), Chouteau (R) (2 of 6).

Not Voting: Flathead (D), Granite (R) (2 of 4).

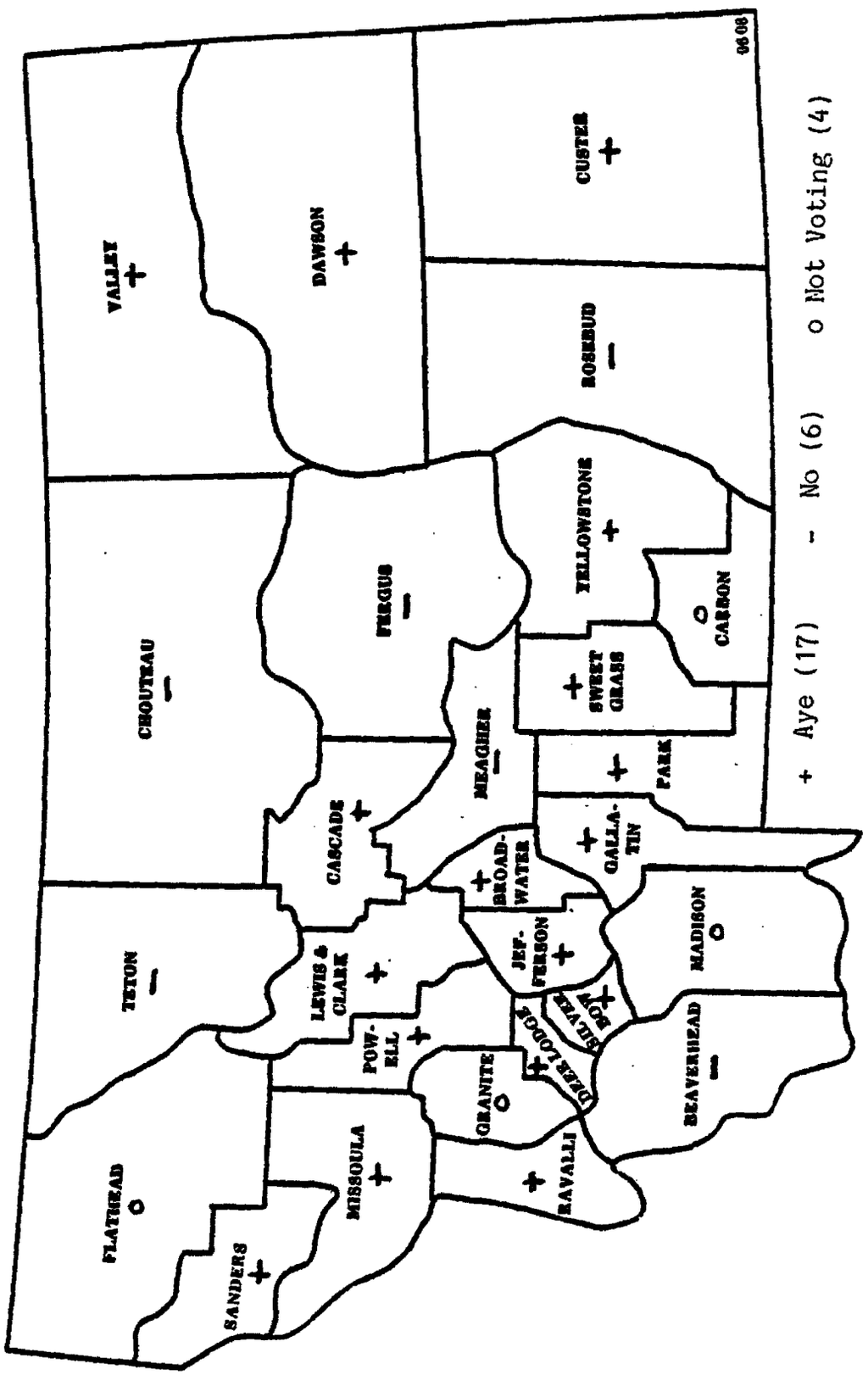
Japanese: 13 of 17 favorable votes, 4 of 6 negative votes, 3 of 4 not voting, from counties with 25+ Japanese:

Aye: Broadwater (D), Cascade (R), Custer (R), Gallatin (D), Jefferson (D), Missoule (R), Lewis & Clark (R), Park (D), Powell (D), Ravalli (D), Sanders (R), Silver Bow (D), Yellowstone (R) (13 of 17).

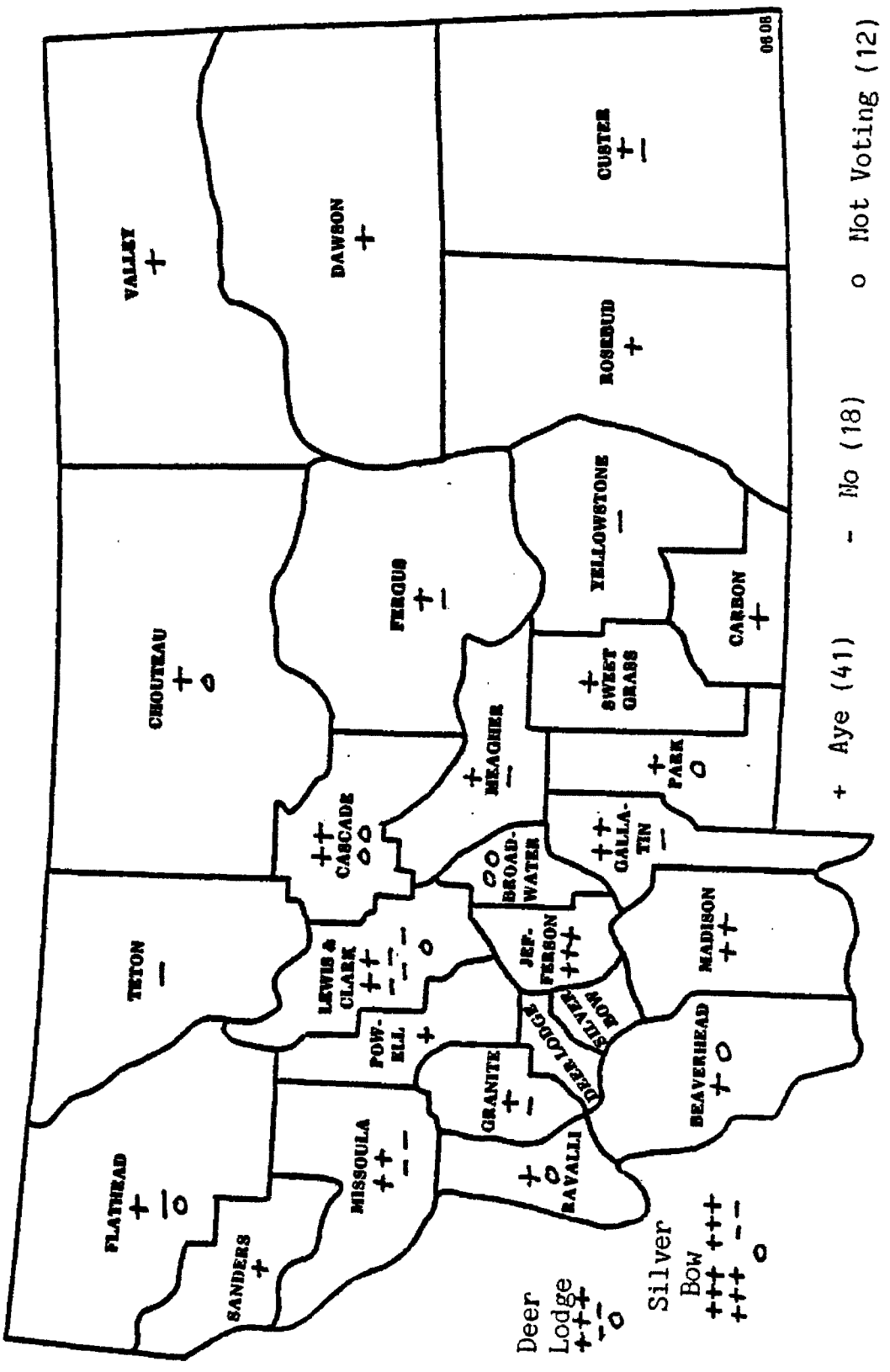
No: Beaverhead (R), Chouteau (R), Meagher (R), Rosebud (R) (4 of 6).

No Vote: Carbon (R), Flathead (R), Madison (R) (3 of 4).

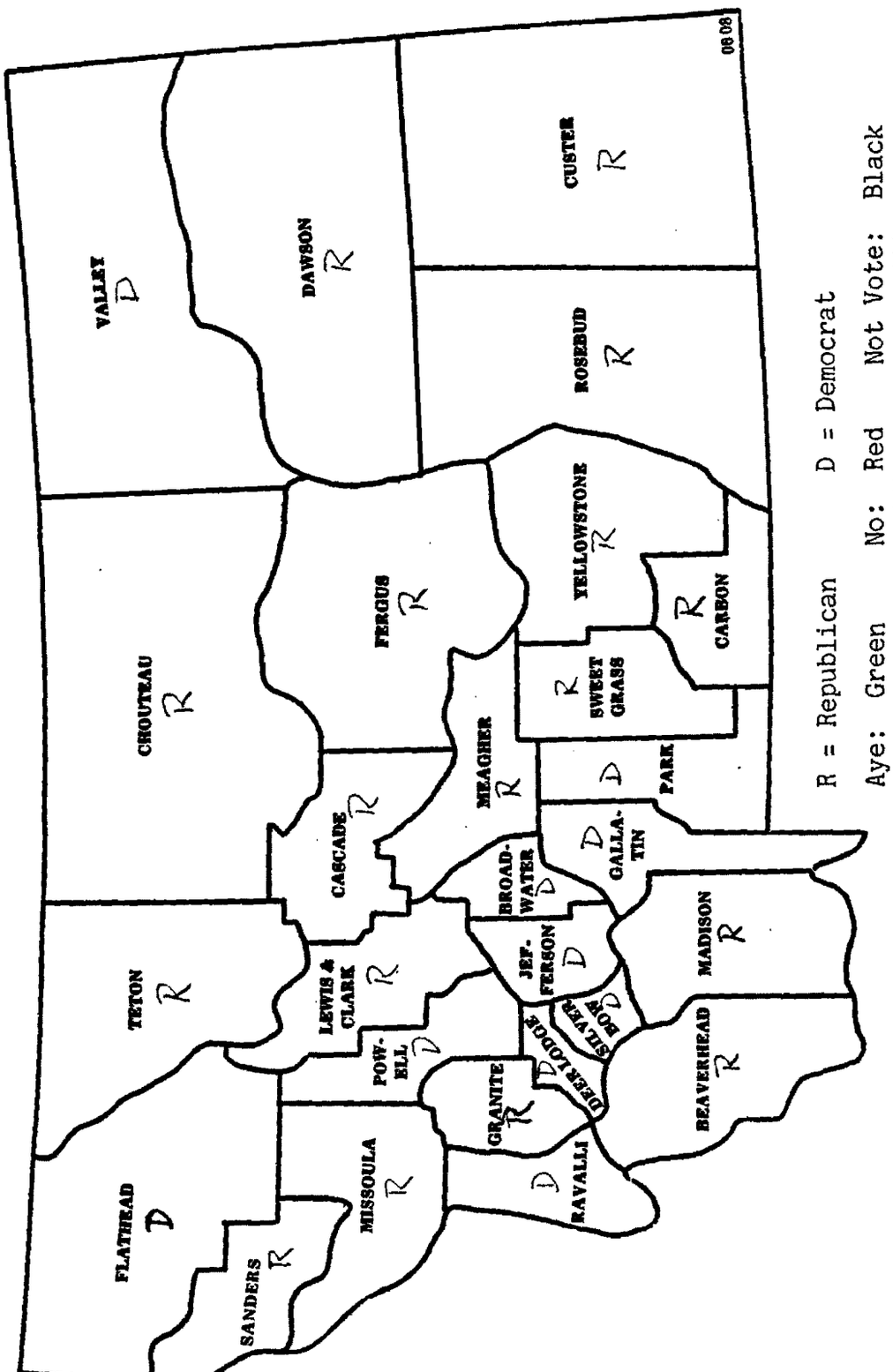
MAP 3:7 SENATE FINAL ADOPTION OF MISCEGENATION STATUTE



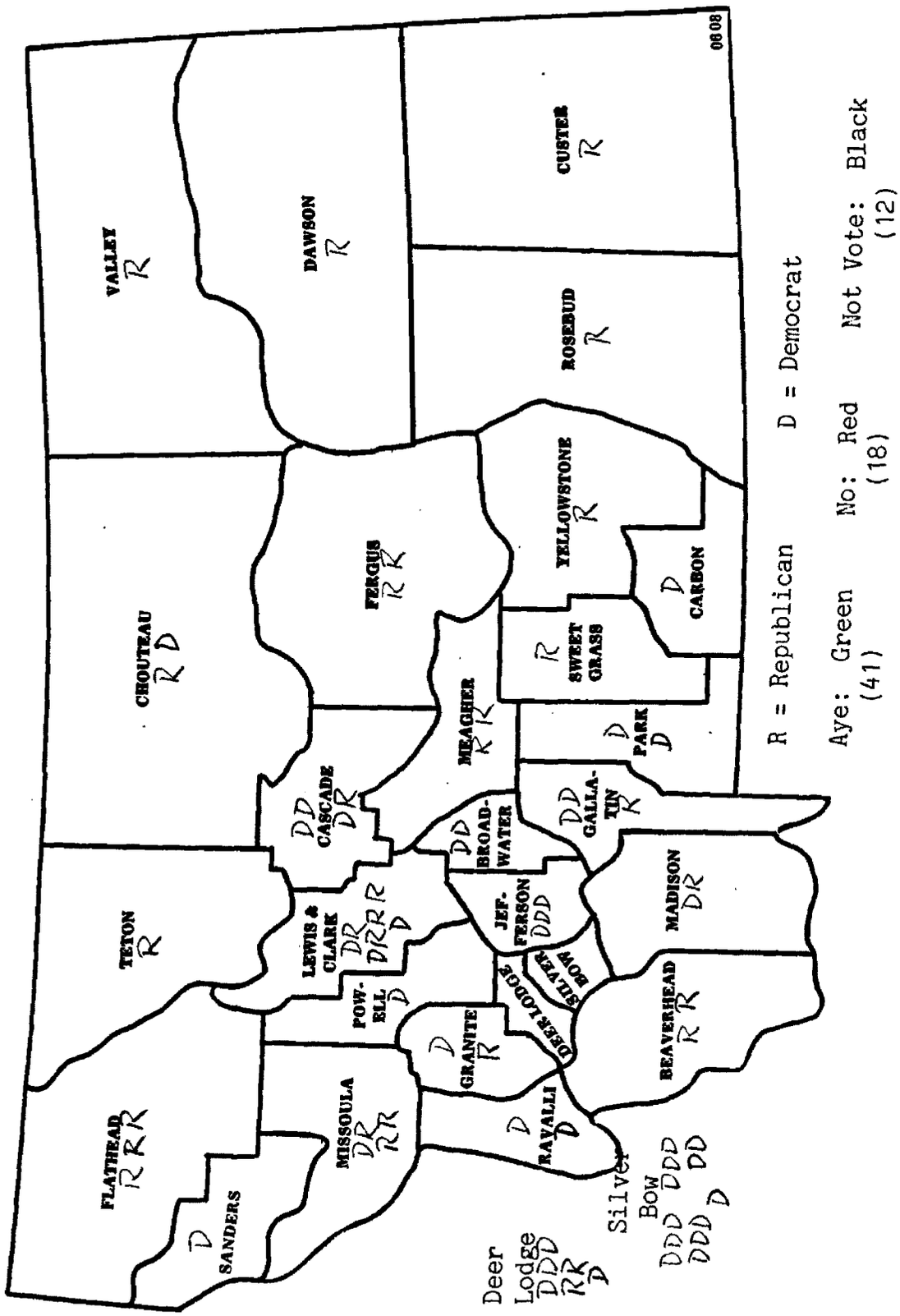
MAP 3:8 HOUSE FINAL ADOPTION OF MISCEGENATION STATUTE



MAP 3:9 SENATE FINAL ADOPTION OF MISCEGENATION STATUTE
VOTES BY PARTY



MAP 3:10 HOUSE FINAL ADOPTION OF MISCEGENATION STATUTE
VOTES BY PARTY



Negroes: 8 of 17 favorable votes, 1 of 6 negative votes, none not voting, from counties with 25+ negroes:

Aye: Cascade (R), Custer (R), Deer Lodge (D), Lewis & Clark (R), Missoula (R), Powell (D), Silver Bow (D), Yellowstone (R) (8 of 17).

No: Fergus (R) (1 of 6).

Not Voting: None.

Conclusion: Correlation of support for the measure was strongest in relation to counties having substantial numbers of Japanese.

A similar pattern was apparent in the House vote on final passage (41 aye, 18 no, 12 not voting) derived from examination of Maps 3:4, 3:5 and 3:6 (number of Chinese, Japanese and negroes in each county, 1910).

Chinese: 25 of 41 favorable votes, 14 of 18 negative votes, 5 of 12 not voting, in counties with 25+ Chinese in 1910:

Aye: Beaverhead (R), Chouteau (R), Custer (R), Deer Lodge (DDD), Flathead (R), Gallatin (DD), Granite (D), Lewis & Clark (DR), Missoula (DR), Park (D), Sanders (D), Silver Bow (DDD DDD DDD) (25 of 41).

No: Flathead (R), Gallatin (R), Granite (R), Deer Lodge (RR), Lewis & Clark (DRRR), Missoula (RR), Silver Bow (DD), Yellowstone (R) (14 of 18).

Not Voting: Chouteau (D), Deer Lodge (D), Flathead (R), Park (D), Silver Bow (D) (5 of 12).

