# NEVADA Historical Society Quarterly

Spring · 1975

The Nevada Historical Society was founded in 1904 for the purpose of investigating topics pertaining to the early history of Nevada and of collecting relics for a museum. The Society maintains a library and museum at its Reno facility where historical materials of many kinds are on display to the public and are available to students and scholars.

Membership dues are: annual, $5; student, $3; sustaining, $25; life, $100; and patron, $250. Membership applications and dues should be sent to the director.

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NEVADA
# Historical Society Quarterly

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**THE COVER**

Cabbage plants growing on land near Fallon irrigated by the Truckee-Carson Project.

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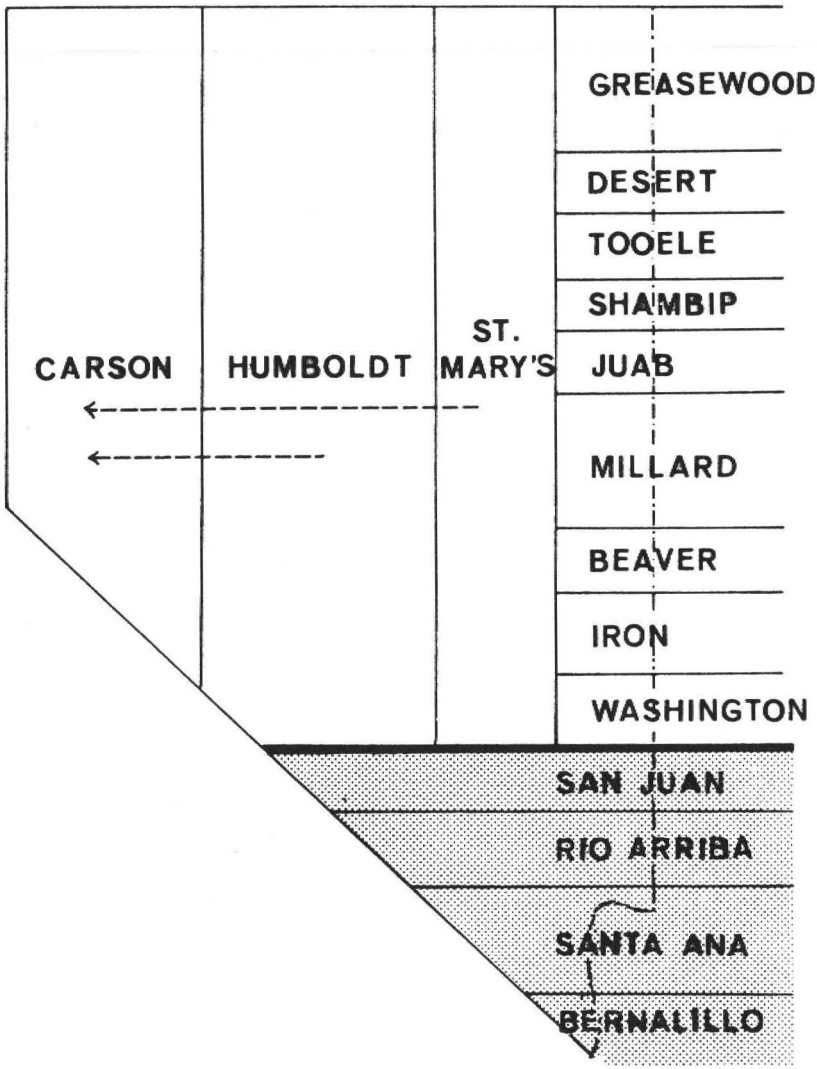


**1861, January – San Juan County created out of northern part of Rio Arriba County, New Mexico Territory. Humboldt and St. Mary's counties, Utah Territory, extended south through Millard, Beaver, Iron, and Washington counties to New Mexico. St. Mary's County reduced in width by one degree. Greasewood, Desert, Tooele, Shambip, and Juab counties extended westward.**

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# Early Utah and Nevada Electoral Politics

by Ronald C. Jack

The early elections in the 1860s followed very closely the electoral pattern established in the 1850s. The election of 1863 indicated the effectiveness of the Mormon church in securing the election of its candidates when former Chief Justice Kinney, a non-Mormon, was elected as delegate to Congress with no opposition.

With the beginning of the mining industry in the mid-1860s, the number of non-Mormons in the territory began to increase. The first indication of the competing value systems was the difference in perspective with which mining was regarded. Brigham Young maintained the position that the Mormons should engage in agricultural pursuits and home manufacturing and avoid the gold or silver fields. Many of the Gentiles believed that mining would cause an influx of non-Mormons thereby diluting the influence of the church and reducing church domination in the territory.

