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Discrimination in the "Equality State"

Black-White Relations in Wyoming History

By Reagan Joy Kaufman

Understanding the prevalence of racial tensions in Wyoming, rather than solely focusing on the South, is pertinent to rounding out the study of the civil rights movement.

In the wake of the 1954 *Brown* v. *Board of Education* decision, Wyoming repealed a permissive school segregation law that had been on the books for nearly ninety years.[1] The repeal of the state's segregation statute attracted little attention from Wyomingites. In fact, the *Wyoming State Tribune* mentioned the change only in a small, corner front-page article.[2] Governor Milward Simpson believed that the lack of publicity sprang from the fact that there had "never been any segregation in the schools of Wyoming."[3] Although little was said about the rescinding of the law in Wyoming, a southern newspaper noted that the repeal restricted "opposition to the Supreme Court desegregation decision [*Brown* v. *Board of Education*] to the Solid South."[4] Although local school boards never invoked the permissive school segregation law, Wyoming—a state far removed from the South—was hardly void of racial discrimination. Understanding the prevalence of racial tensions in Wyoming, rather than solely focusing on the South, is pertinent to rounding out the study of the civil rights movement.

Wyoming territory had been carved out of the Dakotas during Reconstruction.[5] In the aftermath of the Civil War, politicians struggled to bridge the sectional and racial divides in the country. Three Reconstruction amendments resulted from their efforts. Centered on discussion of racial justice, the amendments failed to accomplish what was seemingly promised. Although the Thirteenth Amendment ended slavery, African Americans had little access to institutions that would help them become economically and socially "equal" to their

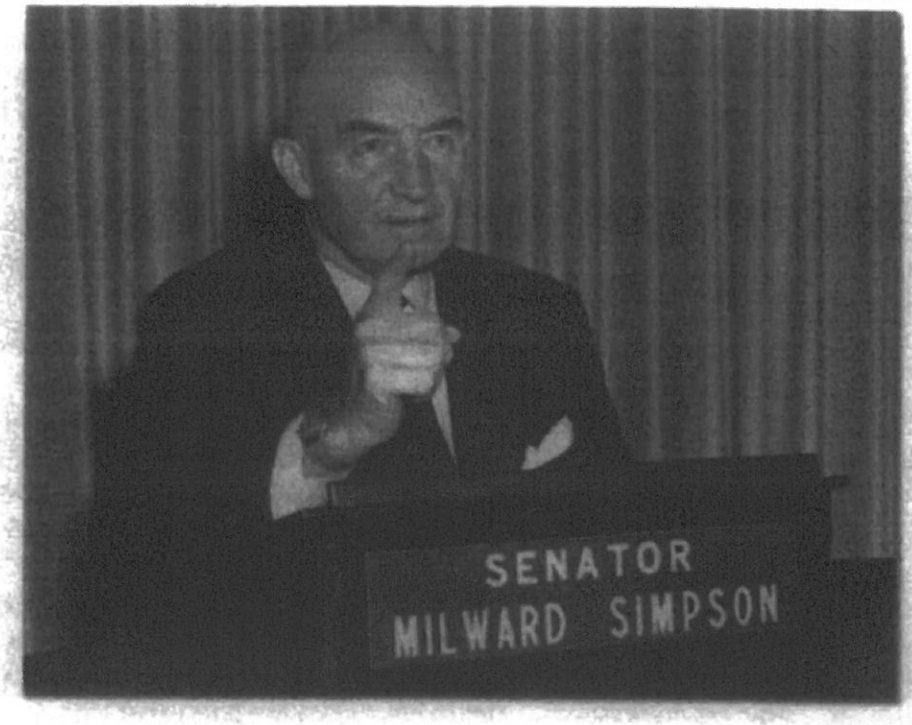
[1] *General Laws, Memorials, and Resolutions of the First Legislative Assembly of the Territory of Wyoming, 1869* (Cheyenne, 1870), p. 228. Chapter 7, section 24 reads: "Where there are fifteen or more colored children within any school district, the board of directors thereof, with the approval of county superintendent of schools, may provide a separate school for the instruction of such colored children." Although the word "permissive" is often understood as granting freedoms, in this paper the work represents the right of school districts to permit segregation.

[2] "Simpson Signs Bill Repealing Segregation," *Wyoming State Tribune*, February 7, 1955.

[3] Milward Simpson to Charles C. Diggs, Jr., October 18, 1957, box 161, folder 5, Milward L. Simpson Papers, American Heritage Center, University of Wyoming. Hereafter cited as Simpson Papers. Diggs was a congressman from Michigan.

[4] "Wyoming Will Line Up," box 216, folder 10, Simpson Papers. This is the title to a newspaper clipping sent to Governor Simpson on March 30, 1955, by E.H. "Shelly" Schellenberg, Simpson's Alpha Tao Omega brother and businessman. In his kindly letter to Simpson, Schellenberg stated: "Thought you might be interested in knowing you made the editorial page in the Deep South."

[5] Terrence D. Fromong, "The Development of Public Elementary and Secondary Education in Wyoming: 1869-1917" (Ph.D. dissertation, University of Wyoming, 1962), p. 19. On July 25, 1868, President Andrew Johnson signed a bill creating the Territory of Wyoming. The territory was inaugurated on April 15, 1869.



Milward Simpson, when he served as Wyoming s governor, spoke against the state s school segregation law. Courtesy Milward L. Simpson Papers, American Heritage Center, University of Wyoming.

white counterparts. By definition, the black population was free, but hardly equal. In reality, many remained slaves to poverty, sharecropping, and "Black Codes."[6]

The Fourteenth Amendment nullified Black Codes and promised equal protection in matters having to do with "life, liberty, and property," but the courts interpreted the amendment narrowly, banning certain forms of discrimination by the states, but not by individual or "private" institutions. And, in 1896, the Supreme Court's *Plessy* v. *Ferguson* ruling upheld the constitutionality of "separate but equal" state facilities. Justice Henry B. Brown, over the scathing dissent of Justice John Marshall Harlan, delivered the opinion that separate accommodations for the races did not necessarily violate the equal protection clause of the Fourteenth Amendment.[7] Consequently, "separate but equal" became the standard in the South. Although the accommodations were indeed separate, they remained "equal" in name only.

The Fifteenth Amendment, the last of the Reconstruction amendments, prohibited the use of race as a criterion for the franchise. However, literacy tests, poll taxes, and vigilante groups often ensured that the underrepresented minority would not have a chance

[6] Between 1865 and 1867, the former Confederate states enacted Black Codes, or laws, which sought to greatly limit the rights and movements of blacks. During this time, blacks were in a precarious situation because they had been freed by the Thirteenth Amendment, but had not yet been given citizenship—which would come with the Fourteenth Amendment. Prior to the Fourteenth Amendment, southern states created a separate set of laws for the freed, non-citizen population. Michael L. Levine, *African Americans and Civil Rights: From 1619 to the Present* (Phoenix: Oryx Press, 1996), p. 289.

[7] *Plessy* v. *Ferguson*, 163 U.S. 537 (1896). Harlan contributed a sharp rebuke to the majority opinion. Although a Kentucky racist, Harlan disagreed with the judgment of the majority, declaring that "in the eye of the law, there is in this country no superior dominant, or ruling class of citizens. There is no caste here. Our Constitution is color-blind and neither knows nor tolerates classes among citizens . . . all citizens are equal before the law." Harlan's unorthodox opinion was well before its time and anticipated that problems would follow the majority's decision. Harlan claimed that *Plessy* was as "pernicious as the decision made by this tribunal [the Supreme Court] in the *Dred Scott* case." He asserted that the government should not allow race and hate to permeate the law. In contrast, Justice Brown maintained that it was not the role of the constitution to put inferior and superior persons on the same playing field. In the *Plessy* case, the northern-dominated Supreme Court countenanced racial segregation, therefore solidifying Jim Crow laws in the South. For more than fifty years the "separate but equal" doctrine would be used to keep the two races separate in all things from education to public accommodations. Transportation, schools, and accommodations would remain "separate but equal" until *Brown* v. *Board of Education* in 1954.

to cast their ballots.[8] A study of the Reconstruction Era suggests that widespread racial discrimination persisted; the failure to achieve racial equality would later result in the civil rights movement of the 1950s and 1960s. It was in the turbulent time of Reconstruction that Wyoming Territory was created; thus, there should be little surprise that Wyomingites would wrestle with the same discussions over racial justice and equality that plagued the rest of the country.[9]