Japanese: 33 of 41 favorable votes, 11 of 18 negative votes, 11 of 12 not voting, in counties with 25+ Japanese in 1910:

Aye: Beaverhead (R), Carbon (D), Cascade (DD), Chouteau (R), Custer (R), Flathead (R), Gallatin (DD), Jefferson (DDD), Lewis & Clark (DR), Madison (DR), Meagher (R), Missoula (DR), Park (D), Powell (D), Ravalli (D), Rosebud (R), Sanders (D), Silver Bow (DDD DDD DDD) (33 of 41).

No: Flathead (R), Meagher (R), Lewis & Clark (DRRR), Missoula (RR), Silver Bow (DD), Yellowstone (R) (11 of 18).

Not Voting: Beaverhead (R), Broadwater (DD), Cascade (DR), Chouteau (D), Flathead (R), Lewis & Clark (D), Park (D), Ravalli (D), Silver Bow (D) (11 of 12).

In general it is apparent that support for the miscegenation statute was strong in regions where racial minorities were historically present, and in those counties where their migration was sufficient to invite attention. The comparatively recent influx of Japanese laborers seems to have been provocative. But some of the strongest opposition also came from such areas, and the alignment was evidently influenced by partisan affiliation, and perhaps by economic interest.

Partisan Support (Tables 3:1, 3:2)

To the extent that partisan affiliation might have influenced support for the miscegenation statute, the situation was complicated by a division of partisan control between the two chambers -- not an uncommon situation in Montana. Republicans held a substantial (17-10) balance of control in the Senate while Democrats had a narrower five-vote margin (38-33) of control in the House.

Sponsored by a Democrat senator, the miscegenation statute had strong Democratic support in both chambers at all stages (Table 3:1, data for All Roll Call Votes), but it was finally enacted only with support of a minority of Republicans in each chamber (Table 3:1, Final Vote to Enact). The cross-over vote among parties invites special attention.

Needing 14 votes for a majority in the Senate, nine of the 10 Senate Democrats supported final adoption, joined by eight of the 17 Senate Republicans. Except for Thomas Long (D., Flathead) the 10 Senate Democrats seemed never in doubt about support of the measure.

A firm core of six Republican senators consistently opposed the measure: Cowgill (Teton, rancher); Edwards (Rosebud, banker); Everett (Chouteau, farmer-rancher); Meyer (Carbon, attorney); Rae (Fergus, mining, business); Selway (Beaverhead, stockman). Everett sought twice to sidetrack the measure to the Senate judiciary committee and along with Edwards and Selway, cast four negative votes on the measure. Cowgill and Rae opposed the measure after

TABLE 3:2

SUPPORT FOR THE MISCEGENATION STATUTE, BY POLITICAL PARTY

(Number of Votes)

	SENATE: 27	HOUSE: 71	TOTAL: 98	PERCENT
ALL ROLL CALL VOTES				
Democrats				
3/4 +	9	24	33	68.7
3/4 -	-	2	2	4.2
2/2	1	5	6	12.5
3/4 o	-	7	7	14.6
Total	10	38	48	100.0
Republicans				
3/4 +	4	6	10	20.0
3/4 -	6	17	23	46.0
2/2	7	9	16	32.0
3/4 o	-	1	1	2.0
Total	17	33	50	100.0
FINAL VOTE TO ENACT				
Democrats				
+	9	27	36	75.0
-	-	2	2	4.2
o	1	9	10	20.8
Total	10	38	48	100.0
Republicans				
+	8	14	22	44.0
-	6	16	22	44.0
o	3	3	6	12.0
Total	17	33	50	100.0

TABLE 3:3

SUPPORT FOR THE MISCEGENATION STATUTE, BY POLITICAL PARTY

(Percentage of Votes)

	SENATE	HOUSE	TOTAL
ALL ROLL CALL VOTES			
Democrats			
3/4 +	90.0	63.2	68.7
3/4 -	--	5.3	4.2
2/2	10.0	13.2	12.5
3/4 o	--	18.4	14.6
Total	100.0	100.0	100.0
Republicans			
3.4 +	23.5	18.2	20.0
3/4 -	35.3	51.5	46.0
2/2	41.2	27.3	32.0
3/4 o	--	3.0	2.0
Total	100.0	100.0	100.0
FINAL VOTE TO ENACT			
Democrats			
+	90.0	71.1	75.0
-	--	5.2	4.2
o	10.0	23.7	20.8
Total	100.0	100.0	100.0
Republicans			
+	47.1	42.4	44.0
-	35.3	48.4	44.0
0	17.6	9.1	12.0
Total	100.0	100.0	100.0

the first procedural vote; Meyer opposed it in the first three votes but did not vote on final passage.

In 1900 there were 628 Japanese in Everett's county, 89 in Selway's county, 68 in Cowgill's county and 26 in Meyer's county, accounting for a third of all the Japanese in the state in that year. By 1910 there were 281 Japanese in these counties, only 18 percent of the smaller total of Japanese in the state in that year.

All of these opponents except Meyer represented agricultural counties where entrepreneurial interests might wish to employ Japanese labor. In Meyer's county coal mining was a primary activity and he, an attorney, might have responded to a similar managerial interest.

The eight Republican senators who supported passage of the measure were Annin (Yellowstone, merchant); Donlan (Missoula, lumberman), Fairbanks (Sanders, stationary engineer), Kessler (Lewis & Clarke, brewer), McCone (Dawson, rancher), McDonnell (Sweet Grass, stockman), Sanders (Cascade, railroad management), Sykes (Custer, stockman).

In 1900 there were 398 Japanese in Missoula County, 45 in Lewis & Clarke and 24 in Cascade; in 1910 there were 251 Japanese in Missoula County, 148 in Yellowstone (Billings), 84 in Cascade (Great Falls) and a dozen to two dozen in the other counties represented by this group of Republicans. Annin, Donlan, Kessler and Sanders represented urban entrepreneurial interests for which employment of Japanese would not be an immediately apparent

interest; three others were central or eastern county ranchers in areas that seem never to have attracted substantial numbers of Japanese.

Needing 36 votes for a majority in the House, Democratic representatives provided 27; 14 Republicans joined them to give the measure a comfortable majority. The fourteen House Republicans who supported the final adoption of the measure were: Arnett (Valley, farmer-stockman); Bogart (Missoula, miner); Brewster (Rosebud, stockman); Coit (Sweet Grass, rancher-stockman); Cummings (Chouteau, stockman); Duncan (Madison, attorney); Edgerton (Lewis & Clarke, miner); Hunter (Custer, stockman); Hutchinson (Flathead, lumberman); Maxwell (Dawson, railroad conductor) Metzel (Madison, stockman); Murray (Beaverhead, real estate); Smith (Fergus, physician); Wood (Meagher, banker). They represented counties that had 34 percent of the state's Japanese and 5 percent of the Chinese in 1900; 53 percent of the Japanese and 49 percent of the Chinese in 1910.

Democratic opposition to the measure was decidedly limited. The sole Democratic senator to oppose the measure, Thomas Long (Flathead, attorney) favored the measure in the first two votes, then did not vote in the last two votes including final passage. In the House only two Democrats opposed final passage: Thomas Kilgallon (Silver Bow, mine superintendent) and W. W. McDowell (Silver Bow), a college-trained "miner" who subsequently served two terms as lieutenant governor (1912-1920) and was defeated as

Democratic candidate for governor in 1920.

Silver Bow County had relatively few Japanese but a substantial contingent of Chinese; Flathead County, as noted, had a substantial contingent of Japanese in an essentially agricultural county. Conceivably these Democrats saw the issue from the standpoint of entrepreneurs who might wish to employ Japanese labor.

Occupational Groups (Tables 3:4, 3:5)

Resentment of competition by "cheap" Chinese and Japanese labor was manifest in campaigns of western states to restrict the supply of such workers. This of course compounded concern over miscegenation which became a focal issue in tension between white majorities and minorities of other races.

To explore the possible influence of job concerns on the legislators they were aggregated by listed occupation into one of four categories:

Professions: law, medicine, clergy

Entrepreneurial: merchants, bankers, newspapermen, real estate

Agricultural: farmers, ranchers, stockmen

Trades, Labor, Miscellaneous

Classification was relatively easy for the first three categories, but much less certain for the fourth group of trades and labor. Clearly several members from industrial communities listed comparatively modest job definitions that did not accord easily with legislative service. Moreover it assumes a great deal to suppose that all attorneys or merchants would perceive the same sort of interest in a particular piece of legislation.

For what they were worth, the occupational categories produced the distribution of votes displayed in Table 3:4 and 3:5.

It warrants observation that the proportion of professionals and of those associated with industrial employment was

TABLE 3:4

SUPPORT FOR THE MISCEGENATION STATUTE, BY OCCUPATIONAL GROUPS

	SENATE	HOUSE	TOTAL	PERCENT
Professions: 17.3% of Total				
Democrats 12, Republicans 5				
3/4 +	2	5	7	41.2
3/4 -	1	3	4	23.5
2/2	1	2	3	17.6
3/4 o	-	3	3	17.6
Total	4	13	17	99.9
Entrepreneurs: 29.6% of Total				
Democrats 12, Republicans 7				
3/4 +	4	5	9	31.0
3/4 -	1	8	9	31.0
2/2	3	5	8	27.6
3/4 o	-	3	3	10.3
Total	8	21	29	99.9
Agriculture: 21.4% of total				
Democrats 5, Republicans 16				
3/4 +	3	5	8	38.1
3/4 -	3	3	6	28.6
2/2	3	4	7	33.3
3/4 o	-	-	-	--
Total	9	12	21	100.0
Trades, Labor, Misc: 31.6% of total				
Democrats 19, Republicans 12				
3/4 +	4	15	19	61.3
3/4 -	1	5	6	19.4
2/2	1	3	4	12.9
3/4 o	-	2	2	6.4
Total	6	25	31	100.0

TABLE 3:5

OCCUPATIONAL SUPPORT FOR MISCEGENATION STATUTE, FINAL PASSAGE

	Senate: 27	House: 71	Total: 98	Percent
Professions: 17.3% of Total				
+	2	7	9	52.9
-	-	1	1	5.9
o	2	5	7	41.2
Total	4	13	17	100.0
Entrepreneurs: 29.6% of total				
+	5	9	14	48.3
-	2	8	10	34.5
o	1	4	5	17.2
Total	8	21	29	100.0
Agriculture: 21.4% of total				
+	5	7	12	57.1
-	3	3	6	28.6
o	1	2	3	4.3
Total	9	12	21	100.0
Trades, Labor, Misc: 31.6% of total				
+	5	18	23	74.2
-	1	6	7	22.6
o	-	1	1	3.2
Total	6	25	31	100.0

substantially higher in the first decades of the century than in subsequent legislatures.[33]

On the basis of all four roll calls in each chamber:

Entrepreneurs were least favorably disposed to the measure (31%), cast the largest negative vote (31%) and had the greatest difficulty with the issue (37.9% split their vote or did not vote).

Agriculturalists were not favorably disposed (38.1%), cast a substantial negative vote (28.6%) and also had substantial difficulty with the issue (33.3% split vote or no vote).

Professionals were somewhat more favorably disposed (41.2%), cast fewer negative votes (23.5%) but also had substantial difficulty with the issue (35.2% split vote or no vote). Among the professionals, attorneys were more closely examined. Only one-third (4 of 12) favored the legislation while one-half (6 of 12) split their votes and one-third of them abstained from at least three of the four votes. The one clergyman, an episcopal minister, voted against the measure on the first substantive vote, then abstained on subsequent votes. Three of the four physicians strongly favored the measure and the fourth opposed it until the final vote.

Tradesmen and labor delegates strongly supported the measure (61.3%), had the least problems with it (19.3% split or no vote) and cast the fewest votes in opposition (19.4%).

Positions among the occupational groups were comparable on the

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[33]Waldron, Montana Legislators 1864-1979: Profiles and Biographical Directory (1980), 6.

final dispositive vote (Table 3:5).

Professionals: a slender majority (52.9% favored the measure but two-fifths (41.2%) did not vote. Among the 12 attorneys, five favored passage, one opposed it and six (50%) did not vote.

Entrepreneurs withheld support; only 48.3% voted for the measure, a strong third (34.5%) opposed it and almost a fifth (17.2%) did not vote.

Agriculturists resolved earlier doubts and supported the measure by a 57% majority of their number. Fewer than a third (28.6%) opposed final passage and only three of 21 did not vote, compared to a third who split their vote or did not vote in the entire series of four votes.

Trades and Labor members gave strong, probably dispositive support, favoring the measure three-to-one (74.2%). Fewer than a fourth of their number opposed it (22.6%) and only one member did not vote on final passage.

Comprising nearly a third of the entire membership of the legislature, this strong support among trades and labor members manifestly was a significant factor in adoption of the miscegenation statute.

Highest Level of Education (Table 3:6)

The distribution of vote by highest level of education reflected rather closely the pattern found among occupational groups.

Among those with some college education one-third (9 of 27) supported the measure most of the time, one-third opposed it most of the time, and one-third either split their vote or did not vote. On vote for final passage, two-fifths (11) with college education supported the measure, one-third (9) did not vote and one in four (7) opposed passage.

Among those with High School or Trade School education (5 total) two supported final passage, two opposed passage and one did not vote.

Among those with common or elementary school education more than half (54%) supported the measure most of the time while only 15 percent opposed it most of the time. Almost a third (31%) split their vote or did not vote. On final passage more than two-thirds (69%) favored passage; not quite a fourth (23%) opposed it and only one (8%) did not vote.

TABLE 3:6

SUPPORT FOR THE MISCEGENATION STATUTE, BY EDUCATIONAL LEVEL

	SOME COLLEGE	HIGH SCHOOL	COMMON, ELEMENTARY
		(Number of Votes)	
		ALL ROLL CALL VOTES	
3/4 +	9	1	7
3/4 -	9	2	2
2/2	4	-	1
3/4 o	5	2	3
Total	27	5	13
		FINAL VOTE TO ENACT	
+	11	2	9
-	7	2	3
o	9	1	1
Total	27	5	13
		(Percentage of Votes)	
		ALL ROLL CALL VOTES	
3/4 +	33.3	20.0	53.9
3/4 -	33.3	40.0	15.4
2/2	14.8	--	7.7
3/4 o	18.5	40.0	23.1
Total	99.9	100.0	100.1
		FINAL VOTE TO ENACT	
+	40.7	40.0	69.2
-	25.9	40.0	23.1
o	33.3	20.0	7.7
Total	99.9	100.0	100.0

Fraternal Affiliation (Table 3:7)

Approximately half of the legislators -- 47 of 98 -- reported affiliation with Masonic lodges, the most prestigious among American fraternal organizations. About two-fifths of the Masons supported the miscegenation statute but an almost equal number opposed it and one in four either split his vote or abstained. Presumably no Roman Catholics were among this group.

A third of the legislators -- 34 of 98 -- reported affiliation with the somewhat less prestigious Benevolent Protective Order of Elks, which does not exclude Roman Catholics. One-half of the Elks also had Masonic affiliation. Among the members of the Elks brotherhood, 44 percent supported the measure, only 26.5 percent opposed it and 29.4 percent abstained.

Fourteen legislators reported affiliation with the less prestigious International Order of Odd Fellows (IOOF). Six of this number also reported Masonic affiliation. Among the Odd Fellows, 57.5 percent supported the statute while only 7.1 percent opposed it.

Reported memberships in other lodges were too few to support meaningful statistical interpretation.

TABLE 3:7

SUPPORT FOR THE MISCEGENATION STATUTE, BY FRATERNAL AFFILIATION

	SENATE	HOUSE	TOTAL	PERCENT
MASONIC (AFAM, Shrine): 47				
3/4 +	7	11	18	38.3
3/4 -	3	14	17	36.2
2/2	2	4	6	12.8
3/4 o	-	6	6	12.8
Total	12	35	47	100.1
ELKS (BPOE) (17 also Masonic)				
3/4 +	6	9	15	44.1
3/4 -	4	5	9	26.5
2/2	3	1	4	11.8
3/4 o	-	6	6	17.7
Total	13	21	34	100.0
ODD FELLOWS (IOOF) (6 also Masonic)				
3/4 +	2	6	8	57.1
3/4 -	-	1	1	7.1
2/2	2	-	2	14.2
3/4 o	1	2	3	21.4
Total	5	9	14	99.8

Religion

Among members reporting religious affiliation, only the 17 Roman Catholics showed any strong disposition as a group; ten of them supported the measure, six split their votes or abstained and only two opposed it in at least three of the four votes. On final passage, 13 of the 17 Roman Catholics supported the measure, two opposed it and two abstained. The 13 Catholics supporting the measure on final passage included only one Republican.

Birthplace

About one-half (48 of 98) members of the 1909 legislature had been born in the 1860s, one-fourth (25) before 1860 and one-fourth (25) after 1869. They were mostly descendants of parents who had been caught in that disastrous sectional conflict, rich in racial complexities. If values and preconceptions associated with the Civil War influenced voting on a racial issue such as miscegenation, a tabulation of final vote on the measure by birthplace of the legislators dispels any easy preconceptions:

TABLE 3:8

SUPPORT FOR THE MISCEGENATION STATUTE, BY BIRTHPLACE

Region of Birth	Number	Vote on Final Enactment For	Against	Not Voting
New England	5	3	2	-
Mid Atlantic	15	9	4	2
E North Central	27	16	6	5
W North Central	10	5	5	-
Border	3	1	1	1
South	2	1	-	1
West	15	8	2	5
Canada	9	6	2	1
Europe	11	9	2	-
Not Reported	1	1	-	-
	98	59	24	15

More than half of the members (57) were from New England, Middle Atlantic and North Central states. They favored the legislation 33-17 with seven not voting.

Nine Canadians voted 6-2 in favor, one not voting.

Only five legislators were born in Border and Southern states and they voted 2-1 for the measure with two not voting.