The Gentile opposition to the domination of territorial politics by the church was expressed in the election of 1867. In this election an organized effort to oppose the regular ticket supported by the leadership and membership of the church was made. Although the Gentile ticket only received 105 votes, the church leadership sensed a growing opposition to its influence.

The church, in the elections of both 1868 and 1869, was very active in attempting to increase the attendance of the citizens of the territory (over 95 percent Mormon) at the polls. There is evidence to suggest that many members of the church responded or at least recognized the challenge facing the church. With the completion of the transcontinental railroad in 1869, the number of non-Mormons in the territory increased rapidly.

In 1869 the Gentiles in Box Elder County produced an opposition slate (Dennis J. Toohy was the candidate for Representative and J.H. Beadle for Council to the Legislative Assembly) which polled about 40 percent in that county.

## Part 3

## Elections of the 1860s

### Conditions of the 1860s

DURING the 1860s several conditions developed which served to increase

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political and social opposition to the church. Some of these factors tended to influence the electoral behavior of Mormons and non-Mormons alike.

The first of these was the establishment of Fort Douglas by Colonel Patrick Edward Connor (later brigadier-general) and his Third California Volunteer Infantry, which had been ordered to Utah to protect the Overland Mail Route. In the fall of 1862 Connor selected the present site of Camp Douglas and on October 26, 1862 the fort was officially named and dedicated. The proximity of Camp Douglas served to remind the Mormons of the possibility of federal intervention.

As a solution to the Mormon problem, General Connor believed that if a large number of Gentiles were invited into the territory they might counterbalance the numerical strength of the Mormons. The general sought to increase non-Mormon immigration by encouraging prospecting for precious metals. He believed that rich discoveries of ore would bring in a flood of non-Mormon citizens to Utah. Both as a vehicle for expressing the Gentile point of view and as a medium for advertising the opportunities in mining, Connor founded a weekly paper, *Union Vendette*, in the fall of 1863. In the first issue, he published the following statement:

> The General commanding the District has the strongest evidence that the mountains and canyons in the Territory of Utah abound in rich veins of gold, silver, copper and other minerals, and for the purpose of opening up the country to a new, hardy, and industrious population deems it imperative that prospecting for minerals should not only be untrammeled and unrestricted, but fostered by every proper means. In order that such discoveries may be early and reliably made, the General announces that miners and prospecting parties will receive the fullest protection from the military forces in this District.[109]

Because of the encouragement of Connor, mining activity did increase; however, "It was soon found that the Utah mines could not be worked to advantage without railways."[110] To Connor's disappointment, the influx of Gentile miners was small. The Gentile miners were usually transients and this "prevented them from figuring with prominence in political controversies that their numbers warranted."[111]

The Mormons also sought to prevent the Gentile miners from becoming influential in politics. Particularly irritating to the Gentiles, who were attempting to gain some political advantage from the incoming miners, was the power of the probate courts to designate polling places.

> Since the opening of the mines in the Territory, vast numbers of Gentiles (so-called) and anti-Brighamites, have flocked into the mountains. (No orthodox Mormons are in the mines). These Judges have so arranged the voting places in all the mining counties that miners, in order to vote, must travel from twenty to fifty miles. We are now running a Gentile candidate for Delegate to Congress, and our Territorial Central Committee has urged the Probate Judge to locate voting places to accommodate the miners, which they most positively decline to do. The result will be that

not more than half the mining vote will be polled.[112]

Few miners were willing to forego a day or possibly two days' work in order to vote in an election.

With the completion of the transcontinental railroad linking East and West at Promontory Point, mining was feasible in many areas in which it had previously been unprofitable. Utah soon became known as one of the richest silver-producing regions of the West.

