THE UNITED STATES MARSHALS IN UTAH TERRITORY TO 1896

by

Vernal A. Brown

A thesis submitted in partial fulfillment of the requirements for the degree of

MASTER OF SCIENCE in

History

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Vernal A Brown
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ABSTRACT

The United States Marshals in Utah Territory to 1896

by

Vernal A. Brown, Master of Science

Utah State University, 1970

Major Professor: Dr. S. George Ellsworth
Department: History

In the administration of justice in the Territory of Utah the United States marshal served an important role, especially because of the conflict between Mormons and non-Mormons. The marshal was an officer of the federal court, and as such he served warrants, obtained witnesses, helped select jurors, conducted executions upon order of the court, collected the census, served as warden of the territorial penitentiary, and in addition, performed many minute and tedious duties.

While the first United States marshal in Utah was Mormon, all others were non-Mormon and most were recruited from outside the territory. In general, they were capable men, though appointed out of political consideration.

During the anti-Mormon crusade, from 1874 to 1890, the United States marshal was directly involved in prosecutions under the Anti-Bigamy Law of 1862, the Poland Act, the Edmunds and Edmunds-Tucker Act. Notwithstanding the heated controversies there were no killings by United States marshals in Utah, though there was one by a deputy marshal.
Each marshal is studied in turn, giving biographical information with an account of the main activities in which each was engaged.

(227 pages)
INTRODUCTION

The role of the United States marshal in Utah Territory has been neglected by historians. It is the purpose of this thesis to provide biographical information, where available, on each of the United States marshals who served in Utah from the period 1850-1896. The first United States marshal was appointed to Utah Territory in 1850, even though the first white settlers first arrived in the Salt Lake Valley in 1847.

In addition to a biographical sketch, the political influence and ability of each marshal is discussed where feasible. Many of these marshals were influential in local politics and instrumental in obtaining laws which would enable them to perform their duties more efficiently.

The U. S. marshals have left a controversial, yet interesting history behind them. It has been said that federal officials appointed to Utah Territory were not qualified men and were often appointed for political reasons only. However, most of the U. S. marshals appointed to Utah Territory were both qualified and devoted. There were exceptions, of course, but most of those who came to the territory had held responsible positions of leadership before being appointed, and others had been successful businessmen.

The first U. S. marshal was a Mormon and a resident of Utah. All other marshals were non-Mormon, some very anti-Mormon, and most were appointed from outside the territory. With non-Mormon marshals serving among a
predominantly Mormon population, it is not difficult to understand why many conflicts arose.

The history of the United States marshals is tied closely to the judicial court system. As the executive officer of the court, marshals became involved in almost every dispute. It is important to understand that the Mormons did not use physical force to resist the federal officials, rather the long and bitter controversy was fought in the Utah courts. The U. S. marshal was in the midst of the controversy, therefore he received much criticism and often blame where it was not due.
CHAPTER I
UNITED STATES MARSHALS

Background

The office of United States marshal has played a significant role in the history of the United States. The marshal was not a new development in America for he had been important to the Normans and Plantagenets in England. When the colonies in the new world were established the marshal was important in the maintenance of law and order. There was a marshal of the colony, marshal general or provost marshal, and marshals and deputy marshals for counties and judicial areas. In 1733 the colony of Georgia had a provost marshal whose duties included "serving writs and summons, civil and criminal, drawing of bail bond, the custody of criminals, attendance upon juries, execution of judgments and a variety of related matters." His office existed as late as 1773 when it gave way to the sheriff, whose duties resembled those of the provost marshal. By the time the first Congress met, the marshal had become almost exclusively a court officer.¹

The Judiciary Act of September 24, 1789, created a court system, including the office of United States marshal. When Congress passed the

Judiciary Act, each of the eleven states were given judicial districts and the office of U. S. marshal. Section 27 of the act gave the marshal two specific duties: to attend district, circuit and supreme courts in his district, and to carry out the laws directed to him in his district under authority of the United States. He could command any assistance he needed in order to discharge his duties and had power to appoint one or more deputy marshals as needed. He was required to give a $20,000 bond and take the oath of office. After 1789 Congress passed many laws relating to marshals, making them the "handy-men" of federal administration. Most of these laws applied to marshals in the territories.

Utah Territory, like other territories, obtained the office of United States marshal. Most marshals throughout the United States seemed to be capable men who tried to perform their duties. It was often difficult to find qualified men to hold the position because of the dangers created by the lawlessness that characterized the frontier West. Walter Prescott Webb reported that the marshal "led a life that was full of novelty, spiced with danger, and flavored with adventure."  

Attorney General Miller stated in 1889 that in some districts civil and criminal processes could not be carried out because of the dangers to witnesses, and "the evidence is abundant, that, in certain localities no occupation is so dangerous as a faithful performance of duty by United

States marshals. Another writer claimed that all western peace officers had to be gunmen of considerable standing or they would have been killed. He claimed that they all liked their jobs or they would not have held the position. Perhaps this was the situation in some areas where new cow towns sprang up or where the lawless, rip-roaring mining camps exploded with violence, but Utah Territory was different. There was lawlessness of course, but basically the inhabitants were peace loving and law abiding.

Early persecutions of the Mormons by the federal officials caused feelings of prejudice. The Mormons had confronted U.S. marshals and deputies in Nauvoo. A record for April, 1845, stated that deputies were loitering about the office in Nauvoo waiting to serve writs on the twelve apostles of the Mormon Church. There are numerous other references to marshals and their deputies concerning the conflict with the Mormons.

The Mormons tried every possible means short of violence to stop the federal government from undercutting the church. Had the people of Utah not been of a peaceful nature the history of Utah may well have been written in blood.


5 "Journal History," A chronological scrapbook of extracts from diaries, journals, letters, newspapers, and other papers, 1830 to date, maintained in the Office of the Church Historian, Church of Jesus Christ of Latter-day Saints, Salt Lake City, Utah, April 12, 1846.
When the Mormons left Illinois and Missouri and traveled across the Great Plains to the Salt Lake Valley, they realized the need to establish and maintain law and order. The governing body for the new settlement was called the High Council. This body passed laws to govern the settlement, and one of those laws created the position of marshal. John Van Cott was elected to that office and thus became the first marshal of Utah. Horace S. Eldridge also served as marshal under the leadership of the High Council.

After the establishment of the State of Deseret, one of the acts of the Legislative Assembly of the state provided for the office of marshal, to be elected by the legislature. Horace S. Eldridge was again elected marshal of the State of Deseret. The marshals under the High Council and the State of Deseret were never confronted with any serious infractions of the law. They attended a few whippings and tried to settle a few disputes that arose from trespassing livestock, but most of their enforcement during the three years of the state's existence was of a trivial nature. It is interesting to note, however, that the Mormons considered the marshal an important part of maintaining law and order.

Territorial Organization

After the Treaty of Guadelupe Hidalgo, Congress created the Utah

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Territory. The Utah Organic Act of September 9, 1850 set up the governing law for the new territory. The power of the territory was divided into three parts: executive, legislative and judicial. The governor divided the judicial branch into three districts as follows: (1) the city and county of Salt Lake and Tooele and adjacent counties reaching both east and west to the boundary of the territory, (2) Davis, Weber and adjacent counties reaching east, west and north to the boundaries of the Territory, and (3) the present counties of Utah, Sanpete, Iron and all adjacent parts east, west and south to the boundaries of the Territory.8

The judicial districts were changed in December of 1865 by an act of the Utah Legislature. Millard, Sevier, Sanpete, Juab, Utah, and Wasatch counties made up the First Judicial District. The Second District included Kane, Washington, Iron, Beaver, and Piute counties, and the third district consisted of Salt Lake, Tooele, Summit, Davis, Morgan, Weber, Box Elder, Cache, and Rich counties.9

Section 10 of the Utah Organic Act created the office of United States marshal for the territory. The office was appointive by the President of the United States, with the advice and consent of the Senate, for a period of four years unless the appointee was removed by the President. The marshal had

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8 *Deseret Evening News*, (Salt Lake City, Utah), 30 August, 1851.

9 Section 1060 of an Act Defining the Judicial Districts for Utah Territory, December 27, 1865, in the *Compiled Laws of the Territory of Utah* (Salt Lake City, Utah: Desert News Steam Printing Establishment, 1876), 352. Hereafter cited as *Compiled Laws*. 
the responsibility to execute all processes issued from the courts when exercising their jurisdiction as circuit and district courts of the United States. The act placed the marshal under the same regulations and penalties and provided the same fees as the Territory of Oregon.¹⁰

### Salary and Fees of Marshals

The salary of the marshal was set at $200 per year and was paid quarterly from the Treasury of the United States.¹¹ The marshal obtained extra pay for the work performed, but the amount depended to a great extent upon the activity in the courts. In comparison to the marshal, a chief justice and his associates received $3,000 per year. The governor's salary was set at $3,500 per annum and the secretary received $2,500 annually. The United States attorney like the marshal received a low salary of $250 per year, and his well-being depended upon fees obtained in addition to his base salary.¹²

The following table summarizes the various fees paid a marshal in addition to his base salary.

Later in the 1870s when the United States marshal took charge of the penitentiary, he received a salary of $300 per year as warden. The fee was later raised to $100 per month. In a letter from Marshal George R. Maxwell to the Attorney General, Maxwell claimed that from October 1, 1873, to

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¹⁰ Compiled Laws, section 10 of Organic Act of September 9, 1850, 32.
¹¹ Compiled Laws, section 1881, 43.
¹² Compiled Laws, section 1879-1883, 43.
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<td>Serving venire</td>
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<td>Summoning 12 grand or petit jurors (in Utah when jurors were drawn from names in a box the marshal received $2.00)</td>
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<td>For holding a court of inquiry, including the summoning of a jury</td>
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<td>$.50</td>
</tr>
<tr>
<td>Bail bond</td>
<td>$.50</td>
</tr>
<tr>
<td>Drawing and executing a deed</td>
<td>$5.00</td>
</tr>
<tr>
<td>Extra copies of writs or papers</td>
<td>$.10</td>
</tr>
<tr>
<td>Serving an attachment</td>
<td>$2.00</td>
</tr>
<tr>
<td>Commitment or discharge of a prisoner</td>
<td>$.50</td>
</tr>
<tr>
<td>Transporting a prisoner or criminal</td>
<td>$.10 per mile</td>
</tr>
<tr>
<td>Attending district or circuit court</td>
<td>$5.00 per day</td>
</tr>
<tr>
<td>Traveling from place of residence to location of court</td>
<td>$.10 per mile</td>
</tr>
<tr>
<td>Traveling to serve processes, warrants, attachments or other writs</td>
<td>$.06 per mile</td>
</tr>
</tbody>
</table>

March 15, 1876 his salary included $100 per month as warden of the prison.14

13Compiled Laws, section 829, U.S. Fee Bill, 693-94.

Duties of Marshals

Since the establishment of the United States, Congress passed more and more legislation giving the marshal added duties and responsibility. The United States marshal became the executive officer of the federal courts, the local disbursing officer of the courts and the Department of Justice. The principle duties of the marshal were to attend to terms of the district courts and to execute or cause to execute judicial processes. The marshal had certain office duties such as making reports involving property interests of the government, and collecting debts owed to the United States. He also had the responsibility of supervising leased or rented buildings used for courts and their offices. In addition he hired and supervised jails for federal prisoners, summoned appraisers to value goods taken in execution of judgment, and sold lands possessed by the United States in satisfaction of judgments. 15

An act of May 23, 1850, placed the responsibility of taking the census on the United States marshal. He had to collect the information and return it to the government before the first day of November. According to the act the marshal divided his districts into subdivisions with no more than twenty-thousand persons in each unless the limitation caused inconvenience. He had to estimate the number of square miles in each subdivision and send the information to the Department of the Interior. The marshal had the authority

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to appoint assistants for each subdivision and was responsible for their actions while on duty. Where the population was less than one million the marshal received $1.50 per thousand, and minimum pay for completing the census was $250. If the population of a district reached one million the marshal received $1 per thousand.  

The marshal not only performed a vast number of duties, he was also accountable to a number of superiors. He had to report to the courts and to the Secretary of the Treasury. Until March 1, 1873, the marshals were directly responsible to the Secretary of State, after that date the Department of the Interior assumed responsibility for the territories. The early marshals directed correspondence to the Secretary of State. In 1861 the Attorney General supervised the marshals, and after 1873 marshals began to correspond with the Secretary of the Interior, although most of the work came under the Attorney General.  

The Territorial Marshal

The Utah territorial marshals often came into conflict with the United States marshals. The office of territorial marshal was established by an act of the territorial legislature of 1851-52. The marshal was elected by a joint vote of the legislature. He, like the U.S. marshal, had to take the oath of

office and give a bond not exceeding $20,000. He had the power to appoint
deputies for terms of office not to exceed that of the marshal. The territorial
marshal executed all orders or processes of the supreme court or district
courts in all cases arising under the laws of the territory. In addition he
performed other duties as the governor directed.

Only in the Territory of Utah was a territorial marshal elected. This
was due perhaps to the fear that federal officials would persecute rather than
prosecute the Mormons. The Mormons had a great desire for self government
and it seems probable that the office of territorial marshal was established to
help insure the idea. However, by the very nature of the two offices, consider-
ing fees and duties, it seems that a conflict was inevitable. That a conflict did
occur in borne out in the history of the territory. This conflict will be dealt
with later.

18 Utah, Legislative Assembly, Session Laws, Acts, Resolutions
and Memorials Passed at the Several Annual Sessions of the Legislative
Assembly of the Territory of Utah, From 1851 to 1870 Inclusive . . .
(Salt Lake City, Utah: Joseph Bull, Public Printer, 1870), Sec. 9, 38.
CHAPTER II

THE FIRST U.S. MARSHAL OF UTAH TERRITORY

The first U.S. marshal appointed to Utah Territory was a resident of the territory, and the only Mormon appointed as marshal during the entire territorial period. The position of U.S. marshal during his term, 1850-1857, was comparatively insignificant. There were no serious confrontations between the marshal and local officials as the political control was mostly in the hands of the Mormons. The first marshal was concerned with local matters of a non-political nature and worked closely with Mormon rule in Utah.

Joseph L. Heywood

Joseph L. Heywood was the first United States marshal appointed to the Utah Territory. He was a prominent Mormon who had been active in church affairs in Nauvoo. He was born in Grafton, Worcester County, Massachusetts, on August 1, 1815. In December of 1842 he met the Mormon prophet, Joseph Smith, at Nauvoo and after hearing him preach, was converted and asked for baptism. At Nauvoo Mr. Heywood was active in the defense of the lives and property of the people of Nauvoo.¹

When Heywood came to Salt Lake he was named postmaster on January 18, 1849, establishing the first post office in Utah. He also visited Washington and helped to obtain a territorial government for Utah. He was active in the establishment of the State of Deseret, and under that state he served both as supervisor of roads and treasurer of the state.

With the establishment of Utah Territory by the Act of September 9, 1850, and under section ten of that law, which provided for a United States marshal, President Fillmore appointed Joseph L. Heywood marshal on September 20, 1850. Mr. Heywood took office in January of 1851. The lapse of months from the establishment of the territory until the federal officials took office was due to slow communication. The Deseret News of April 19, 1851, stated that the marshal had received his commission and had entered upon his official duties.

Marshal Heywood's duties were not as arduous as the duties of later marshals. Heywood assisted a group of Mormons to cross the plains under the Perpetual Emigrating Fund. The group was organized at Twelve Mile Creek near Missouri with Edward Hunter as president of the company, Joseph L. Heywood as councilor and Edwin D. Wooley as captain. The group started

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2 Harold Schindler, "Utah's First Post Office and Postmaster," Utah Historical Quarterly, XXX (Fall 1962), 347.


4 Schindler, 351.

5 Deseret News Weekly, (Salt Lake City, Utah), 19 April 1851.
for Salt Lake on June 25, 1850.  

On May 3, 1851, Marshal Heywood accompanied President Young, Kimball and Woodruff, ex-Marshall Eldridge and others to Iron County to accompany Bishop Allen on his return trip and to observe the country, visit with the people of the settlements and to transact business of the church. These isolated incidents illustrate Heywood's closeness to the church and his activities when not on official duty.

"Runaway officials"

The first recorded business of Marshal Heywood's term of office dealt with the "runaway officials." President Fillmore had appointed officials to administer the government of the territory. Brigham Young was appointed governor, Lemuel H. Brandebury and Perry E. Brocchus, non-Mormons, were appointed judges, and Henry R. Day was appointed Indian agent. Secretary of State Harris of Vermont, also a non-Mormon, was entrusted with $24,000 of federal funds to pay the costs of the first Utah legislature. The first legislature convened on September 22, 1851, and on September 24 a resolution was passed calling on Marshal Heywood to take possession of all funds and documents in the care of Secretary Harris. The marshal was to keep Harris in custody until he complied with the resolution. Harris appealed

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6 "Journal History," July 4, 1850.

7 Deseret Evening News., 3 May 1851.
to Judge Brandebury for a restraining order which he granted at once, but on September 28, less than a week after the legislature convened, four of the officials left for the east, hence "runaway officials," and took the money for the legislature with them. This action gave the Mormons control of the government, for no federal officials were appointed in their stead until August of 1852. 8

When the "runaway officials" left Utah in the fall of 1851 they left the territorial seal with the merchant firm of Livingston and Kinkead. When Governor Brigham Young heard of it he was disgusted to think that they did not leave it with him. He immediately called upon Marshal Heywood to assist him in taking possession of the seal. The merchants refused to give up the seal until Young rebuked them, after which Heywood took the seal and the governor carried it to his office. 9

Often Heywood was called upon to perform duties not related to his office. He accompanied Territorial Surveyor Jesse W. Fox to Salt Creek, ninety-three miles from Salt Lake City to lay out the city of Nephi. Marshal Heywood is credited with the establishment of that settlement. One source indicated that Heywood lived there for three years, but according to his second wife he spent very little time there. Her diary indicates that she was alone much of the time. 10

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9 "Journal History," September 13, 1851.

Spanish traders

The marshal's next official duties dealt with some Spanish traders.

On December 15, 1851, Marshal Heywood was called upon to arrest a group of Spaniards for taking Indian children as slaves. Some twenty-eight Spaniards had come to Utah to trade with the Indians. Leon Pedro, the leader of the party, had obtained a license from the New Mexican government to trade with the Indians. When the party reached the Green River, part of the company went to get a license from Brigham Young who was in Sanpete Valley at the time. Pedro told Young they had a license from New Mexico but wanted one with Utah, and their party planned to trade mules and horses for Indian children. Young refused to issue a license for such purposes. The party promised to leave the territory and not trade with the Indians; however, some of them remained at Sanpete while the others went to Salt Lake for provisions. Before leaving Sanpete, a few Indians, angry because the Spaniards would not trade with them, stole some of the party's horses. The Spanish did not search for the Indians but proceeded to Salt Lake. On the return trip from Salt Lake the group stopped at Spanish Fork, where the Indians stole six more horses. The Spaniards went in search of the Indians this time and although unable to find the horses the Spaniards found the Indian tribe from which they took one squaw and three children. The party at Sanpete obtained three more children to pay for the stolen horses.

Some of the Indians told the officials at Manti of the trade, and Governor Young sent Indian agent Stephen B. Rose to check into the matter. Rose made an affidavit before the clerk concerning the facts and issued a warrant directing
Marshal Heywood to arrest the men. Accordingly, Rose and Marshal Heywood and a company of armed men left Salt Lake for Sanpete on December 15 to arrest the Spaniards and bring them to Salt Lake to be tried before the district judge for stealing Indian children. They were apprehended and brought back to stand trial. On December 24 Brigham Young, Stephen B. Rose, Marshal Heywood, Judge Snow and Aaropee, the Indian chief, met to talk over the matter of the stolen children.

On December 31st Pedro Leon was in court to face charges against him. On January 1, 1852 the jury found him guilty and indebted to the United States in the sum of $500 for introducing goods into the Indian country for trading with them. On January 3rd after the trial and acquittal of several of the Mexicans the prosecuting attorney refused to proceed further in the matter and charges on the others were dismissed.

A party

Regardless of what needed to be done the people of Utah always found time for recreation. One good example of this was a festival given in honor of the Utah legislature. On March 4, 1852 at 1 p.m. the festival began. Those officials present were Judge Snow and associate justices of the Supreme Court, Marshal Heywood, Seth M. Blair, U.S. District Attorney, and their wives.

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11 Deseret Evening News, 6 March 1852.
12 "Journal History," December 15, 1851.
Lively dancing such as the reel and contra dance were enjoyed by all present. At 7:00 p.m. a luscious dinner was served, then there was more dancing and a supper was served at midnight. At 2 a.m. the next day the assembly was dismissed. 14

Heywood's expenses

One gains an idea of the expenses of the marshal's office through the letters of Heywood to the Secretary of the Interior, Ewing. Marshal Heywood estimated his court expenses for four terms ending June 30, 1853, to be $4,000. For two terms of the second district court he estimated $1,000, and one term of the third district court, $1,000. Heywood estimated an additional cost of $1,000 in case a new justice was appointed and another session of court was called. Heywood further mentioned that the lack of a penitentiary in the territory increased costs. 15 Marshal Heywood had made requests for funds to build a penitentiary in the territory, and finally on March 3, 1853 an act was passed providing Utah Territory with $20,000, for constructing the facility. 16

Court expenses, renting a courtroom and outfitting the room properly for court purposes came under the marshal's office. An earlier law had been established which limited the marshal to $50 for rental of courtrooms or $20

14 "Journal History," March 4, 1852.

15 Heywood to Secretary of the Interior, October 18, 1852, DJ, AG Papers, Utah Terr., NA, Roll 3 Part 2.

16 U.S., Statutes at Large, X, 198.
18 In a letter of September 30, 1854, Heywood explained that
the amount was inadequate due to high costs in the territory. In addition he
asked for $3,000 for outfitting the courtrooms. Heywood again mentioned
the lack of a penitentiary in the territory and stressed the need for one,
then he submitted a request of $3,000 for establishing a jail in Utah. A note
at the bottom signed by Chief Justice Kinney stated that the amounts were proper. 18

The emolument returns for United States marshals illustrate a part of
the fees obtained by Heywood. For attending court he was paid $5 per day,
and for summoning jurors 33 1/3 cents. For the execution of Loughan and
Antelope on September 15, 1854, for murder, Heywood was paid $2.50 each.
For travel he received 10 cents a mile, for serving subpoenas 50 cents, meals
for himself 50 cents each, for the use of his horse $1 per day, and for the keep
of his horse $1 per day. 19

One of Heywood's chief expenses came from furnishing a posse of
guards for the protection of Judge Drummond on his trips to Carson County
to hold court. The judge claimed he needed protection from the hostile Indians
he encountered enroute, and Heywood tried to provide the protection. The
judge received payment for the use of his equipment while traveling. In
February of 1856 the marshal's office sent vouchers for Drummond including

17 See Appendix I.

18 Heywood to the Department of the Interior, September 30, 1854,
DJ, AG Papers, Utah Terr., NA, Roll 3 Part 2.

19 Emolument Returns for United States Marshals, 1851-1873, National
Archives, Based on notes taken by S. George Ellsworth, in his possession.
$400 rent for use of baggage, wagon and horses and for fifty days time in traveling to and from United States District Court in Carson County. There was another voucher to Drummond amounting to $2,000 for the use of equipment.

Other vouchers for miscellaneous items in connection with providing guards for Drummond are on file. For example, one George Patrick was paid $81 for assisting in the posse. Twenty dollars was paid to a local merchant for the purchase of flour used to feed the posse on the trips to Carson County. Marshal Heywood was running low on funds and found it hard to provide money for escorts, so Judge Drummond advanced the marshal money enough to provide the escort. Guards, carriage, horses and provisions came to a total of $650. Drummond sent letters to the comptroller requesting payment of the money. 20

By examining the emolument returns and the correspondence between the individuals one can gain a fair knowledge of duties and responsibilities of the United States marshal. It seems quite evident that the marshal’s office in Utah Territory was rather insignificant when compared to what the office later became. The population of Utah Territory was small and scattered. There was not a great need for a marshal. In addition the territorial marshal established by the Utah Legislature had the responsibility of executing all laws pertaining to the territory. Thus the territorial marshal in the early years of Utah had more duties and responsibilities to perform than the United States

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20 Letters and Vouchers from the Marshal’s Office, February 1856, DJ AG Papers, Utah Terr., NA, Roll 3, part 2.
Either the President of the United States was satisfied with Heywood’s performance in office or he could not find anyone else to accept the position, for on February 28, 1855, the President reappointed Heywood as marshal. He was notified of the reappointment, and on May 15, 1855, he accepted the position. In a letter to the Secretary of Interior he accepted the office the same day he gave his official bond.²¹

Shortly after his reappointment, Heywood was called upon to apprehend a man named Muny. He had been indicted for killing an Indian and had the reputation of being a dangerous man. Muny had joined a band of Indian marauders who had caused depredations upon the immigrants and incited Indians to hostility. Marshal Heywood, under orders from Judge Kinney, took a posse of forty men and apprehended the criminal. Although the marshal’s duties were not as arduous as later marshals, Heywood’s job did have its dangers and hardships.²²

By 1856 Utah Territory become more active especially in relation to the courts. In a letter to the Secretary of Interior the cost of court for the year of 1856 was estimated to be $12,000. Estimates for maintenance of the jail at Salt Lake was set at $20,000 and the same for the jails at Fillmore,

²¹Heywood to the Secretary of the Interior, February 28 and May 15, 1855, DJ, AG Papers, Utah Terr., NA, Roll 3, Part 2.

²²Judge Kinney to Marshal Heywood, December 1855, DJ, AG Papers, Utah Terr., NA, Roll 3, Part 2.
Parowan and Little Salt Lake Valley. Due to Utah's location on the trail to California and Oregon and the traffic from the New Mexico traders, more legislation was needed, thus necessitating an increase in funds. The influx of non-Mormons to Utah in the 1850s brought in a group of people adverse to the Mormon way of thinking.  

Heywood goes to Washington

In April of 1856 Marshal Heywood decided to go to Washington, D.C., to transact business in connection with the marshal's office and to help influence the United States government to give Utah statehood. He left for Washington, D.C., with a company of Mormon missionaries who were traveling to Europe. Heywood, Judge Kinney, and several church leaders joined the company. The party left Salt Lake on April 22, 1856. The journey was cold, wet and miserable. They trudged through severe blizzards and forded rivers with high waters. In order to keep their horses alive during the storm at South Pass the men fed them their bread and covered them with their bedding. Finally the party arrived safely at Mormon Grove near Atchison, Kansas, on June 8, 1856.  

Marshal Heywood, George Albert Smith, E. T. Benson and Orson Pratt continued on to Washington. The marshal had been plagued with consumption before the trip and during it, but he began to improve, for George Albert Smith wrote that Mr. Heywood's health was much better. "He says (Mr. Heywood)  

23 Heywood to the Secretary of the Interior, no date, DJ, AG Papers, Utah Terr., NA, Roll 3, Part 2.  

24 "Journal History," June 8, 1856.
that the best thing for a consumptive man is eating." The marshal arrived in Washington on June 23rd. Little information is known of his business in Washington except that he planned to petition Congress for the admittance of the State of Deseret to the Union. He then returned to Utah. 25

Drummond's trip to Carson Valley

In June of 1856 Judge Drummond planned to make another trip to Carson County, and Heywood appointed Anson Call to organize a posse of twenty men to guard the judge. Marshal Heywood appointed Joseph Kelley as deputy on February 22, 1856, and told him to assist Call on the expedition. Call talked to Drummond about arrangements for the trip. The judge was hesitant and said he would make other plans. Call then told him that Heywood had given him orders to guard the judge. The judge said he wanted to travel with the Indian agent and his men who were going to California. Call told the judge that he had already made the necessary arrangements and would not change his plans. Then he told Drummond to meet him on the Bear River.

Call went ahead of the posse, as he was driving a wagon loaded with supplies for the use of the posse. Call was on the Bear River at the appointed day, but no judge appeared. He waited for two days, then proceeded to the Humboldt where the judge, posse, Indian agent and his men overtook him. The members of the posse complained that the judge would not use the services of the posse employed by Call. The judge had employed the men with the Indian agent

25 "Journal History," June 14, 1856.
(using government funds and against instructions) as his own posse, and used them to drive a herd of his horses to California. Call said he dispersed the goods he was carrying to the posse, and when they reached Carson County he dismissed the men traveling with the judge, but Drummond ignored him and kept the Indian agent and his men in his employ. Call's account does not state whether or not the judge's horses had been driven on to California on government funds. He only complained of an extravagant bill for $256 incurred by the judge and posse, mostly for strong drink. A voucher was in the marshal's office for that amount.26

Heywood's removal

Joseph Heywood held his position as United States marshal until he was removed in August of 1856, seemingly because of a discrepancy in his financial accounts. There is no mention of Heywood's removal in the newspapers or in the Journal History. However, in correspondence between George C. Whitbey, Secretary of the Interior, and Elish Whittlesey, Comptroller, there is considerable discussion of the marshal's accounts. In a letter dated May 29, 1858, Whittlesey said the marshal had not made requisitions according to instructions. Apparently the marshal had made vouchers for anything he wanted and had not gone through the proper channels.27

A letter sent to Congress by Abel Gilbert and William Garrish showed that Heywood's accounts had been audited and he was found to be in debt to the

26 "Journal History," July 30, 1856.

27 Whittlesey, the Comptroller, to the Department of the Interior, May 29, 1858, DJ, AG Papers, Utah Terr., NA, Roll 3, Part 2.
government for transactions during his term. During his first term Heywood had been able to write out vouchers for what he needed, and they were honored by the Treasury Department. However, during his second term of office he was sent other instructions requiring him to make requisitions to the department.

There is some question as to whether or not Heywood had received the instructions. According to one letter no mail had been received in Salt Lake City from the time of his appointment until April of 1856. If no mail was received then it is possible that Heywood did not know of the instructions. However, according to Representative Marshal, Mr. Heywood knew of the instructions, for Heywood had written to him saying that he had heard some of the vouchers were dishonored.

Regardless of what caused the discrepancy, the marshal's office was in debt to the government for the sum of $116,845.59. It cannot be inferred that Heywood pocketed the money. He had made drafts for his expenses which the Treasury refused to honor. Possibly many merchants, jurors, and witnesses did not receive money due them, but the marshal did not have the money. Congress must have been convinced that Heywood had been honest in the capacity of U.S. marshal, for years later, March 3, 1873, an act was passed authorizing payments of Heywood's accounts. The accounts

28 See Appendix I for special instructions to marshals.

29 Abel Gilbert and William Garrish to Congress, June 1, 1858, DJ, AG Papers, Utah Terr., NA, Roll 3, Part 2.
were pro-rated among the holders of the drafts and certificates drawn by Marshal Heywood. 30

Marshal Heywood after office

When Heywood left office he still kept himself occupied. He remained active in the Mormon Church throughout his life. In the spring of 1863 he moved to New Harmony, Washington County, Utah. He lived there until February of 1872 when he moved to Panguitch, Utah. On February 3, 1874 he was ordained patriarch of the Mormon Church at St. George, Utah, and on October 16, 1910 Joseph L. Heywood passed away at Panguitch, Utah. 31


CHAPTER III

INFLUENCE OF EARLY MARSHALS

Marshals appointed after Heywood were non-Mormon. With their appointment came opposition centering on the marshal's office. The early marshals were insignificant in terms of power and duties. An early effort was made by non-Mormons to thwart the political power of the Mormon Church and to bring more power and prestige to the office of U.S. marshal. However, the influence of the Mormon Church was so great that marshals became discouraged and either resigned, refused to accept permanent appointment, or were absent from the territory much of the time. The marshal's office up to 1868 did not have the power and influence that it later held.

