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Thomas Francis Meagher

James Courtney
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THOMAS FRANCIS MEAGHER

by

James R. Courtney

A thesis submitted to the Faculty of Carroll College in partial fulfillment of the requirements for the Degree of Bachelor of Arts Department of History March 1958
This thesis for the Bachelor of Arts Degree
by
James R. Courtney
has been approved for the
Department of
History
by
Thomas A. Clinch

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PREFACE

This thesis has for its purpose a study of the early-day politics of the Territory of Montana viewed in the light of the career of Thomas Francis Meagher. Much of the material thus far written about the man and his activities as acting governor of Montana Territory between 1865 and 1867 has either been utterly uncomplimentary or entirely partisan in nature. I have thus attempted to draw as objective a view as possible of Meagher and his work and also to show that political strife in Montana at the time mirrored national political struggles at the capital in Washington.

I would like to express my gratitude to all those who have in any way assisted me in the research and writing of this study. Special thanks are due Miss Virginia Walton and her staff at the Montana State Historical Library and the Rev. James R. White of the Carroll College Library. My thanks are also due to Mr. Thomas A. Clinch, Head of the Department of History of Carroll College, for the help and cooperation which he has rendered. A final word of gratitude to Miss Janet Kilzer for her typing of the final copies.

J.R.C.
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CHAPTER ONE
BIOGRAPHICAL ASPECTS OF MEAGHER'S EARLY CAREER

This is the story of one of the most controversial figures in early Montana history, Thomas Francis Meagher. In taking a quick glance at Meagher's life it would seem that he was involved in controversy all of his life. Even his death is clouded in mystery and strife.

The life of Thomas Francis Meagher, the son of a wealthy merchant, began on the 3rd of August, 1825, in the city of Waterford. The first ten years of his life were spent in his native city. When he reached the age of eleven, his father sent him to the Jesuit College of Clongowes Wood at Kildare. Meagher spent six years there. His student life is described by his compatriot and friend John Savage:

"Here his frank and happy nature endeared him to his associates. He was distinguished for his heartiness with which he joined in all the freaks of student life, and the sudden impulses of study that enable him to carry off the honors from those who had paled their brows in months of laborious scrutiny...In English composition and rhetoric he was above all competitors, and already became remarkable for that elegant enthusiasm which afterwards, in so short a space of time, placed his name on the list of the recognized orators who have contributed so largely to make the history and literature of his country."3

Even at this early age Meagher was showing the talent for which he was most famous in later life, as he was one of the most outstanding members of the College Debating Society. 4

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1 Robert G. Athearn, Thomas Francis Meagher, An Irish Revolutionary in America. In Michael Cavanagh the date is August 23, 1825.
2 Ibid. p. 2.
4 Ibid., p. 19.
After spending six years in Clongowes he was sent to Stonyhurst College in England to finish his education. Here Meagher exhibited a keen mind and studied hard at those subjects which proved interesting, neglecting those which did not.  

During his college days two incidents happened that help throw a little light on the personality of Meagher. At Stonyhurst they celebrated the anniversary of the battle of Waterloo with musical offerings and other forms of recreation, and the college band was called upon to play. As it so happened Meagher was the first clarinetist in the band and he absolutely refused to perform. "Never," he said, "would he sound a note of praise for England's victory." As a result of his not playing, there was a serious disarrangement in the musical plans for the day.  

The other incident involved one of his teachers whose principal effort seems to have been devoted to the eradication of his "detested Irish brogue." How he eventually succeeded those who were familiar in after years with his pupil's peculiar foreign mode of expression, (which many mistook for affectation,) can testify. Strange to say, Meagher himself never could believe in the success of his pro-English pedagogue.  

In spite of his difficulties with the faculty, Meagher proved that he was an above average student. In 1842 he won a silver medal for

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5 Athearn, op. cit., p. 2.
6 Ibid., p. 2.
7 Cavanagh, op. cit., p. 28.
English composition, defeating over fifty competitors. 8

In 1843 Thomas Francis Meagher returned home from college. He left Stonyhurst with the reputation of being one of the most brilliant rhetoricians it ever produced. As was the custom of that time, Meagher set out on a tour of the continent after spending a short time at home. He returned from his tour in time to celebrate his twentieth birthday. 9 Meagher thought that it was time that he decide on a career. He gave some thought to an Austrian military career and also to the legal profession. It even is stated that he planned on a military career in the British Army. 10 Most likely Meagher saw in going into the legal profession the chance for a career in politics. He had some incentive for a political career, as his father was the Mayor of Waterford. He had the distinction of being the first Catholic mayor elected in Ireland after the passage of the "Municipal Reform Bill." 11 It was during the forties that the idea of a legislative separation from England swept the country. In the very year that Thomas Francis had been sent to college, the repeal movement was given new life by the "National Association for Full and Prompt Justice and Repeal" which was formed in 1840. The name was changed twice and the one that took hold was the "Repeal Association." 12

When Meagher returned to Ireland from his trip abroad, he celebrated his twentieth birthday. Within a month he was involved in the Repeal

8 Ibid., p. 2.
9 Ibid., p. 35.
11 Cavanagh, op. cit., p. 35.
12 Athearn, op. cit., p. 3.
Movement. On September 24, 1843, a great Repeal meeting was held at Lismore, and it was at a dinner on that evening of that meeting that he delivered his first political speech in applauding which O'Connell, clapping him on the shoulder, enthusiastically exclaimed, "Well done, Young Ireland!" It is strange that a term that was at first used in praise by O'Connell is later used by him to describe all of those who differed from him on the best means to achieve freedom for Ireland.

After spending some time at home, Meagher left for Dublin to study at Queen's Inn for the legal profession. Within a year the idea of a career in law was out the window as he began to turn his attention to the Repeal Movement. At this time the Nation was the spokesman for the Repeal Movement and Meagher attempted to gain the acceptance of the men who ran it: Thomas Davis, Charles Gavan Duffy, and John Mitchel. They were slow to accept him at first, but the persistence which he showed won them over and it was not long before his services were accepted at the Nation.