The rich mines of Utah, however, failed to bring Gentiles into the territory as rapidly as General Connor had thought they would come. The governor of Utah's report to the secretary of the interior in 1878 stated that the Gentiles constituted only one-tenth of the population: "Probably three-fourths of the population is foreign-born or of foreign parentage. From the best information I have on the subject, nine-tenths of the people here are Mormons."[113]

Although the Mormons maintained numerical advantage, the Gentiles were beginning to accumulate the wealth. Possibly as a reaction to this and the growing numbers of non-Mormons, Brigham Young in the October conference of 1868 set forth a plan of restricted trade among the Latter-day Saints. Melville states that:

> Brigham Young believed that economic wealth was power, even political power. . . . He believed that the Gentiles were getting wealthy from the Latter-day Saint patronage. With this wealth came power; power which would be used for the destruction of the Saints, which Brigham Young believed was the ultimate objective of the Gentile merchants.[114]

Toward the end of the decade, therefore, the church attempted to mobilize its members in support of the church's stand on economic and political issues. To illustrate the lengths to which this was carried, an example of the church's policy of approving certain businesses should be cited. On at least one occasion, Bishop Hess of Farmington read a letter from an unnamed source which listed the merchants in Salt Lake City who were not approved by the church.[115]

In the elections of 1868 and 1869 the church attempted to encourage apathetic Mormons to vote. The church also undertook to determine how the members of the church cast their ballots.

**Election of 1860**

A nominating convention for Salt Lake County was held in Salt Lake City on July 26, 1860. According to the strongly pro-Mormon paper, the *Mountaineer*:

> . . . the convention proceeded to select nominees for office to be elected on the 6th (August 6, 1860) which resulted by a unanimous vote as follows:
>
> For Commissioners to Locate University Lands:
> Ira Eldredge,
> Chester Loveland,

S.A. Knowlton.

For Representatives:
John Taylor, Hosea Stout,
Hiram B. Clawson, Edwin D. Woolley,
A.P. Rockwood, Dr. W.F. Anderson,
John V. Long, John M. Moody,
Wm. P. Nebeker.

For Sheriff:
Robert T. Burton

. . . . . .

After which the convention adjourned *sine die*.

Erastus Snow, Prest.
Wm. C. Staines, Sec'y.[116]

On August 4, 1860 the following comment about the coming election to be held on August 6, 1860 appeared in the *Mountaineer*:

> On Monday at sunrise, the polls of Utah will be once again opened.
>
> . . . . . .
>
> Notwithstanding that we have an open sea and clear sky above us, we would urge upon all to come forward and give their names and support to the representative officers of the people.[117]

After the election, the *Mountaineer* chided the people for not going to the polls. The lack of attendance at the polls, according to the paper, was not due "to a feeling of opposition to the ticket, or any portion of it;"[118] rather, it was due to the fact that "the citizens of Utah generally have been so accustomed to unanimity in convention, elections... that they... are a little disposed to negligence in matters of this kind."[119]

In Beaver County the county clerk noted, "There was not a very full attendance at the polls, no excitement manifest, nor any opposing candidate for Councilor."[120] The candidate for council member, John A. Ray, received 106 votes. However, the nominee for representative, Charles W. Wandel, received only 61 votes and a write-in candidate, Charles Chamberlain, received 8 votes, making a total of only 69 votes cast for the position of representative–far short of the 106 votes which the popular John A. Ray received. Wandel cannot have been popular for a sizeable group abstained from voting for him and there were 8 opposition write-in votes.

In Davis County, William R. Smith, the church candidate for council member, was successful with 134 votes, but his two opponents, Thomas Grover and Joseph Holbrook, received 102 votes and 78 votes respectively.

In Millard County there was a lack of enthusiasm for J. Ray, who received only sixty-five votes for council member while Daniel Thompson, running for representative, and William King, running for county selectman, both received seventy-five votes.

In Utah and Weber counties, there was also opposition to the candidates selected for representative. The opposition received 36 out of a total of 773 votes cast in Utah County and 37 out of 264 votes cast in Weber County.

**Election of 1861**

The convention for Salt Lake County was held on July 20, 1861. The *Mountaineer* reported:

> Last Wednesday evening a caucus was held in this city for the purpose of making nominations for the coming August election. Quite a number of citizens were present.[121]

The chairman of the caucus, Edward Hunter, appointed a committee which included Brigham Young, Heber C. Kimball, Daniel H. Wells (of the First Presidency of the Church), George A. Smith and W.W. Phelps to choose a nominee for delegate to Congress. The committee was excused from the caucus:

> After a short absence, the committee reported that they had taken into consideration the claims of several prominent citizens in our community, and among the number were Dr. J.M. Bernhisel, Col. William H. Hooper, Horace S. Eldredge, Esq., and Col. G.A. Smith, and after careful deliberation, having thoroughly canvassed the claims of each they reported that they had agreed to recommend our former delegate, Dr. John M. Bernhisel. The motion was carried by acclamation.[122]

After the report of the committee, the rest of the ticket was selected. Eldredge, Knowlton and Loveland were nominated by unanimous vote for university land commissioners.