A. T. Haun

A. T. Haun, appointed on August 22, 1856, was the second U.S. marshal in Utah Territory. Haun came to Utah and held the position as marshal until October but declined permanent appointment, and Peter K. Dotson was appointed to the position. ¹

Peter K. Dotson

Peter K. Dotson was a native of Virginia and came to Utah in 1851 where

¹"Journal History," August 27, 1856.
he became an express and mail agent probably for J. M. Hockaday. The "Journal History" of January 26, 1856, stated that a Mr. Gerrish, who came by a special service of the mail, was the bearer of Mr. Dotson's commission. Dotson was held in suspense for sometime because the envelope was sealed and addressed to Judge Drummond who was in California at the time. Any of the other judges could have opened it, but Judge Stiles refused, saying that they had no authority to open Drummond's mail, and Gerrish refused to deliver the letter to anyone but a United States judge. According to the Department of Justice, Marshal Dotson was appointed on October 28, 1856, and took charge of the office early in 1857.

The first information in relation to Dotson's position as marshal dealt with the limits put upon him. In a letter to the Department of Interior, Dotson complained about the law limiting the amount he could spend for rental and maintenance of courtrooms. He further mentioned that neither the territory nor the United States held any buildings in Utah except the penitentiary. Court had been held in the Mormon Council House. Dotson did not like the Mormons and was opposed to the use of their buildings to conduct government business.


3"Journal History," January 31, 1858.

4"Journal History," January 26, 1856.


6Dotson to Secretary of the Interior, July 30, 1857, DJ, AG Papers, Utah Terr., NA, Roll 3, Part 2.
Dotson was one of the first officials to encourage a separation of government and church affairs.

In another letter to the Department of the Interior, Dotson claimed that Marshal Heywood had advanced the sum of $100,000 to the local merchants for their benefit, and he said it made it difficult for him to carry out his duties. The discrepancy in the accounts of Marshal Heywood had prompted the department to send specific instructions to the marshals of Utah to make requisitions for goods or services needed. The restriction was a definite handicap to the marshal. It required close estimate of the funds needed for the entire year. If or when other items came up, the marshal had to make requisitions directly to the department which often took from three to six months, yet the marshal dared not proceed with the use of drafts for fear the Treasury would not honor them. 7

The Utah War

Little information exists about the activities of Marshal Dotson during the Utah War. Certain letters indicate that he was at Camp Scott near Fort Bridger with the army and other government officials. There is reference to a few of his actions. The Mormons claimed that Dotson, Bowell a mountaineer, Morrell, the post commander, and a dozen others tried to get the Indian chief "Little Soldier" to steal horses from the Mormons with the agreement that they would buy them from the Indians. 8 Rumors ran rampant on both sides. The

7 Dotson to Secretary of the Interior, August 1, 1857, DJ, AG Papers, Utah Terr., NA, Roll 3, Part 2.
8 "Journal History," May 4, 1858.
Mormons felt that Johnston's Army had come to destroy them, and the non-
Mormons sincerely felt that the Mormons would try to kill them. One such
rumor appeared in the journal of Captain Albert Tracy. The captain wrote,
"coming up today from the bute, fell in with U.S. Marshal Dotson and a small
party by the bridge." Dotson told the captain that they had ridden all night to
escape a body of some five hundred Mormons who planned to capture them.
No other evidence supports Dotson's claim's. Perhaps Dotson was only try-
ing to spread rumors to harm the Mormons, or the marshal may have actually
been afraid of the Mormons.

Dotson was involved in an incident which sheds some light on the fear
the gentiles had for the Mormons. In a letter from Judge Eckles, who was
staying in Ecklesville near Camp Scott, to Marshal Dotson dated April 21,
1858, the judge ordered Dotson to go to Bear River at the camp of Ben Simons,
an Indian chief, to obtain provisions, especially meat, and to get information
regarding Mormon troubles. He was instructed to make no warlike moves on
the Mormons except in self-defense.

Dotson's return to Eckles from Camp Scott on April 27, 1858,
explained that trip to Bear River. Dotson took thirteen men with him and went
to the Indian camp. Before they reached the camp Ben Simons came out to
meet them and took them to an excellent camping place. Dotson then went

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9 J. Cecil Alter and Robert J. Dwyer, eds., "The Utah War: Journal
of Albert Tracy, 1858-60," Utah Historical Quarterly, XIII (January, April,
July, October 1945), 9.

10 U.S., Department of Justice, State Department Territorial Papers,
Utah, 185301873 (Washington, D.C.: The National Archives, 1965), Microcopy
No. 12. In Utah State University Library. Judge Eckles to Dotson, April 21, 1858.
April 3, 1853 to January 24, 1859, A59, 187.
to the lodge of Simons and there he met a man named Joseph Conair whom he had known in Salt Lake City. Conair told him that he had tried to see Governor Cummings, but was prevented from doing so by an armed guard. He told Dotson that the bishops had said in meetings that Governor Cummings should not be allowed to leave until every family had left the city. Dotson discovered that some of the settlements had already been abandoned. Simon then informed Dotson that there were several parties of Mormon men around the area. One at the head of Echo Canyon, three or four hundred men at the mouth of the canyon, and another three hundred men at Lost Creek. Dotson didn’t bother to check out the information given him by the Indians, but made preparations to return to Camp Scott. He purchased four head of excellent beef and made plans to leave the next day.

That night at camp they were aroused from their beds by an Indian whom Simons had sent out to scout for Mormons. The Indian told them to jump up immediately, to catch their horses and move out for Mormons were surrounding them with a large party. The Indian scout had supposedly met a group of Mormons who said they were looking for the American party that had reached Bear River the day before. The Indian had told the Mormons he did not know their whereabouts. When the scout went about fifteen miles further down the canyon he met a larger party of Mormons who said they were looking for the Americans for they planned to wipe out the whole party. Another chief, Little Soldier, told Dotson that if he needed help he would give it, but that he would rather not engage in war with the Mormons.
Whether or not the Mormons were near or planned to harass the Dotson party remains unknown. The Indians had been quite friendly with the Mormons and possibly were working with the Mormons or perhaps they had some other motive. It seems unlikely that the Mormons would have caused the party any harm, for they had opportunities to do so on other occasions but nothing ever happened. Whatever the circumstances, it caused fear to come over the Dotson party, for about midnight the party left the campsite and returned to Camp Scott without the provisions and beef they had gone after.  

The return to Salt Lake City

After Johnston's Army came through Salt Lake, and the people returned to their homes, life settled down to a more routine pattern. The Mormon people enthusiastically participated in dancing and social gatherings. The non-Mormons too, wanted a few social gatherings, but they had trouble finding enough females. At the first party given by non-Mormons twenty-seven women attended, but the number declined to only fifteen. The parties were held in S. H. Goddard's store which was rented to Dotson, Hockaday and Company. The store was empty at the time, for their goods had not yet arrived. There was very little social opportunity for the non-Mormons, and they were often condemned for creating their own.

11 Dotson to Judge Eckles, April 27, 1858, State Department Territorial Papers, Utah, April 3, 1853 to January 24, 1859, A59, 188-98.

In addition to his marshalship and his association with Hockaday and Company, Dotson ran a boarding house on Whiskey Street. Among the boarders were judges Charles E. Sinclair and John Cradlebaugh, Deputy Marshals Gilbert and Brookie and a number of jurors. 13 Visitors to Utah often stayed at Dotson's boarding house such as Horace Greeley, the founder and editor of the New York Tribune, when they visited Salt Lake City. 14

Marshal Dotson occasionally found it necessary to intervene in arguments or fights. One evening John Cazier was sitting in the Bullock Tavern at Provo. There were a few non-Mormon officers and wagon masters. Judge Sinclair came in cursing and damning the Mormons. He said the bishops had spies all over Utah, some with long coats, tallhats, blue jackets and coarse boots. Then the judge pointed to Cazier's boots and asked him if he was a Mormon. Cazier said yes and that he was proud to admit it in any crowd. He said he was a boarder there and that he had as much right to be there as he did. Then Judge Sinclair cried, "Damn you, do you know who I am, I am a United States Judge, damn you." Then one of the men in the crowd jumped up and said he wanted to "Kill a damned Mormon." Another jumped up, drew his pistol and said he would help him. At the point Marshal Dotson intervened and told them he would have no fuss, and trouble was averted. 15

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14 "Journal History," July 12, 1859.
15 "Journal History," March 10, 1859.
Dotson's feelings about the marshal's office appeared in a letter written to the Secretary of the Interior. Dotson had asked permission to pay more than the $50 required by law for the rental of a courtroom. He was given permission to do so, but when the accounts were settled the comptroller refused payment. Dotson explained his embarrassment. He either had to refuse to provide accommodations for court or pay it out of his own pocket. This he was unable to do, for his entire salary for 1858 amounted to only $500. Dotson's feelings help to illustrate the low status of the office of the United States marshal at the time. The marshal had very little responsibility in relation to court activity which would have been his main source of income. At the time the territorial marshal had most of the responsibility for court activity. 16

Troops in the wheatfield

In June of 1859 another incident worth noting took place. The United States troops led by Captain Anderson returned from Fort Hall and camped in a large wheatfield owned by a Mr. VanCott. VanCott rode to the camp and asked Captain Anderson what right he had to camp on his wheatfield. VanCott said he had rights the same as Anderson. An argument ensued. Anderson told him he had no rights and forced him by bayonet guard to get off his horse, and Anderson held VanCott prisoner.

16 Dotson to Secretary of the Interior, January 26, 1859, DJ, AG Papers, Utah Terr., NA, Roll 2, Part 2.
As soon as Governor Cumming heard of the arrest of VanCott, he sent Secretary John Hartnett and Colonel J. C. Little to request his release. Captain Anderson refused. The governor then sent for Hosea Stout and requested that he and Hartnett go to Judge Sinclair and demand a writ of habeas corpus. The judge went to the governor's office and made out the writ, for he understood that a hundred men were ready to take Captain Anderson's command out of the wheatfield. There was some speculation that Marshal Dotson wanted trouble to develop between the Mormons and the troops. One J. M. Shelton swore before Probate Judge Smith that he was in the office of J. M. Hockaday and Company and heard Marshal Dotson express his hopes for trouble between the Mormons and the troops in the wheatfield.

The above incident indicates that some federal officials and troops came to Utah to settle the Mormon problem. They came prejudiced against the Mormons and felt they had the right to use or do what they felt necessary regardless of who they trespassed against. The Mormon reaction demonstrates their hostility toward federal officials and their determination to resist attempts of the officials to settle the Mormon question.

The execution of Thomas H. Ferguson

Perhaps the most significant aspect of Dotson's marshalship centered on the execution of Thomas H. Ferguson. Ferguson had been found guilty of murder by the third district court and sentenced to hang on the 28th of October, 1859. Marshal Dotson had asked Governor Cumming for sixty armed

18 "Journal History," June 18, 1859.
men of the militia to help maintain peace during the execution. The governor
sent orders to the Adjutant General to furnish the men. 19

Ferguson was taken out of the county jail at 11:00 a.m. on the cool
October morning of the 28th. He was placed in a wagon with his coffin;
Marshal Dotson, Deputy Marshal J. F. Stone, Sheriff Robert T. Burton, and
City Marshal J. C. Little led the procession. A military guard under direction
of Major Lot Smith was formed on each side of the wagon. The procession made
its way south and east to the place of execution on the east bench. Several
curious people followed along to witness the execution. A hanging in Utah was
quite new since Ferguson would be the first white man to be hung. The only
other hanging in Utah was the execution of two Indians during Marshal Heywood's
term of office.

After climbing the scaffold, Ferguson made a solemn and rambling
speech. He told a little about his life. He said he was a stranger when he came
to the territory and had no friends. He had sent a petition to the governor to have
the execution stayed, but the governor had not felt it would be fair to the people
of Utah. Then Ferguson paused and Marshal Dotson carefully placed the rope
around the man's neck without batting an eye. Then Ferguson proceeded. He
said he had been born in New York and lived there until he was twenty-one
years of age. He had never caused any depredations before, and this time
it was in self-defense. He felt if he could have had a fair trial he would have

19 "Journal History," October 19, 1859.
been set free. Then he said he was not afraid to die. Rambling on, he said all Judge Sinclair wanted was to sentence someone to hang before he left the territory. He was not given a choice of how he wanted to die as was the law in Utah, but was sentenced to be hanged. Ferguson was willing to pay for the crime, but he wanted all to know that he was too drunk to know what he was doing and did not know of the crime until three days later.

Ferguson continued, saying that there was a man in jail at the time that could not get a trial because he could not get a witness for the prosecution, and Ferguson could not get a witness for the defense so they held his trial immediately. Then Ferguson paused and said, "It makes me feel bad, gentlemen. I would sooner die a natural death; but I am not afraid to die. Some men--"20

Then Ferguson stopped, unable to control his emotions. During the pause his wrists were tied behind him with a white pocket handkerchief. He then proceeded. He had nothing against the people of Utah Territory. Then he said,

I die with a good heart toward all men. Every man that has done me any wrong I am willing to forgive. . . . I am but a young man of 27 years old. . . . I probably wouldn't have gotten into trouble if it hadn't been for whiskey. I have never left any place but I could go back to it again--every town, every county, every city and every country.21

Then Ferguson requested that someone pray for him. Henry Jacobs climbed the scaffold and offered a brief prayer, and the execution proceeded. Ferguson's last words were, "Gentlemen, I bid you all farewell." The crowd was silent

while the marshal drew the cap over the prisoner's face. At 12:39 p.m. the rope was cut, and in the name of law and order Ferguson became the first white man executed in Utah.  

Dotson's confrontation with Brigham Young

Dotson's last major incident in office was his confrontation with Brigham Young. During the Utah War the Mormon church had been in financial distress, and when Johnston's Army came to Utah Brigham Young needed expenditures for defense, but he had no cash. Brigham and his advisors decided to fill the gap partly by assessment and partly by the printing of money. A thousand men were needed at a cost of $500 each. Within six months after the Mormons heard of the coming of Johnston's Army, the Mormon leaders made plans for a new currency, "Deseret Script." Printed notes were circulated, for too much time would be involved for engraving. The printed notes were backed by livestock capital.  

When the Mormons came back into Salt Lake City in September of 1858, after the exodus, they went ahead with plans to issue engraved bills instead of the printed ones. Redemption of the printed bills with engraved notes began on September 9, 1858. The bills were engraved by David McKenzie. By May 6, 1859, 16,512 of the new bills had been manufactured. This experiment was stopped by United States Marshal Dotson. Dotson arrested McKenzie on July 9, on the charge of counterfeiting a United States draft, and sent him to


Camp Floyd. Dotson seized the engraving plates and some of the currency from McKenzie's shop. Later Marshal Dotson attempted to return the plates, but found they were damaged beyond use. The Deseret Currency Agency under Brigham Young brought suit against Marshal Dotson for damage done to the plates. Court was held on the 5th, 6th and 7th of August. The court found Dotson guilty of the charges, and he was forced to pay $1,668 for trespassing, and $648.66 court costs, a total of $2,336.66.

Dotson's resignation

The verdict so enraged Dotson that he resigned his position. He sent in his resignation August 1, 1859. Dotson became discouraged and disillusioned with the progress of federal supremacy in Utah, and in his resignation he warned that the government's policy toward the Mormons would prove fatal to federal supremacy. He stated that the present policy "can only tend to build up, consolidate, and perpetuate the political and ecclesiastical power of Brigham Young and his successor." Dotson urged that a more severe policy be taken toward the Mormons. Another reason Dotson gave for his resignation was the "onerous duties and low salary" associated with the marshal's office.

26 Deseret News Weekly, November 9, 1859.
27 Deseret News Weekly, November 9, 1859.
Dotson did not immediately leave the office when he handed in his resignation, for records exist that show he took other actions in the territory as marshal. A complaint was registered about Marshal Dotson in regard to census taking. It seems that Dotson had appointed assistants resented by the public, because of the excitement they had caused in the city due to drunkedness and carelessness.  

After Dotson left office he was still disturbed about the law suit that had been brought against him by Brigham Young. Dotson searched through the court records to try to prove that Judge Eccles had given him orders to confiscate the engraving plates used by the Mormons in making money, but he could find no record of the judge's order.  

Dotson's term of office was not a popular one as far as the Mormons were concerned. He was determined, he said, to destroy Mormon political power in the territory, but the Mormons were as determined to fight off federal supremacy. Dotson made a start at reducing Mormon power, but success was not to come until later. That Dotson remained in Utah for a time after serving as marshal is evidenced by mention of his name in later affairs. That he was not popular is illustrated by the Mormons accusing him and the federal judges of feeling it their duty to imprison as many Mormons as possible. The Mormons felt that Dotson planned to immortalize himself by hanging Mormons with orders from the courts. The Mormons claimed that tons of rope were brought from the


29 "Journal History," June 17, 1863.
states for the use of the government hangman, Marshal Dotson. That Dotson really planned to hang Mormons is doubtful, but there is much evidence that indicates that he felt the Mormons and their beliefs were wrong, and he sincerely felt that for the betterment of the territory, Mormon political power had to be decreased. It is easy to understand why the Mormons were against Marshal Dotson. Dotson had not accomplished much in the effort to bring federal supremacy to Utah Territory. The powers of the office were so few that he was limited in what he could accomplish, but Dotson was the first marshal to actively urge that strong action be taken against the Mormons.

**Henry Grice**

Henry Grice served as the fourth United States marshal for Utah Territory. Grice, a native of Pennsylvania, was appointed marshal by President Buchanan. Mr. Grice arrived in Salt Lake City by a special service of the mail on August 25, 1860, accompanied by Judge Franklin and his two sons, and Secretary Wooton. According to the Department of Justice, Grice entered upon his official duties as marshal on September 24, 1860. Grice, like the other marshals, complained about the law limiting the marshal to twenty dollars for furnishing courtrooms. He claimed that the amount

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30 "Journal History," June 17, 1863.


was insufficient, due to high prices in the territory. The following material from some of Grice's emolument returns shows what the money was used for:

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 platform and desk for judges</td>
<td>$50.00</td>
</tr>
<tr>
<td>1 chair</td>
<td>5.00</td>
</tr>
<tr>
<td>1 water pitcher and tumbler</td>
<td>2.00</td>
</tr>
<tr>
<td>1 spittoon</td>
<td>2.50</td>
</tr>
<tr>
<td>1 inkstand</td>
<td>1.00</td>
</tr>
<tr>
<td>1 cloth to cover desk</td>
<td>3.00</td>
</tr>
<tr>
<td>1 table 10 feet square for members of the bar</td>
<td>15.00</td>
</tr>
<tr>
<td>1 cloth for the same</td>
<td>15.00</td>
</tr>
<tr>
<td>1 inkstand for the bar</td>
<td>2.00</td>
</tr>
<tr>
<td>1 table and desk for the clerk</td>
<td>15.00</td>
</tr>
</tbody>
</table>

During Grice's short term of office, several restrictions were placed upon him by the Interior Department. A letter from the Secretary to Marshal Grice instructed the marshal to

... exercise great caution and not pay any expense incurred while they may be exercising jurisdiction under territorial law; but only contracted while exercising jurisdiction under the constitution and the laws of the United States. ... You will be governed by the advice of the Judges, both in selection of rooms and in prices to be paid for them, and no voucher will be paid unless a judge's certificate accompanies it.34

A law passed during Grice’s term dealt with escaping prisoners. The law stated that if the marshal had a prisoner in custody and wilfully let him escape it was a misdemeanor, and the marshal could be fined or imprisoned, or both, not to exceed $2,000 fine depending on the seriousness of the crime for which the prisoner was being held.35

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33 Letters and Correspondence of Federal Judges in Utah Territory.
34 Secretary of Interior to Marshal Grice, July 12, 1860, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3.
35 U.S., Statutes at Large, XII, 1859-63, 69.
Grice became discouraged with the many responsibilities and low pay that came with the marshal's office and on October 31, 1861, sent his letter of resignation to President Lincoln. In his letter of resignation he said that since Nevada Territory had been created from Utah Territory, the business of the United States marshal was so limited in Utah that it did not justify his staying. 36

Grice's attitude toward the marshal's office shows that the early U.S. marshals had many insignificant duties and responsibilities but none that brought the marshal a good living. The nature of Utah's court system made the territorial marshal the more significant.

Isaac L. Gibbs

Isaac L. Gibbs, the fifth United States marshal of Utah Territory, was appointed U.S. marshal on March 6, 186237 but didn't come to Utah until October of 1862. 38 He was born in Lorain County, Ohio, on March 24, 1824. 39 Little is known of him until he moved to Nebraska Territory in 1854. When the first territorial legislature met at Omaha the first week in January, 1855, Gibbs

36 Grice to President Lincoln, October 31, 1861, DJ, AG Papers, Utah Terr., NA, Roll 1, Part 2.

37 A List of Marshals of Utah Territory.

38 Gibbs to the Secretary of Interior, July 17, 1862, DJ, AG Papers, Utah Terr., NA, Roll 1, Part 1.

39 Gibbs to the Secretary of Interior, July 17, 1862, DJ, AG Papers, Utah Terr., NA, Roll 1, Part 1.
was elected Sargeant at Arms in the House. Gibbs, an attorney in Nebraska, was active in Nebraska politics. He was named as one of the three commissioners to locate the county seat of Gage County. When the second territorial legislature met at Omaha in December of 1855, Gibbs was elected Chief Clerk of the House. In the summer of 1856 the territorial legislature elected him as one of the members from Otoe County, Nebraska. When the third territorial legislature met at Omaha in January of 1857, Gibbs was elected Speaker of the House. He also participated in various civic organizations in Nebraska.

Tragedy struck the Gibbs family when their seven year-old son was shot and killed on September 13, 1856. Two boys, each seven years old, had been playing together when a quarrel ensued and the one boy shot Gibbs' son.

Politics seems to have been Gibbs' primary interest. In Nebraska he was a Democrat and a delegate to nearly every county and territorial convention up to and including 1860. However, after 1861 he was not mentioned in connection with any party conventions. In 1860 he was asked to become a candidate for the legislature, but he declined. Other activities included serving as secretary of the Nebraska City and Pacific Railway, and he took part in the meeting in Omaha in December of 1859 to make plans for admission of Nebraska as a state.

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40 Information on Isaac L. Gibbs, Duane J. Reed to Vernal A. Brown, November 26, 1969.
41 Information on Isaac L. Gibbs, Duane J. Reed to Vernal A. Brown, November 26, 1969.
42 Information on Isaac L. Gibbs, Duane J. Reed to Vernal A. Brown, November 26, 1969.
Gibbs also served as a census enumerator for Otoe and Lancaster counties for the year 1860. The Nebraska City News mentioned Mr. Gibbs several times as an attorney, but there is no indications of the extent of his practice. His practice must have been rather insignificant for he served as agent for the reapers and mowers in order to add to his income. 43

Appointment as marshal of Utah Territory

In March of 1862 President Lincoln appointed Gibbs United States marshal for Utah Territory. According to his biographical sketch, Gibbs probably came to Utah about the time of his appointment and then returned to Nebraska. However, according to information in a letter he wrote to Secretary Bates, July 17, 1862 he acknowledged that he had received his commission but asked for permission to remain in Nebraska for awhile. He said that he had appointed a deputy and would come as soon as it was safe to travel over the roads, as the Indians had been rather hostile. His wish must have been granted for he did not come to Utah until October of 1862. 44 He was in Nebraska for the 4th of July, and also in September he attended a public meeting to raise funds to help support soldiers' families. Gibbs pledged $25 to that purpose. 45

There is very little information regarding Gibb's activities as marshal

43Information on Isaac L. Gibbs, Duane J. Reed to Vernal A. Brown, November 26, 1969.

44Gibbs to Secretary of the Interior, July 17, 1862, DJ, AG Papers, Utah Terr., NA, Roll 1, Part 1.

of Utah, certainly not enough to make an objective judgment of his term of office. The first information of his official duties after arriving in Utah in October of 1862 dealt with the Indians. On January 19, 1863, a miner, William Bevins, filed an affidavit before Chief Justice Kinney concerning an attack on him and his party in Cache Valley while returning from the Grasshopper Mines in Dakota. One man of the party was killed. Another party of ten miners in coming to Salt Lake City was attacked and murdered by the Indians. Warrants were made for the arrest of three chiefs and were placed in the hands of Marshal Gibbs. Gibbs appealed to Colonel Patrick Edward Connor, commanding officer of federal troops at Fort Douglas in Salt Lake City. The call for military assistance in apprehending the chiefs was successful. Connor made arrangements, and Gibbs, Connor and a company of infantrymen with two howitzers started for Cache Valley. On January 29 the army met the Indians, and the Battle of Bear River began at 6:00 a.m. and ended at 10:00 a.m. The army had defeated the Indians. In the short period of four hours there were 240 dead warriers and 160 women and children fell into the hands of the victors. Connor and party only lost 14 men. The victorious party returned to Salt Lake.

On March 3, 1863 Gibbs sent a telegram to the Department of the Interior asking if his estimates of yearly expenses had been received as he needed money badly for court sessions. He received a letter stating why he had not received the money. He then received a letter from the assistant secretary stating that the Secretary of the Interior said that a marshal has no

right to send a telegram at the expense of the department to ask if his estimates had been received. The amount was to be deducted from his account. It seems a U.S. marshal was expected to perform a number of onerous duties with a minimum expense and a minimum amount of initiative.

Gibbs was not as bitter an enemy of the Mormons as was Dotson, but he did make an attempt to arrest Brigham Young for violation of the anti-bigamy law of 1862. Brigham Young was taken before Chief Justice Kinney at the State House, and bail was set at $2,000. However, the grand jury failed to indict him on account of insufficient evidence, and Brigham Young was released from the charges.

**Gibbs asks for leave of absence**

Perhaps the reason for such scanty information on Mr. Gibbs in Utah is that he did not fight the Mormons as did other federal officials. Also he was absent from Utah for much of his marshalship. The 'Journal History' for August 29, 1963, stated that Marshal Gibbs accompanied John F. Kinney, delegate to Congress, to the East. Earlier, in a letter dated August 25, 1863, addressed to Secretary of the Interior Bates, Marshal Gibbs had asked for a leave of absence from Utah.

Gibbs felt his presence in Utah was unnecessary. First, there was only one U.S. Court held in each of the three districts, and the court for the third

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48 Whitney, II, 98.
district had been held and accounts were all made out. Second, the court in the second district was fixed for the third Monday in May, but it was not held and probably would not be held until the following May. Third, court for the first district had been adjourned until the following September, but since there was no money available to pay expenses the court probably would not be held.

Gibbs said that he would leave a good competent deputy in charge during his absence. He further stated that there was no business in the territory to require his attention, also that he had left his wife and family in Nebraska and had not seen them for some eleven months. The last reason given dealt with his salary, and sheds some light on the insignificance of the marshal's office at the time. He claimed that his salary for the past year did not amount to $800 and he felt that it would be a great accommodation to be relieved of his duties for a few months due to the great expense of living in the Territory of Utah. Marshal Gibbs was granted his leave of absence from October 1, 1863, to March 1, 1864.

The marshal's absence from the territory did not seem to cause any great difficulties except for the researcher, for he left very little information behind him. Gibbs was permitted to practice law in Utah, but his practice must

49 According to Gibbs's biographical sketch, his family did not come to Utah but remained in Nebraska.


not have been very great for there is no mention of him. The next information available after his leave of absence concerned making a treaty with the Indians. Gibbs, Colonel O. H Irish, the Superintendent of Indian Affairs, Brigham Young, and others were present. The terms of the treaty are printed in the Deseret News.\textsuperscript{52} Isaac L. Gibbs served as U. S. marshal in Utah until his term expired and Josiah Hosmer replaced him on February 16, 1866.\textsuperscript{53}

Activities after leaving office

After Gibbs left the marshal’s office, he was appointed governor of Idaho by President Johnson, and the appointment was confirmed by the Senate. However, a week or two later the Senate reconsidered on the grounds that no vacancy existed. He then entered the lumber business in Utah, which, according to the Nebraska City News was a failure.\textsuperscript{54} After this failure he returned to his Nebraska residence in December of 1869 and took up his law practice again. He practiced law until about 1875, then went to Washington where he prosecuted claims and was employed as a lobbyist. In 1877 Mrs. Gibbs was stricken ill at Nebraska, and she remained an invalid for the rest of her life. Gibbs, while living in Washington, suffered a stroke in May of 1885. He planned to return to Nebraska, but he never made it. His wife died at Nebraska City on February 3, 1888, and Marshal Gibbs died in Washington, D.C.,

\textsuperscript{52}\textit{Deseret News Weekly}, June 14, 1865.

\textsuperscript{53}\textit{A List of Marshals of Utah Territory}

\textsuperscript{54}Information on Isaac L. Gibbs, Duane J. Reed to Vernal A. Brown, November 26, 1969.
Josiah Hosmer was the sixth United States marshal for Utah Territory. There is very little information recorded on Hosmer, and practically none in Utah sources. He was appointed to the office on February 16, 1866, and held the position until September of 1869. In general, Mr. Hosmer was not offensive to the Mormons, and little is recorded about him. B. H. Roberts claimed that after Governor Harding left the territory, the succeeding federal officials contented themselves with their regular duties. There was really little trouble between Mormon and non-Mormon groups from 1863 to the time of the appointments of President Grant.

The only information of Mr. Hosmer comes from letters of correspondence with the Attorney General. In a letter dated April, 1865, Hosmer stated that he earned $50 for the arrest of John Young and James Watson charged with robbing the United States mails, and in the same letter he stated that the sum of $20 had been earned for attendance at Supreme Court.

In a letter dated May 18, 1869, Hosmer complained about the need of a

55 Information on Isaac L. Gibbs, Duane J. Reed to Vernal A. Brown, November 26, 1969.

56 A List of Marshals of Utah Territory.

57 Roberts, V, 317.

58 Hosmer to the Attorney General, April 1868, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3, File 37.
place to hold federal court. He said that the federal officials were placed in
an embarrassing situation by having to hold court in the Mormon court house
used for the county and probate courts of Salt Lake County. They could only
use it when the building was not occupied, and sometimes even then the doors
were closed to the United States courts. Many times the federal courts were
held in lawyer's offices and such places.