The Repeal Movement seemed to be moving right along during 1845. The pens of Charles Gavan Duffy, John Mitchel, Terence B. McManus, John Martin, P.J. Smyth, and Thomas Francis Meagher were rallying the country to the cause of freedom. Also in this year, 1845, William Smith O'Brien, a Protestant and member of Parliament, threw in his lot with the Repealers. If one were to take a glance at things in Ireland in 1845,

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13 Cavanagh, op. cit., p. 35.
14 Athearn, op. cit., p. 3.
15 Ibid., p. 3.
16 Ibid., p. 4.
it would give the appearance of unity. But under calm waters of unity ran a strong current of violent opposition between the Young Irishers and Daniel O'Connell. The way things were going it would not be long before the radicals and conservatives of the Repeal Association would split into separate organizations.

In July of 1846, at a meeting held on the 27th and 28th, the schism occurred. The Repeal Association could be divided into those who were in favor of "physical force" versus "moral force." The leaders of the "physical force" or Young Irelanders were Meagher, O'Brien, and Mitchel, while the conservatives were led by Daniel O'Connell Jr. and his brother John. The first day of the meeting O'Brien met privately with John O'Connell in an attempt to avert a crisis, but without achieving success. When his peace-making efforts failed, O'Brien took his side with the radicals.

The climax to the events that had been building up for the last year was brought to head on the twenty-eighth of July in Conciliation Hall in Dublin. The crowd inside the hall was composed largely of followers of the O'Connell faction while the crowd outside in the street were in favor of the Young Irelanders. The meeting opened with Duffy defending the policy of the Nation; John O'Connell then made a reply reiterating his father's stand on "moral force"; he was verbally assaulted by Mitchell and Meagher who defended Duffy and the Nation.

17 Ibid., p. 4.
18 Ibid., p. 4.
19 Ibid., p. 5.
Now it was time for Meagher to speak to the meeting. He spoke coldly, one could even say with rudeness, to the audience composed largely of O’Connellites. But as he progressed into his speech, which was the most famous he ever delivered, the audience for the most part was won over to the side of the radicals. As a result of his speech he received the title of "Meagher the Sword." Meagher, saying that he would never accept any limit on the use of force, said:

Abhor the sword—stigmatise the sword? No, my Lord, for, in the passes of the Tyrol, it cut pieces the banner of the Bavarian, and, through those cragged passes, struck a path to fame for the peasant insurrectionist of Inspruck!

Abhor the sword—stigmatise the sword? No, my Lord, for it swept the Dutch marauders out of the fine old towns of Belgium—scourged them back to their own phlegmatic swamps—and knocked their flag and sceptre, their laws and bayonets, into the sluggish waters of the Scheldt.

By this speech Meagher won over to his side a large part of the audience. John O'Connell seeing what was happening tried to stop the young orator. He shouted that Meagher must either quit the association or the association would cease to exist. This was all that was needed to complete the schism as Meagher and a large part of the audience walked out of the meeting after hearing the words of John O'Connell.

After breaking away from the Repeal Association the Young Ireland group formed the "Irish Confederation" on January 13, 1847. The rules for admission to the new group were as follows: no money necessary for admission to the new group were as follows: no money necessary for

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20 Charles Gavan Duffy, *Four Years of Irish History*, p. 236.

21 Athearn, *op. cit.*., p. 5.

22 Cavanagh, *op. cit.*., p. 67.
membership, relying on voluntary contributions. No members would be allowed to accept position from the government. How successful the Irish Confederation was is open to some question as in two different sources I have seen contradictory statements. Athearn says, "By early in 1848 the Confederates were not able to boast of any great success." But his information is based on English newspapers and naturally they are going to play the membership drive down. Cavanagh writes, "Over ten thousand devoted men were thus enrolled...." Now it would seem that ten thousand men would be a fairly large organization.

As happened in the Repeal Association, the Irish Confederation had trouble within its ranks as John Mitchel began to complain that his colleagues were not radical enough for him. On February 12, Mitchel put out the first issue of The United Irishman by which he "seceded from the seceders."

At this time Meagher decided that he would run for Parliament from his native Waterford and carry the fight for Irish freedom to London. He was defeated by the Whig candidate, Sir Henry Banon. Thomas's father, an Old Irelander, would not support his son's candidacy.

In 1848, the stirring events in France helped change the picture in Ireland. In that year there was another revolution in France and it helped light the political fires in Ireland. The Confederation, at a

23 Athearn, op. cit., p. 6.
24 Ibid., p. 7.
25 Cavanagh, op. cit., p. 79
26 Athearn, op. cit., p. 7.
27 Ibid., p. 7.
meeting held in Dublin, decided to send to France a deputation to congratulatethe new government. 28

On the basis of a speech delivered by Meagher on the fifteenth and twentieth of March, he was arrested, along with O'Brien and Mitchel, and charged with seditious libel. The trial was set for April 15, and the prisoners were released on bail so their activities were not curtailed to any great degree. 29

After this Meagher and the other members of the delegation went to Paris, but the mission did not achieve what they hoped it would. This set-back did not stop the Confederates from pushing plans for an uprising. Meagher and O'Brien were brought to trial for their seditious activity of March, but the jury did not think, fortunately, that talk was revolution, and the case was dismissed. Mitchel was not so lucky, as he was sentenced to fourteen years of transportation. 30

The summer of 1848 was the stormiest time in the history of the country during all its struggles against foreign domination. 31 The English authorities were worried over the growth of the Confederate clubs around Dublin. So on July 22, the House of Commons passed the "Suspension of the Habeas Corpus Act" which gave the Lord-lieutenant of Ireland the power to detain persons he thought were plotting against the crown. 32

After the passage of this bill things moved at a rapid pace in Ireland.