It is not completely coincidental that Wyoming became a territory the same year the Transcontinental Railroad was completed. The so-called "iron horse" had a paramount impact on America in that it connected the country, thus making another sectional war unlikely. It opened national, in addition to local, markets, and helped to spur the creation of new territories and states such as Wyoming. The influx of population to the Wyoming area, largely due to the Union Pacific Railroad, led to the passage of the Organic Act on July 25, 1868, which created Wyoming's territorial government.[10] Wyoming's first territorial legislative assembly was not overly concerned with creating innovative new laws. They were more concerned with borrowing and adapting—not originality.[11] Incidentally, Wyoming legislators adopted much of Dakota Territory's legislation, as was shown when the territorial legislature released the general laws for Wyoming.[12]

Although Wyoming's first legislators—predominantly Democratic—appeared content to follow other states and territories, the new territory did make headway in one area. The population in the East, especially the female population, looked west when the rustic territory of Wyoming adopted a measure that guaranteed women the right to vote and hold office.[13] A few politicians claimed that since the franchise had recently been given to the black population, the right to vote should naturally be granted to women as well.[14] The majority of Wyomingites and politicians, however, used the woman's suffrage amendment as a public relations ploy—a way to bring people to the territory in hopes of getting a population large enough to apply for statehood.[15] In addition to a law granting women the right to vote, Wyoming's territorial legislature adopted other measures sympathetic to women. The territory's laws allowed married women to own property separately from their husbands, as well as to work jobs while

[8] The Supreme Court did not appear to support the Reconstruction amendments. In addition to the *Plessy* ruling creating "separate but equal" accommodations, *U.S. v. Reese* (1876) stated that the constitution did not guarantee the right to vote, that is, stipulations could be put on the right to vote. In the same year the high court ruled in *U.S. v. Cruikshank* that the government had no right to intervene in private discrimination; in essence, states cannot discriminate, but individual persons can. Vigilante groups, like the Ku Klux Klan, were organized between 1866 and1868. They terrorized "scalawags" and blacks who did not "know their place." Levine, *African Americans and Civil Rights*, p. 103.

[9] During the late nineteenth century, blacks were a "small but vital part of the westward movement. Like their White counterparts, Blacks on the frontier were trappers and traders, soldiers, cowboys, miners, farmers, and entrepreneurs. After the Civil War, many Blacks left the South seeking a better life away from the Jim Crow society that existed there. Most went north, and only a comparative few turned west." Because the West never had a large population of blacks, their early roles, contributions, and tribulations have largely been overlooked. Roger D. Hardaway, "William Jefferson Hardin: Wyoming's 19th Century Black Legislator," *Annals of Wyoming* 63 (Winter 1991): 3. Despite popular misconceptions, "racial hatred was deeply embedded in the hearts of Northern as well as Southern whites, and the road to full citizenship for blacks would be a difficult one everywhere." Levine, *African Americans and Civil Rights*, pp. 92-93.

[10] The Organic Act, "an act to provide a temporary government for the territory of Wyoming," can be found in the *General Laws, Memorials, and Resolutions of the Territory of Wyoming*, pp. 18-24.

[11] Fromong, "The Development of Education in Wyoming," p. 20.

[12] George Justin Bale, "The History of Development of Territorial Public Education in the State of Wyoming, 1869-1890" (M.A. thesis, University of Colorado, Boulder, 1938), p. 16.

[13] Lewis L. Gould, *Wyoming: A Political History, 1868-1896* (New Haven and London: Yale University Press, 1968), pp. 26-27. "Wyoming's first legislature . . . would have won scant attention if it had not passed a woman suffrage act."

[14] Gould maintains that three factors led to the passing of a woman suffrage bill: suffrage would publicize the territory; it would prompt women to back the Democratic Party; and it would embarrass the Republican Party who granted suffrage to blacks, but thought it absurd to give the franchise to women. *Ibid.* According to T.A. Larson, William H. Bright introduced the woman suffrage bill because "he thought that women like his wife and mother had as much right to suffrage as the black men who had recently received the franchise." T.A. Larson, *Wyoming: A Bicentennial History* (New York: W.W. Norton & Company, 1977), p. 77.

[15] According to Larson, "without the public relations angle, Wyoming's first legislature almost certainly would not have approved the suffrage bill." *Ibid.*, pp. 76-80.

retaining control of their income. Furthermore, the legislature passed a stipulation that "in the employment of teachers, no discrimination shall be made in the question of pay on account of pay [sex] when the persons are equally qualified."[16] Wyoming's sympathetic women's rights laws put the territory ahead of most states, at least in writing. When Wyoming became a state in 1890, "Equal Rights" emerged on the state seal. Later, Wyoming would be given the official nickname "The Equality State" for its forward thinking suffrage laws.[17] Although the laws appeared to be a step in the right direction, not all Wyoming citizens attained equality. Sexual discrimination was rampant on job sites, women teachers rarely were paid the same as male teachers, and racial and religious minorities were denied the equality of which the state so loudly boasted.[18] Although the territorial laws provided basic equality for women, other early statutes painted an entirely different picture for minorities.[19]

While most of the literature on the American civil rights movement appropriately focuses on the South, it would be a mistake to conclude that racism did not exist in other regions of the country. Some understanding of non-southern discrimination helps round out the historical picture of race relations in the United States. Wyoming, the overwhelmingly white "Equality State," is a case in point. From the inception of the Wyoming Territory, its peoples have grappled with a variety of racially based questions, from the permissive school segregation law to complaints of unequal access to public accommodations. In addition, Wyomingites participated in discriminatory lynchings and denied the right of marriage to peoples of different ethnicities. Wyoming's racially spurred statutes and activities appear to be in line with racial thinking across the nation.

Wyoming's School Segregation Law

Within a generation after the Civil War, segregation had been established in the South. After the Supreme Court's ruling in *Plessy*, laws and ordinances throughout the South segregated the white and black populations in almost every imaginable way, from schools to water fountains. In contrast to the South's *de jure* segregation, the northerners often established *de facto* segregation, which kept blacks and whites from mingling on a large scale by a matter of opportunity, not law.[20] Although Wyoming appeared to be a front-runner in terms of women's rights, the territory seemed disposed to follow other regions in terms of racial relations in the educational system.

The first known school in what is today Wyoming was in Fort Laramie, and was run by Reverend Richard Vaux in 1852. This school was followed by one erected at Fort Bridger by Judge William A. Carter, Jr., for the benefit of his children and others nearby. Eventually these private schools gave way to parochial and public schools. However, the private, church-run schools did little to solve the education problem, since many children in Wyoming country received no education of any kind.[21] An editorial in the *Cheyenne Daily Leader*, dated October 19, 1867, suggested that public sentiment favored the creation of a school. A "Cheyenner" opined, "I believe I speak

[16] *General Laws, Memorials, and Resolutions of the Territory of Wyoming* p. 234. This is quoted exactly as the statute appears on the books.

[17] Larson, *Wyoming*, p. 102.

[18] In 1973, Wyoming approved the Equal Rights Amendment which, at minimum, targeted sex discrimination in employment opportunities. *Ibid.*, pp. 104-105; T.A. Larson, *History of Wyoming*, second edition (Lincoln: University of Nebraska Press, 1990), p. 610.

[19] "Most of the pioneers had a very limited perception of equality. It meant little more to them than the right to vote; thus they unwittingly erected a false front when they boasted about their equality." Larson, *Wyoming*, p. 104.

[20] Levine, *African Americans and Civil Rights*, p. 107. In the North, school integration proved controversial. Many states, such as Indiana (1874), ruled that school segregation was acceptable. However, other northern cities, such as Chicago, Boston, Cleveland, and Milwaukee had technically integrated schools. Students had to attend schools near their homes and since blacks and whites did not tend to share neighborhoods, their children did not share schools. Although states like Iowa declared that segregated schools were against the Fourteenth Amendment, there was a significant difference between outlawing segregation and promoting integration.