In the same letter he told the Attorney General that he had rented a
building for the purpose of holding court. The building was located on 3rd
South between 1st East and 1st West Streets. For one year, from November 1,
1868, till October 31, 1869 the rent was $60 per month. Hosmer had his office
in the building, and he agreed to keep up the maintenance of the building at his
own expense. The marshal took all of the law books that had been scattered
around and put them in the building. Having a permanent place to hold court
made it much easier for the marshal as well as the judge. Later Marshal
Orr moved the office and place of holding court to the building owned by the
Walker Brothers located on the north side of 2nd South Street, 96 feet east
of Main Street. 59

In a letter of the same date, Hosmer commented on the increased amount
of business in the U.S. Courts. He gave two reasons for the increase. First,
Congress had just passed a law requiring two terms of the district court to
be held each year. The second reason was due to the influx of people resulting
from the railroad coming to Utah. He said that with the "new law and the

59 Hosmer to the Attorney General, April 1868, DJ, AG Papers, Utah
Terr., NA, Roll 4, Part 3, File 238.
influence of the railroad hardly a day goes by without a necessary meeting of the court.\textsuperscript{60}

Hosmer was plagued with one of the problems that confronted later marshals. That was the problem of continual accusations of dishonesty in office. Some of the accusations were probably true, and a marshal had to be extremely careful how he conducted his business, or he was sure to be called dishonest. In the case of Hosmer, his deputy, Appleby, claimed that he had never been paid for his services, but that the marshal had gotten credit for the vouchers. It also seems that Hosmer had purchased merchandise with government funds for the purpose of going into business in Fillmore. Appleby claimed that the business venture had failed and that Hosmer was in arrears to the government. Judge Strickland had signed the letter stating that it was true.\textsuperscript{61} A newspaper clipping stated that Hosmer had defaulted on all the money entrusted to him. He was sued, but since nothing could be proved the matter was dropped. It would have been relatively easy for a marshal to juggle the accounts so that he could keep some of the funds, and it was occasionally done.\textsuperscript{62}

Hosmer left the marshal's office in August or September of 1869. What happened to him after he left Utah is not known, no mention of him has been found.

\textsuperscript{60}Hosmer to the Attorney General, April 1868, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3, File 238.

\textsuperscript{61}Hosmer to the Attorney General, May 18, 1869, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3, File 238.

\textsuperscript{62}Newspaper clipping from one of the local papers, May 18, 1869, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3, File 238.
Summary

The first few United States marshals in Utah Territory were not as important as the later marshals. Joseph L. Heywood was influential with the Mormons as he was a Mormon, and rarely ran into conflicts. Peter K. Dotson made many efforts to thwart the purpose of the Mormons, but failing he resigned in disgust. Henry Grice, Isaac L. Gibbs and Josiah Hosmer were not as devoted to defeating the Mormons as Dotson had been. One reason for the insignificance of early U.S. marshals in Utah was the office of the territorial marshal who executed all laws pertaining to the territory. Therefore, the years 1850 to 1868 were relatively calm in Utah with very little interference by U.S. marshals, especially when compared to what transpired after 1868.
In 1850 the Utah territorial legislature created the office of territorial marshal which was to come into direct conflict with the office of United States marshal. A dispute ensued in which the Mormons fought for their right to maintain the office, and the federal officials made every effort to abolish the position. The process of abolishment was slow, but in 1874 the federal officials were successful in eliminating the office of territorial marshal. Destroying the power of the territorial marshal gave the U.S. marshal more power, duties and responsibilities. Until 1874 there was a running conflict between the two marshals.

Background

The conflict that arose between the United States marshal and the territorial marshal was a long and controversial fight that involved more than the marshals. It was a difference between United States and territorial marshals, United States courts and local courts, and Mormon and non-Mormon people. The major issues that arose concerned Mormon probate versus federal district courts, selection of juries by federal officials versus selection by territorial officials, and the conflict between federal and territorial officials.
The Mormon probate courts had been given extensive jurisdiction by the territorial legislature of 1852. The probate courts were given the usual duties of probating wills, determining guardianship of minors and income pensions, but in addition they were given the right to concurrent original jurisdiction "both civil and criminal . . . as well as chancery as at common law."¹ With such extensive jurisdiction given to the local courts, it is not difficult to understand why a controversy should arise, especially when considering the hostile feelings that existed between the Mormon and non-Mormon people.

The controversy over the empaneling of juries arose several times during the history of the territory. According to territorial law empaneling juries was regulated as follows: each county court was to take a list of fifty men from the list of taxpayers who could qualify as jurors. The clerk kept a box of names in which the marshal, at the beginning of each term of court, was to draw twenty-four names for a Grand Jury and twenty-four names for the Petit Jury. He was to keep drawing names until the panels were filled. It was the opinion of the federal officials that the law should be ignored and jurors be selected by the United States marshal on open venire.²

¹Utah, Legislative Assembly, Session Laws, Acts and Resolutions, Passed at the Second Annual Session of the Legislative Assembly of the Territory of Utah . . . (Great Salt Lake City, Utah: George Hales, Printer, 1953), 43.

²Compiled Laws, 5. Venire is a "judicial writ of precept used in summoning persons to appear in court to serve as jurors." Webster's New Collegiate Dictionary, 945. An open venire enabled the marshal to summon any person he chose, thus bypassing the above law.
Several anti-Mormon bills were proposed in Congress but had failed to pass. One good example was the Cullom Bill which was debated in Congress in 1869 and 1870. The bill failed to pass, but as explained later Judge McKean tried to enforce it upon the people of Utah. The main provision of the Cullom Bill would have allowed the United States marshal to summon juries by open venire, e.g., he could summon any person he wanted as jurors without having to draw from a list of taxpayers.

**Early Controversies**

The Mormons seemed to fear that the federal courts would devour their local courts. They jealously guarded the territorial powers such as the office of marshal and attorney and the probate courts, possibly to the extent that they actually did themselves harm. Perhaps if the Mormons had not been so determined to guard their powers the non-Mormons would not have been so eager to take the powers from them.

**Jealousies in probate courts**

The following incident is an example of early fears and jealousies. Robert T. Burton, deputy U. S. marshal, served a writ of replevin on one Twitchel for recovery of several horses belonging to a widow, Isabel Brooks. Burton left the horses in the care of a man named Hawkins. Twitchel came, took four of the horses and sold them to Levi Abram, who put them in his stable and refused to deliver them to the United States marshal. Burton
obtained the help of William Hickman to recover the horses. Abram filed a complaint with the probate court stating that Hickman drew a knife and club with intent to kill him.

Hickman, believing that justice would not be done to him by the probate court, obtained a writ of habeus corpus from the district court for his own protection. Probate Judge Smith had him arrested. The probate court refused to let Hickman go before federal judge Shafer and asked Hickman to plead guilty or not guilty. In the meantime, Hickman's writ of habeas corpus had been completed and served on the officer holding him. Judge Smith excitedly said that the prisoner was not in charge of the officer but in the charge of the probate court and that the writ would have to be issued to the court. Judge Shafer, to prevent controversy, issued the writ to Judge Smith. While the writ was again being prepared, the most intense excitement ensued over the rumor that the district court was endeavoring to run over and devour the probate court. At that time nothing could have been more untrue. Judge Shafer released Hickman on several grounds, one of which was that he had not been guilty of any crime. Judge Shafer told the courts not to trouble him anymore. 3

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3Stout, II, 529.
Attitudes of federal officials

Most federal judges that came to Utah were against the jurisdiction held by probate courts. Judge Drummond said he would set aside findings of the probate courts in all cases except those he felt to be in their jurisdiction. Drummond further directed his feelings at the second district court in Fillmore. Deputy Anson Call was filling in for Marshal Heywood. The judge declared that the legislature could not give the probate courts civil and criminal jurisdiction. The judge felt it was an "unwarranted stretch of power," and against the Organic Act. Drummond further told the grand jury "if they found that any of the probate judges had exercised civil or criminal jurisdiction that it was their duty to indict not only the judges, but all jurors and officers who had acted under them."

Drummond was unsuccessful in his campaign against the Utah courts. He became so disgusted that under the pretense of holding court he went to Carson Valley, on to California and Washington, D. C., where he launched a vigorous attack upon the Mormons. His attack was in part responsible for the Utah War.

The differences continued to occur. On February 9, 1857, the November term of the district court met. Two lawyers, James Ferguson and Jesse C. 

\[4\] Whitney, II, 577. 

\[5\] Stout, II, 565.
Little, came to court to defend the case of Winters v. Parker, et al. Ferguson and Little charged that Judge Stiles showed partiality to Winters and his attorneys because of the hostility toward Utah laws. Their argument was that the United States courts had no jurisdiction to try cases arising under the laws of the territory.

The court overruled the plea to the jurisdiction of the court but decided that while sitting as a U. S. Court it could not try territorial cases and that the U. States Marshal could not execute the laws of Utah nor act in her courts and dismissed the U. S. Jury and Dotson the U.S. Marshal left the court. 6

The court's decision was not favorable to certain of the federal officials. On Friday 13, of February 1857, D. H. Burr, U. S. Surveyor General, demanded that Judge Stiles state whether he held the laws of Utah to have preference over U.S. laws. That day in court feelings ran high. The people of Utah took a dim view of the attack upon their laws and courts and felt it was an unlawful usurpation by the district court. By this method the Mormons knew the federal officials could render Utah laws void and permit the U. S. marshal and his deputies to pick juries and serve their processes, making a mockery of Utah laws. At one point during the court, feelings ran so high that several took off their coats, prepared to fight, and others wishing to avoid trouble, left the courtroom. The federal courts refused to make U. S. laws supreme over territorial laws. This

6Stout, II, 621.
caused T. S. Williams to resign his attorneyship and Burr to send in his resignation.\(^7\)

A letter written by Dotson to the Department of the Interior mentioned that a controversy had arisen between the United States and the territorial marshal. He said the territorial marshal, Horace S. Eldridge claimed to be the ministerial officer of the U. S. Supreme Court and district court when attending to civil or territorial business, and he demanded payment of expenses incurred by him to be paid by the U. S. marshal from federal funds. Dotson was opposed to the territorial marshal and did not want to pay him from the federal funds.\(^8\)

Hockaday, the U. S. Attorney for Utah, wrote a letter to the United States Attorney complaining that the Utah legislature had created an office of territorial marshal to handle laws pertaining to the territory. He stated that section ten of the Utah Organic Act was in direct opposition to chapter seven of the territorial laws of Utah. Hockaday asked for information as to which officer should execute processes in circuit and district courts. He further added that the laws, if honestly enforced, would not be so obnoxious, but in the hands of the local judges he felt they were made instruments of oppression. He claimed the Mormons disregarded the laws when it suited their purposes to do so.\(^9\)

\(^7\)Stout, II, 622.

\(^8\)Dotson to the Department of the Interior, July 30, 1857, DJ, AG Papers, Utah Terr., NA, Roll 3, Part 2.

The problem of the Utah probate court did not come up again until November of 1859, when the court heard the question as to the right of the United States Attorney General and marshal to prosecute and execute the laws of Utah in preference to the territorial marshal and attorney. On December 22, 1858, the court decided that the Utah legislature could not pass laws creating an officer, e.g., territorial marshal, to execute the laws passed by the legislature. The court ruled that the attorney and marshal appointed by the President of the United States were the proper officials to execute the laws of Utah. 10

Judges Sinclair and Cradlebaugh both ruled that the U. S. District Attorney and U. S. marshal were the proper officials to function in both the United States and territorial courts instead of the territorial officials. Sinclair ruled that the probate courts had no jurisdiction in civil and criminal cases. 11

On July 30, 1859, Sinclair issued a writ of habeas corpus for Delrose Gibson who had been convicted of murder in the probate courts. Sinclair felt that since probate courts had no jurisdiction in criminal cases that the prisoner should be turned over to him. 12

10 Stout, II, 672.
11 Deseret News Weekly, December 1, 1858.
Cradlebaugh ruled jurisdiction given to the probate courts was invalid. He blamed the legislature for giving the probate courts the power in order to keep the federal courts from dealing into the matter and said they had no power to do so. The Judge then ruled that the territory should defray the expenses of the district courts when conducting territorial business. By the end of 1859 the district courts had firmly decided that probate courts should have no jurisdiction in criminal cases. Even Governor Cumming, though friendly toward the Mormons, felt that in the existing conflict the district courts should be obeyed.\textsuperscript{13}

The Mormons again victorious

However, the judges' actions in Utah Territory, especially those of Judge Cradlebaugh, enraged the people of Utah, Mormon and some non-Mormon. Even U. S. Attorney Alexander Wilson was opposed to the tactics of Judge Cradlebaugh. His use of the military at Provo, his caustic remarks about the people, and his many underhanded ways caused a flood of appeal from Utah to Washington authorities. Judges Sinclair and Cradlebaugh wrote a letter stating their views, and Attorney General Jeremiah S. Black castigated the two judges. He told them their job was to hear cases according to the evidence given them and that was to be their only purpose for being there. He accused them of trying to act as marshals, attorneys and judges. He further told them

\textsuperscript{13}Deseret News Weekly, March 16, 1859.
that the people of Utah must be proceeded against in a "legal and constitutional manner." \(^{14}\)

Governor Cumming and Attorney General Alexander Wilson each wrote letters of protest concerning the conditions in Utah and the actions of the federal judges. U.S. Attorney Wilson received information telling him to oppose the judges in their efforts to assume the duties of attorney, marshal and judge. If the judges persisted in their efforts the whole territory would be thrown into confusion and destroyed. The governor received assurance that orders had been given which would prohibit conflicts with the civil and military departments of the government. Secretary of War gave orders to General Johnson that he was to use troops as a posse only under the orders from the governor. \(^{15}\)

Orders from the federal government cooled and action of the judges and eventually led to the dismissal of Judge Crandlebaugh, the strongest opponent of the Mormons. Federal action from Washington so slowed the assault on the local courts and territorial officials that there were fewer problems during the early 1869s. However, by the late 1860s, the confrontations were becoming worse again, and U.S. President Grant was determined to do away with the polygamy problem.

\(^{14}\) U.S. Congress, Senate, James Buchanan, Message ... communicating ... correspondence between the judges of Utah and the Attorney General or President, with reference to the legal proceedings and condition of affairs in that Territory. 36th Cong., 1st sess., Sen. Ex. Doc. No. 32, April 4, 1860, 2-4.

\(^{15}\) U.S. Congress, Senate, James Buchanan, Message ... communicating ... correspondence between the judges of Utah and the Attorney General or President with reference to the legal proceedings and condition of affairs in that Territory. 36th Cong., 1st sess., Sen. Ex. Doc. No. 32, April 4, 1860, 9-10.
Renewed Attacks Upon the Territorial Marshal

Judge Charles C. Wilson, though not opposed to the Mormons, felt that the territorial marshal and attorney were not the proper officials to attend the courts. He claimed that the legislature, in violation of the Organic Act, had elected a territorial marshal named J. D. T. McAllister. The office of territorial marshal was not provided for in the Organic Act and therefore there was no place for him in Utah. Accordingly, on May 12, 1870, Chief Justice Wilson rendered a decision ousting Territorial Marshal McAllister from all authority in court. 16 The case heard before Judge Wilson was known as J. M. Orr, U. S. Marshal v. John D. T. McAllister, Territorial Marshal.

In a letter to Marshal Patrick, District Attorney Hempstead described the Mormon reaction to the ousting of the territorial marshal. After ruling against the territorial marshal, Judge Wilson had ordered McAllister to turn over to the U. S. marshal all territorial papers, property, accounts and any other items of importance in his hands. Then the judge and Hempstead went to the court house and found it locked. They were told by Sheriff Burton that they would have to pay the rent on the building before they could use it. Finally the sheriff permitted them to enter. Hempstead said he felt the action was due

16 District Attorney Hempstead to Marshal Patrick, April 3, 1871, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3.
to the jealousies created from the ouster of the territorial marshal. 17

McAllister, resenting the decision, appealed to the Supreme Court of Utah. However, by that time James B. McKean had been appointed Chief Justice of Utah Territory. McKean was against the office of territorial marshal, and he set out to destroy it. In the case of Snow v. Hempstead, Judges McKean, Hawley and Strickland on March 13, 1871, upheld the decision of the district court ruling out the territorial marshal and attorney. Also McKean ruled in the case of Patrick v. McAllister that the territorial marshal was not in any case the proper executive officer of the court but that the U. S. marshal was in all cases. 18

Judge McKean was not the first to initiate the attacks upon the territorial marshal and attorney since Cradlebaugh. Wilson had ruled out the marshal. Also between the time of Wilson's removal and McKean's arrival Judge Strickland had presided over the third district court. During his incumbency he ignored the territorial marshal and ordered U. S. Marshal Patrick to select juries by open venire.

After Judge McKean's arrival, Strickland was transferred to the first district. There he had withdrawn the criminal cases from the jurisdiction of

17 District Attorney Hempstead to Marshal Patrick, April 3, 1871, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3.

18 Whitney, II, 556.
the probate courts. Judge Hawley then presiding over the second district court at Beaver followed the example of Strickland, ruling that the probate courts had no jurisdiction in criminal cases but only in cases pertaining to wills and estates. 19

The Englebrecht case

Judge McKean further assaulted the courts and territorial officials in the Englebrecht case in July of 1870. As explained elsewhere (Chapter IV, M. T. Patrick), the case involved a controversy over liquor laws. The city police had destroyed Englebrecht's liquor supply because of his violation of a city ordinance. Englebrecht sued for damages three-fold. When the completely non-Mormon jury met, it awarded damages in treble. The case was appealed to the Utah Supreme Court. Judge McKean upheld the decision of the district court in the case. He declared that the court over which he presided was a United States court, not a territorial court. The judge had ordered the jury empanelled by the United States marshal on open venire. He further presented several laws of the territory in conflict with Congressional laws and stated that "congressional laws must be upheld." 20

19 Whitney, II, 557.

20 Whitney, II, 563.
The Englebrecht case was appealed to the Supreme Court of the United States. That court reversed the decision of the lower court on the grounds that a law of the territory had been violated by empaneling the jury on open venire. However, the decision did not come until April 15, 1872, and McKean's decision was rendered in July of 1870. Therefore, for almost two years the federal officials ignored the territorial marshal and attorney. When the Supreme Court decision was handed down it came as a blow to the federal officials in Utah. It reinstated the territorial marshal and attorney. All persons who had been convicted by a jury selected by open venire were set free. The U. S. marshal was ordered to turn all people held on warrants over to the territorial marshal and all papers relating to the territorial statutes were to be turned over to the territorial marshal. Once again the Mormons had survived the onslaught of the federal officials. The Supreme Court decision slowed the activity of the court for only a short time.

U. S. Marshal Given Control of the Penitentiary

Control of the territorial prison was given to the United States marshal by an act of Congress on January 10, 1871. The controversy between the U. S. marshal and territorial marshal is discussed at length in the history of Marshal Patrick's term of office in Chapter V. Sufficient to say, the U. S. marshal, with the backing of the federal government, took and kept control of the penitentiary. One more step had occurred in the process of federal supremacy.
Passage of the Poland Act

The power that was given back to the territorial officers and probate courts as a result of the Supreme Court's decision in the Englebrecht case did not last long. President Grant may have been deceived by some of the anti-Mormons in Utah. Whatever had caused his feelings is perhaps not important. The importance lies in his determination to solve the Mormon problem. He urged Congress to pass a bill that would aid in enforcement of the laws in Utah, and "put an end to the Mormon institution." The Logan Bill was introduced into Congress and on February 4, 1873 President Grant urged Congress to take action on the bill. He further stated that if the bill or similar measures did not become law he would dispatch troops to aid in enforcement of the laws.21

All during 1873 the President urged passage of a Utah bill, but his attempts were in vain. In his December message to Congress Grant said,

Affairs in Utah require your early and special attention. The Supreme Court of the United States, in the case of Clinton vs Englebrecht, decided that the U. S. Marshal of the Territory could not lawfully summon jurors for the District Courts, and those courts held that the Territorial Marshal illegally performed that duty, because he is selected by the Legislative Assembly and not appointed as provided for in the act organizing the Territory. All proceedings at law are practically abolished by these decisions, and there have been few or no jury trials in the District Courts of that Territory since the last session of Congress. Property is left without protection of the courts, and crimes go unpunished. To prevent anarchy there it is absolutely necessary that Congress should provide the

21Whitney, II, 734.
courts with some mode of obtaining jurors, and I recommend legislation to that end, and also that the Probate Courts of the Territory, which now assume to issue writs to injunction and habeas corpus, and to try criminal cases and questions as to land titles, be denied all jurisdiction not possessed ordinarily by courts of that description. 22

The message influenced the passage of the Poland Act which became law on June 23, 1874. The anti-Mormons finally had a law to protect them in prosecuting the Mormons. The Poland Act was important in relation to the U. S. marshal for it gave him extensive power. The bill abolished the office of territorial marshal and attorney and made the U. S. marshal the officer of the court. The jurisdiction of the probate courts in civil and criminal cases was abolished. Grand and Petit jurors were to be drawn by the U. S. marshal from lists made by the judge of the probate courts and clerk of the district court. The U. S. Attorney and marshal could appoint as many deputies and assistants as necessary to uphold the law, and the territory had to pay the costs of prosecution under the laws of the territory. 23

The Mormons appealed to the Supreme Court of the United States and in the case of Perris v. Higley, 1874, the Poland Act was declared constitutional. The gate was now open for federal supremacy in Utah. The law had several defects but was compensated for in later acts. The Poland Act gave the U. S.

22 Whitney, II, 734.

marshal all the power and responsibility that had previously been given to the territorial marshal, and the latter was completely removed from the scene. So ended the long and controversial battle between the United States and territorial marshals. The U. S. marshal was given sufficient power to enforce the federal laws relating to the territory. The famous Poland Act brought the beginning of federal control and descentency of Mormon political power.
CHAPTER V

THE ASCENDENCY OF FEDERAL AUTHORITY

With the election of President U. S. Grant, the anti-Mormon campaign took a more aggressive course. Joseph M. Orr and Mathewson T. Patrick were Grant appointees to the marshalship of Utah and were devoted to the anti-Mormon cause. Partly through their efforts sufficient legislation was passed enabling them to prosecute the Mormons more vigorously.

Joseph M. Orr

Joseph M. Orr was appointed marshal of Utah Territory by President Grant in September 1869 but only held the position until May of 1870. Mr. Orr, a lawyer resident of Utah Territory, was a member of the Salt Lake firm of Nunnan, Orr and Company. Marshal Orr was said to have been selected for the office because of his dislike for the Mormons. President Grant removed many federal officials that were suspected of being friendly towards the Mormons, replacing them with anti-Mormons. One of those officials was Joseph M. Orr.

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1 Roberts, V, 541.

2 Whitney, II, 388.
The only information about Orr's activities as marshal relates to prisons. In a letter to the Secretary of the Interior, Orr claimed that the Mormons refused to hold United States prisoners. He said he had appealed to the commanding officer at Camp Douglas who stated he would hold the prisoners until the department could make other arrangements. Orr explained that city and county jails were in the possession of the Mormons and not available for the marshal's use. 3

The only other incident referred to during his term of office was not in the line of duty. When the Mormons met to protest the Cullom Bill, a group of non-Mormons and some of the Godbeites (a group dissident Mormons) met at the Masonic Hall on East Temple Street to counter the protest. Orr and others met to protest with them in order to keep the schism going. 4

Orr left the marshal's office in May of 1870. He stayed in Utah after his marshalship and participated in politics. He was a leader of the Gentile League of Utah, an anti-Mormon group often accused of trying to start riots and disputes between the Mormons and non-Mormons. On the 3rd of August, 1872, an incident occurred during the Cannon-Maxwell election campaign, an outdoor meeting was held in front of the Salt Lake Hotel on Main Street to acknowledge the Liberal Party's candidate. The League headed by ex-Marshal

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3 Orr to Secretary of the Interior, December 27, 1869, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3, file 87.

4 Whitney, II, 433.
Orr denounced the Mormons and called them all types of degrading names. The crowd, mostly Mormon, hissed and yelled at the accusations. Suddenly the members of the League sprang to the front, flashing their revolvers and yelling. A circle was formed in front of the stand and each League member waited eagerly for the command to fire. For the space of five minutes many felt that there would be a blood bath. Due to the interruptions, the meeting was moved to the Liberal Institute where it proceeded without further trouble. Many other incidents happened in connection with the Gentile League and ex-Marshall Orr, but it is not the purpose of this research to discuss the problems of the Liberal and People's parties. 5

How long Orr remained in Utah is undetermined, but he did stay long enough to make his influence felt in other activities.

Mathewson T. Patrick

Mathewson T. Patrick, a resident of Nebraska, 6 was appointed U. S. marshal of Utah Territory on April 6, 1870. 7 A native of Fayette County, Pennsylvania, Patrick moved to Nebraska where he became a wealthy man. Just how he obtained his wealth remains unclear. It must have been in relation

5Roberts, IV, 375.


7A list of Marshals of Utah Territory.
to land investments, for during his term as marshal he made several trips back to Nebraska to take care of real estate problems.

Patrick's term of office was much more active and important than the terms of previous marshals. His term coincided with that of Chief Justice James B. McKean who came to Utah in August of 1870. Patrick was one of those officials who played an important role in the development of federal supremacy in Utah. As has been mentioned, Justices Strickland and Hawley, who preceded McKean by nearly a year, had already launched the attack upon the probate courts. Strickland and Hawley ruled that the probate courts had no jurisdiction in criminal cases and declared invalid the territorial law regarding the selection of jurors. Also Chief Justice Wilson had decided in the case of Orr v. McAllister that Orr, the United States marshal, was the proper executive officer of the district court and not McAllister. Thus the stage was set for the federal officials to work toward supremacy, Judge McKean being the driving force. The year 1870 marked the beginning of a more aggressive policy against the Mormons.

A controversy over keeping prisoners

Marshal Patrick's first duties dealt with the refusal of Mormons to hold federal prisoners in their jails. Marshal Orr had complained of the same problem. Patrick, in a letter to the Secretary of the Interior, said the Mormons had decided to retain the U. S. prisoners and claimed the reason for the change was a letter written by him to the department concerning their
refusal to keep prisoners. Territorial Delegate Hooper read the letter and conveyed the information back to the proper Utah officials. 8

The Mormons seemed to be of a different opinion. The probate judge for Salt Lake County wrote to the Secretary of Interior stating that Marshal Patrick had never been denied use of the jails. 'If the marshal has made any statement to that fact he has misrepresented the matter. '9 The judge claimed he had not had a person in custody for a violation of a United States law. He further stated that Patrick had made no application for confinement of any person in the County Jail. Just why the controversy developed is hard to say, but it may have been a plot by some of the federal officials to stir feelings in Washington for the need of a place to keep the prisoners. It was not long after this incident that the United States marshal was made warden of the territorial penitentiary. There was undoubtedly misunderstandings between the two groups, but it seems that the federal officials came to Utah to do a job regardless of cost. The jealousies of the Mormons and the determined will of the officials to prosecute led to varied confrontations, and often the federal officials used unscrupulous tactics to accomplish their purposes.

Patrick judges the Pratt-Newman debates

Marshal Patrick served as umpire in the famous Pratt-Newman debate over the controversial polygamy question. The only source to be used was the

8 Patrick to the Secretary of the Interior, January 16, 1870, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3, file 117.

9 Salt Lake Probate Judge to the Secretary of the Interior, January 14, 1870, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3, file 117.
Bible. Pratt defended the practice and Dr. Newman took the opposing side. It was the marshal’s job to assist in the judging and to maintain peace and order.  

Collection of census

Marshal Patrick had the responsibility of collecting the census. An article in the Salt Lake Herald stated there was a great responsibility on the marshal to collect the census. It was hard to make an accurate census because so many people were away from home when visited by the marshal. The paper appealed to the residents to take the responsibility on themselves to make the report if they had not been visited. The article urged the marshal to use the services of the Herald to reach those who were not at home.

Looking for arrests

The marshal and his deputies were often accused of looking for ways to cause trouble. The Herald accused the marshal and his deputies of riding around trying to find someone to arrest. They were successful when they found five men helping some boys who were practicing for the band of the Third Regiment of the Militia. The men had supposedly turned out only to encourage and compliment the boys, but the marshal called it rebellion and arrested the five men. They were confined at Camp Floyd for ten days at which time they were

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10 "Journal History," August 12, 1870.

11 Salt Lake Herald (Utah), November 9, 1870.
set free by a writ of habeus corpus. 12

Rental of Court Facilities

Furnishing facilities for the holding of court was a responsibility and burden that plagued every U. S. marshal of the territory. Patrick told the Attorney General that due to the newly discovered mines in the territory, there had been a great influx of people, rent was going up daily, and it was impossible to find a suitable place to hold court. 13 In a letter dated June 1870, Patrick said he paid $30 per month rental for office space. In a July letter he said he could not find a building suitable for the needs of the court, due to the scarcity of buildings. A note at the bottom stated that he would inform the Attorney General of what actions he took. 14

The rental problem plagued Patrick for his entire term of office. He wrote the Attorney General that he was unable to obtain use of the County Court House due to the hostility of the Mormons toward the federal officials and the official's determination to make the Mormons obey the laws. The marshal was forced to rent a place above a livery stable in order to hold court, causing

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12 Salt Lake Herald, November 22, 1870.
13 Patrick to the Attorney General, February 20, 1870, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3.
14 Patrick to the Attorney General, June 1870 and July 27, 1870, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3.
judges and members of the bar to complain. 15 Jury rooms had to be rented outside the stable, and they could only be rented temporarily. Being so far away from the courtroom caused the jury an inconvenience. Again the marshal mentioned that the opening of new mines had caused many people to come to Utah, increasing rents and making it impossible to rent a suitable place to hold court. 16

**The Englebrecht Case**

The famous Englebrecht case took place in July of 1870. Briefly the background is as follows: Paul Englebrecht owned a wholesale liquor concern, and a city ordinance prohibited liquor from being sold in quantities of less than ten gallons. Bottled liquors could only be sold in original packages, and could not be drunk on the premises. Englebrecht had violated the city ordinance, and Salt Lake City police entered his store and destroyed $22,000 worth of liquor. Englebrecht entered a civil suit against the police for recovery of damages three-fold. Judge McKean ordered the marshal to select a jury by open venire, and a panel of eighteen jurors was selected at the discretion of the U.S. marshal. Any Mormon was excluded. To select a jury by open venire was in opposition to territorial law, but the law was ignored.

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15 For a description of the courtroom above the stable, see Appendix II.

16 Patrick to the Attorney General, February 20, 1871, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3.
The non-Mormon jury awarded treble damages to Englebrecht, amounting to $59,063.25. The case was appealed to the territorial Supreme Court, where the verdict of the lower court was upheld. It looked as though the federal officials were well on their way toward defeating Mormon power in Utah. However, when the Englebrecht case was appealed to the Supreme Court of the United States, the decision was reversed on the grounds that the method of empaneling the jury was against the territorial law prescribing the method of selecting jurors. The court ruled that the law was obligatory upon the district courts of the territory. The Supreme Court decision came as a blow to the federal officials, but it did not come until almost two years after the ruling by the lower courts; therefore the federal officials were equipped with power to prosecute the Mormons until the Supreme Court handed down its decision on April 15, 1872.  