Europeans as a group gave strongest support to the measure, 9-2 with none not voting. Six of these were Ireland-born and they unanimously favored adoption. Four of the six were Democrats.

Perhaps the most interesting group were the Montana-born: four favored passage, one (a Republican) opposed it, and four (all Democrats) did not vote.

Analysis Summarized

The analysis of support and opposition to the miscegenation statute suggests both the strengths and weaknesses of roll-call analysis as a mode of interpretation. Individual motives cannot be assessed, but a population of 100 voters was sufficiently large to yield possibly significant statistical distributions. The fact that each chamber recorded its vote four times, not just once, allowed some assessment of individual difficulties and changes of position on the merits of the measure as it moved through the legislative process.

Support for the measure was strongest among representatives whose constituents included black or oriental minorities, and particularly among those whose counties had recently received substantial numbers of Japanese males. Yet the most determined opposition was by a small group of Republicans representing counties that had received a third of all the recent Japanese migrants.

Democrats furnished the basic framework of support but the measure was finally enacted only with support by a minority of the Republicans.

Social status as reflected in occupation, level of educational attainment and fraternal affiliation seems to have been a factor. Representatives of trades and labor constituents who might be most directly competitive with racial minorities for jobs provided most of the support for the measure. Legislators whose primary occupation was in agriculture or the professions were, as

groups, divided; representatives in entrepreneurial positions opposed the measure. Whether that represented an interest in possible employment of "cheap labor" can only be presumed.

To the extent that level of educational achievement might represent class status, legislators with common school education gave a decisive 69 percent support for the measure while neither the college-trained nor the high-school educated gave majority support on final passage.

What seems to emerge from the analysis is the not very surprising conclusion that familiar class and economic associations of Republicans with more affluent professional and entrepreneurial functions and Democrats with urban wage-labor constituencies were the principal elements in decision, probably reinforced by post-Reconstruction partisan positions respecting the position of negroes in the society -- Republicans as erstwhile "champions" of the negro and Democrats opposed -- an alignment in turn deeply rooted in the regional histories of American political parties.

A survey of several conventional histories of Montana for insights into the Japanese migration yielded nothing. Their presence in the state was ignored, probably because their number declined almost as precipitately as it increased. By 1920 there were fewer than 2,000 Japanese and Chinese in the state, representing about a third of one percent of the state's population.

Public Response to the Statute

Editorial comment in the daily press generally approved enactment of the miscegenation statute, although the matter had received modest coverage. Only a small black press gave the matter front-page attention.

The Billings Gazette (February 19, 1909) remarked:

> There is no sort of use for worrying about the effect upon the quality of our manhood. . . . any man who would marry a woman from an alien race is so far down the scale that nothing in particular can hurt him, either morally or physically.

The Helena Independent (February 17, 1909) took a more moderate position, agreeing with Representative George Pierson (D., Carbon) that the measure was not presently needed but that it might be desirable "before the harm was done."

The Butte Miner (February 17, 1909) approved:

> As a matter of fact, intermarriages between whites and negroes are a bad thing and have been condemned by advanced colored men as well as by intelligent white citizens.
>
> Many colored leaders have held that the members of their race should have pride in their color and should oppose mixed marriages as strongly as the whites do.

The Montana Plaindealer, a black newspaper briefly published in Helena, greeted the enactment with headlines on February 12, 1909: THE MONTANA SENATE PASSES THE MUFFLEY JIM CROW BILL; and called SENATOR MUFFLEY, THE BEN TILLMAN OF THE NORTHWEST.

Several expressions of black reaction to the legislation were reported in columns of the Plaindealer:

> The above tells the story of the fate of Montana's first Jim Crow bill in the Senate...the result was a keen disappointment to our people, who object to being singled out for special legislation; and what a surprise when the Republicans dealt the blow; going squarely back on one of the planks of their platform in the last campaign. Of course, we were not deserted, as Senator Everett should be given credit for the stand and fight that he made against the passage of this Ben Tillman and Vardaman measure in Montana...
>
> ***
>
> Senator Muffley of Broadwater County, who with the assistance of Senator Long, another unregenerate Democratic fire eater...floundered around until he got his Jim Crow Bill through a committee...and...hoodwinked four Republicans into voting for the measure, and it passed...It is only unfortunate that here in progressive Montana his ilk as a statesman could receive recognition, and that the antiquated methods of the South should prevail in this section.[34]

Seven months earlier, the Plaindealer had exulted, NO JIM CROW FOR MONTANA when the state supreme court struck down an attempt to prevent members of a Colored Elks lodge from wearing the insignia of the Benevolent Protective Order of Elks:

> In a decision by the Supreme Court last week, it was decided that the law placed on the Montana Statutes to prohibit Colored Elks from wearing the insignia of their order in this State was unconstitutional and void...it was a foregone conclusion that when this case was submitted to them (the Supreme Court) that it would receive exact justice at their hands and that the veneer of prejudice would be thrown aside...The Supreme Court of this State (has) shown that the JIM CROW law has no standing before that tribunal and that the 14th Amendment is as good as any other amendment to our constitution which applies to all regardless of race, creed or previous conditions of servitude. In a republican jurist JIM CROWISM has a rocky road to travel...[35]

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[34] February 12, 1909.

[35] July 31, 1908, commenting on decision of State v. Holland, 37 Mont. 393, 96 Pacific Reporter 719 (1908).

The Plaindealer had greeted results of the 1908 general election in Montana with some enthusiasm:

> The Afro-American can give thanks that Jim Crowism and disfranchisement received a set back as a result of the last general election.[36]

But the election was short-lived. In the wake of enactment of the miscegenation statute it observed that "Montana has joined the Jim Crow Colony alongside of Mississippi, South Carolina, Texas and Arkansas. God help us."[37]

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[36] November 27, 1908.

[37] March 5, 1909.

Judicial Interpretation of the Statute: 1942

In 1942 interpretation of the miscegenous marriage statute of 1909 became the central question in an escheat action by the Flathead County public administrator to claim the estate of a Japanese merchant who had lived in Whitefish, Montana. He had married a white woman but there was no will leaving his estate to the family. Vivian Takahashi, the widow, counterfiled asking to be named administrator of the estate.

The trial court ruled that the miscegenous marriage statute made their marriage "null and void" and the Montana Supreme Court affirmed the ruling in a 3-1-1 decision.[38]

Takahashi had come to Montana in 1912 as an employe of the Great Northern Railroad, working continuously for the railroad until his death in 1941. In 1915 he married a white woman from Idaho, in Spokane, Washington; the couple returned to Montana and resided in Flathead County, evidently living nowhere else except for occasional trips to Seattle. But the marriage certificate stated Takahashi's permanent residence as Seattle.

Justice Anderson for the three-member majority of the supreme court defined Takahashi as a Montana resident despite evidence on the marriage certificate:

---

[38]In re Shun Takahashi's Estate, 113 Mont. 400, 129 Pac 2d 217 (1942).

> The history of [the couple's] residence in the state is complete for more than a quarter of a century, including the time of their marriage...the long continued residence...in the same place is material as proving the permanent nature of the residence there already at the time of the marriage.
>
> ...the only other possible evidence of his residence other than Montana was the certified copy of the marriage license showing that in making application he stated that his residence was Seattle...
>
> There was no evidence of Takahashi ever having lived in Seattle...actions speak louder than words...any [fleeting] intention they may have had of returning to Seattle could not have the effect of maintaining the residence there under the circumstances here shown.[39]

Vivian Takahashi had claimed that Takahashi continuously worked for the Oriental Trading Company which had headquarters in Seattle, and that he went where he was ordered.[40]

Having established that Takahashi was a resident of Montana, the validity of the marriage was held to be governed by the Montana law. Justice Anderson declared:

> ...[The] marriage between these two parties was absolutely prohibited. Neither time nor circumstance could remove the legal objection and obstacle thereto; nor could the marriage status afterword result from such cohabitation as followed. The marriage was void and ineffectual for any lawful purpose in this state. It is open to collateral attack in any proceeding wherein the question of its validity may be raised, whether before or after the death of either or both of the parties.

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[39] 113 Mont. 498.

[40] The Court noted that a check from the Oriental Trading Company to Takahashi was found among his effects at the time of his death. But there had been no explanation what the check was for. This, according to the court, did not prove Washington residence; therefore, there was no substantial evidence to show that Takahashi was not a resident of Montana.

> ...Inasmuch as [the] marriage was entirely null and void and must be treated as wholly non-existent in this state... [Vivian Takahashi] is without claim of right of administration. There were no children of the marriage, and... the only next of kin was a surviving brother of the deceased, living in Japan, the father referred to in the petition having died.
>
> The public administrator is, therefore, entitled to letters of administration. The order of the lower court is affirmed.[41]

Chief Justice Johnson and Associate Justice Erickson concurred with Justice Anderson; Justice Angstman took no part in the decision.

Chief Justice Morris dissented from the determination of residence:

> The residence or domicile of the marriage contracting parties--the vital question to be determined in this action--on the date of their marriage, May 18, 1905, at Spokane, Washington, must control our conclusions as to their residence.
>
> ...[The] written evidence [application for marriage license and certificate of marriage] combined with the testimony of Mrs. Takahashi is the best and practically the only evidence in the records as to the domicile or residence of the parties.
>
> ...[In Section 33, Revised Codes of Montana] residence can be changed "only by the union of act and intent."[42]

Justice Morris cited the ruling in the case of U.S. v. Knight[43] that:

> "An American citizen does not become a permanent resident of a foreign country by simply taking employment there with an American firm, however long his employment may continue."[43]

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[41] 113 Mont. 500.

[42] 113 Mont. 501.

[43] 299 F. 571, 573 (9th Circuit 1924).

Morris believed the converse applied to Takahashi:

> It appears that Takahashi was connected with the Oriental Trading Company of Seattle, Washington, and obviously continued in (their) employment...[at] the time of his death, as a check...apparently for wages, was in his possession and was listed among the assets in the inventory of his property. He had an absolute right to maintain his residence in the State of Washington for any length of time that he might desire, and there is no evidence in the record to show that he ever intended to relinquish his legal residence in that state.
>
> In order to keep within the statute, there must be shown... his intention to abandon his residence in the state of Washington...[o]ur statute prohibits marriage between a white person and a Japanese...but there is no such law in the state of Washington, and Takahashi and his wife... complied with every lawful requirement of the state of Washington when they entered into their contractual marriage relation, and under our statute we have no power to deny to Mrs. Takahashi all the rights, privileges, and immunities of that relation.
>
> ...The order of the trial court should be reversed and the Petition of Vivian Takahashi for the appointment of her nominee as administrator should be granted, in the absence of any other ground than that mentioned which could be advanced in opposition to his appointment.[44]

Justice Morris' dissent did not help Vivian Takahashi in 1942. But a decade later the Montana Legislative Assembly repealed the miscegenous marriage law by almost unanimous vote.

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[44] 129 Pac. 2d 224.

Repeal of the Miscegenous Marriage Statute: 1953

Early in the 1953 legislative session, Representatives John M. Schiltz (R., Yellowstone) and Scott Pfohl (R., Park) introduced House Bill 8 to repeal the miscegenation statute of 1909:[45]

The bill moved through the Committee on Public Health, Morals and Safety without recorded opposition and was unanimously approved, 81-0 by the House of Representatives on January 20, 1953.[46] The only recorded opposition to the measure came on final adoption in the Senate, where three veteran Republican senators voted against it: Kenneth Cole (Petroleum), Fred Padbury (Lewis & Clarke), and Fred L. Robinson (Phillips).[47] Governor Aronson signed the bill on February 2, 1953 and it became effective on that date.[48]

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[45]1953 H. J. 53. Schiltz, a 34-year-old native of Montana, attorney, Roman Catholic and veteran of World War II, was serving his second term in the legislature. Pfohl, 31-year-old native of North Dakota, ongregationalist, veteran of World War II, was also an attorney, serving his first term in the legislature.

[46]1953 H. J. 60-61.

[47]Cole, 41 years old, native of Maine who came to Montana in 1914, was a central Montana oil distributor, Methodist and had served five previous terms in the legislature. Padbury, 59 years old, native of Montana, Episcopalian and a pharmacist, has served eight previous terms in the legislature. Robinson, 64-year-old auto dealer, farmer and rancher, Lutheran, was a native of Tennessee and had served five previous terms in the legislature.

[48]1943 Rev. Codes of Montana 48-106-110.

Schiltz has furnished recollections of House Bill 8:[49]

> The impetus . . . came from a Montana Supreme Court decision which I recall as In re Takahashi. . . . Mr. Briggs [University of Montana Law School Professor], a great liberal impressed on me, at least, the horror of such a statute. . . . I don't think I was so horrified that it was the reason for running for the legislature, but it was in the back of my mind. . .

Schiltz pointed out that in 1953, twenty-four states had miscegenous marriage laws -- the South predictably against Blacks and the Northwest and California against Orientals. His purpose was to repeal such a law in Montana. He had brought the bill to the session with a currently relevant argument for its adoption:

> The Korean War was winding down with many servicemen bringing home Oriental wives and children--wives and children who could not inherit from their husbands and fathers. That approach resulted in a unanimous vote in the House, and near unanimity in the Senate.[50]

While Schiltz garnered support for his repeal measure in the legislature, an Episcopal minister, Father Matsuda, worked on the outside. Schiltz recalled that Matsuda was an Episcopal priest in Billings, an Oriental married to a white woman, who rallied support in the Council of Churches for the measure. It would appear that Schiltz' efforts in the legislature, concern of religious groups outside the legislature, and the winding down of the Korean War with return of veterans who had married Oriental women all influenced the decision to repeal the statute.

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[49]Appendix II, letter to the author, March 17, 1976.

[50]Ibid.

Schiltz believed that the measure received little public attention outside the legislature because "the combination of the words, Schiltz, Pfohl and miscegenous was too much to handle."

When the bill reached the governor's office for signature, Governor Hugo Aronson, a 62-year-old native of Sweden who came to the United States in time to serve in World War I, called Schiltz to his office and asked:

> "Yack, vots dis misgenous?" (with a hard "G"). Hugo's first wife was a French girl he had met in France as a soldier in World War I. Early in their marriage she became ill with T.B. and he used all the money he had to take her back to France to die, and I knew this. I gave him the pitch about the servicemen and their wives and children. With a tear in his eye he picked up his pen and said, "Yack, I sign."[51]

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[51] Ibid.

CHAPTER 4

ANTI-DISCRIMINATION LAWS, 1951-1955

As the nation edged toward participation in World War II, presidential initiatives to prepare for involvement and participation included significant efforts to allay racial tensions in defense industries. On June 25, 1941 President Roosevelt declared a "policy of full participation in the defense program by all persons, regardless of race, creed, color, or national origin, and directing certain action in furtherance of [that] policy."[1] Philip Randolph, President of the Brotherhood of Sleeping Car Porters, had threatened a "March on Washington" to express discontent among blacks unemployed as defense industries rapidly increased their production of war goods.

A Fair Employment Practices Committee (FEPC) was established by the executive order "to receive and investigate complaints of discrimination in violation . . . of [the] order." Despite the fact that the committee lacked enforcement powers, it dealt with more than 10,000 complaints and induced numerous industrial plants in northern states to erase racial discrimination in employment. Some industries in the southern states also ameliorated hiring practices rather than face charges by the FEPC.

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[1]Executive Order 8802, cited in Bardolph, The Civil Rights Record (1970) 301.

After World War II President Truman established a Committee on Civil Rights[2] whose 1947 report, To Secure These Rights recommended national government initiatives to end racial discrimination and urged enactment of more than two dozen statutes.

On July 26, 1948, President Truman issued two sweeping executive orders to abolish discrimination in federal employment and in the armed forces.[3] He also established a Committee on Government Contract Compliance in December, 1951 to replace the Fair Employment Practices Commission that Congress had terminated.[4]

In 1953 President Eisenhower replaced the Committee on Government Contract Compliance with a Government Contract Committee[5] and a Committee on Government Employment Policy replaced the Fair Employment Board; he directed both agencies to strengthen programs against racial discrimination in employment.[6]

Meanwhile litigation guided by the National Association for the Advancement of Colored People gained significant recognition by federal courts of the principle of equal protection of the laws for blacks.

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[2]Executive Order 9809.

[3]Executive Order 9980, 13 Fed. Register 4211; Executive Order 9981, 13 Fed. Register 4813.

[4]Executive Order 10308, 16 Fed. Register 12303.

[5]Executive Order 10479, 18 Fed. Register 4899.

[6]Executive Order 19590, 20 Fed. Register 409.

In Sweatt v. Painter (1950) the United States Supreme Court unanimously struck down a Texas requirement of racial segregation in the University of Texas Law School. Efforts of the state to offer alternative law instruction for blacks was held to be a denial of equal protection of the laws guaranteed by the Fourteenth Amendment.[7]

McLaurin v. Oklahoma State Regents (1950) held that state requirements for segregated seating and accommodations for a graduate student in the state university denied McLaurin the equal protection of laws guaranteed by the 14th Amendment.[8]

These cases prepared the way for basic challenge to the doctrine that "separate but equal" facilities would not violate the equal protection clause.[9] In Brown v. Board of Education (1954) the Supreme Court by unanimous decision extended the protection of the equal protection clause to the entire field of public education.[10] Subsequent court decisions applied the equal protection clause to strike down or limit racially restrictive covenants and discrimination in access to transportation, public facilities, voting and the courts.[11]

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[7] 339 U.S. 629 (1950).

[8] 339 U.S. 737 (1950).

[9] Plessy v. Ferguson, 163 U.S. (1896).

[10] 347 U.S. 438 (1954).

[11] See Bardolph (1970), 233 ff. for a well-organized collection of relevant statutes, court decisions and interpretive notes.