[21] Bale, "The History of Territorial Education in Wyoming," pp. 3, 10-15. Two parochial schools opened in Wyoming Territory. The Wyoming Institute, which closed in 1871, was a Baptist school headed by Reverend D. J. Pierce. St. Mary's Catholic school opened in Laramie during the 1870s, gained in popularity in the early 1880s and moved to Cheyenne in 1885. St. Mary's is still open. Ibid.

the sentiments of three fourths of the citizens of Cheyenne when I say let us have a school." The anonymous author contended that the school should be funded by subscription. Shortly after this editorial appeared, a schoolhouse opened in Cheyenne.[22]

At the prompting of Governor John A. Campbell, Wyoming's territorial legislators took education into consideration in 1869.[23] In his address to the first legislative assembly, Campbell encouraged the lawmakers to consider education. The governor called education "the cornerstone" without which "no durable political fabric can be erected." Campbell argued that prosperity meant little if moral and intellectural growth did not keep pace. Furthermore, the territorial governor presumed that educated people would become strong defenders of republican institutions. At the end of his address, Campbell called for a scheme to enhance free education in the young territory.[24] Legislators responded with provisions which regulated and maintained education in Wyoming Territory.[25] Wyoming followed the pattern of the Dakota Territory in the creation of education. However, in Dakota, schools were "equally free to all white children . . ." Dakota Territory did not provide for separate common schools for non-whites. Wyoming Territory, however, created a system to permit separate schools for "colored children" when fifteen of more such youngsters resided within a given school district.[26]

The original education laws of Wyoming Territory remained on the books until 1873. At that time the status of schools again received the attention of lawmakers, who revised the education laws. Among the new proposals were demands for uniformity of textbooks, a change in the school tax levy, and a statute making school attendance compulsory.[27]

John A. Campbell served as the first governor of Wyoming Territory. A Republican, he signed the bill granting suffrage to women and strongly believed in the importance of education. Courtesy American Heritage Center, University of Wyoming.

[22] Ibid., p. 6.

[23] On April 3, 1869, President Ulysses Grant appointed John Allen Campbell as the *first* governor of the territory of Wyoming. Campbell was a Republican from Ohio who had served in the Union army during the Civil War. Grant sent Campbell to Wyoming in order to *make it a Republican* territory. Unfortunately for Campbell, he "had to live with a Democratic delegate to Congress *and* an anti-Negro and seemingly anti-railroad legislature." These facts caused Grant to think that the territory should have been dissolved. Obviously, this did not happen and Campbell served as governor until 1875 when his term expired and John M. Thayer replaced him. Marie H. Erwin, *Wyoming Historical Blue Book: A Legal and Political History of Wyoming 1868-1943* (Denver: Bradford-Robinson Printing Co., 1946), p. 166; Gould, *Wyoming*, pp. 23-27.

[24] Governor John A. Campbell, "Governor's Address to the First Legislative Assembly," October 12, 1869, *House Journal of the Legislative Assembly of the Territory of Wyoming*, 1870, p. 14.

[25] Bale, "The History of Territorial Education in Wyoming," p. 23.

[26] Ibid., pp. 39, 61, 64. Bale stated: "The basis of the school laws of Wyoming goes back to the Dakota Territory Statutes of 1862." Wyoming Territory, until 1873, charged the same school levy tax as Dakota Territory. Thus, schools were run on public funds rather than by private donations. Peter Kooi Simpson, "History of the First Wyoming Legislature" (M.A. thesis, University of Wyoming, 1962), p. 143.

Although Wyoming's territorial legislators revised several sections of the school statutes, the permissive school segregation law remained unchanged.

Wyoming held territorial status until 1890. After a constitutional convention, the territory applied for and received statehood.[28] Wyoming's state constitution drew on provisions from the constitutions of the Dakotas, Idaho, Montana, Washington, and Colorado.[29] Wyoming's Constitutional Convention delegates may have followed other states because "a people long used to self-government is [are] not inclined to be radical. On the contrary, it will persistently maintain ideas and institutions which an objective observer might deem obsolete. When changes must be made, they come very gradually rather than in revolution or sweeping reformation."[30] Thus, Wyoming's constitution was, for the most part, in line with other states, the major exception being women's suffrage.[31] When the constitution of Wyoming was adopted in 1889, it firmly established Wyoming's educational laws. The constitution "retained almost to the letter many school laws that had been tested and improved during the years that Wyo-

[27] Charles Burgess, "The Goddess, the School Book, and Compulsion," *Harvard Education Review* 46 (May 1976): 201. The push for compulsory, rather than voluntary, school attendance began in Massachusetts in 1852. By 1918, all states then in the Union had compulsory school attendance laws. Many believed, especially after the Civil War, that school and education were central to national reunion and loyalty. Although the common school movement was in place before the Civil War, the push for compulsory laws developed on a larger scale after the conflict. Following the Civil War, with industrialization, massive immigration, and the presence of freed slaves, compulsory laws to "Americanize" the population became popular. It was the Civil War that would prompt leaders to encourage mandatory school attendance in order to promote nationalism, unification, and standardization. This sentiment could be seen in Governor Campbell's address to the first territorial legislators. Educated people, he maintained, would be strong defenders of free institutions. Fromong, "The Development of Education in Wyoming," p. 86. Several territories, including Wyoming, demanded that school attendance be compulsory. However, school attendance remained poor in the territory because the law was difficult to enforce. Although school enrollment doubled, the average daily attendance did not rise, which suggests that students enrolled for school in order to minimally comply with the law, but did not actually attend school on a regular basis. Bale, "The History of Territorial Education in Wyoming," pp. 63-64, 160. Prior to 1873 there was no uniformity in the selection of textbooks. After 1873, the textbook selection was left up to the teacher's institutes which resulted in more uniform book choices. Later in 1888, the textbook selection would be given to county and city superintendents, and this responsibility would be permanently granted by the state's constitution. Ibid.; *Wyoming Constitution*, 1889, Article VII. Section 11.

[28] No western territory was admitted into the Union between 1876 and 1889. Larson, *History of Wyoming*, p. 236. Wyoming called a constitutional convention prior to applying for statehood. Forty-nine members attended Wyoming's Constitutional Convention. Among them were thirty-two Republicans and seventeen Democrats. Forty-one were Americans by birth, thirty-four were from the North, four were former Southerners, three were "westerners," and seven members were foreign born. Fourteen of the members were Civil War veterans; thirteen fought for the Union and one for the Confederacy. Richard Kenneth Prien, "The Background of the Wyoming Constitution" (M.A. thesis, University of Wyoming, 1956), pp. 1, 16. "The origins of the convention members correspond rather closely to the origins of the territory's population as a whole." New York, Pennsylvania, Ohio, and Illinois were the main states that supplied Wyoming with its 1890 population. "Only 4 percent of Wyoming's 1890 population had been born in the South; only 94 were Confederate veterans, as compared with 1,171 Union veterans." Larson, *History of Wyoming*, pp. 243-44.

[29] Prien, "The Background of the Wyoming Constitution," pp. 41, 48, 51, 78. Prien contends that Wyoming's constitution mirrors that of surrounding states. He lists as examples: section 2 of Wyoming's constitution states that the right to life and liberty are inherent and all members of the human race are equal. This statement is similar to clauses in Idaho's, Montana's, and North and South Dakota's constitutions. Section 18 of the state's constitution deals with religious freedoms and is exactly the same as North Dakota's clause. Although Wyoming drew from the constitutions of surrounding states, the new state did have unique statutes. For example, other states had suffrage clauses, but Wyoming was the first state to make inclusive stipulations on the subject. Furthermore, section 23 of the Wyoming constitution, which guarantees "the right of citizens to opportunities for education has no parallel in the surrounding states. Finally, section 3, which states that laws affecting political rights without distinction of race, color, and sex is not matched by the surrounding states.

[30] Ibid., pp. 7, 31. On September 29, 1889, the *Cheyenne Daily Sun* editorialized, "the constitution that has been prepared for Wyoming is quite similar to other states constitutions, differing very little from those which have recently been adopted in the four new [Omnibus] states . . . . The convention has followed well established precedents."