Patrick Seeks Territorial Funds

Shortly after the Englebrecht case, the crusaders found themselves in financial difficulty due to the expense of the federal courts. There was a long tradition in the territory that the federal courts prosecuting under U. S. laws would pay their own expenses, and the territory was to pay expenses incurred in court cases arising under territorial law. In 1870 the nineteenth

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\[17\] Roberts, V, 382-85.
session of the Utah legislature appropriated sufficient money to pay the expenses of the court. According to law, the territorial marshal was the one to disburse the money. However, by a decree of the federal court the territorial marshal and attorney had been deposed, and the United States marshal and attorney were vested with their power.

Marshal Patrick applied to the territorial auditor, William Clayton, for funds to pay the expenses of the first district court such as witness fees, serving notices on jurors, and other expenses. It was the first time a U. S. marshal had ever asked for funds from the territory, and Clayton was not sure he had the authority to give the marshal the money. He therefore laid the matter before Judge Snow, the territorial Attorney General. The judge said that according to territorial law, Clayton could not pay out funds to the U. S. marshal, and so Clayton refused to give the marshal the money. In addition, the comptroller of the National Treasury refused to pay expenses of the district courts except those incurred in the settlement of United States business. 18

Judge Strickland made a trip to Washington in an attempt to explain the situation and procure funds, but to no avail. The national treasury and the territorial treasury both remained adamant in their refusal to pay expenses. The feeling in Utah was that if the courts were United States courts then the United States should pay the bill. The situation caused a short delay in the

18 Roberts, II, 568-69.
progress of the courts, but it was only temporary, for money was obtained from some citizens including Marshal Patrick, who advanced over eight thousand dollars to the cause. The fact that private funds were advanced allowing the federal courts to continue their proceedings, illustrated the great zeal of some anti-Mormons to make federal laws supreme.

**Patrick's control of penitentiary**

The reversal of the Englebrecht case by the Supreme Court of the United States did not come until April 15, 1872. The federal officials therefore felt for two years that the victory in the case was theirs. The slowing of the court process was only temporary, and the officials with Judge McKean at the top had every intention of making federal laws supreme. On January 10, 1871, Congress passed an act authorizing the United States marshal to take charge of the federal penitentiary. The Attorney General in Washington sent Marshal Patrick a letter telling him to take charge of any United States prisoners that had been sentenced in the territory and to make a contract with the proper authorities to board and take care of the prisoners. Patrick could have made a contract with the territorial officials to take care of federal prisoners at a given price, but the marshal, with the encouragement of the other officials, could see an opportunity for better control by taking charge of the prison. 19

The Mormons resented the take-over for many reasons, but perhaps one legitimate complaint was that territorial funds as well as federal funds

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18 Roberts, II, 568-69.

19 Whitney, II, 575.
had been used to build the penitentiary. Even though Patrick and Governor Woods knew how the Mormons would resent federal control of the penitentiary, they went ahead with plans to take possession of the prison.

In a letter to the Attorney General, Marshal Patrick stated that he and Governor Woods had gone to the penitentiary and had demanded possession of it. He said that A. P. Rockwood, territorial warden, refused to give up possession. Rockwood had told Patrick that the federal government had appropriated $30,000 to erect the penitentiary, and since that time the territory had expended $4,000 on the building. In addition, the property on which the edifice was constructed belonged to the territory. Rockwood further stated that he had been elected warden under the laws of the territory, and he must have a written request from the courts before he would give up possession.

Marshal Patrick refused to submit his demands in writing and made another verbal demand upon Rockwood for possession of the prison. Rockwood made a written protest but Patrick ignored it. The protest was as follows:

Sir--You having demanded of me the surrender of the penitentiary of Utah to yourself as U. S. Marshal, and informed me that unless I complied with the demand you would take it by force, I have now to inform you that if you take the penitentiary it will be under protest, and that what you permit me to remove I will take away, and what you retain or do therein you will be held accountable for.

20 Patrick to Attorney General, July 28, 1871, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3.

21 Whitney, III, 576.
In a letter dated August 3, 1871, Patrick wrote to the Attorney General informing him that he had forcibly taken possession of the prison. He stated that Rockwood had carried off every article of personal property and claimed it for the territory or himself. He also mentioned that the penitentiary was in poor condition and badly in need of repairs. He requested furniture, cooking utensils, bedding and other provisions. 22

The Controversy Over Prisoners

Patrick then demanded possession of the territorial prisoners. Most of the prisoners had been kept in the city jail because the penitentiary was not considered secure. When the marshal took control of the penitentiary, Rockwood had kept the prisoners. Marshal Patrick claimed that according to instructions from the Attorney General which gave him permission to contract with the proper authorities for keeping the prisoners, he was their rightful custodian. Patrick had seemingly made a contract with Governor Woods, who he felt was the proper authority, to keep the prisoners at a rate of $1.50 per day per prisoner. 23

Rockwood had used the practice of working the prisoners to make the penitentiary self-sustaining. Since the penitentiary was not secure, Rockwood made arrangements with the city jailer to quarter the prisoners at the end of each day. There

22Patrick to the Attorney General, August 3, 1871, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3, file 140.

23Attorney General to Patrick, August 14, 1871, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3, file 140.
was quite a feeling of resentment when Patrick was paid $1.50 per day for each prisoner.

Marshal Patrick made a demand upon Rockwood for custody of the prisoners. Warden Rockwood refused. Later a verbal demand was made by deputy U. S. Marshal Firman for possession of the prisoners. Rockwood again protested against taking the prisoners without a court order. Marshal Patrick ordered Deputy Firman to seize all the convicts he could find and take them to the penitentiary, thus ignoring Rockwood. Kilfoyle, one of the prisoners, was found to be missing. He had been convicted of murder by Chief Justice Wilson and sentenced to a long term imprisonment. On September 2nd Patrick made a personal demand to Rockwood for the custody of Kilfoyle. Rockwood asked Patrick if he had any authority from the court. When the answer was in the negative Rockwood told him he had an order of the court authorizing him to keep the prisoner until discharged by due process of law, and then told the marshal he would not give up the prisoner until he had an order from the court.²⁴

Patrick asked the warden where the prisoner was, and Rockwood told him he was in custody of City Marshal McAllister. Patrick went to McAllister and demanded custody of the prisoner. McAllister refused, stating he could only release him on orders from Rockwood. The marshal was so

²⁴ Whitney, II, 577.
enraged that he left the scene threatening to have McAllister and Rockwood arrested and imprisoned at Camp Douglas. 25

Marshal Patrick carried out his threat. He filed charges against Rockwood and McAllister for resisting the U. S. marshal in the discharge of his duties. The hearing, which began on the 4th and ended on the 8th of September, was held before Associate Justice Hawley at the office of the law firm of McMurdy and Morgan. A lengthy debate ensued between the prosecution and the defense. Judge Morgan and R. N. Baskin, attorneys for the prosecution, were very emphatic about the marshal's rights. Baskin said that the marshal should have used "bullets and bayonets" to obtain the prisoner. Judge Morgan felt that the marshal was the officer of the U. S. as well as the territorial officer, and if anyone resisted him they should be subject to the law. He further stated that the Utah Act, creating a territorial marshal, was a direct violation of the Organic Act, and that the U. S. marshal was the proper person to have in charge of the prison and the prisoners. 26

The defense put up a good argument, but to no avail. Judge Hawley said he would not give an order to the defendants to give up the prisoners for he did not have that type of authority, but he expressed the opinion that the marshal could exercise his powers in respect to laws of Congress and the

25 Deseret News Weekly, September 6, 1871.
26 Salt Lake Tribune (Utah), September 9, 1871.
territory. Also the judge said Patrick had the right to custody of the prisoner, and the defendants had no right to retain Kilfoyle. He concluded by ordering that Rockwood and McAllister be held to bail in the sum of $1,000 each to answer before the Grand Jury. The following morning Marshal Patrick went to the city jail, and Kilfoyle was turned over to him.27

The United States marshal had now become warden of the penitentiary, giving the federal officials more control in Utah. The marshal as warden gained added responsibilities, but he also had his salary increased. The marshal received $1.50 per prisoner plus $300.00 per year for his new responsibility.

After the decision of the Utah Supreme Court in the Englebrecht case and before the U. S. Supreme Court handed down its decision, the federal officials ignored the territorial officers and their laws. In the fall of 1871 court was held as usual. In summoning a jury three Mormons were selected, then questioned on religion and polygamy and deemed unworthy to sit as jurors. All non-Mormon jurors were accepted. To complete the jury Marshal Patrick walked out on the street and asked certain people if they were citizens of the United States. If the answer was yes, they were asked if they were members of the Mormon Church. If the answer was "no," the marshal would say, "you will do," and the jury was completed.28

27Salt Lake Tribune, September 9, 1871.
28Whitney, II, 587.
Mormon historian Whitney opined that by the takeover of the prison
the federal officials planned to prosecute the Mormons and place them in jail.
For that purpose Rockwood, a Mormon, would have been unacceptable as keeper
of the prison. The plan was to prosecute the Mormons under the Utah law of
adultery, which the Mormons themselves passed in 1852. The Utah law carried
a more severe penalty than the federal law. The penalty under the Utah law
was imprisonment for twenty years and a fine of $1,000. The U. S. law against
bigamy carried a penalty of five years' imprisonment and a fine of $50.29

Although Whitney accused Patrick of taking control of the prison for
the purpose of placing Mormons in jail, it is more likely that Patrick saw an
opportunity to increase his salary and prestige as well as giving him a place
to keep federal prisoners. Prior to the time of Patrick's takeover of the prison
and shortly thereafter, federal prisoners had often been kept under armed guard
at Camp Floyd or at Fort Douglas. Patrick, knowing the penitentiary was in
poor condition and in need of repairs, felt the only way to complete the job
was to take possession.

Some prisoners

There had been in prison one William McKay, the proprietor of a
boarding house and the ring leader of a gang of thieves. He was reportedly the
friend of Governor Shaffer who stayed at the boarding house when he came to

29 Whitney, II, 590.
Utah. McKay had been sentenced to prison for five years on charges of robbing the U.S. mails. In a letter to the U.S. Attorney General, Patrick stated that McKay had escaped on the night of March 7, 1871, and was captured again on the 16th of the same month. In another letter Patrick sent in a bill of $1,500 for the capture of William McKay and Henry Heath for robbing the mails. On the 6th of May a voucher was sent for payment to those involved in their capture.

On August 19, 1871, four other prisoners escaped from Camp Douglas and succeeded in getting away. On June 13, Patrick told the Attorney General that McKay had escaped several times, and he requested permission to send him to a state penitentiary that could hold him. McKay was captured and taken to the Correction House in Detroit. Patrick also told the Attorney General that General Morrow of Camp Douglas requested that something be done with the prisoners, as they were becoming too many for the army to take care of. Money was eventually appropriated for the rehabilitation of the penitentiary so that prisoners could be retained there.

30 Patrick to the Attorney General, March 27, 1871, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3.

31 Patrick to the Attorney General, May 6, 1871, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3.

32 Patrick to the Attorney General, September 15, 1871, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3, file 2202.

33 Patrick to the Attorney General, August 19, 1871, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3.
Polygamous Arrests

Marshal Patrick's next move in the line of duty was to serve a warrant for the arrest of Brigham Young. On Monday, October 2, 1871, Patrick served the warrant on the grounds of lewd and lascivious cohabitation with his plural wives. The warrant was served at Young's home, and the Mormon President, being ill, was permitted by the marshal to remain at home with a deputy marshal to guard him. A request was made that on account of Young's illness that he be admitted to bail. Judge McKean refused to admit him to bail, but granted an extension of time asked for by Young's lawyers.

The afternoon of the same day the mayor of Salt Lake City, Daniel H. Wells, was arrested by Marshal Patrick on the same charges as those placed on Brigham Young. Regarding the arrest, the Review, a non-Mormon newspaper, said,

Daniel H. Wells, in former days took the part of Jesus in the Endowment House. Upon hearing this a friend of ours wants to know when he is to be crucified. Can any of our friends enlighten the anxious enquirer?

The Salt Lake Herald answered back, "On Monday next, between Baskin and McKean."

The court case that followed the arrest of Brigham Young was known as The People v. Brigham Young. On Monday, October 9, 1871, proceedings

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34 Whitney, II, 593.
began before Chief Justice McKean. Marshal Patrick was ordered to summon a jury by open venire which was against the law of the territory but had been overruled by Judge McKean in the Englebrecht case. Again he ignored the law and had the marshal summon the jury by open venire. Each polygamy case involved was admitted to bail in the sum of $5,000. The Brigham Young case was significant for it placed a system on trial. Judge McKean stated that the case called The People v. Brigham Young had another name, "Federal Authority versus Polygamic Theocracy." 35

Territorial Marshal Regains His Authority

A short time later Brigham Young was charged with murder. After spending time in St. George, he came to Salt Lake to face charges. The charge caused much excitement in Salt Lake, and to counter the expected danger, Marshal Patrick appointed about one hundred deputies, mostly men who had served in the Civil War. The case against Brigham Young never came to trial. Trial had been postponed until the March term of the district court, and before it was reached upon the docket the decision in the Englebrecht case was given by the Supreme Court of the United States. This decision overruled and invalidated proceedings of the federal courts in Utah. The decision, rendered on Monday, April 15, 1872, ruled that the jury was not selected according to law, and therefore the other points of the case were not considered. The Supreme Court decision in the Englebrecht case caused rejoicing in Utah.

35 Roberts, V, 396.
and slowed down the work of the federal courts for a short time.  

All cases where persons had been convicted by a jury selected by open venire were dismissed and the people were set at liberty. On motion of Mr. High, assistant to U. S. Attorney Bates, an order was given to Marshal Patrick to give the territorial marshal custody of all people held on warrants. The court also ordered that all papers connected with the territorial statutes be given to the territorial marshal. Thus the attempts at federal supremacy in Utah had once again failed, but the federal officials in the territory would not give up easily. It was only a short time before the officials would again pursue their crusades.

A Law Suit

In October of 1871 Marshal Patrick was called back to Omaha by his attorney. A letter dated October 25 stated that the law suit against Carrol Hurs was one of the first set for trial, and it was absolutely necessary that Patrick be there. Therefore, on November 3rd Patrick wrote to the Attorney General requesting a leave of absence to attend court. The suit, he said, involved the title to real estate of great value. Patrick was granted leave of absence and left the territory for Omaha on May 12, 1872.  

37 Patrick to Attorney General, October 25, 1871, November 3, 1871, and May 12, 1872, DJ, AG Papers, Utah Terr., NA, Roll 1, Part 1.
There is very little information about Marshal Patrick after the Supreme Court decision in the Englebrecht case. There is no record of when he returned to Salt Lake from Omaha, nor is there any reference to his actions in Utah during 1872. One would expect him to be involved with the Gentile League of Utah and its conflicts, but there seems to be no mention of him in that capacity. Neither is his name mentioned in some of the heated elections that took place in Utah.

The only reference to him later was in a letter in which he stated that he had dismissed the prison guard because of lack of funds. He said he would try to watch the prison as much as possible, but it would be difficult since the penitentiary was five miles from Salt Lake.  

Patrick's Resignation

Patrick must have become discouraged with the progress of federal supremacy in Utah after the Supreme Court decision in the Englebrecht case, for he resigned from the marshal's office in the fall of 1873. Patrick had devoted his time, efforts and money to help destroy Mormon power but must have felt his efforts were in vain after the decision of the higher court. However, the marshal's office during Patrick's term became more significant and had more power than it had at any previous time. He had taken control

38 Patrick to Attorney General, June 17, 1875, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3, file 112.
of the penitentiary thus extending his power, responsibilities and salary, and in the Englebrecht case he had demonstrated what powers a marshal could have. Although he failed in his efforts to maintain the power of the marshal's office he had set an example for later marshals to follow.

Summary

The period from 1869 to 1872 witnessed much aggression on the part of the federal officials. The Englebrecht case in 1870 gave the federal officers authority to prosecute the Mormons. In 1871 the territorial penitentiary was taken over by the U. S. marshal giving the federal officials more control in Utah. Some polygamous arrests were made during this period, but efforts in this direction were thwarted by the reversal of the Englebrecht decision by the U. S. Supreme Court. Although the period ended in the temporary defeat of federal supremacy, the marshal's office had become more powerful and influential than it had at any previous time.
CHAPTER VI
THE POLAND AND EDMUNDS ACTS

Shortly after the removal of the Englebrecht decision the Poland Act was passed eliminating the territorial marshal and giving the U.S. marshal extended power and duties. The U.S. marshal received rabid opposition from the Mormons when he tried to execute his duties, and to counter the opposition the marshal often overstepped his bounds. Even so, anti-Mormons were not satisfied with the provisions of the Poland Act. They urged that more stringent legislation would enable the federal officials to end the polygamy problem. Eight years after the passage of the Poland Act Utah was given the Edmunds Act, which gave the marshal still greater power and influence in the territory. Not long after this a massive campaign was launched against the Mormons.

George R. Maxwell

General George R. Maxwell was the ninth United States marshal appointed to Utah Territory. According to one source, Maxwell was appointed on December 8, 1873,¹ another source claimed he took office on

¹A List of Marshals of Utah Territory.
October 13, 1873, and yet another placed the date as September 24, 1873. Maxwell was a native of Grafton, Monroe County, Michigan, and served in the Civil War from that state. Enlisting on August 15, 1861, at the age of 20 he served in Company K, First Regiment, Michigan Cavalry from 1861 to 1866, and advanced from corporal to lieutenant colonel. During the course of the war he was wounded several times. He had both legs broken, his right arm fractured, lost three fingers from his left hand, his collar bone broken by grape shot, and several flesh wounds. On March 13, 1865, he was cited for conspicuous gallantry in action. At the Battle of Five Forks, Virginia, on April 1, 1865, Maxwell received the wound terminating his military career. A rifle ball shattered his left knee, and his left leg had to be amputated at the thigh.

On August 4, 1865, he was discharged from the service.

Appointment to Utah land office

Maxwell was appointed Register of the Utah Land Office on May 15, 1869, shortly after his arrival to the Utah Territory, and he entered upon his duties on June 15, 1869. He also served as Liberal Party candidate for Congress in 1870.

Maxwell to the Attorney General, October 15, 1873, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3.

Deseret News Weekly, September 24, 1873.


Roberts, V, 357.

Information on George R. Maxwell; Dennis R. Bodem to Vernal A Brown, December 2, 1969.

Whitney, II, 309.
and as a lawyer representing non-Mormon parties, later serving as assistant U.S. Attorney. His name was well known to the Mormons, and they were none too happy about his appointment.

Maxwell's hatred for the Mormons was shown in a letter he wrote to the Attorney General which stated "the Mormons are my bitterest enemies." The "Journal History" stated that Maxwell was one of the most rabid enemies of Utah and its people. When Maxwell was removed from the Land Office the Mormons expressed surprise. They were elated at the removal, and the non-Mormons regretted it. The "Journal History" recorded the following:

Hon. Willis Drummond, Commissioner of the land office, Secretary Delano, and President Grant are entitled to praise for removing the being Maxwell... for the cause of interference, loafing, foul language, neglect of business and petty tyranny.

Because Maxwell was well known throughout Utah by his position in the land office and for his anti-Mormon views, he was nominated as a delegate to Congress for the Liberal Party. The party convention was held at Corinne in July of 1870. General P. E. Conner was chosen temporary chairman. Conner nominated Maxwell as the delegate from Utah. The nomination was unanimous, and Liberals began their campaign in Salt Lake on July 19th.

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8Maxwell to the Attorney General, August, 1874, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3.


10"Journal History," December 17, 1871.
In the election for delegate to Congress held on the 1st of August, William A. Hooper was nominated as the candidate for the People's Party. Hooper received over twenty votes compared to Maxwell's one thousand. Over eight hundred of Maxwell's votes came from Corinne. Even though Maxwell contested the election, his efforts came to nothing, and Hooper took his seat in the House of Representatives. 11

Maxwell runs for delegate to Congress, 1872

Maxwell served as an attorney in several important cases, such as the Englebrecht Case and the persecution of Brigham Young on charges of lewd and lascivious cohabitation. Maxwell also served as assistant U.S. Attorney where he was again able to fight the Mormons.

The anti-mormons, having been defeated by the Englebrecht decision, decided to bring about a confrontation at the general election of August 1872. Maxwell, at the head, worked with the Gentile League, planning to run again for delegate to Congress against George Q. Cannon. He did not believe he could win the election by number of votes, but he planned to contest the election. According to Whitney, Maxwell planned to precipitate a riot, but due to the calmness of the Mormons the Gentile League's plan failed. The non-Mormons requested that troops be sent in to supervise the election. However, troops were not called in and election day passed peacefully and quietly. 12

11 Whitney, II, 388-89.
12 Whitney, II, 728.
When the election returns were counted George Q. Cannon was found to have 20,969 votes and Maxwell 1,942 votes. This was Cannon's first candidacy for office. Maxwell contested the Cannon election on the grounds that most of the votes cast for Cannon were done so by foreigners who had not been naturalized. He added charges of polygamy and polygamous living and ended with the charge of disloyalty for taking the endowment oath. Maxwell further charged that Cannon had taken an oath to obey Brigham Young in all things both temporal and spiritual, and that Cannon and Young had conspired to coerce voters under penalty of death. Cannon denied the charges. Maxwell then gave notice that he would carry the contest of the election to the House of Representatives at Washington.13

On December 1, 1873, Cannon presented his certificate of election before Congress and asked to be sworn in. Maxwell induced Mr. Merriam of New York to object to Cannon's taking the oath. This being done, Cannon had to stand aside until the delegates from other territories had taken the oath. Merriam then presented a resolution stating that Cannon had taken an oath inconsistent with citizenship and obligations as a delegate. He further added that Cannon was guilty of violating and defying the law. When the certificate was read Mr. Cannon was supported, and he took the oath of office. The contest was carried by Maxwell to the Committee on Elections which decided in favor of Mr. Cannon. However, some congressmen, fearing they might be judged as being too friendly

13 Roberts, V, 369-70.
to Mormons, appointed a committee to investigate the charges against Cannon. The committee finally adopted a resolution to exclude Cannon, but the conclusion was reached so near the end of the session of Congress that nothing was done about it.  

As Assistant U.S. Attorney, Maxwell felt that when U.S. District Attorney Bates left office he would be appointed as U.S. attorney for Utah. Much to his surprise he was not appointed to the position. Instead William Carry of Illinois received the position of U.S. attorney, and Maxwell was appointed United States marshal.

**Condition of the marshal’s office**

A short time after Maxwell took control of the marshal’s office he wrote a letter to the Attorney General complaining that though he had served in the Civil War, "I must say I never had a position that is as difficult as my present one." Maxwell further elaborated on conditions in relation to the marshal’s office. He stated there was no money with which to operate the office, there were no court houses or prisons, and the entire community was adverse to the enforcement of the law. In another letter he stated that he was able to convince the Attorney General of the necessity of having the Poland Bill passed. He said he had spent eight months in Washington, D.C., at his own expense to help encourage the passage of that act. Maxwell ended the letter

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15 Maxwell to the Attorney General, 1874, DJ, AG Papers, Utah Terr., NA, Roll 1, Part 1.
with a request that an inspector be sent to Utah to spend one week, and perhaps he would be convinced of the need for the Poland Bill.\textsuperscript{16}

\textbf{Passage of the Poland Act}

There is very little information regarding Mr. Maxwell in the capacity of U. S. marshal until after the passage of the Poland Act. Perhaps the reason he is mentioned so little is because he spent most of his time in Washington using his influence for the passage of the act. Succeeding in his efforts, the act became law on June 23, 1874. The Poland Act repealed the laws of Utah Territory respecting the territorial marshal and attorney general and placed the powers and duties of those officers upon the United States marshal and district attorney. It also struck at the probate courts, limiting them to the settlement of estates of descendants and to matters of guardianship and divorce. Previously attempts had been made to pass such legislation as that contained in the Poland Act, but they had failed. Some examples of this attempted legislation were the Wade bill of 1866, the Cragin bill, of 1867 and 1869, and the Cullom bills of 1869 and 1870. These bills embodied legislation that would permit the federal officials to prosecute the Mormons for their polygamous practices and defeat them politically. However, until the passage of the Poland Act the officials had little means by which they could lawfully carry out their campaign.

\textsuperscript{16}Maxwell to the Attorney General, 1874, DJ, AG Papers, Utah Terr., NA, Roll 1, Part 1.
With the passage of the Poland Act Marshal Maxwell came back to Utah prepared to prosecute the Mormons. He now had enough power to carry out the campaign. The Poland Act gave Maxwell all of the duties and responsibilities of the territorial marshal. In addition his job would become the more lucrative because he would now have the fees that had been collected heretofore by the territorial marshal. Maxwell was determined to see that the Poland Act was carried out. In a letter to the Attorney General he said he was "determined not to let the Poland Act become a dead letter upon the statute books of the United States as the 1862 law had been."17 Maxwell informed some leading businessmen in Utah of his determination, and they agreed to support him. Maxwell claimed the Mormons had said they could defeat the bill by withholding those territorial funds provided for in the Act, but he was determined to see that the Mormons were not successful in the matter.

Court rentals

The next mention of Maxwell after his return to Salt Lake was in relation to rentals for court. Maxwell said the only suitable place for holding court and establishing federal offices was in the Cleft House, a new brick building built as a hotel on the corner of Main and Third South Streets by Francis D. Cleft. Maxwell, in his letter, asked for permission to rent the Cleft building at $250 per month and other buildings as needed. On August 29th the Attorney General wrote Maxwell a letter authorizing him to rent the required offices. In addition

17 Maxwell to the Attorney General, 1874, DJ, AG Papers, Utah Terr., NA, Roll 1, Part 1.
to the Cleft building Maxwell also rented space above the Edward W. Thompson store at Beaver for holding court in the second district, the fee to be $600 per year.\textsuperscript{18}

The Bayonet Law

Another important incident took place at the territorial election of August 4, 1874. George Q. Cannon and R. N. Baskin (a non-Mormon) were the rival candidates for the office of delegate to Congress. Feelings between the parties were heated, especially since the passage of the Poland Act. Normally the U.S. marshal and his deputies had no jurisdiction in territorial elections, but the 1874 election was different. At least Maxwell felt it was different. He was determined to try the validity of a statute made for reconstruction in the South. For those states that had been in rebellion, this statute, commonly known as the Bayonet Law, gave the United States marshals and their deputies special powers on election days when representatives or delegates to Congress were to be elected. Maxwell interpreted the law to mean that local authority was suspended and he and his deputies could run the city for one day. Accordingly he employed a large number of deputies to supervise the elections. The local or city police endeavored to preserve the peace and the deputies did the same, but needless to say trouble was inevitable.\textsuperscript{19}

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\textsuperscript{18}Maxwell to the Attorney General, August 4, August 28, August 29, 1874, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3.

\textsuperscript{19}Roberts, V, 377.
Chief of Police Burt asked Maxwell to have his deputies work with the police to maintain order rather than promote chaos; however, the excitement grew and conflicts arose. A city policeman attempted to remove a man from the polls who had been rejected by the election judge for obstructing the polls. The U.S. deputies made resistance to the removal of the man which in turn resulted in the arrest of police officer Philips. This was followed by the arrest of a deputy marshal. Arrests and counter arrests followed throughout the day.

Toward evening as Mayor Wells walked along the street intending to enter the city hall he was seized and pulled into the crowd by Deputy Marshal J. M. Orr, who was under the influence of alcohol. Some of the anti-Mormons cried, "Shoot him! Shoot him!"20 One person was seen moving toward the mayor with a drawn knife. In an effort to save the mayor the city police immediately burst into the crowd. His clothes were torn to shreds, and several people in the crowd suffered bruises and bleeding heads. Mayor Wells was rescued, and the doors to the city hall were closed. The mayor then reappeared over the balcony and ordered the crowd to disperse. The city police walked through the crowd clubbing those who resisted. It was by force that peace was restored.

Maxwell, with several deputies, served warrants for the arrest of Mayor Wells and others. However, the arrests came to naught. The policemen arrested

20 These paragraphs are based on Whitney, II, 747-748.
by the marshal were released on bail, and likewise the deputies arrested by city officials were released. After the excitement had passed, the various cases resulting from the election controversy were dismissed by the courts. It should be mentioned that on the same day the County of Tooele experienced similar difficulties at the election.

**Arrest and trial of John D. Lee**²¹

The Grand Jury of September 7, 1874, the first to meet since the passage of the Poland Act, presented several bills to the court for crimes against the United States and territorial statutes. One of the bills required the arrest of those involved in the Mountain Meadows Massacre. Therefore, Maxwell gave instructions to Deputy Stokes to apprehend John D. Lee first. Maxwell believed the capture of Lee would be dangerous, since he thought Lee would not permit himself to be taken alive. However, Lee was captured at his home in Panguitch on November 8, 1874, and placed in Fort Cameron at Beaver.

Witnesses were procured by the prosecution in hopes of convicting Lee. One of the witnesses needed was Philip Klingensmith who had participated in the massacre but had later been excommunicated from the church. In a letter to the Attorney General, Maxwell asked for funds expended in the apprehension of Klingensmith. Maxwell said that Klingensmith was under indictment for murder,

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and Maxwell had given his deputy, Jerome B. Cross, explicit orders to get the man at any cost. He said that Klingensmith had gone to the desert mountains of California. (Klingensmith had moved to San Bernardino.)

Cross went to Pioche by rail and stage where he hired a team and buggy for $10. He did not take a pack horse because of some four or five hundred miles of desert. The team gave out at Las Vegas, two hundred miles from Pioche, and another team was hired at even greater expense. The brave deputy traveled "twenty days and nights without sleep, traversing barren wastes where his life was in danger from Mormon desperados, Indians and scarcity of water." Maxwell further elaborated on the dangers of rounding up the Mountain Meadows Massacre murderers.

"You must remember that nowhere in the United States are such obstacles to be surmounted. We are surrounded by a people who have nothing in common with the spirit of free republican institutions, and no regard or respect whatever for federal officials, but who are controlled by a priesthood whose honor is more absolute than that of the most despotic Monarchy of the Old World." 22

It appears that Maxwell exaggerated the situation somewhat. Klingensmith offered to turn state's evidence, and when Cross found him in Southern California he expressed his willingness to come and testify. He was supposedly under arrest but came as a witness, not as a defendant. 24

22 Maxwell to the Attorney General, June 27, 1875, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3, file 5/87.

23 Maxwell to the Attorney General, June 27, 1875, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3, file 5/87.

24 Whitney, II, 789.
The Lee trial began in Beaver on July 12, 1875, and by August 7th, having failed to reach a verdict, the jurors were dismissed. Marshal Maxwell was present at the trial. The second trial of John D. Lee began on September 14, 1876. In the meantime, Maxwell had been removed from office and Colonel William Nelson took his place as marshal. Lee was finally convicted and sentenced to death. Marshal Nelson's part in that trial and execution will be dealt with later.²⁵

Prosecutions under the Poland Act

The latter part of 1874 saw the attempts of the marshal to put into effect the Poland Act. About five o'clock in the evening of October 12, 1874, Arthur Pratt, a deputy marshal under orders from Maxwell, was in the process of serving a subpoena on Brigham Young to appear in court. The deputy entered the president's office and demanded to see him. Pratt was told that Brigham Young was ill and could not be seen, but that his private secretary would return soon and any business could be transacted through him. The deputy quickly left the office and returned with Marshal Maxwell. The keeper, Joseph Shaw, refused the two men entrance into the president's office. A scuffle ensued. The marshal placed his arms across the door to keep Elias Morris who was inside from coming out, but Morris brushed his arm aside and came out. Maxwell was standing on the porch swearing in a profane manner when a young man named Cushing, irritated by the marshal's language, came up to him and pushed

²⁵ Maxwell to the Attorney General, July 20, 1875, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3.
him, causing him to stumble over the wall. It will be remembered that Maxwell had lost one leg in the Civil War and probably could not cope with a surprise attack. Therefore, he lost his balance and fell over the wall. When Maxwell hit the ground he felt for his pistol and threatened to kill Morris, but the marshal controlled his quick temper and there was no shooting.