The states scarcely rushed in to follow the lead of the national government in implementing the Fourteenth Amendment. By 1949 eighteen northern, central and western states had enacted statutes to equalize access to places of public accommodation and amusement.[12] Nine states and the District of Columbia had passed anti-discrimination statutes on matters other than access to public accommodations. A few states had barred racial discrimination in employment, public welfare and relief, school textbooks and sale of insurance. Only three states had anti-lynching laws, southern congressmen justifying their opposition to federal legislation on the subject by pleas of states' rights.[13]

Two anti-discrimination statutes were introduced in the 1951 Montana legislature but neither was adopted. Cascade County Democratic representatives Ralph Cook and Myron Tripp sponsored both measures, and three other Democratic representatives joined them to sponsor House Bill 58, a general anti-discrimination statute designed to prohibit racial or ethnic discrimination in employment and labor organizations, and to create a fair employment practices commission for enforcement. Democratic representatives Ronald Holtz (Cascade), H. H. Hess (Hill) and John Karlberg (Missoula)

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[12]California, Colorado, Connecticut, Illinois, Indiana, Iowa, Kansas, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Washington, Wisconsin; see Pauli Murray, State Laws on Race and Color (1951), passim.

[13]Murray (1951), passim.

joined Cook and Tripp in its sponsorship. It was referred to the Committee on Public Utilities and State Commissions which refused to recommend passage. On the committee report in Committee of the Whole, Cook moved to have the bill printed; this required only a one-third vote to carry, and was adopted thirty-two to forty-seven with eleven not voting.[14]

When the printed bill reached the Committee of the Whole, Cook moved to refer it back to the Committee on Public Utilities and State Commissions. But a substitute motion by Representative McElwain (R., Powell) was adopted to indefinitely postpone consideration.[15] There was no further action on the fair employment bill during the 1951 session.

Four Republicans joined 28 Democrats in the roll call vote to print House Bill 58; seven Democrats joined 47 Republicans to oppose printing, and 11 (six Democrats and five Republicans) did not vote (Appendix). Basically it appears to have been a party-line vote whose purpose was to put the legislators on record with respect to the measure. Several sponsors of the measure were leaders of the Farmers Union which traditionally joined with crafts and industrial union members to support fiscal and other policy measures in the legislature.

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[14] 1951 H. J. 66, 85, 86.

[15] 1951 H. J. 158.

Analysis of the "cross-over" vote yields only limited insight into alignments on the measure. The four Republicans in support included only one from a major urban center (Page, Missoula); two (Anders, Broadwater, and Hauge, Sanders) were small-town merchants; two (Page and Hauge) were college educated. All four were Protestants and members of Masonic lodges.

The most interesting cluster of vote was the presence of five Democrats from Silver Bow (Butte) and one from neighboring Granite among the seven Democrats who joined the Republicans to oppose printing the bill. Butte Democrats in this period frequently responded to different drummers from those heard by other Democrats in the legislature.

Cook and Tripp also introduced House Bill 391 "to guarantee the full and equal enjoyment of all places of public accommodation" and it was referred to the Committee on Constitutional Amendments and Federal Relations which seems to have amended it to delete the penalty provision. With that amendment it cleared the House 49-25 with 16 not voting.[16] But the Senate Judiciary Committee refused to support the measure and returned it to the House.[17] This seems to have ended its consideration in the 1951 session.

The 49 supporting votes on House Bill 391 included 32 Democrats and 17 Republicans. Only one Democrat joined 24 Republicans

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[16]1951 H. J. 276, 437, 443, 458.

[17]1951 S. J. 409, 423.

opposing it; the 16 not voting included eight Democrats and eight Republicans.

As on House Bill 58, party position seemed to have been a dominant feature in the vote, despite the crossover of 17 Republicans who supported it. Republicans favorable to the measure included Hauge (Sanders) and Page (Missoula) who had joined Democrats in the vote to print House Bill 54. Several Republicans including House Speaker Armstrong (Flathead) represented urban constituencies where presence of racial minorities made the issue more relevant.[18] At least five of them represented counties containing or close to Indian reservations.[19]

Butte Democrat Walter Freshman, a geologist, joined Republicans to oppose House Bill 391, as he had opposed printing of House Bill 58. The eight Democrats not voting included two from Silver Bow (Loughran and McCarthy) and Page (Granite) who had opposed printing of House Bill 58.

Examination of the roll calls yields little other information to support interpretation of the vote on grounds other than a general party alignment in a legislature where Republicans held substantial margin of control in the House but one quite delicately balanced in the Senate.[20]

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[18] Gebhardt and Schiltz (Yellowstone), Norby (Cascade); Purdy (Hill); Reed (Missoula); Smith (Lewis & Clark); Sykes (Flathead).

[19] Armstrong and Sykes (Flathead); Higgins (Glacier); Purdy (Hill); Scofield (Powder River).

[20] 49 Republicans, 41 Democrats in the House; 28 Democrats, 26 Republicans and two Independents in the Senate.

The general slant of partisan orientation invites the observation that the Democratic and Republican parties had reversed their positions as supporters of racial minorities by the second quarter of this century. Democrats had found strength throughout the Roosevelt Era as an aggregation of regional, racial, and social interests that tended to support the economically and socially disadvantaged against Republican resistance to strong federal policy, recognizing that the Old South represented always its own unique constellations of partisan politics within the Democratic Party. In Montana, Butte Democrats, while not southern-states rooted, still may have reflected prejudices of an urban-industrial melting-pot against the least-advantaged racial minorities.

On January 18, 1955 four Yellowstone County (Billings) Republicans in a chamber narrowly controlled by Democrats (49-45) introduced House Bill 52 "to guarantee the full and equal enjoyment of all places of public accommodation and amusement."[21]

The bill affirmed "full and equal enjoyment of the accommodations, advantages, facilities and privileges of hotels, inns, restaurants, eating houses, soda fountains, ice cream parlors, soft drink parlors, taverns, road houses, cafes, barber shops, stores,

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[21]The sponsors were Phillip J. Goan, broker; James R. Felt, attorney; Ralph Gebhardt, railroad management; J. Homer Hancock, farmer. Gebhardt was a veteran legislator, Hancock was beginning his second term while Goan and Felt were beginning their first term in the legislature.

theaters, skating rinks, elevators, railroads, busses, airplanes, funeral hearses and all other places of public accommodation or amusement" subject to reasonable limitations "applicable alike to all citizens." A penalty clause made violation a misdemeanor punishable by a fine of five to fifty dollars.

The measure moved through the Judiciary Committee and House debate without evident difficulty and on February 3, the House passed it 59-18 with 17 not voting.[22]

The Senate Committee on Public Health and Safety recommended concurrence on February 9. Then contrary to usual process the Senate postponed debate on the measure daily by special motion until February 13 when the Republican majority leader carried a motion to have it referred to the Judiciary Committee. Senator Herman Dokken (R., Gallatin), chairman of the committee that had recommended passage then lost a roll call vote, 17-34 with five not voting, to have the measure retained on the calendar for debate and concurrence.[23]

On February 22 the Judiciary Committee recommended a substitute that deleted the entire substance of the original bill and substituted one brief paragraph:

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[22]1955 H. J. 52, 132, 179, 188, 189, 190; Appendix

[23]1955 S. J. 163, 217, 228, 242, 257, 271. Republicans controlled the Senate, 33-23.

> Section 1. No person, partnership, corporation, association or organization owning or managing any place of public accommodation or amusement shall discriminate against any person or group of persons solely on the grounds of race, color or creed."[24]

There was no penalty provision, only the ritual repeal of all acts in conflict with the new statute.

For three more days the measure was passed over on the debate calendar and finally on February 27, the 56th legislative day, the Senate approved its version of the House Bill 46-5 with four not voting.[25]

House concurrence in the Senate version of the bill was prompt and decisive, 57-11, but 26 were either excused or did not vote.[26]

To delay consideration of a measure that has reached the debate calendar with a favorable committee report commonly signals behind-the-scenes maneuver to save the substance by working out a compromise with critics.

Of eight attorneys in the House, seven including two Republicans and five Democrats had approved the measure; only one, Charles Cerovski (D., Fergus) had opposed it.

But affirmation of rights rather than the more traditional definition of wrongs -- the essential difference between the two

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[24] 1955 S. J. 385.

[25] 1955 S. J. 392, 410, 423, 430, 461, 473-4; Appendix

[26] H. J. 541, 549-550; Appendix

bills -- may have concerned some of the attorneys serving in the Senate. There were nine of them, five Republican and four Democratic, and seven of them opposed the Dokken motion to return the measure from Judiciary to the debate calendar. Eight of the nine attorneys supported the Judiciary Committee substitute. Opponents may have been mollified by deletion of a penalty clause. The original measure was also open to the criticism that its lengthy enumeration of places of public accommodation was subject to the interpretation that any places not mentioned were not covered by the legislation. The enacted measure reached comprehensively to "any place of public accommodation or amusement" under just about any conceivable form of management.

The unusual legislative history strongly suggests bipartisan recognition that Montana should accept emerging judicial enforcement of equal access to public accommodations:

1. Introduction by Republicans in a House controlled by Democrats.
2. House passage by 31 Democrats, 28 Republicans, 11 Republicans and seven Democrats voted against, 11 Democrats and six Republicans not voting.
3. Prompt recommendation of concurrence in the Republican-controlled Senate.
4. Special delay of debate on the merits and re-reference of the measure to the Senate Judiciary Committee.

5. Senate substitution of a substantially different measure that met legal reservations about the form and application of original House bill.
6. Senate adoption of its substitute by an overwhelming majority; 46 for, only five negative votes (three Democratic and two Republican all representing counties of small or modest population.)
7. Prompt House concurrence in the Senate substitute with a decisive 57-11 majority that was thoroughly bi-partisan: 29 Democrats and 28 Republicans for, four Democrats and five Republicans opposed, 15 Republicans and 15 Democrats not voting.

Ninety years after formation of the Territory at the end of the Civil War, Montana's statute books were free of racially discriminatory legislation and the principle of the Fourteenth Amendment had been affirmed by statute. But the statute lacked a penalty clause to implement protections against violation.

BIOGRAPHICAL DATA AND ROLL-CALL VOTES ON SENATE BILL 34, THE MISCEGENATION STATUTE, MONTANA LEGISLATIVE ASSEMBLY, 11TH SESSION 1909

The vote on each of four roll calls is recorded by symbols under the legislator's name in the left-hand columns:

\+ = Vote Aye
\- = Vote Nay
o = Absent, Excused or Not Voting

The four roll calls in each chamber, from left to right:

Senate

1. February 4, 1909, Everett motion in Committee of the Whole to refer to the Judiciary Committee; Defeated Aye (6), Nay (20), Not Voting (1); 1909 S. J. 171.
   Note: Interpreted as attempt to kill the bill, so the entry was reversed to indicate support on merits.
2. February 4, 1909, Passage on Third Reading; Approved Aye (15), Nay (11), Not Voting (1), 1909 S. J. 171.
3. February 24, 1909, Everett motion in Committee of the Whole to refer to Judiciary Committee; Defeated Aye (10), Nay (14), Not Voting (3), 1909 S. J. 282.
4. February 24, 1909, Concurrence in House Amendments, Adopted Aye (17), Nay (6), Not Voting (4), 1909 S. J. 282.

House of Representatives

1. February 15, 1909, Committee of the Whole to Recommend Passage, Passed, Aye (29), Nay (25), Not Voting (17), 1909 H. J. 287.
2. February 17, 1909, Passage on Third Reading, Defeated Aye (24), Nay (32), Not Voting (15) 1909 H. J. 300.
3. February 18, 1909, Committee of the Whole, Recommend adoption as amended, Adopted Aye (36), Nay (26), Not Voting (9), 1909 H. J. 341.
4. February 23, 1909, Passage on Third Reading of Amended Bill, Adopted, Aye (41), Nay (18), Not Voting (12), 1909 H. J. 368.

Abbreviations of Fraternal Order Names:

AFAM: Masons
AOH: Hibernians
AOUW: United Workmen
BPOE: Elks
IOOF: Odd Fellows
KC: Knights of Columbus
KP: Knights of Pythias
LOM: Moose
MWA: Modern Woodmen
OES: Eastern Star
WOW: Woodmen of the World

ALBRIGHT, JACOB
+ + O O
(R) MADISON S6-11(1903-1909)
MERCHANT — B 1860 NEW YORK — ARR MT 1804
OTHER RELIG# — ENT LEG AGE 40-44
BPOE, ADAM

ANNIN, JOSEPH HART
+ + + +
(R) YELLOWSTONE S10-11(1907-1909), H13(1913), S14-15(1915-1917)
MERCHANT — B 1865 NEW YORK — D 1918 — ARR MT 1891
HIGH SCHOOL — METHODIST — ENT LEG AGE 40-44
AFAM, OES, IOOF, Woodmen

CARDWELL, EDWARD
+ + - +
(D) ~~MEAGHER S9(1895)~~ JEFFERSON, TC1-15(1881-1887), S2-3(1891-1893), S10-11 (1907-1909)
FARMER-STOCKMAN — B 1831 IRELAND — D 1912 — ARR MT 1863
ELEM. SCHOOL — EPISCOPAL — ENT LEG AGE 45-49

COCKRELL, W. MONCURE
+ + + +
(D) POWELL S11-12(1909-1911)
ATTORNEY — B 1881 MONTANA — D 1961
COLLEGE GRADUATE L.L.B. — ENT LEG AGE 21-29
AFAM

CONRON, JOHN M
+ + + +
(D) PARK H6(1899), S7-8(1901-1903), S11-12(1909-1911)
FARMER-RANCHER — B 1845 NEW JERSEY — ARR MT 1866
ELEM. SCHOOL — ENT LEG AGE 50-54
ARMY — CIVIL WAR (UNION)
AFAM, BPOE

COGGILL, WILLIAM
+ - - -
(R) TETON S10-11(1907-1909)
RANCHER-STOCKMAN — B 1863 MISSOURI — D 1945 — ARR MT 1881
ELEM. SCHOOL — ENT LEG AGE 40-44
AFAM

DALY, PATRICK J
+ + + +
(D) DEER LODGE S11(1909)
MINER — B 1856 IRELAND — D 1909 — ARR MT 1886
ENT LEG AGE 50-54

DONLAN, EDWARD
- - + +
(R) MISSOULA H7(1901), S8-13(1903-1913), S16-17(1919-1921)
LUMBERMAN — B 1867 CANADA — D 1952 — ARR MT 1890
ROMAN CATHOLIC — ENT LEG AGE 30-34
IOOF

EDWARDS, JOHN E
- - - -
(R) MOSEBUD S10-17(1907-1921)
BANKER — B 1866 ILLINOIS — D 1925 — ARR MT 1889
SOME COLLEGE — PRESBYTERIAN — ENT LEG AGE 40-44
BPOE

EVERETT, THOMAS H
- - - -
(R) CHOUTEAU H8-9(1903-1905), S10-12(1907-1911)
FARMER-RANCHER — B 1865 MISSOURI — D 1955 — ARR MT 1888
SOME COLLEGE — ENT LEG AGE 35-39
ADAM, MWA, IOOF

FAIRBANKS, CHARLES E
+ + - +
(R) MISSOULA H9(1905), S10-11(1907-1909)
STATIONARY ENGINEER — B 1859 WISCONSIN
ENT LEG AGE 45-49

HAVILAND, MILLES HENRY
+ + + +
(D) SILVER BOW S10-11(1907-1909)
PHYSICIAN — B 1864 NEW YORK — D 1939 — ARR MT 1890
SOME COLLEGE M.D. — ENT LEG AGE 40-44
BPOE

KESSLER, CHARLES H
O O + +
(R) LEWIS & CLARK S11-12(1909-1911)
MANUFACTURING — B 1874 MONTANA
ENT LEG AGE 35-39
AFAM, BPOE

LONG, THOMAS D
+ + O O
(D) FLATHEAD S10-11(1907-1909)
ATTORNEY — B 1867 INDIANA — D 1955 — ARR MT 1895
SOME COLLEGE — ENT LEG AGE 40-44
BPOE

MCCARTHY, JEREMIAH C
+ + + +
(D) GALLATIN S9-12(1905-1911)
MINE OWNER-OPERATOR — B 1859 IRELAND — D 1941 — ARR MT 1882
BPOE, KC

ROMAN CATHOLIC ENT LEG AGE 45-49

MCCONE, GEORGE J — (R) DAWSON H7-8(1901-1903), S9-12(1905-1911), S14-20(1915-1927) — AFAM
+ - - + — RANCHER — B 1851 MICHIGAN — D 1929 — ARR MT 1878
ELEM. SCHOOL — ENT LEG AGE 45-49

MCDONNELL, CHARLES — (R) SWEET GRASS S9-12(1905-1911) — IOOF
+ - - + — STOCKMAN — B 1850 IRELAND — D 1928 — ARR MT 1880
ELEM. SCHOOL — ROMAN CATHOLIC — ENT LEG AGE 55-59

METCALF, GEORGE — (R) GRANITE H9(1905), S10-11(1907-1909) — IOOF
- - O O — RANCHER — B 1857 UTAH — ARR MT 1876
ELEM. SCHOOL — ENT LEG AGE 45-49

MEYER, WILLIAM F — (R) PARK H4(1995), S7-8(1901-1903), S11-12(1909-1911) — BPOE
- - - O — ATTORNEY — B 1857 WISCONSIN — D 1912 — ARR MT 1882
COLLEGE GRADUATE — ENT LEG AGE 35-39

MUFFLY, CHARLES S — (D) BROADWATER S10-15(1907-1917), S18-19(1923-1925) — AFAM, BPOE, KP, Woodmen
+ + + + — MINER — B 1864 MONTANA — D 1927
ELEM. SCHOOL — EPISCOPAL — ENT LEG AGE 40-44
NATIONAL GUARD