28 Ibid., p. 8.
29 Ibid., p. 8.
30 Ibid., p. 9.
32 Athearn, op. cit., p. 9.
It was too bad that events took such a turn as they did, as the preparation for a revolt were not completed. In July a battle occurred between O'Brien, leading three hundred peasants, and the police at Ballingarry. Re-enforcements for the constabulary helped put the peasants to route and the battle was over.  

In August of 1848, O'Brien was arrested and Meagher and the other leaders were arrested on the twelfth of August.

The trial was held in Clonmel starting on September 21. The rebels were tried one by one with O'Brien's son being heard first. William Smith, O'Brien, Terence Bellew, McManus, and Patrick O'Donoghue were found guilty. The Meagher trial opened on October 11 and lasted until the 23rd. The evidence against Meagher was weak, but nevertheless the jury returned a verdict of guilty with a recommendation of mercy.

On the 23rd the sentence was passed and the concerned were asked if they had anything to say, any reason why they should not receive the death penalty. McManus and O'Donoghue answered in a few sentences; then Meagher addressed the court.

My Lords, you may deem this language unbecoming in me, and perhaps it may seal my fate. But I am here to speak the truth whatever it may cost. I am here to regret nothing I have ever done---to retract nothing I have ever said, I am here to crave with no lying lips, the life I consecrate to the liberty of my country. Far from it; even here---here, where the thief, the libertine, the murderer, have left their footprints in the dust; here, on this spot, where the shows of death surround me, and from which I see my early grave in

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33 Ibid., p. 11.
34 Ibid., p. 11.
35 Ibid., p. 11.
36 Ibid., p. 12.
37 Cavanagh, op. cit., p. 292.
an unannointed soil open to receive me—even here, encircled by these terrors the hope which has beckoned me to the perilous sea upon which I have been wrecked, still consoles, animates, enraptures me.\textsuperscript{38}

The sentence passed upon these men was the same as passed upon O'Brien, to be hanged, drawn, and quartered.\textsuperscript{39} On June 1, 1849, the condemned men learned that the death sentences had been commuted to exile for life to Van Diemen's Land.\textsuperscript{40} On July 9, Meagher, O'Brien, McManus, and O'Donoghue were put aboard the Swift, which was underway that afternoon for Van Diemen's Land.

On the morning of July 10, Meagher had his last look at his homeland and on that occasion wrote these heartrending words, "Will no one come out to hail me from Dunmore? I pass by, and my own people know nothing of it."\textsuperscript{41}

At the time of Meagher's deportation from Ireland, he was only twenty-five years old; yet he devoted those few short years to the cause of Irish freedom. From the time he returned from College till he was deported, he labored unceasingly with other leaders of the "Young Ireland Party" to free their country from the British crown.\textsuperscript{42}

On October 28, in the evening, Meagher and the others saw for the first time what was going to be their new home.\textsuperscript{43} The Swift put into the

\textsuperscript{38}Ibid., p. 295.
\textsuperscript{39}Lyons, \textit{op. cit.}, p. 14.
\textsuperscript{40}Athearn, \textit{op. cit.}, p. 13.
\textsuperscript{41}Cavanagh, \textit{op. cit.}, p. 296.
\textsuperscript{42}Ibid., p. 299.
\textsuperscript{43}Lyons, \textit{op. cit.}, p. 15.
\textsuperscript{44}Athearn, \textit{op. cit.}, p. 17.
harbor of Hobart on October 29. Immediately the officer and most of the crew went ashore, but the prisoners of the crown had to remain aboard.

The next day the Captain summoned the prisoners to his saloon and introduced them to the assistant-comptroller of convicts, a Mr. Noirm. He had received instruction from the Governor to inform them that the Secretary of State for the Home Department had said that "tickets of leave" would be granted provided the Captain was able to report favorably on their conduct during the voyage and that they give their word of honor not to attempt any escape from the island while holding a ticket.45

Meagher, O'Donohue and McManus accepted the tickets of leave and each was given a separate district. Meagher was assigned to Campbelltown.46 He gave the following for his reason:

It appeared to me that whether we pledged our honor to the fulfillment of the conditions proposed by the Government or withheld it, an escape was out of the question...I thought it much more desirable to accept a small amount of liberty fettered only by my word of honor, than surrender myself to the confinement of turnkeys and constables...47

Mr. O'Brien refused the ticket of leave and the result was that Marie Island was assigned him so that he could be imprisoned.48

On the afternoon of November 1, 1849, Meagher arrived at Campbelltown, but not to stay, as he decided to live in Ross, a little village a

45Letter of December 1, 1849, quoted in Cavanagh, p. 302.
46Cavanagh, op. cit., p. 302.
47Athearn, op. cit., p. 18.
48Cavanagh, op. cit., p. 302.
few miles distant from Campbelltown. The district that he occupied was thirty to thirty-five miles in length, and ten to fifteen miles in width. At first glance to most people this would seem to be a large amount of territory for a prisoner to have. But to Thomas Meagher this was hardly room to turn around in. "At the end of a fortnight I came to the conclusion, that between a prison and a 'district' there was just about the same difference as exists between a stable and a paddock. In the one you are tied up by a halter—in the other you have the swing of the tether."51

One condition of the ticket of leave was that each would have to stay within the district assigned to him. But Meagher, O'Doherty and Martin got around this rule by meeting at a point common to their three districts.52 Here the ex-rebels talked about old times, singing old songs, and planning new adventures.53

In February of 1851, an important event took place in Meagher's life. On that date he married Catherine Bennett, the daughter of a farmer who lived near New Norfolk.54 But married life did not calm Meagher's restless nature, and he was determined to escape at all cost.