The marshal's pride was hurt, and he was determined to make the guilty parties pay the penalty. Joseph Shaw was taken into custody by Maxwell, then taken to court, and eventually taken to prison. After arresting Shaw, the marshal returned to Brigham Young's office to serve the subpoena. Mayor Wells was there. He told Maxwell there would be no trouble, and Brigham Young accepted the subpoena to appear in court to give evidence in one of the pending court cases. Cushing was to appear in court for pushing the marshal. He went to apologize to Maxwell, but the marshal would not listen and told him to appear in court at two o'clock that afternoon. Elias Morris was arrested for resisting a U.S. marshal and was soon released, but Cushing and Shaw were held on $5,000 bonds. 26

The duties of the United States marshal were becoming more numerous. The takeover of the prison and the passage of the Poland Act had placed more responsibilities on the marshal's shoulders. Maxwell wrote the Attorney General that he had in his employ ten deputies and one clerk to work out of the marshal's office and one cook and three guards for the penitentiary. 27

26 Maxwell to the Attorney General, July 20, 1875, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3.

The maintenance and keeping of prisoners was a problem for the marshal. The Salt Lake Herald stated that "General Maxwell is gaining for himself an unenviable reputation as marshal. Within the last few weeks seven of his prisoners have escaped, and none of them have been captured." Keeping of prisoners in Utah seemed to plague most of the marshals, as there was no adequate place to retain them.

In addition to keeping up his duties in Utah, Maxwell made various trips to Washington. In December of 1874 the marshal was on the road again. He left Salt Lake in company with Governor Woods for Washington, D.C. The Deseret News claimed he fled his official post to engage in lobbying for more special legislation against the Mormons. The Salt Lake Herald stated that Maxwell had gone to Washington to obtain more appropriations for use in the federal courts. Just how long Maxwell was in Washington was not given in source material, but it must have been for a long period as there is no further mention of him until the latter part of 1875.

An accident

There is very little information available on the personal life of Maxwell. He did have his wife and family with him in Utah. The Deseret News recorded an incident worthy of note. One evening Maxwell, with his wife and children, set out

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28Salt Lake Herald, December 19, 1874.

29"Journal History," December 29, 1874.

30Salt Lake Herald, December 30, 1874.
for a ride when the team became startled and ran away. The marshal turned the horses toward a fence to stop them. In the process the occupants of the carriage were thrown out. Mrs. Maxwell had a severely injured arm from the accident. The marshal was cut about the head and his body was badly bruised and jarred. The children escaped uninjured. 31

**Charges of corruption**

Maxwell's term of office was rather short, for he was removed from office on charges of corruption. Who first preferred the charges is obscure, but it seems to have been one of his own deputies, possibly Jerome B. Cross. When charges were preferred against him a flood of accusations followed. It seemed that everyone agreed that the marshal was guilty of the charges. Apparently the marshal had received money from the government for services rendered by witnesses, deputies and others and had refused to pay them their due.

One of the first letters on file with the Department of Justice in relation to the matter was from A. G. Paddock, warden of the penitentiary. He claimed he was put in charge of the penitentiary by Marshal Patrick after it was taken from territorial control, his dates of service being from March 1, 1873, to March 24, 1875. Paddock claimed he had worked hard to maintain the place, but neither the federal government nor the territory would pay for the needed supplies. He spent his last dollar to feed and clothe the prisoners. At the time

31 *Deseret Evening News*, October 7, 1875.
he wrote the letter he claimed he held vouchers from Maxwell for the sum of $1,332.50 for services rendered. For food and fuel furnished by him the government owed him $1,288. The total sum due him was $2,560.50. Paddock said he had not received one cent, and Maxwell said he could not pay it. 32

Maxwell had dismissed Paddock as warden of the penitentiary on the grounds of malice, general incompetency and for allowing prisoners to escape for the purpose of injuring Maxwell. 33 One might suspect that Paddock was only trying to take advantage of a situation, but the general feeling of the people was that Maxwell must have been in the wrong. An article in the Beaver Enterprise encouraged all of the people in the second district to forward their accounts to the paper for publication. The article further stated that Maxwell was indebted to nearly all, if not all, of his deputies for amounts varying from $200 to $1,000. 34

In a letter to the Attorney General, Jerome B. Cross, a deputy, wrote regarding the condition of the marshal's office and stated some of the corruption done by Maxwell. He claimed that frauds were systematically perpetrated in the marshal's office. He charged that expenses to witnesses, jurors, deputies and the like had not been paid, although affidavits had been made out stating the fees had been paid. Sometimes the marshal forged vouchers stating that


33 Maxwell to the Attorney General, October 22, 1875, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3, file 5/97.

34 Clipping from Beaver Enterprise (Utah), December 14, 1875, DJ, AG Papers, Utah Terr., Roll 4, Part 3, file 5/97.
witnesses were at court when they were not within fifty miles of the court. Cross said that vouchers were often signed by people, and the marshal would fill them out at his convenience. Cross used the example of the John D. Lee trial where the marshal was paid $8,556.19 for expenses because of vouchers handed in. He paid out only $2,192.10. Cross swore it was true for he had attended the signing of witnesses and jury rolls. Cross resigned as deputy in September of 1874 having "become satisfied that the marshal's office was a robbing arrangement." 35

Cross further claimed that Maxwell was a mere figurehead and that Deputy Marshal Dr. A. K. Smith was telling the marshal what to do. "The conduct of said officers had done more toward casting odium upon the Government and her officials" 36 than anything in the territory.

Deputy Marshal Arthur Pratt confirmed the charges of Cross in a letter dated December 9, 1875. He claimed he knew the office had been used for money making without regard to the means used. "They are bankrupt today, owe nearly every man in the territory, and their credit is a thing of the past." 37 Pratt said the only reason he was still in office was simply that he could not get a settlement and did not plan to sign blank vouchers. He, too, claimed that jurors


37 Arthur Pratt to the Attorney General, December 9, 1875, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3, file 4/119.
and witnesses were not being paid, although at the end of the term the accounts had shown it. To sum up his letter Pratt said,

Personally I like General Maxwell but that is no excuse for the steals that have been and still are being perpetrated every day, for which I hold Gen. Maxwell less guilty than is Dr. A. K. Smith who runs the office and the General.38

Another deputy, H. L. Porter, testified against Maxwell. In his testimony he said he was sent to Provo to act as deputy there, and the marshal was to pay the bills for his board and the room which he did not do. Therefore, Porter took a job as bookkeeper with the Lincoln Mining and Smelting Company of which Maxwell was a partner. He heard Maxwell tell his partners that he would advance $5,000 of federal funds, and in case the U.S. should call for a settlement the money would have to be refunded. Then in October of 1875 Porter went to work as clerk for the marshal. He was instructed by A. K. Smith to prepare the account books so they would pass inspection by the Grand Jury. He was told not to let the "Grand Jury see certain books containing accounts of deputies, Civil Business accounts and the cash books of said marshal."39 Porter claimed that later in an affidavit they admitted to hiding the books from the Grand Jury.

The matter of corruption in the marshal’s office went before the Utah Grand Jury in December of 1875. They formed an investigation and found that on July 8, 1875, the United States credited the marshal’s office with $13,200 for

38 Arthur Pratt to the Attorney General, December 9, 1875, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3, file 4/119.

defraying expenses in the second district court of the territory. The Grand Jury examined witnesses and jurors whose names appeared on the jury roll for July to September. They could not find any of them that had received pay or compensation for services rendered. Neither had officers of the courts nor guards of the prison received any pay, but vouchers showed paid in full. It was the conclusion of the jury that very little of the $13,200 had been used for the purpose for which it was given. 40 One man further testified that he had signed a voucher for $1,000 so that Maxwell could send the correct accounts to Washington. Maxwell promised to pay him the money when it was forwarded. He received $300 and could not obtain the remainder. 41

The people of the territory were up in arms over the corruption of the marshal's office. The marshal had received criticism from almost every source, both Mormon and non-Mormon. However, the Salt Lake Herald published an article supporting the marshal, stating that the marshal's job was burdensome and expensive and felt that the decision of the Grand Jury was not entirely correct. The Herald felt that there should be a high investigation into the matter, and if he was not guilty it would be found so. The article urged Maxwell not to resign his office which would seem to add to his guilt. 42

40 Clippings from Salt Lake Tribune and Beaver Enterprise, December 13, 1875, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3, file 4/119.

41 Deseret Evening News, December 13, 1875.

42 Salt Lake Herald, December 16, 1875. For Maxwell's defense see Salt Lake Herald, December 15.
Beaver Enterprise in answer to the Herald said that their support of Maxwell had caused a feeling of disgust among the residents of Beaver. 43

The marshal could not hold up under the pressure. He quietly boarded a train for Washington, D.C., to try to straighten out the affairs of his office. His friends told people he had gone to Beaver. The Herald had to back down in its support of Maxwell, and on December 31 came out with an article stating that since the examination of his office the marshal had shown considerable weakness. His own statements and explanations had done more to prosecute him than the Grand Jury. The Herald said that several times in explaining himself Maxwell had established no fact except that he did not know what he was explaining. The paper felt that if he was not guilty he should have stood up to his accusers. The article concluded by stating that every step Maxwell took seemed to put him deeper into the mire, and that there seemed to be more to the corruption than had been charged. 44

Maxwell could not justify his actions while performing the official duties of his office and was removed from that position by the President of the United States in December of 1876. 45

43Clippings from Beaver Enterprise, December 20, 1875, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3, file 4/119.

44Salt Lake Herald, December 31, 1875.

45District Attorney of Utah to the Attorney General, December 13, 1876, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3.
Activities after his resignation

Maxwell remained in Utah after his term as marshal, but he never had the influence he had wielded previous to his marshalship. Maxwell became a cranky, obstinate and broken man. He worked as an attorney in his later years. The following case illustrates Maxwell's personality. He had been officiating as an attorney for Paddock and others who had been charged with burglarizing Wilkinson's store. On Monday in court he was very abusive to the court and the prosecutor until silenced by the Judge. The following day in court he was abusive and insulting. The Judge ordered him to stop the insults to the witnesses. The order only served to irritate him. He became more and more insulting and used abusive language until Judge Pyper fined him $25 and ordered him to jail. He was soon permitted to come to see the Judge where he apologized for his misconduct. 46

Death of Maxwell

Marshal Maxwell died in Salt Lake City at ten minutes past 12 noon on July 2, 1889. Maxwell was only forty-eight years of age at the time of his death, still a young man in terms of years. His funeral was held at 9 a.m. on Wednesday, July 3, 1889. 47 Maxwell's invalid wife soon followed him in death. She died on May 7, 1892. She had been an invalid for many years and was only forty-three at the time of her death. The Deseret News said she was a cultured lady and

46 Salt Lake Herald, July 21, 1886.

47 Deseret News Weekly, July 2, 1889.
highly respected. 48

George R. Maxwell was a controversial figure. He was despised and yet respected by the Mormons. He was a tough and boisterous person who sincerely tried to accomplish what he set out to do. There was undoubtedly much corruption in the marshal's office during his term; however, the good works of Maxwell should not be overshadowed by the corruption of his office. He worked in many different capacities in Utah and expended much effort in trying to make what he thought would be a better Utah. To pass judgment on Maxwell is not the purpose of this work. Let it be understood that he was merely one of those federal officials who came to Utah and helped in destroying the political power of the Mormon Church.

William Nelson

William Nelson, tenth United States marshal in Utah, was born near Rutherglen, Scotland, in 1839. When Nelson was three years old his parents moved to America and settled in Wisconsin. At age twelve he learned the art of printing and was apprenticed with the Sentinel at Monroe, Wisconsin. He also worked for other newspapers. In September of 1861 Nelson enlisted in the Civil War where he had many narrow escapes. He served in the war until he was released on January 7, 1865. 49

48 Deseret News Weekly, May 18, 1892.

49 Biographical Record of Salt Lake City and Vicinity (Chicago: National Historical Record Company, 1902), 209.
After serving in the Civil War Nelson returned to Wisconsin and entered the newspaper business by buying the *Viroqua Censor*, serving as its editor. While serving as editor of the *Censor*, he was elected to serve as state senator for two years. After his term as senator he remained in the newspaper business until he came to Utah.  

**Appointment**

William Nelson was appointed United States marshal for Utah Territory on February 28, 1876. The marshal arrived in Salt Lake City on March 14, 1876, and made himself known around town by contacting those with whom he had had correspondence.

**Prisoners and prisons**

Immediately upon arrival, Mr. Nelson became involved with prisoners and the prison. In a letter to the Attorney General, Nelson informed the Attorney General that he had sent one F. Fields to the Detroit Detention Home with one of his deputies.

Escaping prisoners appeared to be a constant problem for all of the marshals. On June 17, 1876, four of Nelson's prisoners escaped from the penitentiary. The Utah penitentiary was not a secure place in which to keep

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50 Biographical Record of Salt Lake City and Vicinity, 208.
51 A List of Marshals for Utah Territory.
52 "Journal History," March 15, 1876.
53 Nelson to the Attorney General, April 18, 1876, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3.
54 Nelson to the Attorney General, July 17, 1876, DJ, AG Papers, Utah Terr., NA, Roll 4, Part 3, file 6/75.
prisoners, therefore the more troublesome convicts were sent to other places. On July 20, the marshal sent another prisoner, Francis Harper, who was involved in robbing the U.S. mails to the Detroit Detention Home. Due to an increased number of inmates in the prison in early 1877, Nelson made a request to the Attorney General for supplies, sleeping bunks and general improvements in the prison.

Rental of the Wasatch House

A problem that confronted Nelson following his arrival in Utah was the rental of office space and a courtroom. The marshal had looked at various buildings and had decided to rent the Groesbeck Rooms in the Wasatch House in Salt Lake City. The building was on First South Street between East Temple and West Temple Streets. Nelson could rent adequate space for offices and a courtroom for $2,400 per year. Buildings were finally becoming more numerous, and it was therefore easier to find rentals. The marshal’s office had previously been housed in the Francis D. Cleft House, and Cleft wanted to keep the contract. Cleft lowered his rent to compete with the owners of the Wasatch building. Nelson, however, felt that the Wasatch House would better serve the federal officials and refused the Cleft offer. Cleft again lowered the rent, and in final desperation said he would rent $100 below anyone else. Marshal Nelson refused the offer and made a contract for office rental in the Wasatch House.

56 Nelson to the Attorney General, February 3, 1877, DJ, AG Papers, Utah Terr., NA, Roll 5, Part 3.

57 The Judges to Nelson, Nelson's answer, November 1, 1876, DJ, AG Papers, Utah Terr., NA, Roll 5, Part 3.
Appointment of election deputies

In November of 1876 the federal judges asked Marshal Nelson to appoint several deputies to supervise the coming election in the five precincts of Salt Lake City. In the November election of 1874 there had been near rioting and violence. The judges claimed there had been fighting, and deputies were needed to keep the peace. In answer, Nelson informed the judges that he had asked Attorney General for permission to hire the deputies as provided for in section 2021 of the Revised Statutes of the United States. The special section provided for deputies upon petition of the citizens. 58 In a letter to the Attorney General, Nelson stated that he had employed eighteen deputies during the election of 1876. The first precinct had three deputies, the second, third, and fourth had two deputies each. The fifth precinct had nine deputies since it contained saloons where rough characters resided. 59

Execution of John D. Lee

An important incident during Nelson's term of office was the second trial and execution of John D. Lee. Marshal Maxwell had been instrumental in the arrest and conviction of Lee. He had attended the first trial, but was removed, and Nelson replaced him. Nelson then became responsible for the Lee case.

58 The Judges to Nelson, Nelson's answer, November 1, 1876, DJ, AG Papers, Utah Terr., NA, Roll 5, Part 3.

59 Nelson to the Attorney General, December 26, 1876, DJ, AG Papers, Utah Terr., NA, Roll 5, Part 3.
The second trial of John D. Lee began on September 14, 1876. On the morning of September 20, the jury found Lee guilty of murder in the first degree, and Lee was sentenced to death. Being given the choice of hanging, beheading, or shooting, Lee chose the latter. The date of the execution was set for January 26, 1877.\(^{60}\)

Marshal Nelson refrained from giving the public any information as to the location of the execution. Two days before the execution he informed newspaper correspondents and citizens who were required to be in attendance the place of execution. It was to take place at Monument Point, the scene of the Massacre. It was felt that this particular spot was chosen in hopes Lee would, when brought face to face with death, make a more far-reaching confession than he had done. Mormon officials could be implicated by Lee's confession.\(^{61}\)

On Wednesday, March 21st, Lee was taken to the spot of execution in a closed carriage with an escort of U.S. troops. Also in the party were Marshal Nelson, U.S. Attorney Howard, a few press representatives, and about twenty citizens. Three government wagons formed a semi-circle, and a covering of blankets was used to hide the firing squad. The coffin was brought for Lee to sit upon. As Lee approached the coffin he removed his overcoat, laid it down and handed his hat to Marshal Nelson. He then sat down upon the coffin facing his executioners.\(^{62}\) Lee then asked to have his picture taken and a copy sent

\(^{60}\)Whitney, II, 825.

\(^{61}\)Whitney, II, 825.

\(^{62}\)Whitney, II, 827.
to each of his three wives. Lee gave a brief speech after which the marshal announced that the hour of execution had come. While a white handkerchief was being placed over Lee's eyes, he requested that he be shot through the head so that his body would not be marred. The marshal then tried to tie Lee's hands, but Lee requested they be left free. Now ready for the execution Lee said, "Center my heart boys." The marshal said, "Ready! Aim! Fire!" Smoke burst forth from the guns, and Lee fell back upon the coffin. The execution was over and Lee had paid with his life for his part in the Mountain Meadows Massacre.

Nelson's actions under the Poland Act

Marshal Nelson, clothed with power and with the backing of the federal government by the passage of the Poland Act, began making arrests and placing people in the penitentiary. Several protests sounded from the people regarding harsh treatment of the prisoners. The Salt Lake Herald stated the harsh treatment had caused much excitement in the city. The more severe the officials could be and still remain within the law and its limits, the greater was their pleasure. The Herald further complained that most of those recently arrested would have given themselves up willingly if they had known the marshal was looking for them, but they did not deserve the harsh treatment received.

An example of the alleged harsh treatment was seen in the Dr. Peter Clinton affair. Marshal Nelson arrested Clinton in July of 1877 and had him taken to the penitentiary. Doctors had recommended Clinton's release for

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63Salt Lake Herald, August 10, 1877.
health purposes, but he was not released before being subjected to harsh treatment. On the first night in the penitentiary he was placed in a sweat box used for the punishment of prisoners. The sweat box, an iron cage placed where the sun could shine upon it, exposed Dr. Clinton to severe heat and whirling dust storms. Taking him to an upper room with only bare shingles to protect him from the sun, Clinton's legs were shackled so he could not dress or undress himself. The Salt Lake Herald claimed Clinton was already an invalid and therefore suffered great pain. After his release Dr. Clinton filed charges against Marshal Nelson, but Judge Shaffer dismissed the charge on grounds that he did not think the marshal had exceeded his duties.  

The Herald in an article "The Dark Ages" condemned the actions of the marshal. It stated that in the "dark ages" one could expect to see people tortured with such devices as the thumb screw and sweat box but certainly not a civilized generation. The paper accused the marshal and his crew of enjoying the suffering of the people exposed to the sweat box, although the alleged reason was to see if they could sweat the prisoner into a better frame of mind. The cage became extremely hot and the perspiration literally rolled off the prisoners. After six hours the prisoner would get quite thirsty and by the end of ten hours he was ready to talk.  

Several other people were arrested on various charges, some dating back to a much earlier period. The Aiken murder case of 1857 was an example.  

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64 Whitney, III, 27.  
65 Salt Lake Herald, August 11, 1877.
Charges of murder during the Morrisite War brought others to trial. Marshal Nelson was involved in the Reynolds Case which tested the constitutionality of the 1862 polygamy law. The local courts ruled that the law was constitutional, and the Supreme Court of the United States upheld the decision of the lower courts. The case was one more step in the process of curbing the power of the Mormon Church. Reynolds was sentenced to two years imprisonment with hard labor.

Another polygamy case during Nelson's term was the Miles Case. John H. Miles had married two women in the Endowment House. One of the women, Mrs. Carrie Owen Miles, became jealous and dissatisfied with the situation and on the morning after her marriage filed a complaint to Marshal Nelson. Miles was arrested by the marshal in Salt Lake City on October 25, 1878, and charged with bigamy.\(^66\) The woman then decided to forget the charge and returned to St. George with her husband. However, she became dissatisfied and at the time of his trial was very much opposed to him.

During the course of the trial Daniel H. Wells was called upon to testify. He was asked certain questions about the Endowment House and when he refused to answer he was considered in contempt of court. He was taken into custody by Marshal Nelson and placed in the penitentiary for twenty-four hours.\(^67\) John Miles was found guilty by the lower courts, but when appealed to the U.S. Supreme Court the decision was reversed and the Miles case was not mentioned.

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\(^{66}\) Whitney, III, 57.

\(^{67}\) Whitney, III, 69.
The courts were quite active during Marshal Nelson’s term of office, but there is very little information regarding Nelson’s part in that activity. However, he was there and did his job at court. Nelson was one of the many federal marshals who desired and fought for federal supremacy. During Nelson’s term of office the courts were well on the way to curbing the political power of the Mormons.

Charges of corruption

Marshal Nelson, like Maxwell and other marshals, was subjected to much criticism and charges of corruption. In an affidavit from Jerome B. Cross to the Attorney General, Cross gave the details. He said that District Attorney Howard had found irregularities in the marshal’s accounts but felt the responsibility for it was due to Deputy A. K. Smith. Dr. Smith, as will be remembered, was the deputy who was so closely connected with the corruption during Maxwell’s term of office. Also it should be noted that Deputy Cross was the person who testified against Maxwell and was instrumental in his removal from office.

Cross said that he had been asked to examine the accounts and had found that vouchers had been presented, sworn to and allowed for services that were never paid. Deputies and guards were represented as being in two places at the

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68 Whitney, III, 60-61.

same time, drawing per diem, subsistence and transportation pay. Marshal Nelson had sworn in court that all accounts had been fully paid when they had not been. Cross also claimed that in several instances accounts had been raised to more than double the amount actually expended and there were "other irregularities too numerous to mention." 70

In his affidavit Cross stated that District Attorney Howard believed, after the investigation of Nelson's accounts, that the marshal was corrupt and that removal of Nelson was only a matter of time. It seemed strange that Howard would turn against Nelson for they worked hand in hand in the prosecution of the Mormons. Nelson and Howard "floated side by side and when one started to sink the other lent a hand." 71 The Mormons felt that Nelson should have been removed much earlier. Because of the irregularities in the marshal's accounts, the Attorney General requested that Nelson resign from office. 72 In accordance with the Attorney General's wishes, Marshal Nelson resigned from the marshal's office on February 19, 1878. 73

Whether or not Marshal Nelson was guilty of corruption in office will perhaps never be known. The evidence to prove Marshal Maxwell's corruption was quite conclusive but not so with Nelson. Nelson's alleged dishonesty


72 Salt Lake Herald, January 29, 1878.

73 Salt Lake Herald, February 20, 1878.
did not cause the excitement and concern that Maxwell's had. It seemed more likely that someone had a grudge against Nelson. Even with Nelson's known anti-Mormon views he commanded the respect of most Mormons.

Post marshal days

After Nelson's resignation from the marshal's office he engaged in a mining operation in the Bay Horse Area of Idaho. The rugged and lonesome life of a miner was not for Nelson and he returned to his home in Salt Lake City. In 1881 Nelson took a position with the Salt Lake Tribune. He was first employed as telegraph editor and then managing editor of the Tribune. Nelson remained with the paper until his death in 1913, a period of 32 years. While serving for the paper, Nelson and C. C. Goodwin, editor, were arrested on a charge of libel by Marshal Parsons for causes arising from the McErlain Case. Details will be given later in the discussion of Marshal Parsons.

William Nelson was active in many organizations in Utah. He was a member of the Masonic Order, a companion in the Royal Arch, and a member of the National Geographic Society. Nelson also participated in politics. He was leader of the early Liberal Party and later the American Party. From 1891 to 1895 he was a member of the first schoolboard in Utah, and he served as

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74Salt Lake Tribune, October 27, 1913.

75Biographical Record of Salt Lake City and Vicinity, 208.

76Deseret News Weekly, July 26, 1892.

77"Journal History," October 26, 1913.
president of that board from 1892 to 1895. That he was influential and successful in that position is evidenced by newspaper articles eulogizing Mr. Nelson. He did more to raise the standard of the school system than any member who had served on the board. 78

Mr. Nelson was a conscientious and diligent worker. In the 32 years of service with the Tribune his co-workers never knew him to fatigue or tire. His deputy, Arthur Pratt, said that Marshal Nelson was

... a wonderfully strong man in many ways and a unique character. It was not easy to win his friendship, as he was not as easily approached as many, but once formed his friendship was everlasting. 79

Pratt claimed that Nelson knew no fear when duty was involved.

To further illustrate Nelson's bravery his deputy told of the attempt to capture Al Winn in Beaver District. Winn, dangerous and partially deranged, claimed he would not be taken alive. A deputy had been sent to capture Winn, but the desperado had held a Winchester on the deputy, disarmed him, and sent him back. The following day Marshal Nelson and his deputies surrounded the cabin of Al Winn. Pratt said he was some two hundred yards from the marshal. His "blood ran cold." The marshal rode up to the front of Winn's cabin, dismounted, walked up to the door and entered. Pratt said he never expected to see the marshal alive again. He felt that the marshal would have been killed except that Winn happened not to be home. 80

78Salt Lake Tribune, October 27, 1913.
79Salt Lake Tribune, October 27, 1913.
80Salt Lake Tribune, October 27, 1913.
Nelson was an intelligent and well-educated man. He was judged to be one of the best informed men in the Intermountain West on "statistical, financial and other data relating to this great country."\textsuperscript{81}

**Death of Nelson**

Utah was deprived of one of its most influential citizens with the death of William Nelson. He died suddenly at his home at 761 Sixth Avenue of a cerebral hemorrhage. He awoke from his sleep asking for a drink of water and complaining of a tickling in his throat and a slight cough. His wife was afraid he had picked up a cold, but he told her it was nothing. Then Nelson realized his situation was worse than he thought and called for his physician. He died about three minutes after the doctor's arrival. The marshal was survived by his wife and three children.\textsuperscript{82}

Marshal Nelson did his job well. He tried to accomplish it according to how he honestly felt it should be done. He was an honest and conscientious person. From available information, Mr. Nelson seemed to be filled with a zest for life. There were many who opposed the tactics used by Marshal Nelson, but he was appointed to a position that invited criticism and controversy. His sincerity and love for Utah was shown by his actions and participation in affairs after his term as marshal. His contributions to Utah were many. At the time of his death, an article was published stating that for many years Nelson had

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\textsuperscript{81}Salt Lake Tribune, October 27, 1913.

\textsuperscript{82}Salt Lake Tribune, October 27, 1913.
exerted a powerful influence upon Salt Lake City.

Nelson belonged to the old school of opponents of the church, and we have no doubt that he was thoroughly sincere in his opposition. It was not given him to see the purposes of the almighty... But notwithstanding this difference of views we are glad to remember him as a loyal American citizen, a man brave, true and honest.\(^3\)

**Michael Shaughnessy**

Michael Shaughnessy was born in New York, on October 11, 1843. As a youth he enlisted in the Civil War, attaining the rank of lieutenant colonel in the New York Cavalry. After serving in the War Between the States, Shaughnessy was appointed United States marshal of Mississippi. While serving as marshal his life was often endangered, especially if he ventured out at night. His wife, whom he loved, urged him not to venture out at night on duty, but Shaughnessy felt that it was his duty and he would disregard her pleadings. Shaughnessy had created a warm friendship with Senator Conkling of New York and through his influence Shaughnessy was appointed eleventh marshal of Utah, on February 20, 1878.\(^4\) He took office in March of the same year.\(^5\)

Information regarding Marshal Shaughnessy during his term of office is scanty. However, it is evident that the marshal was busy. He was appointed receiver together with W. S. McCormick in the settlement of the Brigham Young estate. Several of the late president’s heirs filed suit to claim his estate.

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\(^3\)"Journal History," October 27, 1913.

\(^4\)"Journal History," February 20, 1878.

\(^5\)A List of Marshals for Utah Territory.
The Deseret News stated that Marshal Shaughnessy had demanded and taken possession of every article of real estate mentioned in the case. After suits and countersuits and a month in prison for a few of the high church officials for contempt of court, an agreement was made whereby the heirs received $75,000 as settlement of the estate.

In July of 1879 Marshal Shaughnessy made a trip to Nebraska to obtain George Reynolds, a prisoner who had been convicted of polygamy and sentenced to prison for two years. He had been sent to Nebraska State Prison where he remained for only a short period of time. A clipping from the Omaha Bee of July 19, 1879, stated that Marshal Shaughnessy had arrived in Omaha in the morning and departed at noon on the mail train for Salt Lake City. He had received orders from Washington to take Reynolds with him to Salt Lake to be kept in the territorial prison. The article mentioned that Shaughnessy would rather Reynolds remain in the Nebraska prison as it was more secure. Marshal Shaughnessy and Deputy George A. Black had taken Reynolds to the Nebraska prison on June 14, 1879. He was confined in that prison for twenty-five days before being brought back to Salt Lake. Several attempts were made to secure Reynolds’s pardon but to no avail. Delegate Cannon tried to obtain his release, and even Shaughnessy was impressed with Reynolds and sought

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86 "Journal History," July 24, 1879.


his release, but both were unsuccessful in their attempts. 89

While serving as marshal, Shaughnessy became involved in mining operations. To what extent he became involved is hard to judge, but he made enough money that some Utahans were resentful. When Shaughnessy left office he invested $103,000 with a New York broker. The broker proved to be dishonest and swindled the marshal out of his money. The Salt Lake Herald gave the following comment, "He should have protected it like he got it, with his sixshooter." 90 The article accused him of committing a murderous assault on a private citizen for the purpose of obtaining a large sum of money. The Herald was probably referring to an incident that happened in August of 1880.