NAE, HENRY H — (R) FERGUS S10-11(1907-1909) — AFAM, BPOE, Sigma Chi
+ - - - — MINER — B 1871 OHIO — ENT LEG AGE 35-39

NORNEY, MILES — (D) HAVALLE S10-11(1907-1909) — AFAM, BPOE, FOE
+ + + + — NEWSPAPERMAN — B 1872 UTAH — D 1943 — ARR MT 1881
SOME COLLEGE — ENT LEG AGE 35-39
WORLD WAR I

SANDERS, JAMES — (R) CASCADE H9(1905), S10-11(1907-1909) — AFAM, BPOE, KP
+ + + + — RAILROADMAN — B 1861 CANADA — D 1945 — ARR MT 1887
PRESBYTERIAN — ENT LEG AGE 40-44

SELWAY, EARNEST OWENS — (R) BEAVERHEAD H9-10(1905-1907), S11-14(1909-1915) — AFAM, BPOE
- - - - — STOCKMAN — B 1870 MONTANA — D 1931
SOME COLLEGE — ENT LEG AGE 35-39

SYKES, HARRISON T — (R) CUSTER H8-9(1903-1905), S11-12(1909-1911) — AFAM, IOOF
+ + + + — STOCKMAN — B 1850 OHIO
ENT LEG AGE 50-54

TOOLEY, CLARENCE P — (R) MEAGHER H8(1903), S9-12(1905-1911) — KP, MWA
+ - + — MERCHANT — B 1873 WYOMING
PRESBYTERIAN — ENT LEG AGE 30-34
—

TRUSCOTT, JOHN L — (D) VALLEY H6(1899), S10-11(1907-1909)
+ + + + — MERCHANT — B 1857 NEW YORK — D 1930
ENT LEG AGE 40-44

ALLEN, WILLIAM J
- + + +
(D) DEER LODGE H11(1909)
MERCHANT B 1865 CANADA
ROMAN CATHOLIC ENT LEG AGE 21-29

ARNETT, FRANK G
O - - +
(R) VALLEY H11(1909)
FARMER-STOCKMAN C 1865 ILLINOIS D 1924 ARR MT 1841 AFAM
ENT LEG AGE 40-44

SILVER BOW

BERKEN, JOHN
+ - + +
(D) JEFFERSON H7(1901),/H11(1909)
MINER B 1860 ENGLAND D 1936 ARR MT 1866 AFAM, BPOE
ELEM. SCHOOL ENT LEG AGE 40-44

BOGART, H. B
O - + +
(R) MISSOULA H11(1909)
MINER B 1861 CANADA AFAM
EPISCOPAL ENT LEG AGE 45-49

BREWSTER, GEORGE A
+ - - +
(R) RUSSUD H9-11(1905-1909)
STOCKMAN B 1856 MASSACHUSETTS D 1912 ARR MT 1880
HIGH SCHOOL ENT LEG AGE 45-49
NATIONAL GUARD

BURKE, EDWARD
- O + +
(D) DEER LODGE H3(1893), H10-11(1907-1909), H20(1927), H22(1931)
MERCHANT B 1865 NEW YORK D 1934 ARR MT 1890 BPOE
ROMAN CATHOLIC ENT LEG AGE 21-29

BUTZERIN, ALBERT
- - - -
(R) MISSOULA H11(1909)
RAILROADMAN B 1862 WISCONSIN AFAM
BAPTIST ENT LEG AGE 45-49

BYRNES, OWEN
+ + + +
(D) LEWIS & CLARK H11-12(1909-1911), S13-14(1913-1915)
ENGINEER B 1866 VERMONT D 1931 ARR MT 1882 AFAM
TECH, TRADE SCH ENT LEG AGE 40-44

CHRISTLEN, L. J
- O O O
(D) CHOUTEAU H11(1909)
CLERGYMAN B 1876 NEW YORK D 1922 ARR MT 1907 AFAM, BPOE, FOE
COLLEGE GRADUATE D. DIVINITY EPISCOPAL ENT LEG AGE 30-34

CLAYBERG, H. L
O O - O
(D) LEWIS & CLARK H11(1909)
ATTORNEY B 1884 MONTANA
ENT LEG AGE 21-29
OTHER MILITA

CLOUSTON, WILLIAM
- O O O
(D) CASCADE H10-11(1907-1909)
CONTRACTOR B 1862 CANADA AFAM
ELEM. SCHOOL PRESBYTERIAN ARR MT 1899
ENT LEG AGE 45-49

COIT, A. B
O - - +
(R) SWEET GRASS H11(1909)
RANCHER-STOCKMAN B 1849 OHIO BPOE
CONGREGATIONAL ENT LEG AGE 60-64
NATIONAL GUARD SPANISH AMER. WAR

CONNELLY, FRANK T
- - - -
(R) YELLOWSTONE H11(1909), S16-17(1919-1921)
MERCHANT B 1862 IOWA D 1940 ARR MT 1885 AFAM, BPOE
HIGH SCHOOL OTHER RELIGI ENT LEG AGE 45-49

GALLATIN

CROUCH, SAMUEL J
+ + + O
(D) BROADWATER H11-12(1909-1911),/H16(1919)
FARMER-STOCKMAN B 1877 MONTANA
COLLEGE GRADUATE ENT LEG AGE 30-34

CRUTCHFIELD, CHARLES T
O O O O
(D) DEER LODGE H2(1891), H6(1899), H11(1909)

	ATTORNEY	R	1863	VIRGINIA	D	1910	ARR MT 1887	
	SOME COLLEGE						ENT LEG AGE 21-29	
CUNNING, HUGH T	(R) GRANITE H11(1909)							
- - - -	PERSONAL SERVICES	R	1857	CANADA	D	1948	ARR MT 1888	AFAM
				PRESBYTERIAN			ENT LEG AGE 50-54	
CUNNINGS, THOMAS A	(R) CHOUTEAU H10-11(1907-1909)							
+ + + +	STOCKMAN	R	1845	IRELAND	D	1933	ARR MT 1867	GAR, Mollus
	ELEM. SCHOOL			ROMAN CATHOLIC			ENT LEG AGE 60-64	
	ARMY CIVIL WAR (UNION)							
DERRY, CHARLES A	(R) MISSOULA H11(1909)							
- O - -	PRINTER	R	1870	ENGLAND	D	1941		
							ENT LEG AGE 35-39	
DOWLING, PATRICK F	(D) JEFFERSON H11(1909)							
O O O +	MINER	D	1861	NEW YORK	D	1936	ARR MT 1887	AFAM, IOOF
				OTHER RELIGI			ENT LEG AGE 45-49	
	1(D) in 1909 →							
DUNCAN, MONTGOMERY M	(R) MADISON H10-11(1907-1909), S12-13(1911-1913), S18-23(1923-1933)							
+ + + +	ATTORNEY	R	1869	MISSOURI	D	1939	ARR MT 1883	AFAM, BPOE, IOOF
	SOME COLLEGE			PRESBYTERIAN			ENT LEG AGE 35-39	
EDGERTON, JOHN	(R) LEWIS & CLARK H11(1909)							
- O O +	MINER	R	1867	NEW YORK				AFAM
				BAPTIST			ENT LEG AGE 40-44	
ELIEL, FRANK	(R) BEAVERHEAD H11-15(1909-1917)							
- - O O	MERCHANT	R	1863	INDIANA	D	1936	ARR MT 1882	
	HIGH SCHOOL						ENT LEG AGE 45-49	
ELLIOTT, WILLIAM T	(D) POWELL H11(1909)							
+ + + +	RANCHER	R	1846	VIRGINIA	D	1934	ARR MT 1865	KP
							ENT LEG AGE 60-64	
	CIVIL WAR (UNSPEC)							
FRANK, HARRY A	(D) SILVER BOW H11(1909)							
O - + +	ATTORNEY	R	1877	NEBRASKA			ARR MT 1901	AFAM
	COLLEGE GRADUATE L.L.B.						ENT LEG AGE 30-34	
GARDEN, JOHN DANIEL	(D) SANDERS H11(1909), S18-23(1923-1933)							
+ + + +	RAILROADMAN	R	1858	PENNSYLVANIA	D	1936	ARR MT 1884	AFAM, SHRINE
	ELEM. SCHOOL						ENT LEG AGE 50-54	
	ARMY INDIAN WARS							
GIBSON, FREDERICK L	(D) MADISON H6(1899), H11(1909), H16-17(1919-1921)							
O - - O	ATTORNEY	R	1874	MICHIGAN	D	1956	ARR MT 1890	AFAM
	SOME COLLEGE						ENT LEG AGE 21-29	
GIOVANETTI, HENRY	(D) SILVER BOW H11(1909)							
+ - + +	MERCHANT	R	1863	ITALY				
				ROMAN CATHOLIC			ENT LEG AGE 45-49	
GRAY, AUGUSTUS H	(R) CASCADE H10-11(1907-1909)							
- - - O	ATTORNEY	D	1872	INDIANA	D	1959	ARR MT 1903	IOOF
	SOME COLLEGE			METHODIST			ENT LEG AGE 35-39	
GRIFF, H. CLAY	(D) RAVALLI H11(1909), S12-13(1911-1913), S24-25(1935-1937)							
+ + + +	BANKER	D	1869	OREGON	D	1959	ARR MT 1876	AFAM

	SOME COLLEGE			METHODIST		ENT LEG AGE 40-44		
HALL, HARRY O - - -	(R) LEWIS & CLARK H11(1909) PERSONAL SERVICES	I	1859	OHIO		ENT LEG AGE 50-54	AFAM	
HAMMOND, JOSIAH S - - - +	(D) SILVER BOW H11(1909) PHYSICIAN COLLEGE GRADUATE M.D. NATIONAL GUARD	D	1844	MASSACHUSETTS EPISCOPAL		ANN MT 1885 ENT LEG AGE +65	AFAM, KP	
HANIFEN, TIMOTHY J + O + +	(D) GRANITE H11(1909) PERSONAL SERVICES	D	1869	ROMAN CATHOLIC		ENT LEG AGE 40-44	KC	
HANDERT, JAMES - O O O	(R) FLATHEAD H11(1909), H15(1917) MERCHANT SOME COLLEGE	D	1868	TENNESSEE	D 1962	ANN MT 1896 ENT LEG AGE 40-44	BPOE, Woodmen	
HAYES, JOHN O + + +	(D) CASCADE H9(1905), H11-12(1909-1911) RAILROADMAN	D	1868	MICHIGAN		ENT LEG AGE 35-39	IOOF, DAC	
HUNTER, JAMES (1) - - - +	(R) CUSTER H11(1909) STOCKMAN	R	1861	SCOTLAND PRESBYTERIAN		ANN MT 1885 ENT LEG AGE 45-49	BPOE	
HUTCHINSON, E. H + + + +	(R) FLATHEAD H11(1909) LUMBERMAN	D	1873	MICHIGAN		ENT LEG AGE 35-39	AFAM, IOOF, DES	
JACOBSON, HANTIN - - - -	(R) TETON H11-12(1909-1911) MERCHANT HIGH SCHOOL	D	1874	DENMARK LUTHERAN	D 1938	ANN MT 1900 ENT LEG AGE 35-39		
KELSEY, SAMUEL W O - O -	(R) CUSTER H11(1909) RANCHER-STOCKMAN	D	1868	ILLINOIS		ENT LEG AGE 40-44	AFMA	
KILGALLON, THOMAS S - - - -	(D) SILVER BOW H3(1893), H7(1901), H11(1909) MINER	D	1853	NEW YORK ROMAN CATHOLIC	D 1912	ANN MT 1879 ENT LEG AGE 40-44	BPOE, FOE, KC	
KING, JAMES O - -+	(D) SILVER BOW H11(1909) PERSONAL SERVICES SOME COLLEGE	D	1861	CANADA ROMAN CATHOLIC		ANN MT 1882 ENT LEG AGE 45-49	KC	
LANCEY, E. CREIGHTON O O + O	(D) SILVER BOW H11(1909), H13(1913) BANKER SOME COLLEGE	R	1887	MONTANA ROMAN CATHOLIC		ENT LEG AGE 21-29	BPOE	
LEHRKIND, CARL + + + +	(D) PARK H11(1909) BOOKKEEPER	D	1878	IOWA		ENT LEG AGE 30-34	BPOE, KP, FOE SUN	
LOONEY, PATRICK + + + +	(D) SILVER BOW H11(1909) MINER	D	1873	MICHIGAN ROMAN CATHOLIC	D 1944	ANN MT 1900 ENT LEG AGE 35-39		
MACKINNESS, JOHN + + + +	(D) SILVER BOW H7-9(1901-1905), H11(1909)						BPOE	

	MINER ELEM. SCHOOL	R	1867	IOWA	D	1936	ARR MT 1890 ENT LEG AGE 30-34	
MAXWELL, DAVID C + + O +	(R) DAWSON H10-11(1907-1909) RAILROADMAN ELEM. SCHOOL	R	1852	WISCONSIN			ARR MT 1869 ENT LEG AGE 45-49	AFAM, KP, OMC
MCCOY, COLUMBUS C + + + +	(D) GALLATIN H11(1909) PHYSICIAN	D	1871	NORTH CAROLINA BAPTIST			ENT LEG AGE 35-39	AFAM, Woodmen, BPOE
MCDONELL, W. K + - + -	(D) SILVER BOW H11-12(1909-1911) MINER SOME COLLEGE	D	1867	TENNESSEE	D	1931	ARR MT 1895 ENT LEG AGE 40-44	AFAM
METZGL, FRANK S O + + +	(R) MADISON H11(1909) STOCKMAN	R	1862	COLORADO METHODIST	D	1930	ARR MT 1863 ENT LEG AGE 45-49	AFAM, BPOE
MITCHELL, HAROLD G O O + O	(D) DEER LODGE H11(1909) STUDENT	D	1884	MONTANA			ENT LEG AGE 21-29	AFAM, BPOE
MURRAY, THOMAS J O O + +	(R) BEAVERHEAD H11-12(1909-1911) REAL ESTATE	D	1865	NEW YORK EPISCOPAL			ENT LEG AGE 40-44	MWA
NORTH, THOMAS J + + + +	(D) SILVER BOW H11(1909), H13(1913) RAILROADMAN	D	1881	MONTANA			ENT LEG AGE 21-29	
O'DONNELL, NEAL + O + +	(D) SILVER BOW H11(1909) MINER	D	1864	IRELAND ROMAN CATHOLIC			ENT LEG AGE 45-49	WOW
OWENHOUSE, E. J O + + +	(D) GALLATIN H11-12(1909-1911) MERCHANT	D	1860	IOWA	D	1945	ARR MT 1880 ENT LEG AGE 45-49	BPOE
PIERSON, GEORGE I + + + +	(D) CARBON H11(1909), H21(1933) ATTORNEY COLLEGE GRADUATE L.L.B.	D	1869	MICHIGAN	D	1935	ARR MT 1894 ENT LEG AGE 40-44	AFAM, BPOE, WOW
POMEROY, HORACE GREELEY - - - -	(R) FLATHEAD H11(1909), S10-21(1923-1929) ATTORNEY SOME COLLEGE	R	1876	KANSAS	D	1930	ARR MT 1899 ENT LEG AGE 30-34	AFAM, Shrine, Woodmen
ROY, JOSEPH S + - + +	(D) DEER LODGE H11(1909) CONSTRUC. LABOR	D	1862	CANADA ROMAN CATHOLIC			ENT LEG AGE 45-49	WOW
SAFLEY, GEORGE R - - - -	(R) GALLATIN H11(1909) MERCHANT SOME COLLEGE	R	1855	IOWA PRESBYTERIAN			ARR MT 1890 ENT LEG AGE 50-54	AFAM, BPOE, IOOF
SHAW, SAMUEL A - - - -	(R) MEAGHER H11(1909) STOCKMAN	R	1861	MASSACHUSETTS			ARR MT 1890 ENT LEG AGE 45-49	AFAM
SHERMAN, JAMES A - - - -	(R) LEWIS & CLARK H11(1909), H17(1921)							AFAM, BPOE

		NEWSPAPERMAN COLLEGE GRADUATE DENTISTRY	R	1866	PENNSYLVANIA PRESBYTERIAN	D	1930	ARR MT 1870 ENT LEC AGE 40-44	
SMITH, CHARLES W + + - +		(R) FERGUS H11(1909) PHYSICIAN	R	1876	OHIO METHODIST			ENT LEC AGE 30-34	IOOF, KP, MWA
SNICK, CHARLES L - - - -		(R) DEER LODGE H11-12(1909-1911) NEWSPAPERMAN	R	1855	NEW YORK			ENT LEC AGE 50-54	BPOE
THOMPSON, RUFUS H + - - -		(R) FERGUS H10-11(1907-1909) STOCKMAN ELEM. SCHOOL	R	1857	VERMONT METHODIST	D	1914	ARR MT 1880 ENT LEC AGE 50-54	AFAM
WARD, WILLIAM E + + + +		(D) CASCADE H11(1909) MERCHANT	D	1865	OHIO			ENT LEC AGE 40-44	BPOE
WARREN, FRED H + + + +		(D) JEFFERSON H10-11(1907-1909) SURVEYOR	D	1865	OHIO			ENT LEC AGE 40-44	
WERNER, JACOB A - - - -		(R) LEWIS & CLARK H11(1909) PRINTER	D	1860	PENNSYLVANIA ROMAN CATHOLIC			ENT LEC AGE 45-49	KC
		BROADWATER							
WHALEY, WILLIAM C + + + O		(D) CALLATIN H2(1891),,H11-12(1909-1911) FARMER-STOCKMAN	D	1857	MINNESOTA ROMAN CATHOLIC	D	1932	ENT LEC AGE 30-34	AOH, IOOF
WHITE, HARRIE W - - - -		(R) DEER LODGE TH15(1887), H11(1909) MINE OWNER-OPERATOR	D	1861	OHIO OTHER RELIG#			ARR MT 1882 ENT LEC AGE 21-29	AFAM
WILHAM, VINCENT E + + + +		(D) JEFFERSON H10-11(1907-1909) RAILROADMAN SOME COLLEGE	R	1864	OHIO ROMAN CATHOLIC	D	1938	ARR MT 1882 ENT LEC AGE 40-44	ORC
WITHEE, MARTIN A - - - -		(R) LEWIS & CLARK H11(1909) MANUFACTURING	R	1848	CANADA			ARR MT 1872 ENT LEC AGE 60-64	AFAM
WOOD, JAMES T - - + +		(R) MEAGHER H11(1909), S16(1919) BANKER	R	1865	ILLINOIS OTHER RELIG#	D	1935	ARR MT 1884 ENT LEC AGE 40-44	AFAM
WOODY, FRANK + O + +		(D) MISSOULA H11-12(1909-1911) ATTORNEY	D	1872	MONTANA	D	1945	ENT LEC AGE 35-39	AFAM, BPOE, IOOF

APPENDIX 2:

LETTER TO AUTHOR

3/17/76

The impetus for H. B. No. 8, 1953 Session, came from a Montana Supreme Court decision which I recall as In re Takahashi. It should be looked at. I don't have the case at hand but its essence was this: Takahashi, a Japanese, was married to an occidental and so was subject to the miscegenous prohibition. He died leaving children of the marriage and an estate. The Supreme Court held the marriage void ab initio (as opposed to "voidable" under which interpretation the marriage could be voided at the instance of an affected party). The children were not in existence under a void marriage and I think the estate escheated to the State. I may be wrong about the details. In any case, Mr. Briggs, a great liberal, impressed in me, at least, the horror of such a statute and such a result.