[31] In addition to social issues, Wyoming's constitution was innovative in terms of its water laws. Harold Ickes, Secretary of the Interior, commented that Wyoming's constitution "discarded the riparian theory of water ownership and adopted a system under which the state retained all water rights. . . . Revolutionary in the field of water law at that time. . . ." Robert B. Keiter and Tim Newcomb, *The Wyoming State Constitution: A Reference Guide* (Westport, Connecticut, and London: Greenwood Press, 1993), pp. 5-10.

ming had been a territory."[32] Although the constitution added an anti-discrimination statute which prohibited discrimination on account of race or color in public schools, the permissive school segregation law remained intact from the territorial period.[33]

Not until the time of Governor Milward Simpson did Wyoming legislators repeal the permissive school segregation statute. In his 1955 message to the thirty-third session of the legislature, the state's chief executive called the lawmakers to strengthen the constitutional guarantees to equality, liberty, and justice.[34] Pointing to two constitutional provisions that clearly frowned on discrimination, Simpson called for the repeal of the school segregation law.[35]

Nationally, the United States Supreme Court had recently delivered a ruling concerning the segregation of students in school on the basis of color. In the May 17, 1954, *Brown* v. *Board of Education* ruling, the high court concluded that public school segregation was discrimination and, therefore, contrary to the Fourteenth Amendment's guarantee to equal protection.[36] Incensed by the decision, many southern states refused to follow the court's orders to desegregate schools.[37] In contrast, non-southern states quickly accepted the high court's decision and made plans to integrate their public schools. The shifting nature of the constitution, as seen in the *Brown* decision, had national implications. Northern and western states gradually banished Jim Crow, leaving the South isolated.

At the time, four states in the West had permissive school segregation laws. The states were Kansas, New Mexico, Arizona, and Wyoming. Other than Wyoming, each of the states had actually implemented some school segregation.[38] New Mexico was one of the first non-southern states to comply with the high court's decision. Originally, ten New Mexico communities had segregated schools. By the time of *Brown*, six of the original communities still practiced segregation. Following the Supreme Court ruling, New Mexico took actions to integrate the schools in those six communities.[39] Just prior to the *Brown* decision, Arizona Judge Charles C. Bernstein declared Arizona's permissive segregation statute unconstitutional. The Arizona law stated that ". . . they [the

[32] Bale, "The History of Education in Wyoming," p. 66. Fromong, "The Development of Education in Wyoming," p. 5. Fromong states that "the coming of statehood actually had very little effect upon education as a whole in Wyoming."

[33] *Wyoming Constitution*, 1889, Article VII, Section 10. The statute reads: "In none of the public schools so established and maintained shall distinction or discrimination be made on account of sex, race, or color. See Erwin, *Wyoming Historical Blue Book*, p. 612; and Bale, "The History of Education in Wyoming," p. 59.

[34] "Governor Simpson Addresses State Legislature," *The Guernsey Gazette*, January 14, 1955.

[35] Section 2, Article 1 of the Wyoming State Constitution reads: "In their inherent right to life, liberty and the pursuit of happiness, all members of the human race are equal." Section 3, Article 1 reads: "Since the equality in the enjoyment of natural and civil rights is only made sure through political equality, the laws of this state affecting the political rights and privileges of its citizens shall be without distinction of race, color, or any circumstance or condition whatsoever, other than individual incompetency, or unworthiness duly ascertained by a court of competent jurisdiction." Governor Simpson used these two provisions to encourage the legislature to repeal Article 624, Chapter 67, Wyoming Compiled Statutes, 1945, the permissive school segregation law, on the ground that the statute "flies in the face of our constitution." MIlward Simpson, "Message Delivered to the Thirty-Third Session of the Wyoming Legislature: 1955."

[36] *Brown* v. *Board of Education*, 347 U.S. 483 (1954). This case was based on the question of whether public school segregation denied black children equal protection under the laws. Black schools were financially and structurally inferior to white schools. Therefore, the "separate but equal" ruling from *Plessy* had been abused because schools were indeed separate, but were not equal. James T. Patterson, *Brown v. Board of Education: A Civil Rights Milestone and Its Troubled Legacy* (New York: Oxford University Press, 2001), p. 25.

[37] A press release from the NAACP stated: "An NAACP survey on the southern school situation, compiled the last week of August, shows that in 11 of the 17 states which previously enforced school segregation by law, at least one local school board has taken positive action to comply with the non-segregation rule. . . . In only six states has there been lack of indication by any community of intent to comply with the Court's anti-segregation rule. These are Alabama, Florida, Georgia, Louisiana, Mississippi, and South Carolina." "For Releases to a.m. Papers," Sunday, September 4, 1955, Container 621, Series A, Group II, National Association for the Advancement of Colored People Papers, Library of Congress Manuscript Division, Washington, D.C. Hereafter cited as NAACP Papers.

[38] "For Releases to a.m. Papers," NAACP Papers.

[39] Undated, unidentified internal NAACP memo on desegregation in New Mexico, NAACP Papers. The article reads: "Despite threats that parents would forbid their children to register for school here until desegregation was 'outlawed by the board,' more students have registered for the opening of this term than has ever registered before." Although some community members protested integrating New Mexico's schools, it apparently had no effect on school registration.

Board of Trustees] may segregate groups of pupils" but Bernstein struck down that delegation of power. Bernstein concluded that "segregation intensifies rather than eases racial tension. Instead of encouraging racial cooperation, it fosters mutual fear and suspicion which is the basis of racial violence." The *Brown* decision solidified Arizona's ruling and the state initiated a program of school desegregation in May 1954.[40]

Unlike Arizona and New Mexico, no communities in Wyoming ever actually exercised the state's permissive school segregation statute.[41] There are several reasons why the statue may not have been used. First, the black population in Wyoming has always been minimal, so most districts probably did not meet the "fifteen or more colored children" benchmark.[42] Furthermore, operating segregated schools would be costly, and school boards may simply not have wanted the economic stress of running separate facilities.

But why would Wyoming have kept the law on the books for nearly ninety years when there was never a serious effort to invoke it? One argument is that Wyomingites simply "forgot" about the law. But to state that the statute had been put into law and then "forgotten" would be a stretch because, as recently as 1945, the law had been updated. It appears that lawmakers knew the law was on the books. Therefore, "forgetfulness" does not explain the long life of Wyoming's permissive school segregation law. Eventually, under some pressure, Wyoming's lawmakers

[40] The case under Judge Bernstein's consideration involved segregated facilities in Arizona's Wilson School District. The school district had Jim Crow facilities based on a permissive segregation statute (Section 54-416, as amended 1852 (1951) Chapter 138, Paragraph 1). Until 1951, Arizona had mandatory segregation in elementary schools and optional segregation in high schools. The legislature made segregation discretionary in all grades in 1951. Bernstein stated: "It is the office of the school environment to balance the various elements in the social environment and to see to it that each individual gets an opportunity to escape from the limitations of the social group in which he was born and to come into living contact with a broader environment." Bernstein decided his case on May 5, 1954, twelve days before the Supreme Court handed down its unanimous *Brown* decision. Bernstein based his decision, in part, on the February 1953 ruling by the Maricopa County Court which outlawed segregation in Phoenix area schools. "Arizona Court Holds Segregation Per Se Unlawful in School Case—Permissive De-Segregation Law Struck Down By Judge Bernstein," May 17, 1954, internal NAACP memo, NAACP Papers. Also in this folder, "Arizona Applauds Ban on School Bias," *New York Times*, February 15, 1953.

[41] Although there is no proof that the permissive school segregation statute had been invoked, one group of citizens in Cheyenne in March 1885 demanded separate schools for black and white children. At the time there were roughly fifty black children in the school district. Both the white and black communities seem to have opposed the idea of segregated schools. The Laramie County School Board listened to the petition with little enthusiasm, relegating it to the garbage. William Robert Dubois, III, "A Social History of Cheyenne, Wyoming, 1875-1885" (M.A. thesis, University of Wyoming, 1963), pp. 52-53. It has been contended that Torrington established a separate school for Mexican children in 1928 or 1929. Indeed, a school was created, but its creation had little to do with racial segregation. The Holly Sugar Company hired Mexican laborers to work in the beet fields. Often, especially after the crash of 1929, children, both Mexican and white, labored beside their parents or watched younger siblings so both parents could work in the fields. As a result, these children were unable to start school until November after completion of the beet harvest. Torrington's school district noticed that the children were behind and approached Juanita Patton about schooling the children. After building a two-room school house, children laborers, both Mexican and white, attended the school until they were prepared to attend the mainstream schools. The white children tended to catch up faster because they had the distinct benefit of speaking English. Mexican children stayed at the school, Columbia School, until they could speak and understand English and were caught up on the material. Afterwards, they joined the regular schools. Although the school suffered accusations that it was racially segregated, school attendees felt that the school enabled and encouraged them to learn despite the language barrier. Shelley Fetsco, "Culturally Different Taught at Columbia School," *Torrington Telegram*, January 19, 1983. Martha Patton Shoemaker, daughter of Juanita Patton, emphatically insists that there was "nothing racist about this school at all." She contends that "this was not a race thing," but instead, the district opened the school so all children, even those who had to work, would have an opportunity to learn. Columbia School remained open for nearly twenty years. Interview with Martha Patton Shoemaker, March 22, 2004, Torrington, Wyoming. Further evidence, such as class photographs, clearly show that Mexican children attended school with white children. Interview with Delores Kaufman, March 21, 2004, Torrington, Wyoming.