The incident occurred as follows: About 5:30 in the afternoon Marshal Shaughnessy and Mike Codidy went to the Ontario Silver Mining Company and asked to talk to Mr. R. C. Chambers, the manager of the company. They all walked into a backroom where Shaughnessy stated he had just learned that Chambers had staked a claim in Big Cottonwood Canyon that conflicted with one of his own claims. Chambers felt that Shaughnessy had staked a part of one of his claims, so in retaliation he staked part of Shaughnessy’s claim. The marshal told Chambers he would give him six hours to remove the stakes. Chambers refused. According to one of the employees of the mining company, the marshal stood up calling Chambers names and accusing him of robbing him and everybody in the community with whom he had dealings. Chambers denied

89 Whitney, III, 56.

90 Salt Lake Herald, July 10, 1885.
the charge, and the marshal reportedly pulled his pistol and threatened to riddle Chambers. Chambers stated he was not armed, and Shaughnessy snapped back that he had better arm himself, that next time they met one of them would be killed, and the marshal said it would not be he. Then a scuffle ensued, and Shaughnessy struck at Chambers' head with the pistol but missed and hit the man's shoulder. The marshal cocked his gun, pointed it at Chambers' head and told him to remove the stakes or he would be killed. He and Mike then left the scene. The incident was supposed to have taken place after working hours and was witnessed by some of the company employees. The next day when a Herald reporter interviewed Shaughnessy he denied the incident and would give no further statement. Chambers also refused to talk. The Herald considered the incident important and called for the facts in the case of an investigation. 91

Chambers was not content to let the matter ride for long. Judge Bennet filed two complaints sworn by Chambers against Marshal Shaughnessy. The first charged the marshal with assault with a deadly weapon and the second charged that Shaughnessy threatened the life of Chambers. 92

The Herald asked Shaughnessy for a statement. He said he would give it on the following Saturday, but when approached he refused to make a statement. The Herald, in defense of the marshal, stated that Chambers had made a location on his property. Shaughnessy had tried to find Chambers to discuss


92Salt Lake Herald. August 21, 1880.
the problem quietly, but their tempers flared and a quarrel ensued.\textsuperscript{93} Exactly what happened will probably never be known. The point is that Shaughnessy was involved in mining and was successful at it.

Shaughnessy also served as an officer of the Bannock Gold and Silver Mining Company.\textsuperscript{94} His mining career was more lucrative than the marshal's office and may account for the scarcity of material available on Shaughnessy while in the marshal's office.

Nevertheless, the courts were active, and the marshal and his deputies were kept busy. In a letter to the Attorney General, Marshal Shaughnessy said he had more than twenty persons in the Beaver jail. It was filled, and there was no place to keep more prisoners. He requested use of the guard house at Fort Cameron.\textsuperscript{95}

The 1880s saw a wave of anti-Mormonism, not only in Utah but throughout the nation. The Liberal Party and the Anti-Polygamy Society were two organizations in Utah that helped to spread hatred of the Mormons. The Cannon-Campbell contest in 1880 for the delegate was another means of spreading rumors and hatred to the public. The controversy caused an uproar. Ministers entered the anti-Mormon crusade. They preached against the Mormons from their pulpits and passed resolutions against Mormonism.\textsuperscript{96} By the time

\textsuperscript{93}Salt Lake Herald, August 22, 1880.

\textsuperscript{94}Deseret Evening News, September 17, 1885.

\textsuperscript{95}Shaughnessy to the Attorney General, March 16, 1881, DJ, AG Papers, Utah Terr., NA, Roll 3, Part 2.

\textsuperscript{96}Whitney, III, 163.
Congress met in December of 1881 there was a nationwide bitterness against the Mormons and polygamy. The Senate and House were flooded with petitions urging effective and speedy action against the Mormons.

A long debate took place in Congress before a bill was passed to cope with the polygamy question. Finally on March 22, 1882, the Edmunds Bill was passed. This, it was thought, would enable the federal officials to defeat the Mormon Church. The federal government had struck another blow; all that was needed was to carry out the law. There were enough people in Utah who were opposed to Mormonism to see that the law was fulfilled. Another blow came to the people of Utah when George Q. Cannon was denied the right of his seat in the House of Representatives, and the Utah delegation was declared vacant.97

Marshal Shaughnessy did not remain in office long enough to see the effects of the Edmunds Law. That was to be left to the next marshal. Shaughnessy asked for a leave of absence in February of 1882. The Edmunds Bill was passed in March, and Elwin A. Ireland, the new U.S. marshal took office on April 12, 1882.98

The Edmunds Act was what many people had been waiting for, although some felt it would make no difference in Utah. In an interview with Shaughnessy after he left office he said that the act would have little effect because three-fourths of Utah's population were believers in Mormonism, but not even 10 percent of them practiced polygamy.99 In another interview the ex-marshall said that

97 Whitney, III, 163.
98 List of Marshals for Utah Territory.
politically the act would change nothing because only 10 per cent of the people practiced polygamy. He further stated that those serving on the Utah Commission should be from Utah. When asked if the Mormon Church should be represented in the Commission he said, "yes," and added that they were the greater population and owned three-fourths of the property. Marshal Shaughnessy was wrong in his judgment of the Edmunds Act, for the measure did have a profound effect upon Utah, both politically and socially.

A short time after Shaughnessy left the marshal's office, he and his family returned to New York where he became involved with a stock broker and lost his fortune. While in New York his wife, whom he loved very much, died, leaving his life disjointed. After the death of his wife he came back to Utah to try mining again, but his health failed him. He died on January 10, 1910. The Deseret News stated that the death of Shaughnessy reminded the public of a man who cut a large figure in public affairs. "He was forceful, determined, a good friend and warm enemy." The marshal's daughter, Mary, took the body to New York for burial in his home state.

**Summary**

The U.S. marshals from 1873 to 1882 were devoted to the furtherance of the anti-Mormon cause. Marshal Maxwell expended considerable time, money

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100 "Journal History, April 11, 1882.
and effort in urging the passage of the Poland Act which became law in 1874. The act had a great influence upon the marshal's office for it abolished the office of territorial marshal and made the U.S. marshal the officer of the court both in territorial and U.S. laws. After passage of the Poland Act the federal officials began proceedings against the Mormons. Many arrests were made.

Other problems common to most marshals and quite prevalent with Maxwell and Nelson were the rental of courtrooms and the charges of corruption. The marshal was responsible for renting a suitable place for offices and holding court and yet was limited to the amount he could spend. In a newly established territory such as Utah, rentals were scarce and extremely expensive, and usually cost more than the allowed amount. Charges of corruption were also prevalent. There was undoubtedly truth to some of the charges, but it also seems that charges were often made with intent to disparage the marshal.

From 1873 to 1882 the marshals were enthusiastic in their efforts to prosecute the Mormons. However, the Poland Act did not offer sufficient power to cope with the Mormon problem and in 1882 the Edmunds Act was passed giving the federal officials a law that would help to end the controversy.
CHAPTER VII

THE CRUSADE

A vigorous anti-Mormon crusade that began as early as 1870 rapidly accelerated with the passage of the Edmunds Act of 1882. During 1884 about three arrests of polygamists were made, but in 1885 when the United States Supreme Court upheld the constitutionality of the Edmunds Act, a real manhunt began which began a period in Utah history known as "the Underground" because of the intensity of the searches it became necessary for all polygamists to go into hiding. Still not satisfied with legislation under the Edmunds Act, the anti-Mormons urged more stringent legislation. In March of 1887 Utah was given the Edmunds-Tucker Act which eventually brought about the capitulation of the Mormon Church to the demands of the crusaders.

Elwin A. Ireland

Elwin A. Ireland, received his appointment in March of 1882 and took office on April 12 of the same year. On April 29th Ireland wrote a letter to the Attorney General stating that he had received the commission appointing him marshal of Utah Territory.

1 Whitney, III, 270.

2 Ireland to the Attorney General, April 29, 1882, DJ, AG Papers, Utah Terr., NA, Roll 3, Part 2.
Elwin A. Ireland was born in the state of Maine in 1846. He remained there until the outbreak of the Civil War during which he served in the Union Army. Ireland served as a private in Company A, 1st Regiment, sharpshooter. After serving his time in the Civil War he went to New York City where he was employed as a custom house clerk under Chester A. Arthur. When Arthur became president of the United States, he appointed Ireland to the marshal's office in Utah Territory.

Information regarding the date Ireland came to Utah was not available, but he must have been in the territory for a considerable time, as he was engaged in the lamp trade in Salt Lake City at the time of his appointment. The Salt Lake Tribune recorded his being a proprietor of a lamp store located on First South Street, and a resident in Salt Lake City for several years. He was described as being a retiring gentleman with a reputation for honesty, and he was considered conscientious and intelligent. Because of Ireland's retiring ways many expected him to be quiet and docile in the marshal's office. However, quite the opposite was true, for Ireland helped to make the Edmunds Act effective.

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4"Journal History, " May 18, 1898.

5Salt Lake Tribune, March 28, 1882.
Election controversy

After passage of the Edmunds Bill conditions in Utah became frustrating to political office holders. The law had created a five-man board to supervise affairs in Utah, especially elections. The Utah Commission, as it was called, failed to arrive in Utah at an early date causing a Congressional law to be enacted, the "Hoar Amendment," to fill the vacancies created by the Edmunds Bill. The Hoar Amendment gave the governor the power to fill vacancies caused by the lack of the August elections. The governor assumed that all offices were vacated and therefore appointed some two hundred persons, mostly non-Mormon, to the various positions. The governor even appointed officials where offices were not vacated. Those holding the offices contested and before the disputes could be settled the next election was due.

Polygamous arrests

The anti-Mormon sentiments in Utah and the nation brought the conflict to a head, and the crusade was accelerated. According to Whitney, two incidents started the crusade. The first was the imprisonment of Annie Gallifant, a plural wife of John Connelly. She was called before the grand jury on November 17, 1882, and questions were put to her that would lead to the conviction of her husband. She refused to answer and was taken before the chief justice. He said the questions were proper. She still refused to answer and the judge sentenced her to imprisonment until she would answer the questions. Pregnant, she was released the following day, and her child was born four days later.6

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6 Whitney, III, 276-77.
The second incident took place six months later and was called the Belle Harris episode. Belle was summoned to the grand jury on May 10, 1883, and was asked questions that would lead to the conviction of her husband. She refused to answer as had Annie, was fined $25 and put in the custody of Marshal Ireland. Belle and her infant son of twelve months were given an apartment next to the warden's quarters where she was treated kindly by Marshal Ireland. Finally on August 31 she was released. The incident caused much concern and ill feelings. The Mormons considered Belle Harris to be a heroine who had suffered for a principle. 7

The next case was the Rudger Clawson case, which was the opening on the part of the courts for the great anti-polygamy crusade. Marshal Ireland arrested Clawson on April 24, 1884, and placed Clawson under a three thousand dollar bond. The Clawson case was heard in the courts then postponed until the fall of 1884. In the meantime Nellie White was summoned before the grand jury. The situation was the same as that of Belle Harris and Annie Gallifant. Nellie White was suspected of being the plural wife of Bishop Jared Roundy of Wanship. She was asked questions which she refused to answer and was placed in custody of Marshal Ireland and taken to the penitentiary. Miss White was kept in the penitentiary for over six weeks. During that time Marshal Ireland applied no cruel or harsh acts to try to make the woman confess. Anti-Mormons tried to urge Ireland to be less lenient, but the marshal remained adamant and treated his female prisoners well. 8

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7 Whitney, III, 277.
8 Whitney, III, 280.
Fear of mob violence

During June of 1884 there was much excitement and concern by both the marshal and the people. In a telegram to the Attorney General, Marshal Ireland stated that the penitentiary was in great danger from a mob. Ireland asked if he could be authorized to call on the United States Army for protection, and if not could he hire enough deputies until the danger had passed. In a letter of the same date Ireland explained the crisis. The cause of the danger was one Fred Hopt who had been convicted of murder in the first degree three different times by the district court and sentenced to death, but each time had been pardoned. The third time Hopt had been sentenced to death was on June 13, 1884. Ireland said that a large force of deputies would be needed to stop a lynching, and he felt that if the case went to the Supreme Court again it would be disastrous to try him in Utah.

The Salt Lake Tribune described the feelings in Salt Lake over the situation. On June 13th and 14th the streets were crowded with hundreds of men waiting for the governor's decision. The crowd angrily denounced the machinery of the laws. "Justice had been outraged and the law trampled on." The crowd blamed the judges for not sentencing Hopt to death. It was their responsibility and not the governor's. A meeting led by Sheriff Turner,

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9 Ireland to the Attorney General, June 13, 1884, DJ, AG Papers, Utah Terr., NA, Roll 3, Part 2.

10 Ireland to the Attorney General, June 13, 1884, DJ, AG Papers, Utah Terr., NA, Roll 3, Part 2.

11 Salt Lake Tribune, June 14, 1884.
father of the Hopt victim, was held at the Walker Opera House to protest against
the stay of execution which had been recommended by the Supreme Court. It
was not a mob spirit that prevailed, but a desire to see honor and justice done
and to show indignation for what was considered trampling upon the laws. A
committee of three was chosen to present a resolution to the governor, but
the governor refused to make a decision and the execution was postponed
until the Supreme Court met in October. 12

To cope with the possible danger of mob violence, Ireland placed thirty
guards at the penitentiary. Ireland and Sheriff Turner rode out to the prison in
the afternoon of June 14th and found that all was quiet. They returned to Salt
Lake about 6 o'clock in the evening. 13 After his return Ireland sent a telegram
to the Attorney General stating that the "Danger to penitentiary I think now past." 14

Use of open venire

With the coming of Judge Charles S. Zane in September of 1884 the
crusade was accelerated. One of his first acts was to issue an open venire
for empaneling a jury. Judge McKean had tried empaneling jurors by open
venire in the Englebrecht case, but since the passage of the Poland Act in
1874 the practice had not been used. Judge Zane, on September 27, 1884

12 Salt Lake Tribune, June 14, 1884.
13 Salt Lake Tribune, June 14, 1884.
14 Ireland to the Attorney General, June 14, 1884, DJ, AG Papers, Utah
Terr., NA, Roll 3, Part 2.
issued an open venire to Marshal Ireland to select eight jurors who were "good and lawful men" from the district. Accordingly the marshal brought into court eight jurors whom he had selected. The Mormons contested the issue but to no avail, and the jury was completed by open venire.\textsuperscript{15}

**Rudger Clawson case**

On October 2, 1884, the case of Rudger Clawson was again taken up. The case dragged out for several days, and the court had trouble in securing the necessary witnesses. On October 21st Lydia Spencer, a key witness in the trial disappeared. The marshal dispatched several deputies to the place where she was supposed to be living, and "on the night of the 21st every tree, shed, and other object in the vicinity capable of affording concealment was used by the wide awake officials."\textsuperscript{16}

Another group of deputies went to the home of Mrs. Margaret Clawson, a relative wanted as a witness. The deputies were told by her husband that she was not at home. Deputy Greenman said he wanted to search the place. The bishop told him he would have to have the proper papers to do so, but the deputy said he would get her somehow. In the meantime, one of the Clawson boys inside dressed up in a gown, bonnet and shawl belonging to Mrs. Clawson and left the house by a side door. He got into a carriage and was driven down the street. As the carriage passed the house, the deputies who had been in hiding

\textsuperscript{15}Whitney, III, 289.

\textsuperscript{16}Whitney, III, 309.
ran after the carriage. One of them grasped the hind straps and clung on
while the carriage bounced over pebbles and splashed through mud puddles
until the deputy, covered with mud, fell to the ground. Such were the efforts
of the Mormons to avoid being brought to court by the officials to testify against
one of their kind. 17

Rudger Clawson was brought to trial and found guilty of polygamy and
unlawful cohabitation. On November 3, 1884, he was sentenced to imprisonment
in the Utah Penitentiary for a term of four years, and to pay a fine of $800. He
entered prison that same day, denied the right to bail while appealing his case
to a higher court. The Utah Supreme Court sustained the conviction and the
action denying right to bail, January 23, 1885. The case was appealed to the
United States Supreme Court where these decisions were sustained, April 20,
1885.

The conviction of Rudger Clawson sustained the constitutionality of the
Edmunds Act and gave the crusaders the legal weapons they needed. Early in
1885, seeing "the handwriting on the wall," church leaders and other polygamists
went into hiding to escape detection and trial. For five years "the Underground"
continued as Mormon polygamists endeavored to escape these prosecutions and
the United States marshal and his deputies bent every effort to find and prosecute
the polygamists. 18


18Anderson, Chapter XII. Whitney, Chapter XI and following. Leonard
J. Arrington, Great Basin Kingdom: An Economic History of the Latter–day Saints,
1830–1900. (Lincoln: University of Nebraska Press, c1958), Chapter XII.
The man hunt begins

The real hunt for the arrest and conviction of polygamists began in 1885 during Marshal Ireland's term of office. The hunting for polygamists was commonly known as the crusade or "the Raid." A great effort and expense was put forth to capture the "cohabs." Hunting for polygamists became a lucrative occupation for many. Twenty dollars per head was paid for each polygamist arrested. As in any similar situation, the job attracted some ruffians and people of ill repute. However, not all deputies and hirelings were ruffians as there were many gentlemen among them. Paid informers were busy ferreting out offenders. Some disguised themselves as peddlers, tourists, or tramps in order to gain entrance into the dwellings. Little children going to and from school were stopped on the street and questioned about their parents. At night many prowled around the homes of suspected polygamists peering through windows. Others were bold enough to enter homes while the occupants slept. Houses were often broken into by deputy marshals.19

The Mormons resisted the efforts of U.S. officials, but not by obstructing them. Nels Anderson put it well when he said,

The determination to avoid arrest and conviction involved resistance by running and hiding, rather than active obstruction. It involved withholding information from strangers and telling nothing to federal officials that would help them in their hunting and convicting. It permitted giving false information and all but required wives to disown their husbands and children to deny their fathers. This policy made a virtue of any tactics that would hinder the administration of the law.20

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19 Whitney, III, 493.
20 Anderson, 314.
With the inauguration of such a policy against the Mormons, Marshal Ireland had plenty of work to do. On January 20, 1885, Angus M. Cannon, president of the Salt Lake Stake, was arrested by Deputy Greenman. Several other arrests were made about the same time on charges of polygamy and unlawful cohabitation. The anti-polygamy crusade became so intense and burdensome to the people that on February 1, 1885, Mormon President John Taylor issued a statement advising the polygamists not to fight but to run. That policy was the beginning of what was called "the Underground." Polygamists ran from deputies and other federal officials. Some went to Europe and others to Mexico. However, there were many who could not afford to travel and hence were caught by the marshal and his deputies and usually sentenced to prison. In order to escape the federal officials, even the presidency of the church went into hiding on February 1, 1885.22

New prison rules

Due to the increase of persons committed to the prison, Marshal Ireland had to make changes in the rules at the penitentiary. The new rules at the penitentiary provided that only members of the prisoners' family could visit him. In the case of Mormons, only the legal wife could visit her husband. All children were allowed passes.23 Marshal Ireland was placed in a dilemma

21 Deseret News, February 25, 1885.
22 Arrington, Great Basin Kingdom, 359.
23 Ogden Daily Herald (Utah), June 22, 1885.
when he had to decide which wife of Mr. Cannon's could visit him as Cannon had
married them both at the same time. The frustrated marshal granted permits
to both women. 24

A shooting incident

In December of 1885, Deputy Marshal Collen was involved in a shooting
in Salt Lake City. Collen said he fired five shots at Joseph W. McMurrin. Two
had entered McMurrin's body and there were three holes in Collen's coat. The

Deseret News claimed that Collen must have made the holes by firing from his
pocket. 25 Collen claimed that McMurrin with a group of other men had con­
fronted him on the street with the intent of doing away with him. He was on his
way home when he noticed four men standing in the alley. He took his pistol
out of his pocket and in order to avoid the four men he walked diagonally
between them. Then McMurrin came toward him, took him by the collar
and struck at him with a billy club, whereupon Collen excitedly fired his pistol
into the stomach of McMurrin. Collen then turned himself over to the marshal. 26

McMurrin who was not mortally wounded told a slightly different story.
He claimed he had gone to the Tithing Yard where he was employed as a night
watchman. He then went to a meeting at the Social Hall at 7:00 p.m. After the
meeting he came out of the door into the alley facing north where he saw a man

24Salt Lake Herald, July 2, 1885.

25Deseret Evening News, December 1, 1885.

26Salt Lake Tribune, December 1, 1885.
whom he recognized as Collen. McMurrin claimed that Collen was following him through the alley when he turned and told the deputy, "Collen, I consider you a dirty cur." He grabbed Collen by the collar and struck at the deputy as he had claimed. The shooting incident did not cause as much alarm in Salt Lake as the way it was handled by Marshal Ireland. The Salt Lake City police came after Collen; Ireland promised to deliver the man, but later refused to do so. When Collen was finally taken to the penitentiary, Governor Murray went to Fort Douglas to obtain a military escort to have him transferred to the Fort. The Mormons felt the action implied that Collen's life was in danger at the prison.

On December 3rd armed parties arrived from the south in such large numbers as to frighten Marshal Ireland into removing Collen from the penitentiary and placing him at Fort Douglas to prevent a lynching. The Deseret News stated that the armed party consisted of Sheriff Turner and his deputy, Mr. Fowler of Lehi, who came by request of the marshal to take two prisoners back with them. The News further stated that it was an attempt on the part of the federal officials to show that the Mormon people were near rebellion. The Mormons felt that Salt Lake City was as "quiet as a New England village." The supporters of Ireland claimed he acted wisely in protecting Collen, but the Mormons felt he had violated the laws of the territory by his actions. The Salt Lake Herald felt that the marshal secretly protected Collen and refused to surrender him to the proper authorities when

27"Journal History," December 1, 1885.

28Deseret Evening News, December 1, 1885.
a warrant was issued. "He holds the accused, laughing at the police and defying the courts." 29

Later an examination took place in the Collen-McMurrin case. Supposedly it was a trial of McMurrin for assault upon Collen. When McMurrin's condition began to improve he was afraid the proceedings would go against him so he left home. However, as a result of the examination, Collen left Utah and was discharged. McMurrin spent several months in Europe, then returned and gave himself up to the law. Much to his surprise the charges against him had been dismissed.

The anti-Mormon crusade was in full swing by 1885. It would be impossible in this paper to relate all of the court cases and polygamous arrests made by the United States marshal, nor is it the purpose of the work to do so. A few of the major and unusual circumstances will be related. For the others suffice it to say that the year 1885 saw the arrest and conviction of several prominent Mormon leaders. The anti-Mormons were still not satisfied with the power they possessed. In the fall of 1885 Governor Murray and the Utah Commission recommended more severe legislation to cope with the vexing Mormon problem.

**Arrest of Apostle Snow**

On October 20, 1885, Apostle Lorenzo Snow was arrested by U.S. deputies at his home in Brigham City. He had been warned that a plan had been made for

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29 *Salt Lake Herald*, December 1, 1885.
his capture. He had left Utah, gone to California, returned home, gone to Wyoming and returned home again. The deputies heard a rumor that he was back at home so they went in search of him. Deputy Oscar Vandercook headed the party with Greenman and others in attendance. At daybreak the deputies knocked on the door of the Snow home. A servant girl woke Mrs. Snow. Mrs. Snow could see the outlines of several men and woke Apostle Snow telling him the marshals had come to arrest him. Apostle Snow quickly hid in a secret apartment under the house, and Mrs. Snow then permitted the deputies to enter. They searched the house and could find nothing. Vandercook insisted they search the house again, which they did. Finally Vandercook discovered a torn carpet. Under it was a small apartment. It was empty. Then the sharp deputy noticed a fresh splinter made by a screwdriver which directed them to another compartment. The deputy then called for Snow to give himself up. Snow complied and said he had been caught and there would be no further trouble.30

Mormons retaliate

The arrest of Apostle Snow caused much concern and excitement not only in Utah but in many other places. His prominence made him the most important prisoner yet arrested. The people of Utah did not sit idly by. The day after Snow's arrest a number of anti-Mormons were arrested on the charge of lewd and lascivious conduct. The first to be dealt with was Deputy

30Whitney, Ill. 439-41.
Vandercook. He was arrested on November 21st by the Salt Lake police. The action caused much concern among the anti-Mormons. Several men went to the police and begged the police not to expose their names, as it would break up their families. Others left town to avoid arrest.

In the Vandercook case the court ruled that the law was applicable only to open lewd and lascivious conduct. The decision liberated all those who had been arrested. County Sheriff Groesbeck and his deputies arrested several of the same people again for resorting to a house of prostitution. Vandercook was one of those arrested. His case was taken to the Supreme Court of the United States, and the proceedings against him were stopped. Alderman Spiers proceeded with other cases until U.S. Attorney Varian dismissed the cases saying that a conspiracy existed. License Collector Hampton was accused of heading the conspiracy and was sentenced to one year in the county jail. Thus the law upheld the idea that unlawful cohabitation could only exist in plural marriage.31

The George Q. Cannon case

In February of 1886 Marshal Ireland placed a $500 reward upon the head of George Q. Cannon, a counsellor in the First Presidency of the Mormon Church. The high price was placed on Cannon’s head because it was felt that he was the active power of the church. They attributed to him the thwarting of their purposes. The reward was placed upon his head after a raid at his

31 Whitney, III, 443-47.
farm by Marshal Ireland and his deputies failed to produce him. 32

Due to the determination to capture President Cannon, he set out to go to Mexico to attend to business there. He left for Mexico via San Francisco. When Cannon reached Humbolt, Nevada, he was arrested by Sheriff F. M. Fallows of Nevada. Marshal Ireland went to Nevada to take charge of the prisoner. 33 He then brought his prisoner to Utah by train. When the train reached Promontory on February 16th, President Cannon stepped to the rear of the train to obtain fresh air and get relief from stiffness. Cannon claimed that with a sudden lurch of the train he lost his balance and accidentally fell from the train. 34 The opinion of Marshal Ireland was, of course, quite different. He felt that Cannon had tried to escape. A brakeman said he had seen Cannon on the platform and that he jumped. 35 Regardless of what happened, Cannon was to be the loser for he was badly bruised and bleeding and sustained a broken nose in the fall. In addition the federal officials took advantage of the situation.

A special train went to Promontory to pick up the prisoner who had been recaptured by deputy Greenman. The rumor was spread that the Mormons planned to take President Cannon by force. Deputy Vandercook in charge of the deputies in Salt Lake, told General McCook at Fort Douglas of the threatening situation and obtained twenty-seven soldiers to act as a special guard to bring

33 Deseret Evening News, February 15, 1886.
34 Deseret Evening News, February 16, 1886.
35 Deseret Evening News, February 24, 1886.
Cannon in. That the threat was unfounded was confirmed by the anti-Mormon Tribune when it stated that no case of violence could be cited nor any preparations for violence. Yet they felt the military guard had caused no harm. Nevertheless the soldiers took charge of the prisoner and surrounded his coach. Ireland handed over complete control to the military.

Before the arrival at Ogden, Marshal Ireland expressed the fear that there would be violence at Ogden. Cannon telegraphed ahead telling the officials it would be wrong to have violence at that point. The trip was made to Salt Lake without incident. Upon arrival in Salt Lake City President Cannon was taken to Ireland’s office where the charges were read against him.

Ireland desires reappointment

About the time of the Cannon arrest Marshal Ireland was nearing the end of his term and wished reappointment. On February 12, 1886, the Salt Lake Herald stated that Ireland wanted the appointment of marshal again, but he was a Republican and therefore could not ask Cleveland to reappoint him. The Herald accused him of working with Governor Murray, Judge Zane and Attorney Dickerson. By working with them he could hold the threat over the administration’s head that if he was not kept in office it would be a friendly act toward the Mormons. The Herald also claimed that Ireland would retire a wealthy man. The government allowed him $1 per day per man for the maintenance of his prisoners.

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36 Salt Lake Tribune. February 18, 1886.

37 Deseret Evening News. February 19, 1886.
It was estimated that $0.20 per day would have covered the cost. There was undoubtedly some justification in the charges, for the marshal during this period had a much more lucrative business than previous marshals had had.  

That the Mormons disliked Ireland is understandable, for his job involved an attack upon them. Perhaps Marshal Ireland was very serious in doing what he thought best for Utah Territory, but he offended many of the Mormons as did other federal officials of the same period. The Salt Lake Herald expressed the general Mormon feeling toward Ireland when they learned that he had not been reappointed. "That born and trained scrub E. A. Ireland has been bounced from the office of United States marshal." The article further stated that the other federal officials had endorsed him for another term, but the only thing the marshal had to offer was that removal would indicate a friendly gesture toward the Mormons. He was accused of being "the scrubbiest marshal who ever afflicted the Territory..." In summary the Mormons felt

as an officer he has been a conspicuous failure, lacking in judgment, wanting in wisdom and courage, and devoid of the intelligence, qualifications and instincts which enable an officer to perform disagreeable duties efficiently and respectfully without incurring the enmity of the public.  

Ireland leaves office

In the midst of the polygamy crusades Marshal Ireland left office, sometime in June of 1886. After leaving office he engaged in the livestock

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38Salt Lake Herald, April 13, 1886.

39Salt Lake Herald, April 13, 1886.
business in Salt Lake City. He remained in Utah until February of 1897 when he went to Alaska on a gold-hunting expedition. He never returned to Salt Lake alive. He died at Lake Bennett, Alaska, of dropsy of the heart on May 18, 1898. Seemingly his wife and children had remained in Utah while he was in Alaska, for the Deseret News stated that his body would be shipped back to Salt Lake City for burial.⁴⁰

Marshal Ireland is a controversial figure in Utah history. Like the other marshals, Ireland was committed to do a job. Ireland tried to perform his duty to the best of his knowledge and ability. He was cursed by the Mormons and applauded by the anti-Mormons. Ireland performed the onerous duties according to how he felt they should be performed. His term of office was completed with a minimum of corruption. He was accused of cowardice by the Mormons, but it may have been termed as overly cautious. Ireland as a federal official with the power of the Edmunds Act made his contribution toward defeating the ecclesiastical power of the Mormon Church.

Frank H. Dyer

Frank H. Dyer was appointed U.S. marshal on May 28, 1886, and took over his duties on June 16, 1886. Mr. Dyer was born in Yazoo County, Mississippi, on September 5, 1854. In 1874 Frank purchased the Yazoo County Democrat, a local newspaper which was a financial failure,

⁴⁰Deseret Evening News. May 27, 1898.

⁴¹A List of Marshals of Utah Territory.
but it gave him good experience and an education that he otherwise would not have had. Then he sold his paper and moved to Utah. When he arrived in the territory he had very little money and soon went to work in the mines at Bingham. For months he worked at a windlass in drawing precious metals from a shaft one-hundred and twenty-five feet deep. Dyer, tired of working for others, began prospecting for himself, and later sold his mine for enough money to purchase and engage in the livery stable business. To supplement the income from the livery stable Dyer bought and sold coal. 42

On July 8, 1882, Dyer married Miss Eliza Pavey. In the spring of 1883 he sold his livery stable in Bingham and went to Park City to open a freighting business. He obtained a contract for hauling ores from the Crescent Mine. Other miners lost money at the rate of $1.75 per ton, but Dyer made great profit in hauling for $1.50 per ton. He built the Crescent Tramway which extended for five miles and was operated by mule power. Later Dyer went back East and purchased a side gear traction locomotive to power the tramway. 43

Dyer was a very successful businessman and it would be interesting to know what induced him to accept the appointment of U.S. marshal. Surely he could have made more money by operating his own business. He may have felt the appointment would give him more prestige. Marshal Dyer must have known of the criticism and problems he would face. Just what induced him to accept

42 Deseret Evening News, March 26, 1892.

43 Deseret Evening News, March 26, 1892.
the position is not as important as the fact that he did accept and become a prominent figure in Utah history. Marshal Dyer’s term of office was to become an important, active and influential term. He made more convictions for polygamy than any previous marshal. In comparison Marshal Ireland made about one-hundred and forty-five convictions for polygamy during his four year term of office. Marshal Dyer on the other hand was to have nine hundred convictions in a three year period.  