I don't think I was so horrified that it was my reason for running for the legislature, but it was in the back of my mind. In fact, when I was there in 1951 I never did anything about it. In 1951 I did get involved in a bill that would have made it a misdemeanor to decline service in an otherwise public business establishment to anyone on account of race. That didn't get off the ground, but I made them debate it on the floor. I did not, however, introduce that bill -- Windy Page ducked the committee meeting when it was being heard, and as Vice-chairman I got its passage recommended.

I brought H. B. 8 to Helena, already drafted, which was simple. I put it in the first or second day. You might note that Scott Pfohl was a co-sponsor. At his request -- he found the statute as objectionable as I did -- I added his name after introduction.

The bill was the first substantive bill of the session and the press, not having much else to do, gave it a pretty good play. Not much came through to the people, however, because the combination of the words Schiltz, Pfohl, and miscegenous was too much to handle.

At this time there was an Episcopal priest in Billings -- a Father Matsuda -- who was an oriental married to an occidental, and he rallied the council of churches, which, I suppose contacted legislators.

In 1953, 24 states had a miscegenous marriage law, predictably in the South aimed at Negroes and in the Northwest and California aimed at orientals (yellow peril).

My purpose was to repeal the law, not to have a racial confrontation such as we had with the discrimination thing in 1951, so I approached it pragmatically. The Korean War was winding down with many servicemen bringing home oriental wives and children -- wives and children who could not inherit from their husbands and fathers. That approach resulted in a unanimous vote in the house, and near unanimity in the Senate.

When the bill got to the Governor (Hugo Aronson) for signing, he called me down to his office. He said "Yack, vots dis misgenous?" (with a hard "G"). Hugo's first wife was a French girl he had met in France as a soldier in World War I. Early in their marriage she became ill with T.B. and he used all the money he had to take her back to France to die, and I knew this. I gave him the pitch about the servicemen and their wives and children. With a tear in his eye he picked up his pen and said "Yack, I sign."

And that's the story of H. B. No. 8. As with all such stories, it's a combination of people and circumstances.

I trust that this is helpful.

Sincerely,

John M. Schiltz

APPENDIX 3

ROLL CALL VOTES ON ANTI-DISCRIMINATION BILLS IN THE 1951 LEGISLATIVE ASSEMBLY

1. House Bill 58, Fair Employment Act

January 19, 1951, House of Representatives, motion of Representative Ralph Cook (D., Cascade) to have the bill printed; requiring one-third favorable vote, Passed Aye (32), Nay (47), Not Voting (11).

Aye (32) -- Ammerman (D., Park), Anders (R., Broadwater), Anderson (D., Richland), Anderson (D., Cascade), Aronow (D., Toole), Babich (D., Silver Bow), Barnard (D., Valley), Barrett (D., Liberty), Beck (D., McCone), Blikken (D., Valley), Clark (D., Musselshell), Cook (D., Cascade), Emmons (D., Deer Lodge), Foley (D., Silver Bow), Goodgame (D., Lincoln), Graybill (D., Cascade), Hauge (R., Sanders), Holtz (D., Cascade), Lien (D., Roosevelt), Loble (D., Lewis & Clark), MacDonald (D., Garfield), McBride (D., Deer Lodge), Michels (D., Sheridan), Nixon (D., Blaine), Page (R., Missoula), Parker (D., Wibaux), Rieder (D., Jefferson), Tripp (D., Cascade), Trout (D., Custer), Valach (D., Fergus), Van Dyke (D., Wheatland) Wilson (R., Treasure).

Nay (47) -- Atkinson (R., Lake), Blewett (R., Silver Bow), Bradley (R., Prairie), Brenner (R., Beaverhead), Brownfield (R., Carter), Corcoran (R., Golden Valley), Cowley (R., Rosebud), Crist (R., Yellowstone), Dokken (R., Gallatin), Dwyer (D., Silver Bow), Esp (R., Sweet Grass), Freshman (D., Silver Bow), Fulton (R., Fallon), Gebhardt (R., Yellowstone), Haines (R., Flathead), Haines (R., Missoula), Hanford (R., Chouteau), Harpster (R., Dawson), Hawks (R., Big Horn), Higgins (R., Glacier), Leuthold (R., Stillwater), Loughran (D., Silver Bow), Mackay (R., Carbon), McCarthy (D., Silver Bow), McElwain (R., Powell), Mountain (D., Silver Bow), Norby (R., Cascade), O'Connor (R., Carbon), Omholt (R., Teton), Page (R., Missoula), Peters (R., Yellowstone), Phillips (R., Fergus), Pierce (R., Yellowstone), Prill (R., Yellowstone), Purdy (R., Hill), Reed (R., Missoula), Sagunsky (R., Madison), Sales (R., Gallatin), Schiltz (R., Yellowstone), Scofield (R., Powder River), Seifert (R., Pondera), Smith (R., Lewis & Clark), Taylor (R., Daniels), Wiedman (R., Lake), Wilson (R., Treasure), Working (R., Park), Armstrong (R., Flathead).

Not Voting (11) -- Hess (D., Hill), Iten (R., Ravalli), Jensen (D., Missoula), Karlberg (D., Missoula), Lockridge (D., Ravalli), Magnuson (D., Lewis & Clark), Rostad (R., Meagher), Skibby (R., Petroleum), Sykes (R., Flathead), Watkins (R., Phillips), Westlake (D., Gallatin).

2. House Bill 391, Equal Access to Public Accommodations

February 16, 1951, House of Representatives, Passage of Bill on Third Reading; Passed Aye (49), Nay (25), Not Voting (16).

Aye (49) -- Holtz (D., Cascade, Karlberg (D., Missoula), Leuthold (R.,

Stillwater), Ammerman (D., Park), Anderson (D., Richland), Anderson (D., Cascade), Aronow (D., Toole), Babich (D., Silver Bow), Barnard (D., Valley), Barrett (D., Liberty), Blikken (D., Valley), Brenner (R., Beaverhead), Clark (D., Musselshell), Cook (D., Cascade), Dwyer (D., Silver Bow), Emmons (D., Deer Lodge), Foley (D., Silver Bow), Gebhardt (R., Yellowstone) Goodgame (D., Lincoln, Graybill (D., Cascade), Harpster (R., Dawson), Hauge (R., Sanders), Hess (D., Hill), Higgins (R., Glacier), Lien (D., Roosevelt), Loble (D., Lewis & Clark), Lockridge (D., Ravalli), MacDonald (D., Garfield), McBride (D., Deer Lodge), Michels (D., Sheridan), Mountain (D., Silver Bow), Norby (R., Cascade), Page (R., Missoula), Parker (D., Wibaux), Purdy (R., Hill), Reed (R., Missoula), Schiltz (R., Yellowstone), Scofield (R., Powder River), Seifert (R., Pondera), Smith (R., Lewis & Clark), Sykes (R., Flathead), Tripp (D., Cascade), Trout (D., Custer), Valach (D., Fergus), VanDyke (D., Wheatland), Westlake (D., Gallatin) Wilson (D., Judith Basin), Working (R., Park), Armstrong (R., Flathead).

Nay (25) -- Anders (R., Broadwater), Blewett (R., Silver Bow), Bradley (R., Prairie), Brownfield (R., Carter), Corcoran (R., Golden Valley), Dokken (R., Gallatin), Freshman (D., Silver Bow), Fulton (R., Fallon), Haines (R., Flathead), Haines (R., Missoula), Hanford (R., Chouteau), Hawks (R., Big Horn), Mackay (R., Carbon), O'Connor (R., Carbon), Omholt (R., Teton), Phillips (R., Fergus), Pierce (R., Yellowstone), Prill (R., Yellowstone), Rostad (R., Meagher), Sales (R., Gallatin), Skibby (R., Petroleum), Taylor (R., Daniels), Watkins (R., Phillips), Weidman (R., Lake), Wilson (R., Treasure).

Not Voting (16) -- Atkinson (R., Lake), Beck (D., McCone), Cowley (R., Rosebud), Crist (R., Yellowstone), Esp (R., Sweet Grass), Iten (R., Ravalli) Jensen (D., Mineral), Loughran (D., Silver Bow), Magnuson (D., Lewis & Clark), McCarthy, D., Silver Bow), McElwain (R., Powell), Nixon (D., Blaine) Page (D., Granite), Peters (R., Yellowstone), Rieder (D., Jefferson), Sagunsky (R., Madison).

APPENDIX 4

BIOGRAPHICAL DATA AND ROLL CALL VOTES ON ANTI-DISCRIMINATION STATUTE, MONTANA LEGISLATIVE ASSEMBLY, 34TH SESSION, 1955

The vote on two roll calls is recorded by symbols under the legislator' name in the left-hand columns:

\+ = Vote Aye
\- = Vote Nay
o = Absent, Excused or Not Voting

The two roll calls in each chamber, from left to right:

Senate

1. February 3, 1955, Dokken motion to remove House Bill 52 from the Judiciary Committee to General File: Defeated, Aye (17), Nay (34), Not Voting (5), 1955 S. J. 271.

2. February 27, 1955, Passage as amended, on Third Reading, Approved Aye (46), Nay (5), Not Voting (4), 1955 S. J. 473.

House of Representatives

1. January 18, 1955, House Bill 52 Passed on Third Reading: Approved Aye (59), Nay (18), Not Voting (17), 1955 H. J. 190.

2. March 1, 1955, Concur in Senate Amendments, Approved, Aye (57), Nay (11), Not Voting (26), 1955 H. J. 549.

Abbreviations of Fraternal Order Names:

AFAM: Masons
AOH: Hibernians
AOUW: United Workmen
BPOE: Elks
IOOF: Odd Fellows
KC: Knights of Columbus
KP: Knights of Pythias
LOM: Moose
MWA: Modern Woodmen
OES: Eastern Star
WOW: Woodmen of the World

ALLEY, JOHN C
(R) JEFFERSON S31-35(1953-1957)
TEACHER — B 1907 MONTANA
SOME COLLEGE — PRESBYTERIAN — ENT LEG AGE 45-49
− +

ANDERSON, HENRY H
(D) LINCOLN S34-36(1955-1959)
CHIROPRACTOR — B 1908 IOWA — D 1973 — ARR MT 1947
SOME COLLEGE — PRESBYTERIAN — ENT LEG AGE 45-49
+ + — Shrine Mason, 100F, OES

ANDERSON, LEROY H
(D) PONDERA H30(1947), S31-34(1949-1955), S40-41(1967-1969)
FARMER — B 1906 NORTH DAKOTA — ARR MT 1909
COLLEGE GRADUATE — PRESBYTERIAN — ENT LEG AGE 40-44
ARMY — WORLD WAR II
+ + — Mason, Elks, Sons of Norway

ANGSTMAN, JESS L
(D) HILL H30(1947), S31-34(1949-1955), H36(1959)
ATTORNEY — B 1890 SOUTH DAKOTA — D 1979 — ARR MT 1912
COLLEGE GRADUATE L.L.B. — ROMAN CATHOLIC — ENT LEG AGE 55-59
− − — Elks

BALCOMB, OSCAR P
(R) GOLDEN VALLEY H23-24(1933-1935), H26(1939), S27-39(1941-1965)
MERCHANT — B 1885 SOUTH DAKOTA — D 1974 — ARR MT 1910
BUSINESS SCHOOL — METHODIST — ENT LEG AGE 45-49
− + — Mason

BOVEY, CHARLES A
(D) CASCADE H28-29(1943-1945), S30-39(1947-1965)
FARMER-STOCKMAN — B 1907 MINNESOTA — D 1978 — ARR MT 1926
HIGH SCHOOL — CONGREGATIONAL — ENT LEG AGE 35-39
+ +

BRENNER, JACK S
(R) BEAVERHEAD H31-32(1949-1951), S33-39(1953-1965)
RANCHER-STOCKMAN — B 1911 ILLINOIS — D 1970 — ARR MT 1911
SOME COLLEGE — EPISCOPAL — ENT LEG AGE 35-39
ROTC
− + — Elks, ΦKT

BREWER, CLYDE D
(R) MUSSELSHELL S33-34(1953-1955)
MOTOR TRANSIT — B 1909 NEBRASKA — D 1976 — ARR MT 1914
HIGH SCHOOL — CONGREGATIONAL — ENT LEG AGE 40-44
− + — Mason, Moose,

BROADFIELD, KEN S
(R) CARTER H32-33(1951-1953), S34-37(1955-1961), S39-42(1965-1971)
RANCHER — B 1912 MONTANA — D 1971
HIGH SCHOOL — CONGREGATIONAL — ENT LEG AGE 35-39
− + — Shrine Mason, Elks, Moose

COLE, KENNETH R
(R) PETROLEUM H26(1939), S28-39(1943-1965)
PETROLEUM DISTRIBUTOR — B 1905 MAINE — D 1970 — ARR MT 1914
HIGH SCHOOL — METHODIST — ENT LEG AGE 30-34
− + — Shrine Mason, Elks, OES

COTTON, ROBERT S
(D) VALLEY S28-29(1943-1945), H31(1949), S32-42(1951-1971), H43(1973)
FARMER-RANCHER — B 1899 MONTANA
SOME COLLEGE — EPISCOPAL — ENT LEG AGE 40-44
+ O

DAHL, ANDREW
(D) SHERIDAN H29(1945), S30-35(1947-1957)
FARMER-STOCKMAN — B 1886 NORTH DAKOTA — D 1973 — ARR MT 1909
ELEM. SCHOOL — LUTHERAN — ENT LEG AGE 55-59
+ +

DOKKEN, HERMAN B
(R) GALLATIN H31-32(1949-1951), S33-34(1953-1955)
FUNERAL DIRECTOR — B 1894 MINNESOTA — D 1975 — ARR MT 1914
COLLEGE GRADUATE — LUTHERAN — ENT LEG AGE 55-59
ARMY — WORLD WAR I
+ + — Shrine Mason, Elks, 100F, OES

DUNCANSON, WALTER A
(R) BEAVER H30(1947), S33-34(1953-1955)
RANCHER — B 1901 MONTANA
SOME COLLEGE — ROMAN CATHOLIC — ENT LEG AGE 45-49
− +

DWYER, HERBERT G
(D) SILVER BOW H30-33(1947-1953), S34(1955)
− + — KC, Elks, Eagles

S84-1065

ATTORNEY B 1917 MONTANA
COLLEGE GRADUATE ROMAN CATHOLIC ENT LEG AGE 30-34
ARMY WORLD WAR II

GOODWIN, LESTER C (D) BROADWATER H37(1951), S34-39(1955-1965)
+ + PERSONAL SERVICES B 1897 MONTANA
ELEM. SCHOOL PROTESTANT ENT LEG AGE 55-59
WORLD WAR I

GRANDEY, CHARLES J (R) PRAIRIE S33-36(1951-1959) Masm, Woodmen
- + TEACHER P 1878 OHIO D 1975 ANN MT 1907
COLLEGE GRADUATE PRESBYTERIAN ENT LEG AGE 65

GROFF, GILLIAN A (D) RAVALLI S34-43(1955-1973)
- + BANKER B 1920 MONTANA
COLLEGE GRADUATE PRESBYTERIAN ENT LEG AGE 35-39
ARMY WORLD WAR II

HARKEN, MARION C (D) ROSEBUD H27-31(1941-1949), S32-37(1951-1961) Shrine Masm
+ + ATTORNEY B 1902 MINNESOTA ANN MT 1910
SOME COLLEGE PRESBYTERIAN ENT LEG AGE 35-39

HATCH, CHARLES M (R) CUSTER S33-34(1951-1955)
- + MERCHANT B 1899 IOWA ANN MT 1902 Masm, IOOF, Eagles, Moose
BUSINESS SCHOOL PRESBYTERIAN ENT LEG AGE 50-54
NATIONAL GUARD WORLD WAR I

HIGGS, REX F (R) YELLOWSTONE S32-37(1951-1961), S40(1967) Masm, Eagles
- + ATTORNEY B 1906 MONTANA
COLLEGE GRADUATE L.L.B. CONGREGATIONAL ENT LEG AGE 45-49
ARMY WORLD WAR II

HOWLAND, JERRY V (D) MCCONE S29-36(1945-1959)
+ + FARMER-RANCHER B 1890 IOWA D 1978 ANN MT 1913
BUSINESS SCHOOL LUTHERAN ENT LEG AGE 55-59