In December of 1851, he wrote Duffy and told him that he was about to

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49 Athearn, op. cit., p. 19.
50 Ibid., p. 19.
51 Cavanagh, op. cit., p. 303.
52 Ibid., p. 303.
53 Ibid., p. 304.
54 Athearn, op. cit., p. 22.
withdraw his parole and attempt an escape.\textsuperscript{55} On January 3, 1852, Meagher sent the police magistrate of the district of Campbelltown the following letter:

\ldots After 12 o'clock tomorrow noon, I shall no longer consider myself bound by the obligation which that parole imposes. In the meantime, however, should you conceive it your duty to take me into custody, I shall, as a matter of course, regard myself as wholly absolved from the restraint which my work of honor to your Government at present inflicts.\textsuperscript{56}

At eleven a.m. the magistrate received his letter, but was unable to take any action until seven o'clock that evening because the Chief of Police would not cooperate. While the police were on their way, some friends alerted Meagher and they mounted and went into the bush until the police arrived at his cottage. Then they rode up to the cottage and Meagher called out that he was the man they had come to capture. He spurred his horse and galloped for the coast and had reached the sea by Monday.\textsuperscript{57} Here two fishermen had a boat waiting for him which took him to Waterhouse Island. After he reached the island, he had to wait there ten days before the Elizabeth Thompson showed up. This boat took him to Pernambuco, where on April 23, 1852, he boarded the brig Acorn for New York.\textsuperscript{58} Thomas Francis Meagher arrived in New York on Wednesday, May 26, 1852.\textsuperscript{59} At long last Meagher had reached the republic which he so admired and for which

\textsuperscript{55}Cavanagh, \textit{op. cit.}, p. 305.
\textsuperscript{56}Ibid., p. 307.
\textsuperscript{57}Athearn, \textit{op. cit.}, p. 24.
\textsuperscript{58}Ibid., p. 25.
\textsuperscript{59}Ibid., p. 27. His wife, Cathrime left later. She came to the United States, but then went to Ireland to live with her Father-in-law.
in a few years he would take up arms to defend.

Throughout the spring and summer of 1852, Meagher had been invited to numerous receptions, balls, and testimonial dinners. But he realized that this would not last forever, and it was time to decide what he was going to do in order to make a living. He first went on a lecture tour. The tour that he went on took him all over the country, even as far west as California.61

Before Meagher left for California, he agreed to help John Mitchel in running a new weekly journal, The Citizen.62

On May 9, Catherine Meagher died in childbirth at the home of her father-in-law in Waterford, Ireland. The short marriage of Meagher had been a tragic one as their first child died, and now this.63

The rest of Meagher's career before the Civil War was taken up with his admission to the bar, his marriage to Elizabeth Townsend, the founding of the Irish News in April of 1856, and a tour through Central America.

In January of 1861, Meagher and his wife returned to New York from Central America. At this time there was talk about war between the North and the South. This posed a serious problem to Meagher as his sympathies were with the South.

On April 23, there appeared the following ad in a New York paper:

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60Ibid., p. 32.
61Cavanagh, op. cit., p. 342.
62Ibid., p. 342.
63Athearn, op. cit., p. 47.
One hundred young Irishmen—healthy, intelligent and active—are wanted at once to form a company of Irish Zouaves, under the command of Thomas Francis Meagher, to be attached to the 69th Regiment, N.Y.I.M. No applicants under 18 or above 55 years of age will be enrolled in this company. Application to be made at No. 36 Bookman Street, corner of William Street, between the hours of 10 a.m. and 5 p.m. 64

Within a week the enlistments quoted had been filled and the Irish Zouaves were attached to the 69th. In the early part of June the Zouaves joined the 69th at Arlington Heights, outside of Washington, and helped in the construction of Fort Corcoran. 65

This outfit took part in the disastrous battle of Bull Run. After the battle the enlistment for the soldiers were up and the 69th returned to New York where they were discharged from the Army.

After the 69th had returned to New York, some of its officers hit upon the idea of forming an all Irish Brigade. 66 Immediately the idea gained headway and recruiting got under way. As with everything that Meagher was connected with, there was fighting, charges, and bickering over what he was doing. It just seemed that he could not get away from being in the middle of a controversy. Suffice it to say here that the Irish Brigade was formed and that it distinguished itself on the field of battle.

General Shields was offered the chance to command the brigade, but turned it down and Thomas Francis Meagher was made "Acting Brigadier" on

64 Athenry, op. cit., p. 47.
65 Ibid., p. 93.
66 Cavanagh, op. cit., p. 411.
October 21, 1861, and on February 3, 1862, was made a brigadier general. The first battle that the Irish Brigade fought in was at Fair Oaks, and then only in supporting action. The Brigade also took part in the battles of the Seven Days, Antietam, and Fredericksburg. After the battle at Fredericksburg the Brigade almost ceased to exist. Of onethousand, two hundred men Meagher led into battle, only two hundred and eighty were left the next day to answer muster. Chancellorsville was the last battle that the Irish Brigade took part in. On Wednesday, May 6, General Meagher wrote his letter of resignation, which was accepted.

In the autumn of 1864 Meagher was back in uniform as an Acting-Major-General in Tennessee where he commanded the Military District of Etowah. This was the last active part that Meagher was to play in the Civil War, as he resigned on the twelfth of May, 1864. Thus ends the career of Thomas Francis Meagher in the eastern part of the United States.

Meagher was appointed Secretary of the Territory of Montana by President Johnson and arrived in Montana in September, 1865.

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67Athearn, op. cit., p. 106.
68Ibid., p. 109.
69Ibid., p. 111.
70Ibid., p. 120.
71Cavanagh, op. cit., p. 485.
72Ibid., p. 485.
73Athearn, op. cit., p. 135.
74Ibid., p. 139.
75Ibid., p. 146.
Here begins a new phase in his life. This part of his life is perhaps one of the most misunderstood episodes in his whole life. It is a part of his life which needs more work and research in an attempt to discover all the facts that had a part in shaping the course of events as they transpired in the Territory of Montana in 1865 and 1867.
CHAPTER TWO
THE ADMINISTRATION OF THOMAS FRANCIS MEAGHER

1. Background of Montana Politics

The last phase of Thomas Francis Meagher's life was that in which he served as territorial secretary and acting governor of the Territory of Montana. He had no sooner arrived in the territory than he found himself acting governor since Sidney Edgerton had departed for the East. During the period in which he was the governor he was involved in a bitter political fight with the Republican party in Montana. Before going into the details of his administration one must look at the political situation in the states to understand what happened in Montana.