[42] "Wyoming is a state with a very small minority population. The African American population is less than one percent. Native Americans constitute another two percent while the Hispanic population is six percent." Gregg Cawley, Michael Horan, Larry Hubbell, James King, David Marcum, Maggi Murdock, and Oliver Walter, *The Equality State: Government and Politics in Wyoming*, third edition (Dubuque, Iowa: Eddie Bowers Publishing, Inc. 1996), p. 2.

repealed the segregated school law. On February 5, 1955, nearly a year after the *Brown* ruling, Governor Simpson affixed his signature and approval to the act which nullified the separate school statute.[43]

Anti-Miscegnation

Historically, lawmakers adopted anti-miscegenation laws in order to draw a color line between blacks and whites, thus enforcing a racial hierarchy. In an effort to protect White Anglo-Saxon Protestants from the degeneracy that allegedly accompanied miscegenation, colonies and states, beginning with Maryland in 1551, forbade the practice of racial intermarriage. At some time during U.S. history, thirty-eight states adopted anti-miscegenation laws. Although most citizens correctly identify the South as the region which was the first to adopt and last to abandon anti-miscegenation laws, "it was in the West, not the South, that the laws became most elaborate."[44]

Anti-miscegenation laws in the West did not just prohibit marriage between white and blacks. Instead, western laws forbade intermarriage between white and Chinese, Mongolians, Japanese, Hindus, Natives Americans, etc. For example, Wyoming's anti-miscegenation statute declared that Caucasians could not "knowingly intermarry with a person of one-eighth, or more negro, asiatic [sic] or Mongolian [sic] blood" without penalties following a felony conviction.[45] Adopted on December 7, 1869, Wyoming's statute became law over the veto of Governor Campbell.[46] In addition to the governor's veto, other Wyomingites protested the anti-miscegenation statute. One Wyomingite opposed to the statute urged legislators to, "let the laws of our growing Territory make no discrimination in classes and races of men."[47] Regardless of the opposition, territorial law makers adopted the measure and the statute remained on the books until 1882. At that time, the territorial assembly, encouraged by Wyoming's first black legislator, William Jefferson Hardin, repealed the statute.[48]

[43] "To the Honorable President and Members of the Senate of the Thirty-Third Legislature," February 7, 1955, Box 217, Folder 8, Simpson Papers. The Enrolled Act No. 15, Senate, originally Senate file No. 19, read: "An Act to repeal Section 67-634, Wyoming Compiled Statutes, 1945, providing for separate schools for colored children." On the other hand, until 1970 Wyoming had a citizen legislature that only met every two years and rarely sought to do a wholesale statute revision. So, one could contend that apathy kept the law on the books for ninety years.

[44] Rachel Moran, *Interracial Intimacy: The Regulation of Race and Romance* (Chicago and London: University of Chicago Press, 2001), pp. 17-19, 27. According to the NAACP, the following western states had laws barring miscegenation: Arizona, California, Colorado, South Dakota, North Dakota, Idaho, Montana, Nebraska, Nevada, Oregon, Utah, and Wyoming. NAACP to Lallah Rogers, May 12, 1927, Container 309, Series C, Group II, NAACP Papers. Most of these states repealed their anti-miscegenation statutes in the 1950s. However, Utah, Arizona, and Wyoming kept their laws until the 1960s.

[45] Roger Hardaway, "Prohibiting Interracial Marriage: Miscegenation Laws in Wyoming," *Annals of Wyoming* 53 (Spring 1980): 56-57. In his endnotes, Hardaway explains that the term "Mongolian" was used to describe an ethnic group in the broadest sense. Mongolian, he states, refers to "all yellow-skinned people rather than just natives of Mongolia." See endnote 6, p. 59.

[46] Wyoming's first territorial governor returned the anti-miscegenation bill to the legislature because it did not prohibit Indians from marrying other ethnic groups; thus, the law singled out certain ethnic groups. Hardaway uses the census to show why Indians were not mentioned in the statute. He states: "by prohibiting Negroes and Chinese from marrying whites, competition among Wyoming men for the few available white women was reduced. A surplus of Indian women existed, so the law did not prohibit Indian-white marriages." Ibid., p. 56. Furthermore, there has been a long standing tradition of whites marrying Indians, which made it difficult to prohibit future marriages between the two ethnic groups. Early fur traders in the Wyoming area had a tradition of marrying Native American women. According to Larson, the women "served as interpreters and peacemakers, kept their husbands informed of tribal affairs and promoted trade." Larson, *Wyoming*, pp. 52, 54-55.

[47] Hardaway, "Prohibiting Interracial Marriage," p. 56.

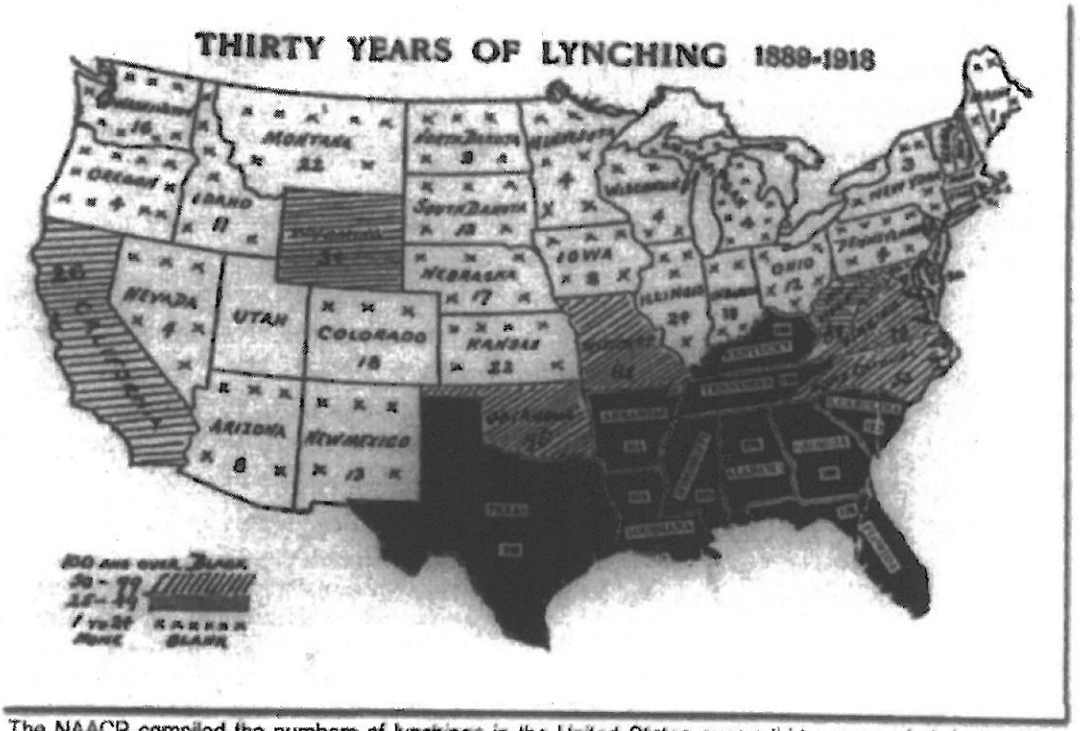
[48] William Jefferson Hardin had been elected to the Wyoming territorial legislature in a time and place where there was a white majority who discriminated against the black minority. Hardin was one-fourth black, and many assumed that he was able to succeed in white society because he lacked pronounced "Negroid characteristics" and was, therefore, more acceptable to the white-dominated population. Hardin served in the territorial legislature from 1879 to 1884. During his tenure he supported bills and statutes concerning bounties for hawks and eagles, public peace, and intermarriage. In 1882, Wyoming's first anti-miscegenation law was repealed. Hardin strongly supported this action, especially since he was married to a white woman. Interestingly, there is no evidence that Hardin ever questioned the permissive school segregation law. Hardaway states that Hardin's "tenure in the Wyoming legislature is principally significant . . . because it occurred when and where it did—in an area with few Blacks and in an era when Blacks were generally not allowed to participate in political decision-making." The *Cheyenne Daily Leader* called the first election of Hardin a "moral triumph for the people" and questioned "what other territory

(continued page 22)

However, Wyomingites adopted another miscegenation law in 1913, during the height of a progressive movement to enforce white supremacy and maintain purity of the races. Legislators repealed the law in 1965. Even then the repeal had more to do with the law being unconstitutional than being morally repugnant.[49] What Wyoming's anti-miscegenation law seems to suggest is a hierarchy of races rather than racial equality. The flirtation of the state with miscegenation laws tended to undermine Wyoming's claim to "equality."