JAMES, DAVID F (D) LIBERTY H26-30(1939-1947), S31-43(1949-1973)
+ + FARMER B 1905 IOWA ANN MT 1925
SOME COLLEGE LUTHERAN ENT LEG AGE 30-34
NATIONAL GUARD

JELLISON, CHARLES JOHN (R) FLATHEAD S34-35(1955-1957) Eagles
+ + FARMER B 1902 MONTANA
HIGH SCHOOL ENT LEG AGE 50-54
NATIONAL GUARD

KELLER, WEBSTER (D) STILLWATER S32-39(1951-1965) Masm
+ + FARMER-STOCKMAN B 1895 MISSOURI ANN MT 1910
HIGH SCHOOL OTHER RELIG ENT LEG AGE 55-59

LACHANCE, CLARENCE EARL (D) KENSAL S34-37(1955-1961) Masm, Elks
O + MERCHANT B 1912 MONTANA D 1964
SOME COLLEGE PRESBYTERIAN ENT LEG AGE 40-44
ARMY WORLD WAR II

LARSON, GLENN R (R) SANDERS S28-35(1943-1967) VFW
- + BANKER B 1911 WASHINGTON ANN MT 1912
COLLEGE GRADUATE METHODIST ENT LEG AGE 30-34

LINDQUIST, CARL (R) DANIELS S32-34(1951-1955) masm
- +

S34-19?5

ATTORNEY B 1900 MINNESOTA D 1976 ARR MT 1919
SOME COLLEGE ENT LEG AGE 50-54
ARMY WORLD WAR I

MACKAY, WILLIAM V (R) CARBON H32(1951), S33-42(1953-1971) Shrine Mason, Elks
- + RANCHER B 1911 NEW JERSEY ARR MT 1919
SOME COLLEGE CONGREGATIONAL ENT LEG AGE 40-44

MAHONEY, CHARLES H (R) GARFIELD S25-28(1937-1943), S31-38(1945-1959)
- - RANCHER B 1906 MINNESOTA ARR MT 1907
HIGH SCHOOL ENT LEG AGE 30-34
ARMY WORLD WAR II

MANNING, DAVE H (D) TREASURE H21-26(1933-1939), S27-46(1941-1979)
+ + CONTRACTOR B 1897 WISCONSIN ARR MT 1905
SOME COLLEGE ROMAN CATHOLIC ENT LEG AGE 35-39
ROTC

MCCABE, GEORGE H (D) GLACIER S33-34(1953-1955) KC, Elks
O BIL PRODUCTION B 1882 WISCONSIN D 1955 ARR MT 1926
BUSINESS SCHOOL ROMAN CATHOLIC ENT LEG AGE +65

MCDONNELL, A. RONALD (R) SHEET GRASS S33-39(1953-1965)
- + ATTORNEY B 1901 MONTANA
COLLEGE GRADUATE L.L.B. ROMAN CATHOLIC ENT LEG AGE 50-54
WORLD WAR II

MCGUIAN, GONCCH (D) CHOUTEAU S34-43(1955-1973)
O + RANCHER B 1911 MONTANA
HIGH SCHOOL ROMAN CATHOLIC ENT LEG AGE 40-44

MCKENNA, GEORGE S (D) JUDITH BASIN H25-27(1937-1941), S28-29(1943-1945), S32-39(1951-1965) KC
+ + FARMER-RANCHER B 1886 SOUTH DAKOTA ARR MT 1915
HIGH SCHOOL ROMAN CATHOLIC ENT LEG AGE 50-54
NATIONAL GUARD

MCQUITTY, EARL S (D) WHEATLAND S26-34(1939-1955) Mason, IOOF, Elks
- - REAL ESTATE B 1878 MISSOURI D 1960 ARR MT 1906
SOME COLLEGE ENT LEG AGE 60-64

MORITZ, P. EARL (R) FERGUS S33-35(1953-1957), S38-43(1963-1973)
- O MOTOR TRANSIT B 1903 IOWA ARR MT 1925
HIGH SCHOOL METHODIST ENT LEG AGE 50-54

MURPHY, HARRY A (R) GRANITE S34-35(1955-1957) Elks
- + UTILITIES B 1887 KANSAS D 1965 ARR MT 1911
COLLEGE GRADUATE ROMAN CATHOLIC ENT LEG AGE +65

NESVIG, OSCAR (D) LIBBY S32-34(1951-1955) Mason,
O + ATTORNEY B 1891 NORTH DAKOTA D 1955 ARR MT 1911
SOME COLLEGE ENT LEG AGE 55-59

NUTTER, DONALD G (R) RICHLAND S32-35(1951-1957) Mason, Elks, Moose
- + MERCHANT B 1915 MONTANA D 1962
COLLEGE GRADUATE L.L.B. CONGREGATIONAL ENT LEG AGE 35-39
AIR FORCE WORLD WAR II

PAGBURN, FRED H (R) LEWIS & CLARK H24-26(1935-1939), H28-30(1943-1947), S31-34(1949-1955) Shrine Mason
- + PHARMACIST B 1894 MONTANA D 1961
HIGH SCHOOL PHARMACY EPISCOPAL ENT LEG AGE 40-44

NICK, PAUL H	(R) ZETON S28-37(1941-1961)								Mason
+ +	FARMER-STOCKMAN	R	1889	MISSOURI	D	1977	ARR MT 1911		
	SOME COLLEGE			METHODIST			ENT LEG AGE 50-54		
	ROTC								
ROBINS, RAYFORD L	(R) DAWSON S31-34(1951-1955)								Mason, Elks
- +	MERCHANT	R	1900	WISCONSIN			ARR MT 1946		
	BUSINESS SCHOOL			CONGREGATIONAL			ENT LEG AGE 50-54		
ROBINSON, FRED L	(R) PHILLIPS S25-30(1937-1947), S33-36(1953-1959)								Shrine Mason, Elks
O +	BUSINESS & REPAIR SERVICES	R	1889	TENNESSEE	D	1969	ARR MT 1911		
	SOME COLLEGE			LUTHERAN			ENT LEG AGE 45-49		
	WORLD WAR I								
ROSS, THOMAS A	(R) BLAINE H21-22(1929-1931), S27-34(1941-1955)								Mason, Elks, Ex
- O	RANCHER	R	1895	MONTANA	D	1977			
	COLLEGE GRADUATE			PRESBYTERIAN			ENT LEG AGE 30-34		
	ARMY WORLD WAR I								
SAGUSKY, WALTER G	(R) MADISON H32-33(1951-1953), S34-37(1955-1961)								Mason
- +	APIARIST	R	1904	NEBRASKA			ARR MT 1929		
	BUSINESS SCHOOL			EPISCOPAL			ENT LEG AGE 45-49		
SCOFIELD, CHARLES L	(R) POWDER RIVER H24-32(1935-1951), S33-36(1953-1959)								Shrine Mason, OES
- +	STOCKMAN	R	1889	SOUTH DAKOTA	D	1967	ARR MT 1903		
	ELEM. SCHOOL			CONGREGATIONAL			ENT LEG AGE 45-49		
SPEAR, WILLIS H. JR	(R) BIG HORN S30-36(1947-1959)								Elks
- -	RANCHER	R	1888	WYOMING	D	1974	ARR MT 1907		
	BUSINESS SCHOOL			BAPTIST			ENT LEG AGE 55-59		
TAYLOR, R. H	(R) ROOSEVELT S33-34(1953-1955)								
- +	MERCHANT	R	1896	MISSOURI	D	1964	ARR MT 1914		
	HIGH SCHOOL						ENT LEG AGE 55-59		
VALITON, DON F	(R) POWELL H30(1947), S31-35(1949-1957)								Elks, KP, Moose
+ +	REAL ESTATE-INSURANCE	R	1914	MONTANA					
	SOME COLLEGE			EPISCOPAL			ENT LEG AGE 30-34		
	ARMY WORLD WAR II								
WALLACE, LLOYD I	(R) MISSOULA H17(1921), S29-30(1945-1947), S33-34(1953-1955)								Mason, Elks, IOOF, Woodmen
- +	ATTORNEY	R	1893	MINNESOTA	D	1966	ARR MT 1915		
	L.L.B.						ENT LEG AGE 21-29		
	WORLD WAR I								
WENGEN, EDWARD A	(D) DEER LODGE H25-26(1937-1939), H28(1943), H30(1947), S31-34(1949-1955)								Mason, Elks
+ +	STOCKMAN	D	1887	MONTANA	D	1967			
	SOME COLLEGE			PRESBYTERIAN			ENT LEG AGE 50-54		
	WORLD WAR I								
WENZ, KARL	(R) FALLON S34-35(1955-1957)								Mason
- +	FARMER	R	1911	MONTANA					
	ELEM. SCHOOL			CONGREGATIONAL			ENT LEG AGE 40-44		
WILSON, GEORGE L	(D) TOOLE S26-37(1931-1961)								Elks
- -	RANCHER-STOCKMAN	D	1884	NEBRASKA	D	1971	ARR MT 1912		
	HIGH SCHOOL						ENT LEG AGE 55-59		
	NATIONAL GUARD WORLD WAR I								

S84-1955

ACHHEN, EDGUTAN — +
(D) MISSOULA H24(1945), S30-35(1947-1957)
ATTORNEY — B 1893 MONTANA — D 1967
SOME COLLEGE — L.L.B. — EPISCOPAL — ENT LEG AGE 40-44
Shrine Mason

AOAKING, PAUL — O
(R) PARK H31-32(1949-1951), S33-34(1953-1955)
MERCHANT — B 1901 MONTANA
SOME COLLEGE — ENT LEG AGE 45-49
NATIONAL GUARD
Mason, Elks

ALLEN, ARCHIBALD H — (D) PARK H34(1955)
- O — RANCHER — B 1912 ILLINOIS — ARR MT 1946 — Mason
SOME COLLEGE — EPISCOPAL — ENT LEG AGE 40-44
MARINE CORPS

ANDERSON, GEORGE O — (D) CASCADE H32-35(1951-1957)
O O — MERCHANT — R 1923 MONTANA — KC
BUSINESS SCHOOL — ROMAN CATHOLIC — ENT LEG AGE 21-29

ANDERSON, JEROME — (R) YELLOWSTONE H34-37(1955-1961)
+ + — ATTORNEY — R 1921 MINNESOTA — ARR MT 1921 — KC
COLLEGE GRADUATE — ROMAN CATHOLIC — ENT LEG AGE 30-34
MARINE CORPS — WORLD WAR II

ARMSTRONG, ORV J — (R) FLATHEAD H26-27(1939-1941), H29-34(1945-1955) — Mason, Elks, Eagles
+ + — INSURANCE — D 1893 MONTANA — D 1966
SOME COLLEGE — METHODIST — ENT LEG AGE 45-49
ARMY — WORLD WAR I

BARNARD, LLOYD — (D) VALLEY H29(1945), H31-37(1949-1961)
O + — FARMER-RANCHER — R 1904 VIRGINIA — ARR MT 1910 — IOOF
HIGH SCHOOL — L.D.S. — METHODIST — ENT LEG AGE 40-44

BARRETT, FRED E — (D) LIBERTY H32-36(1951-1959)
+ O — FARMER — D 1919 MONTANA — Mason, Elks
SOME COLLEGE — METHODIST — ENT LEG AGE 30-34
ARMY — WORLD WAR II

BAUMGARTNER, AUGUSTA — (R) LAKE H34(1955)
- + — HOUSEWIFE — D 1888 ILLINOIS — ARR MT 1910 — OES
ELEM. SCHOOL — LUTHERAN — ENT LEG AGE +65

BAXTER, H. A — (R) BREATLAND H34(1955)
+ - — RANCHER — D 1893 NEW YORK — ARR MT 1894 — KP
HIGH SCHOOL — ENT LEG AGE 60-64

BECK, MARTIN J — (D) MCCONE H26-28(1939-1943), H30-35(1947-1957) — Mason
+ + — FARMER — D 1886 ILLINOIS — D 1971 — ARR MT 1915
HIGH SCHOOL — LUTHERAN — ENT LEG AGE 50-54

BENTZ, CHRIS C — (R) CARTER H34-37(1955-1961), S38-39(1963-1965)
- + — MERCHANT — R 1891 SOUTH DAKOTA — ARR MT 1946
SOME COLLEGE — LUTHERAN — ENT LEG AGE 60-64
NAVY — WORLD WAR I

BICK, CLARENCE P — (D) LAKE H34-35(1955-1957) — Grange
+ + — FARMER-RANCHER — R 1893 SOUTH DAKOTA — ARR MT 1916
ELEM. SCHOOL — METHODIST — ENT LEG AGE 60-64
WORLD WAR I

BRICKEN, RALPH C — (R) JUDITH BASIN H18-21(1923-1929), H28-29(1943-1945), H31(1949), H33-34(1953-1955) — Shrine, Mason, Elks
O + — REAL ESTATE-INSURANCE — R 1888 INDIANA — D 1971 — ARR MT 1909
TECH, TRADE SCH — LUTHERAN — ENT LEG AGE 35-39

BROEDER, FRED O. JR — (R) FLATHEAD H33-40(1953-1967), S41-43(1965-1973)
+ + — LUMBERMAN — D 1918 MINNESOTA — ARR MT 1918
HIGH SCHOOL — LUTHERAN — ENT LEG AGE 35-39

CENOVSKI, CHARLES — (D) FERGUS H33-37(1953-1961), H35(1965) — Elks, Eagles, Moose
- -

ATTORNEY B 1922 MONTANA
MASTERS DEGREE L.L.B. ROMAN CATHOLIC ENT LEG AGE 30-34

CHAFFIN, DEAN C (R) GALLATIN H28-30(1943-1947), H33-34(1953-1955) Shrine Mason, Elks, OES
+ O MERCHANT B 1899 MONTANA D 1974
BUSINESS SCHOOL PRESBYTERIAN ENT LEG AGE 40-44

CLARK, EARL [illegible] (D) MUSSELSHELL H30-32(1947-1951), H34(1955), S35-36(1957-1959) Mason, KP
+ + RANCHER B 1894 IDAHO D 1962 ARR MT 1914
BUSINESS SCHOOL PROTESTANT ENT LEG AGE 50-54

CLOWES, ROBERT J (D) VALLEY H31-36(1951-1959) 100F, Elks
+ O FARMER B 1892 PENNSYLVANIA ARR MT 1917
BUSINESS SCHOOL BAPTIST ENT LEG AGE 60-64
ARMY WORLD WAR I

CONRAD, RALPH J (R) LEWIS & CLARK H31(1955)
RETIRED B 1880 MONTANA D 1956
+ O SOME COLLEGE ENT LEG AGE +65

CRIST, CHARLES L (R) YELLOWSTONE H32-35(1951-1957) Mason, KP
+ + RADIO-TV B 1890 TEXAS D 1967 ARR MT 1936
SOME COLLEGE METHODIST ENT LEG AGE 60-64

CUNNING, HUGH C (D) GRANITE H34-35(1955-1957), S36-39(1959-1965) mason
- O ENGINEER B 1926 MONTANA
SOME COLLEGE METHODIST ENT LEG AGE 21-29
MARINE CORPS WORLD WAR II

CUNNINGHAM, JOHN J. (2) (D) SILVER BOW H34-35(1955-1957) Elks
- O FINANCIAL SERVICES B 1900 COLORADO D 1979 ARR MT 1905
HIGH SCHOOL ROMAN CATHOLIC ENT LEG AGE 55-59

DANIELS, HARVIN BENNIT (D) POWELL H34-37(1955-1961) Elks
+ O ATTORNEY B 1916 MONTANA
COLLEGE GRADUATE PROTESTANT ENT LEG AGE 35-39
NAVY WORLD WAR II

DEMPSEY, HERVIN JOHN (D) SILVER BOW H33-35(1953-1957)
O O CLERK B 1903 MONTANA D 1971
SOME COLLEGE ROMAN CATHOLIC ENT LEG AGE 50-54

DUNKLE, ROBERT A (D) HILL H33-34(1953-1955), S35-38(1957-1963) Elks, Eagles
- - MERCHANT B 1915 MINNESOTA ARR MT 1941
HIGH SCHOOL METHODIST ENT LEG AGE 35-39
ARMY WORLD WAR II

EMMONS, JOHN P (D) DEER LODGE H30-37(1947-1961)
O + SMELTERMAN B 1905 MONTANA D 1968 Eagles
HIGH SCHOOL ROMAN CATHOLIC ENT LEG AGE 40-44

FELT, JAMES A (R) YELLOWSTONE H34-36(1955-1959), H39-40(1965-1967) Elks, ΣX
+ + ATTORNEY B 1920 MONTANA
COLLEGE GRADUATE L.L.B. ROMAN CATHOLIC ENT LEG AGE 35-39
NATIONAL GUARD

FAY, JOSEPH [illegible] (R) YELLOWSTONE H33-34(1953-1955) Mason, Elks
O + RAILROADMAN B 1905 MONTANA
HIGH SCHOOL METHODIST ENT LEG AGE 45-49

FULTON, FRANK P
- -
(R) FALLON H32-34(1951-1955)
RANCHER B 1915 MONTANA
SOME COLLEGE PRESBYTERIAN ENT LEG AGE 35-39

GEBHARDT, RALPH H
+ +
(R) YELLOWSTONE H26-35(1939-1957) Shrine Mason, Elks
RAILROADMAN R 1894 WISCONSIN ANR MT 1916
BUSINESS SCHOOL PRESBYTERIAN ENT LEG AGE 45-49
ARMY WORLD WAR I

GERARD, SUMNER
- O
(R) MADISON H14-36(1955-1959), S38-39(1963-1965) Mason, Elks
RANCHER B 1916 NEW YORK ANR MT 1948
MASTERS DEGREE EPISCOPAL ENT LEG AGE 35-39
ARMY WORLD WAR II