That Marshal Dyer was busy there is no doubt. He did not waste time in making arrests; for from the time he took office in June until August,fifty indictments were returned by the Grand Jury for violation of the Edmunds Act. The crusade continued. There had been little violence between the Mormons and the federal officials because the Mormons had chosen to go underground rather than resist.

The Dalton killing

The 1886 crusade culminated with the killing of Edward M. Dalton, a polygamist, by Deputy U. S. Marshal William Thompson. The killing took place on December 16, 1886, at Parowan, Iron County, in southern Utah. Early in the spring of 1885 Dalton had been indicted for unlawful cohabitation, but escaped from the arresting officer and went to Arizona where he spent several months. On December 10, 1886, Dalton returned to Parowan to care for his family. Deputy marshals Thompson and Orton, while at Beaver, learned of his arrival

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44Deseret News Weekly, March 30, 1889.

45Whitney, III, 518.
and made preparations for Dalton's arrest. The two deputies reached Beaver on the night of December 15th. They went to the home of Daniel Page, an apostate Mormon, who assisted them in taking Dalton.

The shooting occurred in the forenoon of December 16th while Dalton and others were driving a herd of cattle down the street. Thompson and Orton ran out the back door of the Page home and waited for Dalton. As he passed, they claimed, they gave the order to halt two or three times, then Thompson shot Dalton in the back with a Winchester rifle. Dalton fell forward on his horse and then to the ground. Three quarters of an hour later Dalton died of the bullet wound. 46

There was much excitement in the small Mormon community of Parowan over the shooting. Although there was some talk of lynching Thompson, nothing happened. Sheriff Adams arrested Thompson and Orton and had them taken to the seat of the second district court at Beaver.

William Thompson had sent a telegram to Marshal Dyer informing him of the shooting. When Dyer heard about the incident he was horrified and immediately dismissed Thompson and sent Arthur Pratt to Beaver to take charge. Thompson’s case was heard on January 6, 1887. The trial jury was selected by open venire, mainly from the surrounding mining camps. All were non-Mormon. After two days of deliberation the jury found Thompson "not guilty." Marshal Dyer then recommissioned Thompson, and he resumed his old position. 47

46 Deseret Evening News, December 16, 1886.

47 Whitney, III, 536-37.
The Edmunds-Tucker Act

Those opposed to Mormonism and its beliefs had hoped for even more severe and sweeping legislation than had been embodied in the Edmunds Act. They felt they needed more power to defeat the Mormon Church. More sweeping legislation came with the passage of the Edmunds-Tucker Act which became law on March 3, 1887. Its provisions made polygamy a continuous offense under the title of unlawful cohabitation. It retained the Utah Commission, abolished woman suffrage in Utah Territory, abolished the Perpetual Emigrating Fund Company, established a test oath for voters and dissolved the Mormon Church as a corporation. To some people, even certain members of Congress, the Edmunds-Tucker Act had gone beyond the Constitution, but to those who wished to see the Mormons defeated, the law was not severe enough.

Escheatment

During 1887, acting under the Edmunds-Tucker Act, the federal officials struck at the church. Prior to this time much of the church property had been placed in the hands of individuals, in trust, to protect it against such confiscations. The marshal now had the task of ascertaining what properties there were and providing for their escheatment to the United States. Properties were found. A law suit was filed on July 30, 1887, in the case of the United States of America v. the Late Corporation of the Church of Jesus Christ of Latter-day Saints. The hearing was set for Monday, October 17, 1887, with Marshal Dyer as receiver of the escheated property. His court ordered him to collect and get in all the outstanding debts and monies due to, and personal property of, the late Church corporation, and take
possession of, manage, control and collect the rents, issues and profits from the real estate thereof. The defendants were ordered to deliver up to the receiver all the assets, property and effects of every description belonging to the said corporation. The Receiver was given power to commence suits with the special permission of the court. 48

On October 18th the marshal took possession of the tithing office from Bishop John Winder. Dyer then took the Gardo House and the historian's office and demanded possession of all books, records and papers at the president's office. Next Dyer took possession of the Temple Block property. The tithing office, Gardo House and historian's office were used by the church but were charged a rental fee by Marshal Dyer. For use of the tithing office and historian's office a yearly rental of $2,400 was paid. For use of the Gardo House the church paid as much as $450 per month. 49

On November 23rd Marshal Dyer, Attorney Williams, and Deputy Marshal Arthur Pratt entered the president's office and demanded all records, notes, stocks, money and anything else belonging to the church. Defense Attorney LeGrand Young entered the office and told the marshal they would not surrender the books or other property and the man left. However, in the afternoon they returned and took possession of the premises. All of the church clerks were dismissed and two deputies were left to guard the office, and on the 7th of December Marshal Dyer carried off the books of the president's office. 50

48 Whitney, III, 359.

49 Whitney, III, 601.

50 Whitney, III, 603.
Marshal Dyer had been quite successful in his confiscation of church property. As of July 9, 1888 the total value of the escheated property amounted to $790,666.15. Dyer then went to Washington with U.S. Attorney Peters to have the escheatment of the property ratified by the Attorney General.51

On October 13, 1889, a hearing was held to determine how much the receiver and his attorneys should receive in compensation for their services. John Groesbeck felt five per cent or $40,000 was a fair figure. Dyer felt he should have $25,000 for himself and his two attorneys felt they should have $10,000 each. Ex-Chief Justice Zane, attorney for the school trustees of Salt Lake City who thought the escheated property should go to the schools, appeared at court, charging Marshal Dyer with fraud, misconduct and corruption. The inquiry into Marshal Dyer's conduct went to the territorial Supreme Court where it ordered an investigation and found Dyer not guilty of charges placed upon him. On March 2, 1889, the court awarded Dyer $10,000 for services rendered as receiver and the two attorneys were each given $5,000. The escheated property was returned to the church on January 10, 1894. However, it was not until after the admission of Utah to statehood in 1896 that the real estate was returned to the Mormon Church.52

Penitentiary

During the 1880's considerable changes took place at the penitentiary. In 1884 it was likened to a mere corral. Conditions were crowded and eating facilities

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51Whitney, III, 606.

52Arrington, Great Basin Kingdom, 378-79.
were inadequate. Marshal Dyer had done much to obtain new facilities for the territory, and on July 31, 1888, the keys to the remodeled prison were handed over to the marshal. 53

Scipio raid

The hunt for polygamists continued through Dyer's term of office. He was very zealous in carrying out the Edmunds and Edmunds-Tucker acts. One instance may illustrate. A raid by some of his deputies occurred in the quiet little village of Scipio, in Millard County. The deputies posed as Presbyterian ministers, arrested one citizen on the street and kept him as a guide to ferret out the parties wanted. One young man who was supposedly friendly to the deputies warned some of the inhabitants. Another person who discovered the identity of the deputies and informed the inhabitants was shot at by the deputies. The deputies were quite unsuccessful, but the action brought criticism upon the marshal. The Deseret News claimed it was an infraction of the law and the marshal should investigate the matter. 54 There are numerous accounts of raids and searches for polygamists. Some of the people were abused by brutal and inconsiderate deputies. Deputies were blamed for the death of a woman in West Jordan. 55 There was scheming by the Mormons to avoid the marshals, and the marshals thought up many schemes and devices that would


54 Deseret Evening News, February 14, 1889.

55 Whitney, III, 493.
aid in the capture of polygamists. They are so numerous that it would be im-
possible to include within this paper. Suffice it to say that there was a great man-
hunt during the 1880s, a type of cat and mouse game in which the federal officials
were the winners.

**Dyer’s resignation**

The year 1889 was a busy and trying time for Marshal Dyer. He had tried
to execute his duties the best he could, but had received considerable criticism,
which came not only from Mormons but from anti-Mormons as well. The
pressures and burdens of the marshal’s office were more than Dyer wished to
bear, and at the beginning of 1889 he handed in his resignation. He said,

> For the last two months partisans, opposed to me politically, have filled the air of Utah with imputations upon my official conduct, and aspersions of my character and motives. A desire for finding a pretext for removing me from office, or ‘to justify asking for my removal, has alone, I believe caused these attacks. As a sense of propriety and duty has decided me to voluntarily vacate the office. . .

By the end of Dyer’s term, the marshal’s office had become quite a power-
ful, yet burdensome position. At the time of his duties and obligations in con-
nection with marshalship, he stated that the U.S. marshal not only had to
perform the same duties as marshals elsewhere, but he was also ministerial
officer with power to serve processes in all the courts in territorial business,
both civil and criminal. He was authorized to make arrests without com-
plaint or warrant, and authority in searches and seizures was given in the same
manner. He could arrest witnesses without attachments, writs or processes

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56 *Deseret News Weekly*, March 30, 1889.
and could sit as a committing magistrate. The marshal could hold to bail persons or witnesses arrested. He, in addition, had to exercise many laws and powers with grave responsibilities. The U.S. marshal was a police officer, a detective, a judge, a jailor of criminals before conviction, then warden and keeper after conviction; the officer who executes the sentence of the court, serves processes in civil cases and selects often the juries for all the courts of general jurisdiction.57

The marshal, weary from criticism and duties and burdens of the office, resigned his position. Dyer remained in Utah and was an influential man. He expended effort in trying to obtain passage of the "Home Rule Bill" and went to Washington for that purpose.58 When Utah made another petition for statehood, Dyer felt that it would be a mistake. Instead he felt the Home Rule Bill would serve Utah much better. It would give Utah a chance to prove to the skeptics of the East that the people of Utah were law-abiding citizens capable of self government.59

Frank H. Dyer was an efficient and successful businessman. He was president of the Salt Lake Gas Company, president of a power company and a stockholder in many thriving businesses in Salt Lake City.60

Death of Dyer

Marshall Dyer died suddenly on March 26, 1892. Shortly after his return trip from Washington, D.C., to encourage the passage of the Home Rule Bill,

57Deseret News Weekly, March 30, 1889.
58Deseret Evening News, March 26, 1892.
59Deseret Evening News, January 22, 1892.
60Deseret Evening News, March 26, 1892.
the marshal was struck with an attack of peritonitis. His doctor told him it would be necessary to have an operation which would be extremely dangerous but that he would die without it. He and his wife consented to the operation. Dyer called in his legal advisors and told them how to dispose of his property in case of his death. He remained cheerful and talkative while the papers were prepared. He underwent the operation. As soon as the doctors made the incision they told his wife that he could not recover. He passed away quietly at 7.00 p.m. 61

Marshal Dyer's term of office was more onerous and burdensome than any previous term, and during his term the marshal's office reached its peak in power. With the passage of the Edmunds-Tucker Act the marshal was clothed with enough power to bring about the defeat of the Mormons. Dyer seems to have been sincere and honest in all of his dealings. He did not harbor a hatred for the Mormons. Rather he felt quite highly of them. In a news article he stated

However wrong and mistaken the Mormon people may be, and in my opinion they are, they are a law abiding people, except as to such as affect their peculiar religious convictions. 62

Marshal Dyer worked for what he thought was the betterment of Utah. He believed in the cause he was confronted with and performed his duties with sincerity. When criticism and charges of corruption came, the marshal decided to give up the office and retired to a peaceful life. Although he had

61 Deseret Evening News, March 26, 1892.
62 "Journal History," March 9, 1889.
only been in office for a short time, he left his mark upon Utah history.

**Summary**

After the passage of the Edmunds Act the anti-Mormon crusade was greatly accelerated. The law gave the federal officials a means whereby they could prosecute the Mormons for the practice of polygamy. Marshal Ireland was active in prosecuting polygamists under authority of that act. Among the noted arrests were those of George Q. Cannon and Lorenzo Snow.

During the intensive part of the crusade Marshal Ireland's term of office expired, and Frank N. Dyer was appointed to the position. Under Dyer's term of office the Edmunds-Tucker Act was passed, and the crusade reached its peak as did the power and influence of the marshal's office. The federal officials had finally become successful in defeating the political power of the Mormon Church.
CHAPTER VIII

THE CAPITULATION AND AFTER

The passage of the Edmunds and Edmunds-Tucker Acts had seriously weakened the position of the Mormons in the territory. All polygamists had been forced to go into hiding or face arrest by the U. S. marshal and his deputies. The burden became more than the Mormon people could bear and Mormon President Wilford Woodruff issued the Manifesto surrendering the practice of polygamy bringing the capitulation of the Mormon Church to federal terms.

Elias H. Parsons

Elias H. Parsons, was appointed on July 12, 1889. Parsons was born December 15, 1842, in Chesterfield, Massachusetts. He went to Ohio as a young man where he served throughout the Civil War with the 46th Ohio Volunteer Infantry. During the war he was commissioned captain, and after the war was transferred to the regular Army in Dakota Territory where he remained until he came to Utah. In 1865 he married Miss Giesy at Newark, Ohio. They had five children born to them.

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1 Executive Office for U. S. Marshals, List of Marshals, see Appendix III.

After his arrival in Utah he erected the first smelter in Tintic District. He followed smelting and stock raising until he was appointed marshal by President Harrison. Parsons' term of office was not devoted as much to the intense hunting of "cohabs" as the two previous terms of Dyer and Ireland had been. Instead, 1889 and 1890 saw more of a political struggle in Utah between the Peoples' Party and the Liberals.

Church Capitulation

With all of the pressures and inconveniences caused the Mormons by the practice of polygamy it was decided that the religious practice should be given up. On September 24, 1890, Mormon President Wilford Woodruff issued the famous Manifesto surrendering the practice of polygamy. With the surrender of polygamy the man hunt ended but the political struggle continued.

Opposition to Parsons

Several charges were waged against Marshal Parsons during his term of office. It seems that Parsons spent most of his time either filing suits or being filed against. Probably the most severe charges were by the anti-Mormon Tribune. Parsons was a non-Mormon, but his appointment as marshal was opposed by the Tribune. The Tribune had warned the President

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that Parsons would dishonor him and the administration. They believed he was a "thoroughly corrupt man, a hypocrite and a moral leper." The Tribune also charged him with being dishonest in office, a common liar and slanderer. As will be seen later the Tribune made every attempt to see that their charges proved to be true.

Saloon raids

One Sunday in November Marshal Parsons and several deputies made a raid on a number of saloons in Salt Lake City, resulting in about seven arrests. For sometime the offenders had been violating the law which prohibited selling or giving liquor on Sunday. Parsons had planned to stop it, but had waited for the opportune time. The arrested saloonists had to appear before Commissioner Pratt. They pleaded guilty and were fined $50.00 each. The Deseret News claimed that the arrests stirred up the Liberals of the city, showing that they were not in control. The Tribune condemned Parsons for his actions stating that it was a political move.

A slanderous charge

Perhaps Parsons' raid on the saloons started the beginning of an effort on the part of the Liberals to remove Parsons from office, for a

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4 "Journal History," December 5, 1891.
5 Deseret Evening News, November 16, 1891.
6 Deseret Evening News, November 17, 1891.
scandalous incident was charged against the marshal. The *Salt Lake Tribune* charged Parsons with making "amorous and lascivious advances" to one Anna Prindle, a prisoner in his custody. It was further charged that he made lewd solicitations, and was guilty of such conduct that would be considered assault and battery. The *Tribune* charged that his actions toward Prindle occurred both inside and outside the prison walls. The same charges of misconduct were charged against him with another prisoner, Maggie Faulkner.  

Parsons was tried for the charges against him. The first witness was Miss Prindle. She was from Minnesota, age 24, and a nurse. She had come to Utah in 1890 and was imprisoned on charges of assault with a deadly weapon. On the day of sentencing she was introduced to Marshal Parsons. She claimed the marshal said he would take care of her, and at the prison he took liberties which she considered improper. On several occasions he would kiss and embrace her. She accused him of exposing himself and of abusing her while she was ill.  

Parsons denied the charges and other witnesses testified against him. The whole affair had a devasting effect upon the marshal. The trial dragged on toward the end of December. Mr. Stutesman, a special examiner

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7 *Deseret Evening News*, December 5, 1891.

8 *Deseret Evening News*, December 8, 1891.
from the Department of Justice, was present at the trial and expressed the opinion that the whole affair was a conspiracy to have Parsons removed from office. A second trial was brought about by Attorney General Miller who wanted the facts and charges thoroughly examined. He felt it would be better for the department if he was not guilty under a second trial. Therefore, the marshal stood trial a second time and charges against him were dropped. 9

Gambling charges

The year 1892 brought more charges against the marshal. Parsons spent much of his time defending himself. In January he was on trial in the case of the People versus E. H. Parsons. Parsons was indicted by the Grand Jury of the third district court as the owner of certain premises in which gaming transactions had been carried on. The marshal pleaded not guilty. 10

Parsons was part owner of a certain building in Plum Alley which permitted gaming for money, credit, checks or other means of value. The game most often played was called "Tan." 11 The gaming house had been leased by Parsons to a group of Chinese for gambling purposes. When J.

9 Deseret News Weekly, December 31, 1891.

10 Deseret Evening News, January 9, 1892.

11 Deseret Evening News, March 7, 1892.
B. O'Reilly, a member of the police force, was called to the stand he said that he and three other officials had entered the gaming house dressed as Chinese. They found the gambling devices and $3.90 lying on the table, and arrested sixteen Chinese for gambling. O'Reilly admitted at the trial that they had made the raid in retaliation for the raids Marshal Parsons had made on other gambling houses.  

One of the leasees of the gambling house was AhWoo, a Chinese cook in the private home of Parsons. The place was often referred to as "The Marshal's Chinese Den." Ex-Marshals Dyer was also involved in the venture. Dyer, Parsons and others had interests on Commerical Street where many Chinese lived, and Frank H. Dyer was appointed to receive payments on all leased property. The arrangements were that each of the five men, Dyer, E. H Parsons, M. K. Parsons, Millspough and Critchlow would each receive one-fifth of the rental money.  

When all of the evidence and testimonies were heard in court, Marshal Parsons was found not guilty.  

Pratt sues Parsons  

On March 7, another charge was made against Parsons. Deputy Marshal Arthur Pratt charged that Parsons owed him $1,437.95 plus interest.
for two years. The deputy said that in 1889 he was in charge of the first judicial district at Ogden. He and Parsons had made a contract to the effect that Pratt should receive 60 percent of the net earnings and Parsons was to get 40 percent. The marshal said the account was incorrect and there was not due him any such claim. 15 The charges amounted to nothing. Whether or not the charges were true is hard to judge. It may have been part of a conspiracy to have Parsons removed from office. Even if the charges were not true the effect was about the same. His entire term of office was blotted with some type of legal controversy.

Law suit with the Tribune

On July 26 Marshal Parsons arrested C. C. Goodwin, the editor of the Salt Lake Tribune, and William Nelson, former marshal and then working for the Tribune, on charges of criminal libel. The complaint was based on the alleged reflections arising out of the McErlain Case. 16 The controversy continued. On August 9, Marshal Parsons filed another suit for libel against Goodwin and Nelson. He claimed that on July 24th the men printed false and malicious defamatory material against him. He was charged with many crimes and misdemeanors including crimes against society, nature and religion. Nelson and Goodwin filed a counter suit demanding $25,000

15 Deseret Evening News, March 7, 1892.
16 Deseret Evening News, July 26, 1892.
damages. Parsons claimed damages of $150,000. The libel suit continued between the men with charges and counter charges until the time Marshal Parsons gave up his position as marshal, after which the controversy was dropped. The *Salt Lake Tribune* termed the controversy "one of the most sensational legal controversies ever waged in the West."  

**Forced resignation**

The many law suits against the marshal could not be tolerated by the Justice Department. If the charges were true then he must be removed. If the charges were not true than such a controversial person could not be maintained in the marshal's office. In a letter from Attorney General Miller, Parsons was asked to resign from the office of U. S. marshal. The marshal accordingly handed in his resignation.

**A fire**

After his term of office Parsons remained in Utah for a short time. In December of 1892 fire destroyed Parson's barn. A two story frame barn on Second South between Fifth and Sixth East that belonged to Henry Cohn, a wool merchant, caught fire. Parson's barn adjoining it, caught fire also.

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17. *Deseret Evening News*, August 9, 1892.
A stableman was in each of the barns, but no one seemed to know what caused the fire. Parsons lost a great deal of equipment such as buggies, saddles and harnesses. 20

**Parsons leaves Utah**

Parsons remained in Utah until the outbreak of the Spanish American War. Then he went to Washington, D. C., with an appointment in the Quartermaster's Department. After his appointment in that department he was made Commissary Officer at the Soldier's Home in Sawtelle, California. He held that position until 1902, after which he resigned and retired. He made his home in Pasadena, California, where he died on January 28, 1920, at the age of seventy-seven. 21

Marshal Parson's term of office was somewhat different from those immediately proceeding him. The Woodruff Manifesto had stopped the hunting of polygamists and the marshal's efforts were turned to more common domestic problems. During most of his term of office he was involved in some type of legal controversy which eventually brought about his forced resignation. If the charges against Parsons were true, then perhaps he deserved the treatment he received. If the charges were false, then a great injustice was done to the marshal. The evidence reviewed is not sufficient

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20 *Deseret Evening News*, December 8, 1892.

21 *Salt Lake Tribune*, January 29, 1920
to prove whether or not the charges against Parsons were justified. Suffice it to say that Marshal Parsons was there. He tried to do his job but was thwarted by rabid opposition.

Irving A. Benton

Irving A. Benton was born in New Haven, Connecticut, in 1848. Benton began his career with the railroad in the 1870s at Fremont, Nebraska, with the Union Pacific Railroad, and became known as one of the best known railroad men in the West. In 1880 he came to Utah for his health and was made ticket agent at Ogden for the Union Pacific. Shortly afterwards he moved to Salt Lake where he served as postmaster during McKinley's first term. He served two years as postmaster, then on September 23, 1892, he was made United States marshal to replace Elias H. Parsons. 22

Benton was very well thought of by his co-workers at the post office. He informed them he was accepting the appointment of marshal. As a surprise to him the employees held a brief meeting in which they presented him with a handsome ivory-handled pistol mounted in gold and silver with an inscription that read "presented to I. A. Benton, U. S. marshal, by the employees of Salt Lake Post Office, November 30, 1892." Benton expressed his love and concern for his co-workers.

22Salt Lake Tribune, June 10, 1918.

23Deseret Evening News, December 1, 1892.
Information regarding Benton in the marshal's office is practically non-existent in local sources. He only served in the capacity of marshal for a short time, which probably explains why there is no information available. He was appointed on September 23, 1892, and was removed on December 13 of the same year. Information as to why he was removed was not available. After his removal from office he remained in Utah. On July 3, 1893, the directors of the Chamber of Commerce met and elected Mr. Benton as secretary of the Chamber of Commerce. On July 5th he officially entered upon his duties of that organization.

In August of the same year Benton resigned his position as secretary and went to work for the Rio Grande Western Railway as city ticket agent. He was advanced to general agent of the passenger department until he retired in 1915.

Benton died at the L.D.S. Hospital at Salt Lake City, on June 10, 1918, at age 70. He had undergone an operation and failed to recover. He was survived by Sadie Benton, his wife who resided at 28 Bransford Apartments, and two brothers and two sisters. Benton's term as marshal was neither significant nor influential because he only served in that position for

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24 Executive Office for U. S. Marshals, List of Marshals.


26 Salt Lake Tribune, June 10, 1918.
such a short time, but he must be included in the list of U. S. marshals for the territory. 27

Nat Maynard Brigham

Nat Maynard Brigham, the sixteenth and last marshal to be appointed to Utah Territory was born in Wheaton, Illinois. A college graduate, Brigham had been employed by a number of Western railroads as a lecturer, and at one time he was a promoter of the Grand Canyon area. Arriving in Utah at an early age he married a girl in Salt Lake City, Luella VanCott Young. Brigham was an excellent singer and traveled widely making performances. Brigham made one such trip to Europe, returning to Salt Lake on May 2, 1892. 28

Appointment

On May 8, 1893 President Cleveland appointed Nat M. Brigham United States marshal for Utah Territory. 29 Brigham accepted the position, and on May 16th he wrote to Marshal Benton from the University Club at Washington, D. C., desiring information about the office. 30

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27 Salt Lake Tribune, June 10, 1918.
28 "Journal History," May 2, 1893.
29 "Journal History," May 8, 1893.
30 Deseret Evening News, May 16, 1893.
He took office in June of 1893, and by July 1st was busy with official duties. He made a trip to the penitentiary to assume control, and he expressed how well Benton had kept things in order. Other duties of the day included the appointment of J. H. McGary as chief deputy at Beaver and Thomas Low assistant. On July 25, Brigham had an "at home" in his office. A great number of his friends called upon him. He expected to appoint the remainder of his deputies within a few days which probably accounts for the visits to his office.

A law suit

The new marshal became involved in a minor law suit in August of 1893. One Isaac L. Randal filed suit against Marshal Brigham and Deputy Exum for $30,000 damages and the recovery of $750 worth of goods that had been confiscated by the two officials. When the marshal confiscated the goods he thought they belonged to the Ashley Brothers, but Randal claimed the Ashley Brothers had lost the property in certain business transactions and he was the rightful owner. Most of the property was returned to Randal.

31 Deseret Evening News, July 3, 1893.
32 "Journal History," July 26, 1893.
33 Deseret Evening News, August 5, 1893.
Execution of Enoch Davis

There is very little information in regard to Brigham's official duties. It is probably due to the calm conditions in Utah during the marshal's term of office when compared to the activities of the 1880s. Perhaps the most significant act of his term was the execution of Enoch Davis.

Enoch Davis and his wife had been married for twenty years, and she had borne him nine children. They lived in a small one-room home in Ashley, Uintah County, Utah. Their marriage had not been very happy, and they argued much of the time. She had written her sister stating that she felt her life was in danger. On May 22, 1892, the Davises had a serious argument, and in the middle of the night Mrs. Davis fled to Sheriff Pope for protection. On June 5, another quarrel took place that so enraged Enoch that he killed his wife while she was lying in bed. He struck her twice on the side of the head with his revolver, each blow crushing the skull. He quietly took her outside and buried her in an old potato hole near the home and hid her night clothes in an old barrel.

That morning Enoch told his children their mother had gotten up mad during the night and had gone away. During the course of the day he told his second son that his mother had taken poison and died and that she had requested he bury her three miles away in a field. Then Enoch cautioned the boy to keep it a secret, or the law might accuse him of murder. However, the boy soon left and told his brother and an officer what had happened. When Davis
discovered his son was gone he fled on horseback. He was captured the next day thirty miles from Vernal, Utah, on an Indian reservation.  

Davis was taken to Provo to stand trial where he was convicted of murder and sentenced to be shot. Davis appealed to the governor for a pardon from execution, but the governor felt it his duty to have the man executed. Marshal Brigham conveyed the news to Davis telling him he was condemned to die the next day. Davis then made a request for a lot of good whiskey to help him through the night. The marshal made sure his request was granted.

Marshal Brigham and other officials told the public that Davis would be taken to Dry Hollow, north of Lehi, by train. In order to avoid a crowd at the execution, Davis was taken much earlier in a closed carriage to the place of execution. However, the citizens kept a close watch and knew when the marshal left. When the carriage arrived at Dry Hollow, the place of execution, Davis’s sons requested a few moments with him. Archie, his younger son, was taking it hard. Davis was then placed in a chair back of a tent which concealed the executioners. He requested something to eat and a drink of whiskey before being shot. His request was granted.

34 Deseret Evening News, August 21, 1894.
35 Deseret Evening News, September 12, 1894.
36 Deseret Evening News, September 13, 1894.
asked Marshal Brigham not to put a cap over his face. "I want to look straight at that tent in which those cowards are hidden who are going to shoot me down like a dog." His request was granted. A piece of white paper with a blue circle about an inch and one half in diameter was pinned over the convict's heart. The blue spot intended to mark the target made Davis so nervous when he looked at it his eyes had to be covered. The order was given to shoot, and six rifles belched fire, each one hitting its mark. Archie, his younger son, witnessed the execution from under a clump of oak brush where he wept profusely. The brothers and older sons of Davis refused to take the body and Marshal Brigham had the responsibility of burying him in the convict's cemetery. Although the marshal had opposed the execution, he dutifully carried it out.

Actor and singer

Marshal Brigham was involved in play acting and singing during his term as marshal. On March 11, 1894, he participated in the Salt Lake Theatre production "The Life of Napoleon." The attendance at the theatre was so large that it was necessary to open the second balcony. Marshal Brigham sang "O Happy Day" and "The Linden Tree." The Deseret News described the songs as beautifully sung. ""Watching and Waiting" was touchingly and sympathetically given by Nat Brigham and Mrs. Jenney Hawley Woodrow.

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"Deseret Evening News, September 14, 1894."
who were enthusiastically called upon for an encore. Marshal Brigham must have had a beautiful voice for singing and speaking as he was often called upon to do both.

Mr. Brigham interested himself in local affairs, and on June 23, 1894, he accompanied several of the city officials on a trip to the Saltair Resort. Nat was also a member of the First Unitarian Society of Salt Lake, and for a short time he was director and president of that organization. In addition, he was the leader of the Organization of the Utah Society of the Sons of the American Revolution.

Toward the close of Brigham's first term many felt that political and ecclesiastical events were such in Utah that they should be admitted to the Union. Congress saw fit to permit Utah to join the Union, and on January 4, 1896, Utah was given statehood. Nat M. Brigham was appointed the first United States marshal of the new state by President Cleveland.

A speech on the Grand Canyon

In December of 1900 Brigham made a speech at the Assembly Hall on the beauties of the Grand Canyon. He spoke to a crowd of four or five

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38 Deseret Evening News, March 12, 1894.


40 "Record Books of the First Unitarian Society of Salt Lake City," September 1, 1895. (Located at Utah Historical Society.)

41 Deseret Evening News, August 9, 1915.
hundred. The speech was so eloquently done that the Deseret News stated that if the audience had been asked to judge which was the most enjoyable, his singing or his speaking, he would have found his singing in jeopardy. "Time and again his auditors burst beyond restraint and applauded his efforts." By word and picture he presented a panoramic view of the Grand Canyon. After enthraling the audience with his professional oratory, he said he did not make a habit of singing after lectures, but with a Salt Lake audience it was different. It was something special to him. He delighted his audience with three beautiful songs. He sang "The Danube River," "Daddy," and "Bendemere's Stream." Brigham was praised for his efforts of the evening.