Racial Lynching in Wyoming

In addition to the school segregation statute and the anti-miscegenation law, the "Equality State" had other discrepancies in terms of race relations. While the prevalence of violence in Wyoming and the West has probably been overstated, Wyoming did in fact experience a considerable number of lynchings.[50] In his book on Wyoming history, T.A. Larson concluded that "legal executions failed to keep pace with extra-legal ones . . . ."[51] In fact, Wyoming "out-lynched" all of the other western states. According to NAACP



The NAACP compiled the numbers of lynchings in the United States over a thirty-year period. In the West, Wyoming stands out with 34. Courtesy the NAACP.

(continued from page 21)

or Northern state can boast such liberality." Hardaway, "William Jefferson Hardin," pp. 2-13. According to Todd Guenther, the anti-miscegenation law was repealed in 1882 because of a fear that the law would slow the population growth. Todd R. Guenther, "At Home on the Range: Black Settlement in Rural Wyoming, 1850-1950" (M.A. thesis, University of Wyoming, 1988), p. 12.

[49] Hardaway, "Prohibiting Interracial Marriage," pp. 57-58. In 1967, the United States Supreme Court ruled that states could not deny couples the right to be married solely on their race. *Loving v. Virginia*, 388 U.S. 1 (1967). It appears that Wyomingites knew about the impending Supreme Court ruling and changed their state anti-miscegenation law prior to the court's decision. Ibid.

[50] Roy Nash, "Memorandum For Mr. Philip G. Peabody on Lynch-Law and the Practicability of a Successful Attack Thereon," n.d., Container 371, Series C, Group 1, NAACP Papers, pp. 13-14. Roy Nash, Boston's secretary for the NAACP, explored the changing definition of "lynching." Originally lynching meant getting thirty-nine stripes. The term was then broadened to include tarring and feathering, burning, and cruelty. Before the Civil War, "lynching" meant the "infliction of any minor punishment without legal trial." After Reconstruction the term implied death. *Webster's Dictionary* defines the word "lynch" as: "(of a mob) to take the law into its own hands and kill (someone) in punishment for a real or presumed crime." The *New Webster's Dictionary and Thesaurus* (Danbury, Connecticut: Lexicon Publications, Inc., 1995), p. 593.

[51] Larson, *History of Wyoming*, p. 231.

records, from 1889 to 1918 Wyoming lynched thirty-four people. The state's closest western competitors were California with twenty-six lynchings and Kansas and Montana, each with twenty-two lynchings.[52] A related study shows that between 1909 and 1918 only three people were lynched in Wyoming, which suggests that thirty-one of the state's known lynchings occurred between 1889 and 1909. A surprising survey done by the NAACP shows that between 1889 and 1918, Wyoming ranked fifteenth of forty-four states in the number of lynchings, preceeded only by southern states.[53]

Although the majority of people lynched in Wyoming were white, a surprising percentage of those killed were considered "colored." Nationally, 3,224 people were lynched between 1889 and 1918. Of those lynched during that time, 2,522, or 78.2 percent, were black. In the Mountain West, during that same time period, 110 people were lynched. Of this number, nine, or 8.2 percent, were "Negroes." For Wyoming this number is quite similar. Of the people lynched from 1889 to 1918 in the Equality State, 14.7 percent were considered "colored."[54] This large percentage is disturbing because blacks did not make up fourteen percent of Wyoming's population. From 1870 to 1950, African Americans have never been more than 1.5 percent of Wyoming's total population.[55] The percentage of blacks in the Mountain West was miniscule as well. While more whites were lynched in the state, a much larger percentage of blacks were lynched on a per capita basis.[56] Wyoming appears to have racially lynched more than other non-southern states, but nationally the state was far from being the most notorious in terms of lynching.[57]

Clearly blacks were not legally equal to whites in Wyoming because they found little protection from the law and were generally deemed guilty unless proven innocent. For example, in 1904 a mob took Joe Martin, accused of assaulting a white woman, from a jail in Laramie and lynched him from a lamppost at Seventh and Grand. In 1917, a black man was taken from the Rock Springs jail and lynched. The city's mayor declared that the crime, allegedly assaulting a white woman, justified the lynching, due process or not. That blacks were disproportionately lynched without due process and that racist laws, such as the school segregation and anti-miscegenation statutes, remained on the books for so long, suggests that Wyoming shared the white supremacy philosophies of Americans elsewhere.[58] Although Wyoming lagged behind southern states in terms of lynching, the "Equality State" certainly witnessed a relatively large number of racially tinged vigilante killings during its first four decades.

Fitfully, an anti-lynching movement began to take shape in the early twentieth century. Members of the Ku Klux Klan and related organizations had

[52] "Thirty Yeas of Lynching," n.d., Container 371, Series C, Group 1, NAACP Papers. The NAACP's findings were collected into a published volume titled *Thirty Years of Lynching in the United States: 1889-1918* (New York: Arno Press and the New York Times, 1969).

[53] "Persons lynched 1889-1918 by State," n.d., Container 371, Series C, Group 1, NAACP Papers. This information comes from a vertical bar chart. The chart lists the states with the most to the fewest hangings. Georgia was number one with 386 hangings, Wyoming was fifteenth with 34 hangings. Mississippi, Texas, Louisiana, Alabama, Tennessee, Florida, Kentucky, South Carolina, Oklahoma, Missouri, Virginia, and North Carolina precede Wyoming. All other states have fewer lynchings than Wyoming.

[54] "Number of Persons Lynched by Geographical Divisions and States, 1889-1918," n.d., Container 371, Series C, Group 1, NAACP Papers.

[55] Guenther, "Black Settlement in Rural Wyoming," p. 18.

[56] "List of Persons Lynched in 1917 by States," and "List of Persons Lynched in 1918 by States," NAACP Papers. These two lists announce the lynchings of two black men in Wyoming. On December 14, 1917, a black man named Wade Hampton was lynched in Rock Springs. Hampton was lynched because he had been "annoying whites." On December 10, 1918, Edward Woodson was lynched in Green River after allegedly killing a railroad switchman. Press releases after Woodson's lynching tell of all other blacks in Green River being forcefully removed from the town. The NAACP sent Governor Frank L. Houx a letter demanding that Wyoming "take immediate steps to protect the lives and property of the colored citizens of Green River and to see that the lynchers of Edward Woodson are brought to justice." NAACP to Frank Houx, December 14, 1918, NAACP Papers. In Judy 1889, Ella Watson had been lynched in Wyoming. The lynching of Watson was unprecedented in the area because she was female. Larson, *Wyoming*, p. 129.

[57] In the South, 85 percent of lynched victims were black. "Number of Persons Lynched by Geographical Divisions and States, 1889-1918," n.d., Container 371, Series C, Group 1, NAACP Papers.

[58] Guenther, "Black Settlement," pp. 10-11.

rallied around lynchings in an effort to secure white supremacy over the freedmen.[59] As early as 1901, however, horrified opponents proposed an anti-lynching bill in Congress. Lynchings continued after the defeat of the proposal.[60] In 1918, Leonidas Dyer of Missouri introduced the Dyer Anti-Lynching bill, but a filibuster defeated the initiative. After the bill's defeat, the federal drive to ban lynching remained stagnant until the 1930s.[61]

By the 1930s, however, the NAACP and certain crusading journalists made the anti-lynching campaign into something of a national cause.[62] In addition, an element of resistance and protest arose in the music culture, especially with the 1939 release of "Strange Fruit" by Billie Holiday. The song, written by a school teacher named Abel Meeropol, was a response to photos of the lynchings of southern black men Thomas Shipp and Abram Smith.[63] The combination of journalism, activism, and indirect protest caused many to rethink their ambivalent attitudes toward lynch laws.