In the national Congress there occurred the reign of the Radical Republicans under the leadership of Thaddeus Stevens and Charles Sumner. Their policy for reconstruction was one of punishment for the South, as can be seen by such things as the Ironclad Oath, the Freedmen's Bureau, and the Reconstruction Acts. But the main idea behind their program was to keep the Democratic Party in a weakened position.76

Now to help understand the political atmosphere in Montana one must apply the program of the Radicals to this territory. In Montana the population was composed of Southern Democrats, who were in the majority, some Northern Democrats, and the Republicans. The officials of the territory were appointed by the Federal government, and they attempted to impose the radical program on Montana. This resulted in much antagonism between the two groups.

Two examples of this type of action are Governor Edgerton's message to

the first Legislature in which he condemns the Democrats as the party of crime and perfidy. The other is to be found in the John H. Rogers episode. Rogers was elected to the first legislature and was a veteran of the Confederate Army. He refused to sign the "Ironclad Oath" because it would be perjury on his part to do so. Rogers substituted his own oath in which he swore to support the United States and the Organic Act, but he left out the part about bearing arms against the United States. Edgerton would not accept it, and Rogers withdrew from the legislature. After this the relationship between the governor and the legislature was not very cordial. 77

Into this explosive atmosphere stepped Thomas Francis Meagher. Both political parties wanted to control the new governor. As he took office, two major problems faced him. One was the Indian problem. The second was created by the violent political opposition between the Democrats and the Union Party. 78

The Democrats hoped to call for a convention to adopt a state constitution and petition for admission to the Union, because they were in a majority and would control the majority of the elective offices of the new state. 79

77 Merrill Burlingame and K. Ross Toole, A History of Montana, Vol. I, p. 222-23. The oath required the office holder to swear that he had not borne arms against the United States or given aid to hostile forces, or held office under hostile authority; that he would defend the Constitution against all enemies, that he took the oath without mental reservation, and that he would faithfully discharge the duties of the office. It was held to be unconstitutional by the United States Supreme Court.

78 Martin Maginnis, Contributions, p. 103.

The Republicans, on the other hand, hoped to get Governor Meagher on their side and obtain his aid in getting rid of minor territorial officials appointed by the first legislature and in stopping the movement for statehood. They thought that with new migration into the territory they would be in the majority soon thereafter.80

At first Meagher went along with the Sanders-Edgerton faction and supported the Republicans in the territory. A letter that he wrote to Secretary of State Seward gives evidence of the fact that it was his "earnest endeavor to continue to deserve, in the administration of affairs of the territory, the good opinion and confidence of my Government."81 It was at this time that he uttered these words about the Democratic party in the territory. "All of the evils of the territory found...expression and embodiment in what is spuriously called the Democratic party..."82

It must be remembered that Meagher had not been in the territory very long, and that he was being advised by the radical Republicans.83

After becoming acting governor, Meagher received a petition from a group of citizens in Helena that was signed by the majority of the miners in that area asking him to call a session of the legislature. Some people in the territory thought the legislature had ceased to exist because the first assembly hadn't passed an apportionment bill. At this time Meagher

80 Ibid., p. 141.
81 Ibid., p. 142.
82 Ibid., p. 142.
83 Ibid., p. 148.
was of the same opinion and issued a statement saying that congress would have to pass an enabling act. On December 15, 1865, the governor answered the petition of the Helena group with the words, "It is clearly my conviction that the Legislative functions of the territory have temporarily lapsed," but if shown to him that he had the power to call a legislature he would do so immediately.84

Between December 15, 1865, and February 1866, Meagher had been in the territory long enough to hear the point of view of his fellow Democrats and get their side of the story about the political situation in Montana. Because of his association with the members of his own party, he was charged with being disloyal and with supporting the enemies of the United States.85 He answered the charges in a speech which he gave in Helena on February 21, 1866.

In the divine sacrament of love, forgiveness, and patriotism let us dedicate with an irrevocable pledge that this beautiful and superb domain of theirs, to the growth of a stalwart Democracy, the consolidation of the liberty with law, the vindication of the Republic against the malevolence of faction, nationality against sectionalism, and enlightened civilization were religion may flourish with bigotry and loyalty without humiliation.86

In answer to the charge that he changed parties we can see Meagher's political viewpoint in a letter which he wrote to a Democratic Convention in Montana, "As a Democrat I took the field---as a Democrat went through the war, the war was over, I am precisely the same that I was when it broke out."87

84 R.G. Raymer, Montana, the Land and the People, Vol. I, p. 244.
85 Maginnis op. cit., p. 104.
86 Ibid., p. 105.
87 William Lyons, Brigadier General Thomas Francis Meagher, p. 305.
As time went on matters in the territory grew worse. Much new legislation was needed, new counties had to be established, and new methods of raising revenue and taxation were necessary to help the growth of the territory. Meagher decided to summon a legislative session to help remedy this situation.

2. Calling the 2nd Legislature and Constitution Convention

The acting-governor issued a proclamation calling the members of the Legislative Council who were elected on the 4th of October, 1864, and for the members of the House of Representatives, who were elected on the 4th of September, 1865, to meet in Virginia City on the 5th of March and for a territorial constitutional convention on March 26, 1866.

He based his authority to call the legislature into session on section eleven of the Organic Act which deals with the calling of extraordinary sessions, and also on two acts passed by the first territorial legislature: Section two of an act creating certain offices in the Territory of Montana which deals with the election of a delegate to congress and of council and house members in the territory, and the 2nd act used by Meagher relating to elections.

Immediately the Republicans attacked the opposition and called it the "Governor's Party" referring to Meagher in a derision as the "Acting One", as he was only in temporary control.