GERSHMEL, PERLIN H
- -
(D) PETROLEUM H33-34(1953-1955) Mason
RANCHER B 1905 WISCONSIN ANR MT 1918
HIGH SCHOOL LUTHERAN ENT LEG AGE 45-49

GLEED, GEORGE E
O -
(R) BEAVERHEAD H33-36(1953-1959) Shrine Mason, Elks
WHOLESALE TRADE B 1920 MONTANA
SOME COLLEGE PRESBYTERIAN ENT LEG AGE 30-34
ARMY WORLD WAR II

GOAN, J. PHILLIP
+ +
(R) YELLOWSTONE H34(1955) Mason
FINANCIAL SERVICES B 1925 MONTANA
COLLEGE GRADUATE CONGREGATIONAL ENT LEG AGE 30-34
ARMY

GOODGANE, ALLEN J
+ +
(D) LINCOLN H31-35(1949-1957) Shrine Mason
LUMBERMAN R 1883 TEXAS D 1960 ANR MT 1921
SOME COLLEGE ENT LEG AGE 465

GRANT, RAYMOND A
O -
(D) CUSTER H34(1955), S35-36(1957-1959) KP, Elks, Eagles
FINANCIAL SERVICES D 1897 MISSOURI ANR MT 1915
SOME COLLEGE PRESBYTERIAN ENT LEG AGE 55-59

GRAYDALL, LEE C
+ +
(D) CASCADE H28-34(1943-1955) Mason, KP, Eagles
ATTORNEY B 1894 ILLINOIS D 1973 ANR MT 1920
COLLEGE GRADUATE L.L.B. PRESBYTERIAN ENT LEG AGE 45-49
ARMY WORLD WAR I

GUDBRSEN, OLE S
+ +
(D) CASCADE H27-29(1941-1945), H31(1949), H33-34(1953-1955) Elks
FARMER R 1895 NORWAY ANR MT 1916
HIGH SCHOOL LUTHERAN ENT LEG AGE 45-49
WORLD WAR I

HAGENSTON, ARTHUR S
+ +
(D) DAWSON H34(1955), S35-36(1957-1959) Shrine Mason, Elks
RETAIL TRADE D 1899 MINNESOTA D 1964
SOME COLLEGE METHODIST ENT LEG AGE 55-59

HAINES, CLIFFORD E
+ +
(R) FLATHEAD H30(1947), H32-34(1951-1955) Elks
FARMER-RANCHER D 1897 IOWA ANR MT 1902
HIGH SCHOOL METHODIST ENT LEG AGE 50-54

HAINES, G. H
- O
(R) PRAIRIE H33-36(1953-1959) Mason, Elks
MERCHANT B 1905 NORTH DAKOTA D 1968 ANR MT 1928
HIGH SCHOOL PRESBYTERIAN ENT LEG AGE 45-49

HAINES, THOMAS F
+ +
(R) MISSOULA H32-43(1951-1973)
RETAIL TRADE D 1903 ILLINOIS ANR MT 1918

		SOME COLLEGE			EPISCOPAL		ENT LEG AGE 45-49	
HANCOCK, J. ROGER		(R) YELLOWSTONE H33-35(1953-1957)						Shrine Mason
+	+	FARMER	B	1895	IOWA		ANR MT 1907	
		SOME COLLEGE			CONGREGATIONAL		ENT LEG AGE +65	
HANKS, CLYDE L		(I) BIG HORN H31-38(1949-1963)						Mason, IOOF
+	+	FARMER-RANCHER	B	1918	MONTANA			
		SOME COLLEGE			CONGREGATIONAL		ENT LEG AGE 30-34	
HESS, HARRIS HENRY		(D) GILL H25-27(1937-1941), H31-35(1949-1957)						Elks
O	+	FARMER	B	1891	OHIO	D 1958	ANR MT 1923	
		HIGH SCHOOL			LUTHERAN		ENT LEG AGE 45-49	
HOLECEK, GEORGE		(D) CARBON H34-35(1955-1957)						Mason
+	+	FARMER-STOCKMAN	B	1901	ILLINOIS		ANR MT 1913	
		HIGH SCHOOL					ENT LEG AGE 50-54	
HOLTZ, RONALD D		(D) CASCADE H31-32(1949-1951), H34-36(1955-1959), H39-41(1965-1969)						Elks
+	+	FARMER	B	1908	IDAHO	D 1969	ANR MT 1914	
		HIGH SCHOOL			METHODIST		ENT LEG AGE 40-44	
HOOKS, PATRICK F		(D) BROADWATER H34-35(1955-1957)						
+	O	ATTORNEY	B	1926	MONTANA			
		COLLEGE GRADUATE L.L.B.			ROMAN CATHOLIC		ENT LEG AGE 21-29	
		NAVY						
HOWARD, GEORGE T		(R) MISSOULA H34-36(1955-1959)						
+	O	MERCHANT	B	1893	MISSOURI		ANR MT 1914	
		SOME COLLEGE			BAPTIST		ENT LEG AGE 60-64	
		ARMY WORLD WAR I						
JENSEN, ARTHUR N. Sr		(D) MINERAL H31-32(1949-1951), H34-37(1955-1961), S38-39(1963-1965), S43 (1973)						
-	O	THEATER OPERATOR	B	1896	ILLINOIS		ANR MT 1917	
		COLLEGE GRADUATE			OTHER RELIGN		ENT LEG AGE 50-54	
JUEDEMAN, RUDOLPH E		(R) TOOLE H33-35(1953-1957)						Elks
O	+	FARMER	B	1908	OKLAHOMA		ANR MT 1936	
		BUSINESS SCHOOL			METHODIST		ENT LEG AGE 45-49	
LEE, RAY		(D) SILVER BOW H34(1955)						
+	+	MINER	B	1906	MISSOURI	D 1957	ANR MT 1931	
		HIGH SCHOOL					ENT LEG AGE 45-49	
LEUTHOLD, JOHN H		(R) STILLWATER H32-34(1951-1955), H36-40(1959-1967)						Shrine, Mason
+	+	FARMER-STOCKMAN	B	1907	ILLINOIS		ANR MT 1912	
		HIGH SCHOOL			CONGREGATIONAL		ENT LEG AGE 40-44	
LOUGHRAN, MICHAEL JAMES		(D) SILVER BOW H28-30(1939-1959)						KC, Elks
O	O	ENGINEER	B	1888	NEVADA	D 1960	ANR MT 1892	
		COLLEGE GRADUATE			ROMAN CATHOLIC		ENT LEG AGE 50-54	
MACDONALD, JOHN J		(D) GARFIELD H31-36(1949-1959), S37-39(1961-1965)						
O	O	FARMER-RANCHER	B	1913	MONTANA			
		HIGH SCHOOL			ROMAN CATHOLIC		ENT LEG AGE 35-39	
		ARMY WORLD WAR II						
MAHONEY, EUGENE T		(D) SANDERS H33-35(1953-1957), S36-41(1959-1969)						Elks
+	+	ATTORNEY	B	1914	MONTANA			

COLLEGE GRADUATE L.L.B. ROMAN CATHOLIC ENT LEG AGE 35-39
AIR FORCE WORLD WAR II

MANGAN, THOMAS A — KC, Elks, Moose, Eagles
+ + (D) MISSOULA H34-35(1955-1957)
RETIRED B 1888 IRELAND D 1975 ARR MT 1917
HIGH SCHOOL ROMAN CATHOLIC ENT LEG AGE +65

MCCANDLESS, WAYNE — KC
O O (D) DEER LODGE H33-35(1953-1957)
CONSTRUC. LABOR B 1915 MONTANA D 1972
HIGH SCHOOL ROMAN CATHOLIC ENT LEG AGE 35-39

MCINNIS, ARCHIE L
+ + (D) JUDITH BASIN H34-35(1955-1957)
FARMER-RANCHER B 1900 MONTANA
ELEM. SCHOOL ROMAN CATHOLIC ENT LEG AGE 55-59

MCOMBER, G. GORDON
+ + (D) CETON H34-37(1955-1961), H39(1965), S40(1967), S42-45(1971-1977)
FARMER B 1919 CANADA ARR MT 1929
HIGH SCHOOL OTHER RELIGN ENT LEG AGE 35-39
NAVY WORLD WAR II

MICHELS, LLOYD J — KC, Elks
+ + (R) SHERIDAN H31-35(1919-1957), S36-39(1955-1965)
FARMER-STOCKMAN R 1905 NORTH DAKOTA ARR MT 1910
HIGH SCHOOL ROMAN CATHOLIC ENT LEG AGE 40-44

MINETTE, CARL PATRICK — Elks
+ O (D) GLACIER H34(1955), S35-36(1957-1959)
BUSINESS (UNSPEC) D 1929 MONTANA
SOME COLLEGE ROMAN CATHOLIC ENT LEG AGE 21-29
ARMY

MOUNTAIN, JAMES A — KC, Elks
O O (D) SILVER BOW H32(1951), H34(1955)
CLERK B 1900 MASSACHUSETTS D 1968 ARR MT 1902
BUSINESS SCHOOL ROMAN CATHOLIC ENT LEG AGE 50-54

MYSSE, STEVEN O. JR
+ + (R) ROSEBUD H34-35(1955-1957)
RANCHER B 1922 MONTANA
COLLEGE GRADUATE LUTHERAN ENT LEG AGE 30-34
ARMY WORLD WAR II

NELSON, WILLIAM J
+ + (D) GOLDEN VALLEY H25(1937), H27-29(1941-1945), H34-35(1955-1957)
FARMER-RANCHER B 1886 MINNESOTA D 1969 ARR MT 1910
ELEM. SCHOOL LUTHERAN ENT LEG AGE 50-54

NELSTEAD, TED E — Mason, Elks.
+ + (R) CANTER H19-23(1925-1933), H34-37(1955-1961)
ABSTRACTER B 1893 MINNESOTA D 1961 ARR MT 1919
SOME COLLEGE L.L.B. LUTHERAN ENT LEG AGE 30-34
ARMY WORLD WAR I

NICHOLS, MORRIS
O + (R) HAVALLI H34-43(1955-1973)
FARMER-RANCHER B 1913 MONTANA
SOME COLLEGE METHODIST ENT LEG AGE 40-44

NIARI, RICHARD — Shrine Mason
+ + (D) BLAINE H30-34(1947-1955), S35-39(1957-1965)
FARMER-STOCKMAN B 1901 WISCONSIN D 1975 ARR MT 1929
HIGH SCHOOL LUTHERAN ENT LEG AGE 45-49
WORLD WAR II

NORBY, FRITZ — mason
+ O (R) CASCADE H32-35(1951-1957)
REAL ESTATE-INSURANCE B 1892 MINNESOTA D 1971 ARR MT 1916
SOME COLLEGE CONGREGATIONAL ENT LEG AGE 55-59

MYHR, CASPER MELIUS — (R) MISSOULA H31-34(1953-1955) — Masn, Elks
- - RETAIL TRADE — R 1889 NORTH DAKOTA
ELEM. SCHOOL — LUTHERAN — ENT LEG AGE +65

PARKER, CECIL C — (D) POWDER R H34-36(1955-1957) — Moose, 100F
+ + FARMER — R 1899 MISSOURI — D 1963 — ARR MT 1917
HIGH SCHOOL — METHODIST — ENT LEG AGE 55-59

PARKER, J. CLEMENT — (D) TETAUX H25-29(1937-1945), H32-34(1951-1955) — Elks
+ + FARMER-STOCKMAN — R 1884 IOWA — D 1957 — ARR MT 1908
HIGH SCHOOL — ROMAN CATHOLIC — ENT LEG AGE 50-54

PHILLIPS, ROBERT J — (R) FERGUS H29-34(1945-1955) — Masn, Elks
- - RANCHER — R 1891 MONTANA — D 1960
SOME COLLEGE — PRESBYTERIAN — ENT LEG AGE 50-54

PICHETTE, GENE A — (D) LEWIS & CLARK H34(1955) — Masn, Eagles
+ O ATTORNEY — D 1924 MONTANA
COLLEGE GRADUATE L.L.B. — ENT LEG AGE 30-34
NAVY

PIERCE, JOHN H — (R) YELLOWSTONE H34-35(1955-1957), H37-42(1961-1971) — Shrine Masn, Elks
+ + RETAIL TRADE — D 1917 MONTANA — D 1971
COLLEGE GRADUATE — METHODIST — ENT LEG AGE 35-39
ARMY

POWELL, LISLE D — (R) POWDER RIVER H33-36(1953-1959)
O + RANCHER — R 1885 MINNESOTA — D 1959 — ARR MT 1912
ELEM. SCHOOL — BAPTIST — ENT LEG AGE +65

PURDY, R. P — (R) GALLATIN H33-34(1953-1965) — Elks
+ + MERCHANT — R 1918 MONTANA
SOME COLLEGE — PRESBYTERIAN — ENT LEG AGE 35-39
ARMY

REARDON, FRANK D — (D) SILVER BOW H34(1955), S35-39(1957-1965), S41-42(1969-1971) — Elks
+ + CONTRACTOR — D 1893 UTAH — ARR MT 1898
SOME COLLEGE — ROMAN CATHOLIC — ENT LEG AGE 55-59
WORLD WAR I

REED, DESS R — (R) MISSOULA H32-34(1951-1955), H37(1961) — OES
+ + SECRETARY — D 1892 MINNESOTA — ARR MT 1925
SOME COLLEGE — PROTESTANT — ENT LEG AGE 55-59

REGAN, LEONARD D — (D) CASCADE H33-38(1953-1963)
+ + UTILITIES — D 1911 MONTANA — KC, Elks
SOME COLLEGE — ROMAN CATHOLIC — ENT LEG AGE 40-44
ARMY WORLD WAR II

RIEDER, ARNOLD — (D) JEFFERSON H32-35(1951-1957), S36-39(1955-1965)
+ + FARMER-STOCKMAN — R 1906 SWITZERLAND — ARR MT 1941
HIGH SCHOOL — METHODIST — ENT LEG AGE 45-49

RINGLING, PAUL T — (D) MEAGHER H33-34(1953-1955), S35-36(1957-1959) — Masn, Shriner
- - RANCHER — R 1920 NEW YORK — ARR MT 1920
SOME COLLEGE — EPISCOPAL — ENT LEG AGE 30-34
AIR FORCE WORLD WAR II

SALES, WALTER LEWIS — (R) GALLATIN H30-36(1947-1959)
+ + RANCHER — R 1902 MONTANA — D 1971 — KP, Elks, Woodmen

	SOME COLLEGE			LUTHERAN			ENT LEG AGE 45-49	
SAX, FLOYD L	(R) RICHLAND H33-34(1953-1955)							
+ O	MERCHANT	R	1906	NORTH DAKOTA			ARR MT 1939	
	COLLEGE GRADUATE			LUTHERAN			ENT LEG AGE 45-49	
	ARMY WORLD WAR II							
SCHUMACHER, LEE C	(D) PHILLIPS H34(1955)							
+ +	FARMER-STOCKMAN	R	1901	MINNESOTA	D	1975	ARR MT 1910	
	ELEM. SCHOOL			ROMAN CATHOLIC			ENT LEG AGE 50-54	
	WORLD WAR I							
SIDERIUS, GEORGE	(D) FLATHEAD H34-35(1955-1957), S36-41(1959-1973)							Eagles
O +	FARMER	R	1907	MICHIGAN			ARR MT 1908	
	COLLEGE GRADUATE			PRESBYTERIAN			ENT LEG AGE 45-49	
	NATIONAL GUARD							
SIPPEL, F. A	(R) SWEET GRASS H33-34(1953-1955)							
+ +	RANCHER	R	1898	CANADA			ARR MT 1921	
	COLLEGE GRADUATE			EPISCOPAL			ENT LEG AGE 55-59	
SMITH, J. MILLER	(R) LEWIS & CLARK H32-34(1951-1955), S35-36(1957-1959)							Mason, Elks, Eagles
+ +	ATTORNEY	R	1899	MONTANA	D	1969		
	SOME COLLEGE			PRESBYTERIAN			ENT LEG AGE 50-54	
	ARMY WORLD WAR I							
TANGE, CHRIS S	(R) ROOSEVELT H33-35(1953-1957)							
- -	FARMER-RANCHER	R	1896	DENMARK			ARR MT 1914	
	BUSINESS SCHOOL			OTHER RELIGN			ENT LEG AGE 55-59	
	WORLD WAR I							
TAYLOR, EDMUND NEIL	(R) DANIELS H29-34(1945-1955)							
- O	FARMER-STOCKMAN	R	1897	MISSOURI	D	1964	ARR MT 1914	
	HIGH SCHOOL			PROTESTANT			ENT LEG AGE 45-49	
TOOLEY, THOMAS E	(D) SILVER BOW H33-34(1953-1955)							
+ +	ACCOUNTANT	R	1910	MONTANA	D	1978		EX
	SOME COLLEGE			EPISCOPAL			ENT LEG AGE 40-44	
WALTON, CLARENCE E	(R) PARK H33-36(1953-1959)							Mason
+ O	RANCHER	R	1907	MONTANA	D	1980		
	SOME COLLEGE			PROTESTANT			ENT LEG AGE 45-49	
WEITZEL, JOHN P	(R) RAVALLI H33-34(1953-1955)							
- O	STOCKMAN	R	1906	MONTANA				Mason, OES
	SOME COLLEGE						ENT LEG AGE 45-49	
WILSON, ARCHIE	(R) TREASURE H30-34(1947-1955)							
+ +	RANCHER-STOCKMAN	D	1882	SCOTLAND	D	1960	ARR MT 1903	Mason
	ELEM. SCHOOL			PRESBYTERIAN			ENT LEG AGE +65	
WOOD, JAMES JR	(D) CHOUTEAU H33-36(1953-1959)							
+ +	RANCHER	D	1924	MONTANA				
	TECH, TRADE SCH			METHODIST			ENT LEG AGE 21-29	

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