In response to the growing number of people opposed to lynching, Senator Robert Wagner, a New York Democrat, and Edward Costigan, a Democrat from Colorado, proposed an anti-lynching law.[64] The Costigan-Wagner bill would have made police authorities responsible for not protecting prisoners from lynch mobs, thus addressing the central problem with

[59] Mississippi Senator James K. Vardaman stated that "every black in the state would be lynched if that was what was necessary to maintain white supremacy." Donald Grant, *The Anti-Lynching Movement: 1883-1932* (Saratoga, California: R and E Research Associates, 1975), pp. 1, 49.

[60] In 1896, North Carolina elected a former slave, Republican George Henry White, to Congress. Born in 1852, White graduated from Howard University in 1877. A member of the North Carolina Bar, he had served two years in the state legislature. White was the last former slave to serve in Congress. In 1901, he proposed the first federal bill to outlaw lynching, which he referred to as a terror tactic. Far ahead of its time, the White bill was easily rejected. White did not serve a third term because of the disfranchisement of North Carolinian blacks. Grant, *The Anti-Lynching Movement*, pp. 30, 65-67. Although White was the first to introduce an anti-lynching bill, Thomas E. Miller, a black from South Carolina, was the first congressman to speak out against lynching. *Ibid.*

[61] Leonidas Dyer of Missouri introduced his proposal during the early 1920s, which passed the House only to fall victim to a Senate filibuster. J. Joseph Huthmacher, *Senator Robert F. Wagner and the Rise of Urban Liberalism* (New York: Antheneum, 1968), p. 171.

[62] Ida Wells, born into slavery and freed after the Civil War, became part owner in a Memphis newspaper called *Free Speech*. Wells investigated and reported on lynchings and other atrocities committed against blacks. "To make lynchings a federal crime had long been the attempt of the National Association for the Advancement of Colored People—it was, in fact, the progenitor of the entire Negro civil rights movement of the twentieth century." *Ibid.*, p. 171. For more information on Wells, see Ida B. Wells, *Crusade for Justice: The Autobiography of Ida B. Wells* (Chicago and London: The University of Chicago Press, 1970). Also see Grant, *The Anti-Lynching Movement*, pp. 28-30, 32-33, 144-45.

[63] "Strange Fruit" caused controversy, and often violence, whenever it was played. Regardless of this fact, Billie Holiday included the tune in each of her shows. Lyrics of the song read," Southern trees bear a strange fruit/Blood on the leaves and blood on the root/Black body swinging in the Southern breeze/strange fruit hanging from the poplar trees/Pastoral scene of the gallant south/The bulging eyes and the twisted mouth/Scent of magnolias, sweet and fresh/Then the sudden smell of burning flesh/Here is the fruit for the crows to pluck/For the rain to gather, for the wind to suck/ For the sun to rot, for the trees to drop/Here is a strange and bitter crop." Abel Meeropol, a Jewish member of the Communist Party who raised the sons of Julius and Ethel Rosenberg after their execution in 1953, had originally composed "Strange Fruit" as a poem. Meeropol is also known by his pen name Lewis Allen. For more information, or to hear the song, see http://www.strangfruit.org.

[64] Robert Wagner had been born in Germany, but immigrated to the United States with his family in 1886. Wagner was educated in the public school system and the City College of New York. An active Democrat, he became a member of the New York legislature and served on the New York Supreme Court prior to his election to the Senate in 1926. A "New Dealer," Wagner, sponsored the National Labor Relations Act of 1935. In early January 1934, Wagner, together with Edward Costigan, proposed an anti-lynching bill. In testifying for the proposal, Wagner stated: ". . . [T]he time which try men's souls' often quicken their sense of justice and their aspiration for betterment." Some cynics claim that Wagner only supported anti-lynching legislation to gain the black vote. In fact, Wagner had suffered discrimination based on his Jewish faith. In addition, Wagner had been a keynote speaker for the NAACP in 1931 and introduced a bill in the Senate which would have benefited blacks. Costigan was from Colorado. He switched parties several times, beginning in the Republican Party, switching to the Progressive Party in 1912, and finally joining the Democratic Party during the late 1920s. Costigan, who was considered a "radical" Democrat, announced that he would introduce an anti-lynching bill in December 1933. Wagner quickly pledged to support such a bill, later becoming a co-sponsor. Huthmacher, *Senator Robert F. Wagner*, pp. 13-14, 18, 43-50, 117, 127, 171-74.

lynching: the inability to bring lynchers and participants to justice. By making law enforcement officials responsible for lynched victims, the bill assumed prisoners would be better protected and the police would accuse those who attempted to harm the person in custody, rather than shrugging off the incident. The Costigan-Wagner bill at first seemed promising, but died in Congress.[65] Although Congress never enacted the bill, it is significant because it helped bring national attention to lynching. For the most part, lynchings waned in the 1940s, although a few continued even after Congress passed the Civil Rights Act of 1964, making it a federal crime to deny one his or her civil rights by taking their lives.[66]

While Wyoming does not stand alone in the history of lynching, individuals in the state certainly participated in the heinous crime. Clearly in the territorial and early days of statehood, Wyoming dabbled in discriminatory practices. From lynchings to permissive school segregation laws, the state was hardly free of racial discrimination. This pattern of discrimination continued within the state throughout the civil rights movement of the 1950s and 1960s.

Public Accommodations

For much of the state's history, whites denied Wyoming blacks access to certain public accommodations. A motel in Laramie refused to service blacks, as did cafes and theaters in Cheyenne. Furthermore, blacks were often discriminated against in areas of employment and housing throughout the West.[67] To avoid national embarrassment and end discrimination in Wyoming, one of the last western states without a public accommodations law, Governor Simpson recommended such a statute in 1955. Much to his disappointment, the bill failed.[68]

In response to combating segregation in the public sphere, Wyoming branches of the NAACP tried to circumvent problems by creating their own accommodations. In Casper, the local branch of the NAACP applied for a limited liquor license. Natrona County black leaders hoped to expand local NAACP membership by merging regular meetings with opportunities to socialize. The branch sought to do this because the community had nothing to offer its people

[65] Eleanor Roosevelt proved to be an influential ally to the anti-lynching movement. President Franklin Delano Roosevelt never endorsed the bill because he feared losing the southern vote or of offending southern congressmen. "The President had condemned lynching in his State of the Union address and in other public pronouncements; yet when it came to the question of throwing his weight behind the Costigan-Wagner bill, he held back." *Ibid.*, p. 173; "Blunders of the Recently Adjourned 73rd," *The Reflector*, July 21, 1934. "Most Negroes however are more deeply concerned with the most brutal of blunders, the failure of that body to consider the Costigan-Wagner Anti-Lynching Bill." An electronic version of this primary source is available online at http://jefferson.village.virginia.edu/vcdh/afam/reflector/7.21.34.govt.html.

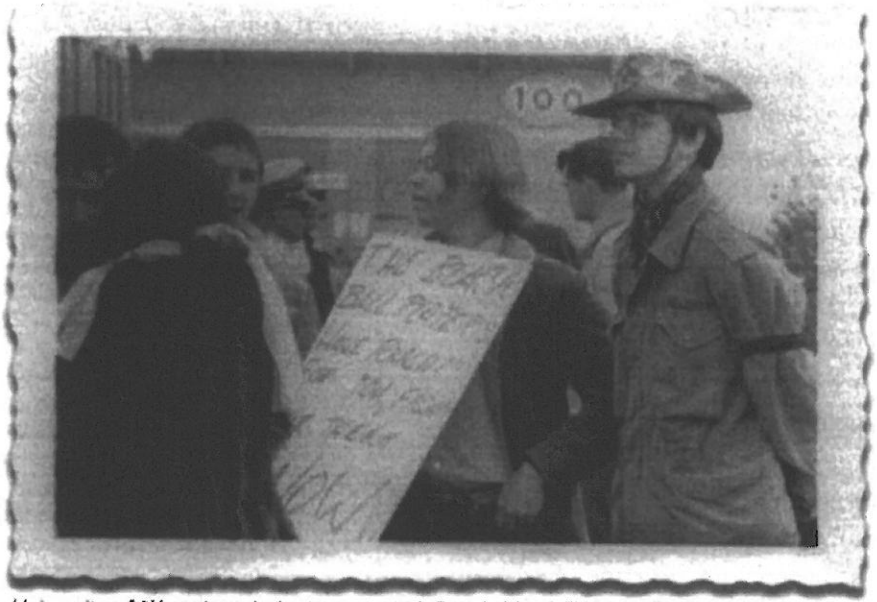
[66] The Michael Donald case of 1981 is a good example of a post Civil Rights Act lynching. In Mobile, Alabama, a black man was freed after a mixed-race jury failed to convict him for the murder of a white police man. KKK members in the area were furious and concluded that "if a black man can get away with killing a white man, we ought to be able to get away with killing a black man." James Knowles and Henry Hays attempted to prove this statement. They kidnapped and lynched nineteen year old Michael Donald, although he had nothing to do with the trial or the death of the white police officer the KKK was avenging. Donald's death was first determined to be related to a drug crime, but Reverend Jesse Jackson and later the FBI uncovered the plan of Knowles and Hays. Knowles confessed to the lynching and received life in prison. Hays was found guilty and was executed for his crime on June 6, 1997. Donald's mother sued the KKK and won seven million dollars from the organization. Information and a photograph of the lynched Donald can be found at http://www.spartacus.schoolnet.co.uk/USAdonaldD.htm.