The Republicans then started a vicious mud-slinging campaign against

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88 Maginnis op. cit., p. 105.
89 Jackson, op. cit., p. 105.
90 Ibid., p. 144.
Meagher charging him with almost every crime in the book.

One example of this can be seen in a letter written to Senator Lyman Trumbull by William Ohumasero on March 12, 1868. Meagher, he declared, was a man of beastly habits. He declared that the acting governor was intoxicated soon after he arrived at Virginia City and had stayed drunk since that time. He further accused him of harboring lewd women in his office and of being dishonest.91

Each of the political factions had newspaper support, the Democratic paper was the Montana Democrat, the Republican was the Montana Post, and they took up the fight.

The second session of the legislature convened at Virginia City on March 5, 1866, and again the Democrats were in control. Meagher, in his address to the legislature, avoided partisan issues and informed the members of the needs of the territory.92 He urged that laws passed by the last session should not be repealed nor modified except those that were harmful. He asked for the appointment of a surveyor general for Montana so that the title to lands could be secured. He recommended the appropriation of $50,000 for territorial buildings and $50,000 for cavalry barracks. He urged that the Federal Government provide funds to improve the Missouri River to the mouth of the Musselshell in order to facilitate travel from that point to Virginia City via a proposed road connecting them. He asked the memorialization of Congress to defeat a bill relative to the sale of mineral lands. He urged that the legislature provide for appor-

91James McElhannan Hamilton, From Wilderness to Statehood, p. 239.
92Jackson op. cit., p. 147.
tionment so that all parts of the territory would be equally represented at the next session. His final request was for approval of the proposed Constitutional Convention that was to convene in Helena.\textsuperscript{93}

The legislature adjourned on April 14, 1866. All sources agree that the work that it did was fair and impartial. It put the judicial system into working order by defining the judicial districts and fixing the terms of the court. The second legislature reapportioned the territory. It also repealed the act which gave extra compensation to federal territorial officers and members of the legislature. The assembly passed many other beneficial laws too numerous to mention in a work of this scope.\textsuperscript{94}

During the legislative session Justice Munson predicted that the session would be declared illegal. When Meagher heard about this he stated that the judges would be compelled to recognize the legality of the second legislature.\textsuperscript{95} To bring things to a climax, James Daniels was convicted of manslaughter and sentenced by Munson to three years hard labor. The acting governor was petitioned by several citizens in Helena asking him to pardon Daniels on the grounds of self-defense. In February Meagher granted Daniels a pardon. Munson went to Virginia City asking him to revoke the order, waiting until a higher authority could be heard from in deciding the case. This the acting governor would not do. Meanwhile

\textsuperscript{93}Hamilton \textit{op. cit.}, p. 289.
\textsuperscript{94}\textit{Ibid.}, p. 289.
\textsuperscript{95}Jackson \textit{op. cit.}, p. 148.
Daniels returned to Helena where the vigilantes seized him and hanged him from a tree with the governor's pardon in his pocket. 96

After the incident, Munson wrote Meagher that the courts would follow an independent course, claiming the right to pass upon the legality of any law passed by legislative session itself. 97

On June 4, 1866, Judge Munson made good his threat and declared all acts passed by the legislature null and void. 98 All the sources examined seem to accept this decision without question. The problem has two aspects, one political and two legal. The first one is easy enough to see. Both sides agreed on one thing, viz., that Congress had the power to declare the session and the laws passed by it null and void. But disagreement arose over the power of the courts to do so. (The Republicans said that the courts had such power; the Democrats disagreed.) The whole question revolved around section four of the Organic Act which states in part.

...but thereafter the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly... 99

If we were to encounter such a problem today there would be no question as to the court's rights to declare a legislature null and void, because as the law is interpreted today the court can only look as far as

96 Ibid., p. 148.
97 Ibid., p. 149.
98 Ibid., p. 152.
the Journals of the Assembly. This principle of law is a very old one. It is a general principle of law that once a legislature has met the power to hold further meeting is inherent in it. The reason for this is that some means must be provided for the carrying out of governmental powers. In the Organic Act itself there is nothing to indicate that without apportionment the legislature would cease to exist. The first legislature must have been aware of the problem as they passed an apportionment bill and an act relative to election which set the time and place of holding elections. The apportionment bill was vetoed by Governor Edgerton and not repassed over his veto. From the evidence now available it is reasonable to assume that the governor and the legislature would not be able to adjust the difference between the two and that they would use the old apportionment for the next election. Just because a power isn't used doesn't mean that the power ceases to exist. For example, there is the power of citizen arrest or the power to take people off the streets to form a posse. Yet, though these powers aren't used every day, they are there if needed. I think that the same thing could be said about the power of a legislature in regard to apportionment. The legislature has the power. But because it doesn't exercise that power does not mean that the legislature must cease functioning.\(^\text{100}\)

The Constitutional Convention met on March 25, 1866, in Helena. It was to have fifty-five delegates but consisted of only forty-one regular delegates and a special representative (or delegate) from Beaverhead.