After his term as marshal of the new state he returned to Wheaton, DuPage County, Illinois, where he traveled as a lecturer with the Santa Fe Railroad. He was witty, had a good sense of humor, and loved to play jokes on others. A personal acquaintance of his described him as being "a very distinguished, tall handsome man with a mustache and goatee."

Nat M. Brigham died at Hamilton, Oregon, on August 9, 1915.

Brigham, like Parsons and Burton, was not as significant as some of the other marshals had been. However, Nat M. Brigham did try to do his

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42 Deseret Evening News, December 18, 1900.

job as best he could. He performed many disagreeable tasks and did so without offending others. He was a good orator and singer and was liked by most people. His name has been a credit to the U. S. marshals of Utah Territory.

Summary

The Woodruff Manifesto surrendering the practice of polygamy brought the anti-Mormon crusade to an end. After the capitulation of the church the marshal's office declined in power and influence. Those marshals serving from 1890 to 1896 were insignificant when compared to those from 1874 to 1890. However, their contributions were many and they helped to make a better Utah.
CONCLUSION

The role of the United States marshal in Utah Territory is an important part of the state's history. Sixteen U. S. marshals served in the territory making their contributions to the history of Utah. The marshal's office was a position which often required long hours and low pay with little recognition. It was an extremely controversial position, especially in Utah. Regardless of the efficiency and devotion of the office the marshal always received criticism from either the Mormons or non-Mormons and often both. Confrontations and differences of opinion usually involved Mormons since most of the marshals were non-Mormons.

During the early period of the territory, the marshal's office was an insignificant position. The early marshals had very little support from the federal government and often laws were passed that deterred them. Frequently superiors gave them orders that conflicted with their ideas of what was best for the territory. Another factor limiting the U. S. marshal's power was the territorial marshal, who did most of the work that should have been done by the United States marshal. However, the federal officials in Utah Territory continually urged the passage of laws that would enable them to defeat Mormon power and bring about federal supremacy. The result was a long and bitter controversy fought through the courts.
By 1870 the federal officials were well on their way to attaining supremacy in Utah. The territorial marshal and attorney had been abolished by the federal judges, and the territorial laws and courts had been ignored. A blow came to the progress of federal authority when the U. S. Supreme Court overruled the lower courts in the Englebrecht case, giving much of the power back to the territory, and reinstated the territorial marshal and attorney.

In August of 1871, United States Marshal Patrick took control of the U.S. territorial prison thus giving federal officials more control. In June of 1874 the power struggle culminated with the passage of the Poland Act which abolished the office of territorial marshal and attorney and limited the jurisdiction of the probate courts.

After the passage of the Poland Act, the United States marshal became more powerful and had many more duties placed upon his shoulders. However, the act was not sufficient to prosecute the Mormons, and many federal officials urged more and stronger legislation. Anti-Mormons were elated when the passage of the Edmunds Act came, which gave the marshals even more power to cope with the Mormon question.

Shortly after the passage of the Edmunds Act the "crusades" to arrest polygamists got underway, and with the coming of Judge Charles S. Zane went into full swing. The great man hunt began, and many Mormons went into hiding to avoid arrest and imprisonment. Deputies and informers
were paid to ferret out the Mormons, often with no regard for constitutional rights. Still the anti-Mormons were not satisfied with the laws, and on March 23, 1887, they were given the Edmunds-Tucker Act. The act brought the power and influence of the marshal's office to its peak and eventually the capitulation of the Mormon Church.

After the capitulation of the church, the marshal's office seemed to decline in power and importance. With the man hunt stopped, there was no longer any need for an army of deputies and paid assistants. Instead, the marshals became more involved in political and other local affairs. With the capitulation of the church there was relative calm, and eventually statehood was achieved in 1896.
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APPENDIXES
Appendix I

Instructions and Forms

adopted by

Secretary of the Interior

June 1, 1857

Department of the Interior
Washington, June 1, 1857

Sir:

To enable United States Marshals in the respective States and Territories the more readily to comprehend their duties, and also to avoid the labor and delay necessary consequent upon correspondence in individual cases, I have adopted the instructions and forms hereto appended for their guidance and government upon the subjects therein appended, and invite their special attention thereto.

The instructions are so full and specific upon the subjects treated of, that it is hoped Marshals will be enabled to comprehend and perform the duties thereby, and by the law, imposed upon them, without further directions.

Marshals are requested, in every case, to acknowledge their receipt by the first mail after they shall have come to hand, at the same time communicating to the Department the names and residences of each
clerk of the United States courts in their respective districts; and if in the
distant States or Territories, a Marshal shall have forwarded his emolument
return for the present half-year, or any part thereof, in the old form, he
will immediately restate his return in conformity with the new form, and for-
ward the same to this Department without delay.

I am, Sir, very respectfully,
Your obedient servant,
Secretary

To
U. S. Marshal

INSTRUCTIONS AND FORMS

A practice has grown into use with many of the United States Marshals, in mak-
ing requisitions for funds for the expenses of courts, to estimate therefor in
gross, or, if an attempt is made to estimate in detail, to close the estimate
with a considerable sum for "contingent expenses," so large indeed as to make
it evident that the greater portion of it must be used, if used at all, for expenses
which could have been anticipated, and therefore the particular objects for which
the same was required specified in detail. This practice is deemed both unneces-
sary and wrong. It leaves the Department in doubt as to the necessity for the
amount of funds called for, and often delays advances really required, and places
in the hands of the officer money for uncertain, unlimited, and general ex-
penses, which may not be needed.
It has therefore been deemed necessary to issue special instructions upon this subject; and, in view of the alarming increase of the expenses of the judiciary, to require that the Marshal shall, in all future requisitions for funds to meet the expenses of the courts, state fully and in detail the particular object for which they are needed, and the precise amount required for each, for what term of court, regular or special, the date thereof, and his opinion as to the probable duration of such term. In short, to require every anticipated expense to be stated by items, and the object of each given.

He will forward a separate estimate for each term of court, and request a remittance for the amount required; and the requisition will be no case include the estimate or any part thereof for any term except the one mentioned therein and for which the same is made.

At the close of the term, if the expenses shall have exceeded the former estimate, the Marshal will immediately notify the Department wherein there has been an excess, stating the items in detail, and request a remittance of the amount required to defray the same. And within ten days after the termination of each term of court, the Marshal will, in all cases, make up his accounts in the usual form required by the accounting officers of the Treasury, and immediately forward the same, together with proper vouchers for all expenditures made during such term, to the First Auditor of the Treasury, and also at the same time notify this Department that the same have been transmitted.
Requisitions based upon the proper estimate should, in all cases, be
forwarded a sufficient length of time anterior to the commencement of the term
therein named, to enable the Department to place the necessary funds in the
Marshal's hands at or before that time.

Upon receipt of such requisition at the Department, he same will
receive immediate attention; and if the Marshal's emolument returns are not
in arrears, if all the returns which are required by the law or regulations have
been made by him to the accounting offices of the Treasury, and the state of
his accounts at the Treasury do not preclude an advance, the amount required
will be promptly remitted.

The following is suggested as a brief and convenient form to an esti-
mate and request to meet the foregoing requirements:

(State of Territory, district
residence, and date)

Hon_________________ Secretary of the Interior

Sir:
The____ term of the____ court, to be holden at____ in this district, will com-
mence on the ____ day of____ next (or instant) at that place, and it is estimated
that it will continue____ days.

There will be needed to defray the expenses of the term the following
sums, viz:
For per diem of______ grand jurors ________ days at_______per day
each__________________.
For their travel__________________________________________
For per diem of________ petit jurors _________ days at____per day
each____________________
For their travel

For my own per diem in attending the term _______ days at _______ per day

For my travel

For per diem of crier and _______ baliffs _______ days at _______

For per day each

For travel and attendance of witnesses in United States cases

For the support of United States prisoners

For fuel

For stationary for the court

(And in this manner itemizing all the possible expenses of the term that can be anticipated)

Total estimate

Cash on hand, (if any expended)

Total amount required to be remitted

You will please cause a warrant to be issued in my favor for this latter sum (with which I am to be charged on the books of the Treasury Department), and direct that a draft on ______________________ for the amount be remitted to me at ___________

I am, sir,

__________________________

U.S. Marshal,
for the district of __________

The Marshal must expressly understand that hereafter the Department will insist upon a strict observance of the foregoing regulations; and that, if in making a request for funds they are not observed, no remittance will be made until
they have been complied with. Therefore, to avoid unnecessary correspondence with the Department, and delay in the remittance of funds actually needed, the Marshal's attention is specially invited thereto.

ACT OF MARCH 3, 1845. (Vol. 5, Stat. at Large, p. 764)

Sec. 3. And be it further enacted, That no part of any appropriation that may be made for the judicial expenses of the United States shall be paid or in any way allowed to any person or persons who has or have neglected, or who shall hereafter neglect to comply with all and every requirement contained in the one hundred and sixty-seventh paragraph of the first section of the twenty-ninth chapter of the laws of the United States, (vol. 5, pp. 483 and 484) entitled "An act making appropriations for the civil and diplomatic expenses of the government for the one thousand eight hundred and fifty-two," approved May eighteenth, one thousand eight hundred and fifty-two.

The paragraph referred to in the section above quoted is substantially embodied in the third section of the act of 26th February, 1853; and the above section is held to preclude the remittance of funds to any Marshal, for any purpose, while his emolument returns are or shall remain arrears.

EMOLUMENT RETURNS

The third section of the act of Congress, entitled "An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," approved by the president of the 26th of February, 1853, (vol. 10, U. S. Stat. at Large,
pp. 165 and 166,) requires that every marshal of the United States shall, upon
the first day of January and July in each year, make to the Secretary of the
Interior, in such forms as he shall prescribe, and under oath, a return in
writing embracing all the fees and emoluments of his office of every name
and character, distinguishing the fees and emoluments received or payable
for services by himself personally rendered from those received or payable
for services rendered by a deputy, and also distinguishing the fees and
emoluments so received or payable for services rendered by each deputy by
name, and the proportion of such fees and emoluments, which by the terms
of his service each deputy is to receive, and also embracing all his necessary
office expenses, together with vouchers for the payment of the same, for the
half-year ending on the said first day of January or July, as the case may be.
It is further provided by this section, that the Marshal shall, with each such
return made by him, pay into the Treasury of the United States, or deposit
to the credit of the Treasurer thereof, as may be directed by the Secretary
of the Interior, any surplus of the fees and emoluments of his office which
his half-yearly return so made as aforesaid shall show to exist over and
above the compensation and allowances therein authorized to be retained by
him.

The Marshal will carefully and critically examine the form for
emolument returns herewith, and on the 1st day of July next, and semi-annually
during his official term thereafter, on the 1st day of January and July, respect-
ively, make up his return in strict conformity thereto. He will, in the first place,
state all earnings of his office, both by himself and all his deputies, in gross, in the manner indicated by the foregoing form, entering the same under each appropriate head and distinguishing between those received and those not received.

The aggregate of those items, if properly stated, will show the gross earnings of his office.

The earnings of the Marshal and each deputy should then be stated separately, distinguishing, as in the preceding statement, between those received, and those not received, as indicated by the form.

First. Those earned by the Marshal.

Second. Those earned by each deputy by name.

These latter items should be added together, and if correct, the aggregate will agree precisely with that of the gross emoluments, and will be the sum primarily charged to the Marshal as the earnings of emoluments of his office, to be reduced only by reasonable payments to his deputies, and necessary and proper expenditures for office rent, furniture for same, clerk hire, and ordinary office expenses.

Marshals are entitled to retain of their emoluments earned, at and after the rate of $6,000 per annum for their own compensation, and if, after deducting the allowances hereinafter named, the return shall still show a surplus, it will be the duty of the Marshal to deposit the amount of such surplus with the nearest United States depositary, \( \text{sic} \) to the credit of the
Treasurer of the United States, and forward a certificate of such deposit with
his return.

In addition to his own compensation, at the rate of $6,000 per annum, the Marshal will be allowed to retain the sums which he has paid to either of
his deputies in full for the services or earnings of such deputy, not exceeding
in any one case three-fourths of the amount earned by him, unless that sum
should be deemed unreasonable, and also reasonable and necessary expendi-
tures for rent of an office, furniture for same, and for fuel, lights, and
stationery for his office. It will be his duty, however, to take, preserve,
specify in, and forward with his return, vouchers for all such items of
expenditure; and, to prevent any misconstruction, the return and the voucher
taken from each deputy must show precisely the allowance made to him by the
Marshal in full satisfaction for his services or earnings during the time for which
the return is made.

The amount of compensation which, by the terms of his service, each
deputy is to receive, must be settled and paid to him at or before the expiration
of each half-year.

It is proper also to state, that none of these expenditures are made
from the Treasury, and only out of the emoluments of the Marshal, to be charged
to the United States, when his emoluments shall exceed the maximum compensa-
tion allowed by law, which is now limited to $6,000 per annum; but the Mar-
shal will be as particular in all respects to take, preserve, specify, and
return the vouchers, whether the emoluments of his office do or do not exceed
the maximum.

In respect to all vouchers for expenditures on account of rent of
office, furniture for same, for clerk hire, and for fuel, lights and stationery,
the Marshal is further required to submit them to the District Judge for his
examination, and obtain his official certificate to the effect that the same
and each item named therein was absolutely necessary to the convenient
transaction of the business of his office, and that the sums paid therefore
were reasonable. Such certificate to be endorsed on the emolument return.

The Marshal is also required to state in each such semi-annual
return, whether he had or has not received any fees or emoluments which
had been previously returned by him as "not received," and, if any shall
have been received, to specify the amount, and the half-year of period dur-
ing which the same were earned.

When the return shall have been stated as herein before required,
the Marshal will verify the same by his oath of affirmation precisely in the
printed form. Should he affirm before, or the oath be administered by,
any officer other than a judge or clerk of the United States court, the official
c character of such officer, his authority to administer oaths and affirmations,
and the genuineness of his signature, is required to be certified by the clerk of
a court of record under the seal of such court, and such certificate to be
attached to and forwarded with the return.
The Marshal's first return will embrace the time commencing with the day of his entry upon the duties of his office, and extending to and including the day upon which that half-year terminates. So, when his term expires, or he is superseded, his last return will commence with the half-year, and end with the day upon which his official character shall have terminated.

The Marshal will, in no case, include in his regular return any fees or emoluments earned during any period of time other than the proper half-year or fraction thereof, as required by law.

Should a vacancy occur by the death of the Marshal, the deputy having charge of his office will be permitted to state and verify all emolument returns due from the deceased Marshal, but in all other cases the returns must be verified by the oath or affirmation of the Marshal himself, and to this end his accounts should be kept in such a manner as to enable him, without hesitation or delay, to complete his return and to verify the same.

**COURT ROOMS, OFFICES, FURNITURE, AND REPAIRS**

The proviso to the second section of the act of February 26, 1853, (vol 10 Stat. at Large, p. 165,) prohibits any United States Marshal from incurring any expenditure of more than twenty dollars in any one year for furniture, or fifty dollars for rent of buildings and making improvements thereon, without first submitting a statement and estimates to the Secretary of the Interior, and getting his instructions in the premises.
This provision limits the Marshal in his expenditure, in all his district, to the sum of fifty dollars for rent and repairs, and twenty dollars for furniture in any one year, unless the authority of the Department shall be first obtained by him for the expenditure of a greater sum; and unless such authority shall have been previously given, the Department will in no case approve expenditures made by a marshal for these purposes in excess of the sums named.

Marshals have, in some instances, since the passage of this act, rented buildings or rooms, and paid rent therefore exceeding fifty dollars per annum; and also purchased furniture to an amount greater than twenty dollars, and thus sought to charge the same upon the Treasury, entirely disregarding this limitation upon them. But the Department had invariably held such contracts to be void, and refused to approve the expenditures so made by them.

Marshals have also, in some cases, rented buildings or rooms, procured furniture, and made repairs, under an order of the court, or the direction of the judge thereof, acting under the impression or belief that judges had the authority to charge the expenditures therefore upon the Treasury; but expenditures made in this manner are also in violation of law. While the opinion of the proper district or circuit judge, as to the necessity of renting buildings or rooms, or for procuring furniture for the same, their own chambers or other offices, or for making repairs, will be treated with the highest respect and most careful consideration, it is proper to say that this Department alone, under existing laws, possesses the authority to order expenditures of the character named.
Whenever, for any reason, it may become necessary to provide accommodations for the United States courts or their officers, at any point where either the circuit or district courts are held, either in the States or Territories, a standing regulation of this Department requires the Marshal to examine and ascertain what suitable building or rooms can be procured, and the rent demanded therefore; to select the rooms that furnish or the building which furnishes the most ample accommodations at the lowest rate, and report such selection and the terms to the Department, with a plan or diagram exhibiting the dimensions of the respectable rooms; upon which floor and how they are relatively situated, and indicating the purpose for which each is proposed to be occupied, and, if in a city, upon what street or streets the same is or are located; to certify that the same is or are conveniently located and suitable in all respects for the purpose for which they are required, and that the terms upon which they are offered are more favorable to the government than those of any similar accommodations that can be obtained. He is also required to furnish the certificate of the United States District Judge and District Attorney to the same effect.

Where applications are made for authority to provide accommodations for the court or courts, of a permanent character, the Marshal should state the number of days the court or courts had been in session at the place where they are required during the previous calendar year, and all the circumstances going to show the necessity of providing them.
Applications for furniture are required to be accompanied by a detailed estimate showing the probable cost of each article, and the certificate of the Marshal to the effect that each article named in such estimate is absolutely necessary to the convenient transaction of the public business, and that the estimate of cost is reasonable. These, also, are to be accompanied by the certificate of the District Judge and Attorney to the same effect.

In cases where buildings are owned by the United States applications for authority to make repairs thereon are to be made in the same form as those for furniture. And where either accommodation for the courts of officers, furniture or repairs, are needed, the application for authority to incur the expense for the same should be made at a sufficiently early day to enable the Department to give the application full consideration, and to communicate its decision thereon to the Marshal, before the same are actually required for use.

Applications have been frequently made by Marshals requesting that offices and furniture therefore be provided for them at the expense of the United States; but this has generally been refused, the rule being, to allow office accommodations when, at particular places or in large cities, the government is compelled, on account of the large amount of business transacted, to make provision for the courts by renting or erecting buildings, and rooms can be spared without inconvenience or additional expense, but not otherwise.

All applications for accommodations for the courts or their officers, for repairs thereon or furniture therefore, are required to be made by or
through the Marshal, and the expenditures, if authorized, to be made by him. In cases, however, where leases exist or are entered into, this rule is modified so far that all payments thereunder will be made by this Department directly from the Treasury, unless the Marshal shall be otherwise specially directed. He will cause an account to be rendered by the lessor \textit{sic}\ annually, semi-annually, or quarterly, as the lease may provide, of the rent due, referring to such lease, giving date, etc., certify to its correctness, and cause the same to be forwarded to this Department; upon receipt of which, an account will be stated at the Treasury in favor of such lessor, \textit{sic}\ or other person rightfully entitled to the same, and the amount remitted directly to such person.

In some districts the Marshals have been in the habit of furnishing fuel, lights, and stationery for their own offices, and for those of the clerks and district attorneys, at the expense of the United States; but this practice is wrong, and will not be tolerated.

**EXTRAORDINARY EXPENSES**

The 11th section of the act of Congress approved August 31, 1852, (vol 10 Stat. at Large, p. 99) enacts, "That where the ministerial officers of the United States have or shall incur extraordinary expenses in executing the laws thereof, the payment of which is not specifically provided for, the President of the United States is authorized to allow the payment thereof under the special taxation of the district or circuit court of the district in
which the said services have been or shall be rendered, to be paid from the appropriation for defraying the expenses of the judiciary."

It will be observed, that in order to obtain the approval of the President for the payment of any expenses contemplated by the section above quoted, it is necessary that the accounts therefor should be first presented to the proper district or circuit court, and that the same should thereupon be properly taxed and certified. When so taxed and certified, they should be forwarded to this Department, with a view to their presentation to the President for his approval. Accounts of this character cannot receive the Executive sanction until they shall have been properly taxed.

SPECIAL INSTRUCTIONS

U. S. Marshals in the Territories are informed, for their special protection, that funds remitted to them for the expenses of the courts, can only be applied to the payment of expenses incurred while the respective courts are exercising jurisdiction under the Constitution and laws of the United States, and not to expense incurred while exercising jurisdiction under the Territorial laws.¹

Appendix II

A Description of the Court Room over Faust's Stable

The Judge on the bench, J. B. McKean, at once cleared his throat and looked over the bar and the audience. The Judge wore a blue coat and was trim as a bank president. He sat upon a wooden chair behind a deal table, raised half a foot above the floor; the Marshal stood behind a remnant of dry goods box in one corner, and the jury sat upon two broken settees under a hot stove pipe and behind the stove. They were intelligent, as usual with juries, and resembled a parcel of baggage smashers warming themselves in a railroad depot between trains. The bar consisted of what appeared to be a large keno party keeping tally on a long pine table. When some law books were brought in after a while, the bar wore that unrecognizable look of religious services about to be performed before the opening of the game. The audience sat upon six rows of damaged settees, and a standing party formed the background, over whose heads were seen a great barren, barn-like area of room in the rear, filled with the debris of some former fair. One chair on the right of the Judge was deputed to witnesses. The room itself was the second story of a livery stable, and a polygamous jackass and several unregenerate Lamanite mules in the stall beneath occasionally interrupted the Judge with a bray of delight. The audience was composed entirely of men, perfectly orderly, and tolerably ragged, and spitting surprisingly
little tobacco juice; almost all of them Mormons, with a stray miner mingled in, wearing a revolver on his hip and a paper collar under his long beard.

At the bar table, on one side, sat Baskin and Maxwell, the prosecutors; the former frowsy, cool and red-headed, the latter looking as if he had overslept himself for a week and got up mad. On the opposite side sat Tom Fitch, late member of Congress from Nevada, a rotund, cosmopolitan young man, with a bright black eye, a piece of red flannel around his bad cold of a throat, and great quantities of forensic eloquence wrapped away under his mustache.

Behind him was A. Miner, the leading Mormon lawyer, turned a little gray and thinned down in flesh very much since Judge McKean got on the bench; for the Judge uses Miner as the scapegoat for the sins of the bar, and threatens him with Camp Douglas and a fine every time he has a toothache. Whenever Miner gets up to apologize, the Judge makes him sit down, and when he sits down the Judge looks at him with his resinous black eyes as if he had committed solely and alone the Mountain Meadows massacre. Miner is the "Small-bones" of the court, and is fed on judicial herrings. The other lawyers are all Gentiles, except Hosea Stout and one Snow, of the firm of Snow and Hoge, a Vermonter. Yonder is a square built man with cropped hair,—ex-Governor Mann, Fitch's partner; they divide the leading business here, although resident only six months, with Hempstead and Kirkpatrick, the former a slow, serious military officer, and the latter a dark-eyed Kentuckian. Kentuckian also is Marshal, the Ancient Pistol of the bar, rare and stupendous in speech, and
chiefly admired by his partner, Carter, from Maryland. Nothing is a bereavement to Marshall, however, for as he frequently reminds the court, "the jurisprudence of the country reaches its perihelion in the names of Kent, Choate, and Marshall, of which latter I am a part." Smith and Earll and DeWolfe are about the remainder of the Utah bar—a shrewd, clever bevy of pioneer chaps, some of whom draw large contingent fees from mining suits.

As Miner is the victim of the court, the court in turn is the victim of Baskin, the prosecuting Attorney pro tem. Baskin comes from Ohio and gets his red-hot temper from his hair. He is related to have———somebody in Ohio, and about six months ago he scaled the ermine slopes of Judge Hawley, one of the three luminaries of this bench. But as this notable bench in Utah never consult together, Strickland agreeing with McKean in everything, and Hawley in nothing, Judge McKean let Baskin out on habeas corpus in four days, and Baskin disdained to pay his fine. It is Baskin, therefore, who insists, as Prosecuting Attorney, that the laws of the United States and the courts there-of must be respected in Utah.  

1 The above information is taken from the Cincinnati Commercial and reprinted in Whitney, II, p. 623-24.
Appendix III

A List of U.S. Marshals for the Territory of Utah

<table>
<thead>
<tr>
<th>MARSHAL</th>
<th>DATE</th>
<th>VICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Haywood, Joseph L.</td>
<td>Sep. 28, 1850(S)</td>
<td>Original appointment</td>
</tr>
<tr>
<td></td>
<td>Feb. 28, 1855(S)</td>
<td></td>
</tr>
<tr>
<td>Haun, A. T.</td>
<td>Aug. 22, 1856(S)</td>
<td>Haywood (no reason given)</td>
</tr>
<tr>
<td>Dotson, Peter K.</td>
<td>Oct. 28, 1856(R)</td>
<td>Haun (declined permanent appointment)</td>
</tr>
<tr>
<td></td>
<td>Jan. 2, 1857(S)</td>
<td></td>
</tr>
<tr>
<td>Grice, Henry</td>
<td>May 8, 1860(S)</td>
<td>Dotson (resigned)</td>
</tr>
<tr>
<td>Gibbs, Isaac L.</td>
<td>Mar. 6, 1862(S)</td>
<td>Grice (resigned)</td>
</tr>
<tr>
<td>Hosmer, Josiah</td>
<td>Feb. 16, 1866(S)</td>
<td>Gibbs (term expired)</td>
</tr>
<tr>
<td>Patrick, Mathewson T.</td>
<td>Apr. 6, 1870(S)</td>
<td>Hosmer (term expired); vice</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Orr, J., nomination withdrawn.</td>
</tr>
<tr>
<td>Maxwell, George R.</td>
<td>Dec. 8, 1873(S)</td>
<td>Patrick (resigned)</td>
</tr>
<tr>
<td>Nelson, William</td>
<td>Feb. 28, 1876(S)</td>
<td>Maxwell (resigned)</td>
</tr>
<tr>
<td>Shaughnessy, Michael</td>
<td>Mar. 12, 1878(S)</td>
<td>Nelson (resigned)</td>
</tr>
<tr>
<td>Ireland, Elwin A.</td>
<td>April 12, 1882(S)</td>
<td>Shaughnessy (term expired)</td>
</tr>
<tr>
<td>Dyer, Frank H.</td>
<td>May 28, 1886(S)</td>
<td>Ireland (term expired)</td>
</tr>
<tr>
<td>Parsons, Elias H.</td>
<td>July 12, 1892(R)</td>
<td>Dyer (resigned)</td>
</tr>
<tr>
<td></td>
<td>Apr. 16, 1890(S)</td>
<td></td>
</tr>
<tr>
<td>Benton, Irving A.</td>
<td>Sep. 23, 1892(R)</td>
<td>Parsons (resigned)</td>
</tr>
<tr>
<td></td>
<td>Dec. 13, 1892(S)</td>
<td></td>
</tr>
<tr>
<td>Brigham, Nat M.</td>
<td>May 8, 1893(R)</td>
<td>Benton (removed)</td>
</tr>
<tr>
<td></td>
<td>Aug. 29, 1893(S)</td>
<td></td>
</tr>
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</table>

The above material is a list of United States Marshals serving in Utah Territory from 1850-1896 as compiled by the U.S. Department of Justice. Note that the list does not include Joseph M. Orr who served from
September of 1869 to May of 1870 for his nomination was withdrawn. Not all of
the above dates correspond with those of local sources, but they are reasonably
close.
Appendix IV

List of United States Deputy Marshals Serving in Utah Territory

The following list is by no means complete. They are only names encountered in research.

<table>
<thead>
<tr>
<th>Bemis, A. K.</th>
<th>Evans, Isaac</th>
<th>Miller</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bird, W. H.</td>
<td>Exum</td>
<td>Mix</td>
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<tr>
<td>Black, George A.</td>
<td>Firman, D. R.</td>
<td>Monahan, W. W.</td>
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<tr>
<td>Bowman</td>
<td>Franks</td>
<td>Morrell</td>
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<tr>
<td>Brockway</td>
<td>Gilbert, Frank</td>
<td>Mount</td>
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<tr>
<td>Brookie</td>
<td>Gill, W. F.</td>
<td>Orr, Milton J.</td>
</tr>
<tr>
<td>Brown</td>
<td>Gill</td>
<td>Orton</td>
</tr>
<tr>
<td>Buchanan</td>
<td>Gillman, Edwin</td>
<td>Parker</td>
</tr>
<tr>
<td>Burton, Robert T.</td>
<td>Gilson, S. H.</td>
<td>Patrick, A. S.</td>
</tr>
<tr>
<td>Bush, J. R.</td>
<td>Gleason</td>
<td>Paul, Samuel</td>
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<tr>
<td>Butcher, W. E.</td>
<td>Godbe, Anthony</td>
<td>Perkins</td>
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<tr>
<td>Byron, J. J.</td>
<td>Goodsell, Charles D.</td>
<td>Pratt, Arthur</td>
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<tr>
<td>Byron, W. H.</td>
<td>Goodsell, W. L.</td>
<td>Redfield, C. N.</td>
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<tr>
<td>Call, Anson</td>
<td>Goodsell, William</td>
<td>Rench, D. W.</td>
</tr>
<tr>
<td>Call, Josiah</td>
<td>Greenamn, J. W.</td>
<td>Rex, W. H.</td>
</tr>
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<td>Cannon, Boman</td>
<td>Hall</td>
<td>Rogers, William</td>
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<td>Carey, George L.</td>
<td>Hamilton</td>
<td>St. John, W. F.</td>
</tr>
<tr>
<td>Cassin, James</td>
<td>Harrington, J. M.</td>
<td>Scott, Robert</td>
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<tr>
<td>Clark, D. T.</td>
<td>Hemingway</td>
<td>Scott, William L.</td>
</tr>
<tr>
<td>Clawson, R.</td>
<td>Hickman, Bill</td>
<td>Sharpe, John</td>
</tr>
<tr>
<td>Cleveland</td>
<td>Johns, W. M.</td>
<td>Shaughnessy, William T.</td>
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<tr>
<td>Colleen, Henry F.</td>
<td>Kelley, Joseph</td>
<td>Shaughnessy, Michael</td>
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<tr>
<td>Cross, Jerome B.</td>
<td>Kessler, E. A.</td>
<td>Smith, Amos K.</td>
</tr>
<tr>
<td>Crowe</td>
<td>Kingsley</td>
<td>Sprague</td>
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<tr>
<td>Cuddihy</td>
<td>Low, Thomas</td>
<td>Springer</td>
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<tr>
<td>Cummock, J. B.</td>
<td>McAllister, Richard</td>
<td>Stokes, William</td>
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<tr>
<td>Donovan, J. J.</td>
<td>McCarry, J. H.</td>
<td>Stone, J. F.</td>
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<tr>
<td>Doyle</td>
<td>McQueen</td>
<td>Sutherland, H. E.</td>
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<tr>
<td>Duncan, Pony</td>
<td>Marshall</td>
<td>Swan, D. N.</td>
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<td>Duncan, R. L.</td>
<td>Mason, E. A.</td>
<td>Thompson, William</td>
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<td>Dyer, A. G.</td>
<td>Meeks, William</td>
<td>Vandercook</td>
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</table>
Wall, W. M.
Wayman, W. M.
Weber, J. L.
Williams, Alexander