[67] "At mid-decade, several western states still had statutes permitting segregated schools, forbidding interracial marriages, and tolerating unequal access to public accommodations." Kim Ibach and William Howard Moore, "The Emerging Civil Rights Movement: The 1957 Public Accommodations Statute as a Case Study," *Annals of Wyoming* 73 (Winter 2001): 1, 5; Milward Simpson to Diggs, October 30, 1957, Box 161, Folder 5, Simpson Papers; Guenther, "Black Settlement," pp. 12-13.

[68] House Bill 86, the Public Accommodations bill of 1955, which would have ensured "equal treatment in places of public accommodation for all our citizens regardless of race, color, creed, national origin, or ancestry," was killed by a filibuster. Box 217, Folder 1, Simpson Papers.

of color but "movies, churches, and work."[69] The central headquarters of the NAACP disagreed with the creation of the social club and pointed out that "the answer to securing admission of Negroes to theatres, hotels and other places of public accommodations does not lie in the creation of separate social and recreational facilities."[70] Clearly disturbed by Natrona County's request, the NAACP revoked Casper's charter. Whatever the merits of the dispute, it is evident that the social situation for blacks in Wyoming was precarious. Only a law supporting equal access to public accommodations would alleviate the social pressure caused by segregation.

In 1957, Governor Simpson again pressed the issue of public accommodations in Wyoming. Simpson reminded the new thirty-fourth legislature that most southern states denied African Americans equal access to public accommodations. In the new post-*Brown* environment, Simpson's speech, likening Wyoming to the southern states, prompted legislators to recognize the negative consequences of further inaction. In an effort to avoid appearing "behind the times," the Wyoming legislature finally passed Simpson's public accommodations statute in 1957.[71]



University of Wyoming students protested Coach Lloyd Eaton s dismissal of the fourteen black players from the football team. The sign in the photograph stated The black ball players have fought for you, fight for them now. Courtesy Black 14 Collection, American Heritage Center, University of Wyoming.

[69] Margo Hill to Roy Wilkins, September 6, 1955, Container 246, Series C, Group 2, NAACP Papers. Wilkins was the executive secretary of the NAACP. Hill was the president of the Natrona County Branch of the NAACP. In the letter Hill explained the social circumstance for the black residents of Casper. She stated: "we would have nothing to offer, no place to dine, dance, or have A [sic] cocktail. That includes the Negro tourists, Bands [sic] and entertainers that pass thru [sic] Casper. The Horace Heidt show was thru here in June. There were no accommodations at the hotels for the Negros [sic]." Daniel Rogers, Jr., attorney for the Casper branch of the NAACP, sent a letter to the national branch. In it he states, "there is no place in Casper or this area where colored people can go and call their own. . . ." Daniel Rogers to Roy Wilkins, September 7, 1955, Container 246, Series C, Group 2, NAACP Papers.

[70] Gloster B. Current to Margo Hill, September 15, 1955, Container 245, Series C, Group 2, NAACP Papers. Current, NAACP director of branches, announced the reasons for the revocation of the Casper branch's charter.

[71] Ibach and Moore, "The Emerging Civil Rights Movement," p. 9. In 1957, only 21 states did not have a public accommodations statute. Of those states, 15 were in the South. Thus, it appeared that the "Equality State" was lagging behind others in terms of ensuring racial justice. Ironically, Simpson, who encouraged Wyoming legislators to enact the public accommodations statute, later opposed the 1964 federal Civil Rights Act because he feared the growing power of the central government. Of course, the 1964 federal statute largely superceded the 1957 state law. Ibach and Moore documented one 1958 instance in which enforcement of the Wyoming law was problematic. Ibid., pp. 10-12.

Conclusion

Even with the repeal of the school segregation and anti-miscegenation statutes and the enactment of a public accommodations law, Wyoming was, and is, occasionally troubled by racial tensions. One well-known example of continuing racial strain divided Wyoming communities in the fall of 1969. Fourteen black University of Wyoming football players approached head coach Lloyd Eaton to ask permission to silently protest during an upcoming game.[72] During the meeting, the fourteen players donned black armbands, which they wanted to wear during the game against rival Brigham Young University.[73] Coach Eaton, known for his strict disciplinary philosophies, refused to let his team members protest in any way.[74] When the Black 14 persisted, Eaton dismissed the players from the Cowboy team. The Black 14 incident inflamed the campus and prompted an emergency meeting of the trustees at the university. In the end, the school supported Eaton's decision and the young men remained off the team.[75] This unfortunate occurrence split the Wyoming population.[76] Many fans supported Eaton's decision by cheering for the coach and wearing armbands that read "Eaton." Other community members and citizens in other states protested the dismissal of the young men and carried signs which questioned whether Wyoming blacks had not been "Lynched Again?"[77] In the end, Bishop David R. Thornberry of the Wyoming Episcopal Diocese observed that this incident served as a national reminder that "the people in Wyoming have as far to go as any people in eliminating their racial prejudice."[78]

Although Wyoming was a forerunner in laws for women's rights, the "Equality State" was hardly a pioneer in terms of racial relations. Indeed, Wyoming seems to have lagged a bit behind other non-southern states in terms of its treatment of African American citizens. The territory and state certainly experienced more than its share of lynching, including the lynchings of African Americans. The "Equality State" repealed its long-time permissive school segregation law only after the 1954 Brown decision rendered such statutes both obsolete and an embarrassment. Wyoming legislators enacted its public accommodations law in 1957, after most other northern and western states had adopted similar statutes. And even this law appears to have been enforced only haphazardly. The state overturned its anti-miscegenation law only in 1965, just as the civil rights movement began to focus on the North and West. A state so far removed from the South and with a minute black population had no obvious need for a school segregation law or other statutes which artificially separated the races. However, Wyoming was created at a time when Reconstruction and race occupied a central place in national discussions and when the country was drifting toward *de jure* segregation in the South and the *de facto* segregation in the North. Allowing, rather than enforcing, segregation was the middle of the road, and Wyoming, wanting to be neither too rustic nor too futuristic, was content to follow that path.

[72] Clifford A. Bullock, "Fired by Conscience: The Black 14 Incident at the University of Wyoming and Black Protest in the Western Athletic Conference," Phil Roberts, ed., *Readings in Wyoming History: Issues in the History of the Equality State* (Laramie: Skyline West Press, 2004), p. 188. Lloyd Eaton had led the UW football team to three WAC championships and was named the "WAC Coach of the Year in 1966 and 1967." Some commentators thought Eaton was more popular than the governor. Ibid., pp. 187-89; Larson, *History of Wyoming*, pp. 593-95.

[73] Larson, *Wyoming*, pp. 105-06. The UW players wanted to wear the armbands to protest the Church of Jesus Christ of Latter-Day Saints' racially discriminatory practices. Bullock, "Fired by Conscience," p. 189.

[74] Larson, *History of Wyoming*, p. 593. Bullock, "Fired by Conscience," p. 188.

[75] Eaton and UW President William Carlson held a press conference on October 23, 1969. "*Sports Illustrated* reported that President Carlson admitted that at Wyoming, football was more important than civil rights." In addition, the UW head track coach John Walker told black track members ". . . if you think your civil or constitutional rights are more important to you than an education, then you should go home." All four black track members left the university. Bullock, "Fired by Conscience," pp. 184, 189.

[76] Larson, *Wyoming*, p. 106.

[77] Bullock, "Fired by Conscience," pp. 189-90; Larson, *History of Wyoming*, p. 595.

[78] Larson, *Wyoming*, p. 106. Thornberry's defense of the black athletes divided his church and caused trouble in his administration. *Ibid.*