\(^{100}\)The above arguments are from an interview with Mr. W. F. Crowley, Helena attorney, February 19, 1958.
County. When twenty-four delegates were present, they were organized. Those attending were permitted to cast the full vote. Vacancies were filled from citizens of the counties who were in Helena during the convention.\(^1\)

It is unfortunate that no records of the proceedings exist and that the constitution drafted was never printed. Thomas E. Tutt took it to St. Louis for printing but there were no funds available to have it published, and the document was lost. The only other business that the convention transacted was the passing of resolutions endorsing the administration of Acting Governor Meagher and President Andrew Jackson.\(^2\)

The only means we have of knowing anything at all about this convention is the letters of the delegates and the newspaper. As the Republican newspaper is the only existing one to any great extent there isn't anything favorable said about it in the pages of the Montana Post. The editor of the Montana Post commented that it was being held at "a bad time of year and state government would cost the people $200,000." But he would be willing to have a convention, "under more favorable conditions."\(^3\)

In the meantime the Republicans formed the Union Party on April 7, 1866.\(^4\) By using the name Union they hoped to create the impression that the Democratic Party was one of disunion. They passed a resolution in support of President Johnson in the hope of taking away support from the

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\(^1\) Hamilton, op. cit., p. 291.
\(^2\) Ibid., p. 292.
\(^3\) Montana Post p. 2, January 20, 1866.
\(^4\) Montana Post p. 2, April 7, 1866.
Democrats; because on March 2, 1866, in Virginia City the Democrats issued a statement praising President Johnson in his effort "to free the country from the pernicious rule of such radicals as Sumner, Thaddeus, Stevens... etc." The formation of this party was supposed to be a great blow to the Democrats in the territory. But since the Democrats controlled the politics of the territory up to 1889, it would seem that the Union Party was not a success.

The election of 1866 was held in September, and again the Democrats were victorious. In July of 1866 Green Clay Smith of Kentucky was appointed governor. Before he arrived Meagher issued a proclamation calling the third session of the territorial legislature together. After the new governor arrived, Meagher's political leadership passed to Smith, and it was with great effort that he was able to retain Meagher's services for the third legislature.  

The third legislature sent Governor Smith to Washington to ascertain what the status of the Legislative and Judicial branches of the Montana Government was. In January of 1867, Benjamin Wade introduced a bill to amend the Organic Act of Montana Territory. The fifth section of the bill stated that, "the second and third sessions of the legislative assembly shall be held to have been legally organized..."  

This version of the bill was referred to the Committee on Territories where it was changed. The committee decided that "the public acts of the second and third sessions of the Legislative Assembly... shall not be held invalid by reason of any informality in the...

105 Jackson, op. cit., p. 150.
106 Ibid., p. 154.
107 Ibid., p. 154.
election or organization of said assembly. Then it goes on to say that the laws passed were valid, but that the next session could approve or disapprove them. It added a provision that the private acts of the legislature would be invalid until the next session approved of them. The governor would have the power to reapportion the territory in order to legally select the members of the new session of the legislature. On January 24, 1864, Wade reported the amended bill to the Senate and on February 13, it came before the committee of the whole for debate. Something must have been said during this discussion about the political situation in Montana, for Wade requested that the bill be sent back to the Committee on Territories. According to W. Turrentine Jackson, there is nothing in the Congressional Globe or Senate Journal about the senate session of the previous day. But the bill which appeared before the senate on February 14, 1867, was an entirely new one which said in part:

All acts passed at the two sessions of the so-called legislative assembly of the Territory of Montana, held in eighteen hundred and sixty-six, are hereby disapproved and declared null and void...

No legislation or pretended legislature assembly shall be deemed valid until the election of the legislative assembly herein provided shall take place.109

Discussion of the bill took place on February 25, 1866. Wade gave as has reason for this legislation, "that the Territory is in a state of

anarchy."110

108 Ibid., p. 154.  
109 Ibid., p. 155.  
110 Ibid., p. 155.
The only objection to the bill in both houses was made regarding the salaries paid to the territorial judges. But a compromise was worked out, and the Senate approved the bill on February 28, 1867, the same day the House had amended it. The only hope the Democrats had left was President Johnson, and he signed the bill on March 2, 1867, and it became law.\textsuperscript{111}

Here again one can see how the politics of the time played an important part in shaping events in both Montana and the nation as a whole.

Governor Smith was sent to Washington to get aid from the Federal Government in regard to lands, money, post roads, and post offices. Most of the material I have seen does not indicate that he had anything to do with the bill that nullified the second and third legislatures.\textsuperscript{112}

If the Governor wasn't responsible, who was? After reading the material available I think that the changes were due to the actions of a group of Republicans sent to Washington under the leadership of Wilbur Fisk Sanders, for that very reason. Martin Maginnis in the Contributions talks about the dissatisfied minority going to Washington and getting an amended act through Congress. Also, in Stout and Hamilton, Sanders is given the credit for the passage of the bill.

They hoped that by this time the Republicans would be in the majority, but again they were disappointed as the election of 1867 produced a Democratic legislature in Montana, and James M. Cavanaugh, the Democrat, defeated Wilbur F. Sanders for territorial delegate.

\textsuperscript{111}Ibid., p. 155.

\textsuperscript{112}Hamilton \textit{op. cit.}, p. 294.
The whole matter can be summed up in the words of Martin Maginnis:

This was the most unjust act ever perpetrated by the Congress of the United States against a territory. Indeed the only one of the kind ever known in the history of the government.

3. Indian Trouble in Montana

The other problem that faced the acting governor was Indian trouble. In the Montana Post for the period of 1865-66 there are numerous reference to Indians causing trouble. Just to cite a few here.

"To go into a detail of all the outrage that has been committed would require too much space... We refer to Messers Hunche and Legru, who went to the Gros-Ventres camp to reclaim their stolen horses... they were set upon by a party of Indians and murdered..."

A letter from Fort Benton that appeared in the Montana Post on March 10, 1866, revealed the fact that the Blackfoot and Blood Indians had declared war on the whites. The issue of June third discusses a massacre near Fort Benton.

Then John M. Bozeman wrote Meagher in March 21, 1867, stating that the families in the Gallatin Valley were in danger of an Indian attack.

To bring the crisis to a head, John Bozeman was killed by a band of Blackfeet about a month later. The people living in the Gallatin Valley were thrown into a state of panic. They petitioned Meagher, asking that

\[113\] Montana Post February 3, 1866, p. 1.

\[114\] Hamilton op. cit., p. 294.
militia be organized and mobilized at Bozeman. 115

This he did in April on the twenty-fourth by issuing a proclamation for several companies of volunteers to serve a militia. Each of the counties were assigned a quota of men. Meagher had a staff consisting of adjutant and inspector-general, a quarter master and commissary general, and an engineer-in-chief. Certificates payable by the United States were to be given to those who would serve in the militia. The governor had no authority to do this, but other territories had done it under the same circumstances, and the Federal Government payed the expenses. 116

In General Order No. 1 he commissioned Thomas Thoughtman as a brigadier-general in charge of the troop at Bozeman. 117

In May Meagher appealed to the War Department for permission to enlist 800 volunteers and received conditional authority from General William T. Sherman who commanded the military division of the Missouri. On May 14 he received a telegram that reinforcements were coming but that if the danger was as great as he reported, "to call out in your interest the people and clear the way." 118

Meagher asked for arms and ammunition for his men but Sherman wouldn't send any and instead instructed General C.C. Augur to send an officer to Virginia City to investigate matters. Colonel William H. Lewis was sent, and he said that the only real act of hostility was the murder of John Bozeman.

115 Ibid., p. 294.
116 Ibid., p. 295.
117 Ibid., p. 295.
118 Ibid., p. 296.
Things did not go well with the organization of the militia. The men of the territory were willing to volunteer, but the merchants were not so willing to supply them.

The militia never took part in any fighting with the Indians due to the death of the commanding officer, Thomas Francis Meagher, July 1, 1867.
THE DEATH OF THOMAS FRANCIS MEAGHER

Having received the report that the government was sending 2,500 guns up the Missouri, Meagher left for Fort Benton accompanied by a half dozen of his officers. They reached Fort Benton on July 1 after a long hard trip from Virginia City. When the General arrived in Fort Benton he was sick. While riding down the main street he heard some bystanders say, "There he goes." Meagher took this to mean that someone was threatening his life.

The group stopped at Baker's store and went in. Hearing of the General's illness, the storekeeper offered him some blackberry wine which he accepted and had three glasses. While in the store Johnny Doran, an old friend and pilot of the "G.A. Thompson", a Missouri River steamboat, visited him. Doran invited him to use one of the staterooms on the "Thompson" in order that he might get a good night's rest.

After having dinner, Meagher told Doran that..."They threaten my life in that town." Doran tried to tell him that his fear was groundless, and that he had no need for worry. He asked the pilot if he had any guns, and Doran produced two revolvers, handing them to the General, who checked to see if they were loaded and cocked.

Meagher begged him not to leave him, but Doran assured him that he would only be gone for a few moments. Meagher retired to his berth. Doran himself tucked him into bed and locked the door of the stateroom.

119At hear n _op. cit._, p. 164.
Later that night, the sentry heard a noise at the stern of the vessel and saw a figure in white. He thought it was one of the ship's officers getting ready for bed, but as he about faced he heard a noise and then a splash.

With the cry, "man overboard", the ship came alive with activity. Members of the crew threw out ropes and boards into the river. Others looked along the shore but to no avail.

Thus ended the career of Thomas Francis Meagher. What really happened that night on the steamboat on the Missouri River no one knows for certain. There are four theories concerning his death. One is that he was drunk and fell overboard; two, that he was sick and fell overboard; and three, that he was murdered. The fourth is that he was mentally deranged and jumped over the side.

In only one account of his death does Meagher seem to have had anything to drink. It seems to be agreed by all that he was sick that day, and it may be possible that in his weakened condition he fell overboard. For theories three and four there is only strong suspicion of foul play on the part of Meagher's supporters with no documentary evidence.

The situation was complicated by reason of the fact that Meagher's body was never found.

The account of Wilbur Fisk Sanders claims that Meagher left himself over the side. But both of the accounts in Cavanagh and Lyons contradict this. Unless new data is uncovered, circumstances of Meagher's death remain a mystery.

120Accounts of Meagher's death are found in Cavanagh, op. cit., Appendix, and Lyons, op. cit., pp. 351-57.
In May of 1913 the death of Meagher again became a topic for discussion when a man named Pat Miller, alias Frank Diamond, confessed to the murder of Meagher. At the time of his confession he was recovering from a drinking spree in Plains, Montana. He was said to have been sober at the time. Miller (or Diamond) had fainted or suffered a heart-attack, and thought that he was dying when he made this confession:

I killed Thomas Francis Meagher near Cow Island, on the Missouri River. Meagher was governor of Montana and the Vigilantes had to get rid of him and Alex Potter gave me $8,000 for the job. I killed him on a steamboat and threw him in the river and swam ashore.121

The next day Miller denied the entire confession.

In Butte another story is told by David McMillan Billingsly, better known as Dave Mack, that a committee of ten men appointed by the Vigilantes took Meagher off the boat, executed him, and secretly buried him because of his alleged leniency toward lawbreakers, especially in the Daniels case.122

Even these two confessions differ and all they do is confuse the issue unless some proof is found to substantiate them.

121 Si Stoddard, Thomas Francis Meagher, (typed copy), n.p.
122 Ibid., n.p.
CONCLUSION

From the time at which Thomas Francis Meagher arrived in the Territory of Montana he was engaged in a bitter political battle. Because he was such a controversial figure it is hard to get an objective picture of him. There seems to be no middle ground where he is concerned. Either one loved him or hated him.

The majority of the material that pertains to his career during the period in which he was acting governor comes from the Republicans who were his bitter enemies.

The entire episode can be summed up in the one word, "politics". The Republicans accused him of inconsistency for calling for a legislature. He answered this charge by saying that when he became better informed he could see no reason to continue along lines of impractical political action.

Why didn't the Republicans want a legislature? They knew that it would be Democratic, and that they would not have a majority voice in it. They thought that with new people moving into the territory from the North, they would control politics. But their hopes were not realized as the fourth legislature was democratic as were the territorial delegates from 1864-1869, with one exception.

Montana, at the time, was a mirror of the national political situation that existed in the Reconstruction Era, and Meagher found himself right in the midst of it.

On July 4, 1905, Montana paid its last tribute to Thomas Meagher when a statue of the General was unveiled on the capital grounds.
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