> On motion by several gentlemen, Hon. Wilford Woodruff, Professor Carrington, Daniel Spencer, Esq., and Hon. F.D. Richards were nominated for Councilors.
>
> The following named and very influential gentlemen were nominated for Representative from this county to the Legislature:
>
> John Taylor, H.B. Clawson, Hosea Stout, H.S. Eldredge, Edwin D. Woolley, Jos. A. Young, Albert P. Rockwood, John V. Long, and John M. Moody.[123]

In this election, only 2 of the 2,965 votes cast for the delegate to Congress were not cast for John M. Bernhisel, the church nominee. In the voting for territorial and county officers, 3,165 votes were cast. The total number of votes cast in opposition to the nominees in this election numbered 115, less than three-tenths of one percent.

**Election of 1862**

A nominating convention for the territory was held for Salt Lake County on January 23, 1862 at Salt Lake City. On the motion of Orson Hyde,

> . . . the Convention unanimously made the following nominations for the consideration of the electors at the first general election under the Constitution to be held on the first Monday in March next.

For Governor:
BRIGHAM YOUNG

For Lieutenant Governor:
HEBER C. KIMBALL

For Member of Congress:
JOHN M. BERNHISEL

On motion of Mr. Benson the Convention dissolved. Benediction by Mr. W.W. Phelps.

DANIEL H. WELLS
Pres't of Convention.
WILLIAM CLAYTON,
Secretary.[124]

The influence of the church on county political affairs can be seen in Davis County in this election. Allen cites an example of the designation of bishops to make nominations in Davis County. In January 1862:

> . . . the Davis County court requested the bishops present to form a caucus and nominate . . . two men for representatives at the next Legislative Assembly. The men nominated by the bishops were subsequently presented to the people for approval.[125]

John Stoker and Judson L. Stoddard were nominated.

The following results of the election for Salt Lake County were given in the *Deseret News*:

> The number of votes cast at the annual election in this county was unusually small—but little interest having been taken in that matter. There was some little opposition manifested, and a few of the names on the regular ticket were erased, and others substituted, which, however, did not affect the result; consequently, John Taylor, Hiram B. Clawson, Edwin D. Woolley, Joseph A. Young, Albert P. Rockwood and John V. Long were elected to represent the citizens of Great Salt Lake County, in the Twelfth Legislative Assembly. The election of several of the candidates was unanimous; the others secured their seats by handsome majorities.

In the election of 1862, opposition votes were cast in only four counties: (1) Morgan County, where 23 votes were cast; (2) Salt Lake County, where 86 votes were cast; (3) Sanpete County, where 2 votes were cast; and (4) Tooele County, where 119 votes were cast.[126] Out of a total of 3,943 votes, only 230 votes, slightly under 6 percent of the total number of votes cast, were cast in political opposition.

**Election of 1863: An Example of Church Influence**

In the election of 1863, John F. Kinney received the total vote of 8,336 for delegate to Congress with no opposition. In explaining why Kinney, a non-Mormon, was so popular with the Saints, Neff wrote:

> President Lincoln, it will be recalled, had removed Chief Justice Kinney from the Utah bench. The splendid services of Judge Kinney were so much appreciated by the Mormons that they did an extraordinary thing August 3, 1863, that of electing this Gentile to represent them in Congress.
>
> Delegate Kinney requited this unprecedented favor with a devotion, loyalty and courage equal to that of an orthodox churchman.[127]

Kinney was nominated as delegate to Congress at a county caucus in Salt Lake County June 24, 1863. After the purpose of the meeting had been explained by chairman Elias Smith, and after several political speeches were given, "the Hon. D.H. Wells moved that the people of this county confirm and support the nomination of the Hon. John F. Kinney. The Hon. Wilford Woodruff seconded the motion, which was put and carried unanimously."[128] The *Deseret News* printed the following statement concerning the nomination of John F. Kinney as delegate to Congress:

> It is with unfeigned pleasure that we place at the head of our columns to-day the name of Chief Justice Kinney who has been nominated as Delegate to Congress by the citizens of Great Salt Lake City.... Having conversed with gentlemen from nearly every county in the Territory on the subject, we believe that the Judge is the choice of the people, and confidently expect that the conventions, which will assemble in the several counties to nominate candidates for Councilors, Representatives, Territorial and County officers, will second the inaugurating movement which has been made by the people of Great Salt Lake–which is to Utah what Paris is to France–by confirming the nomination and by giving the nominee a cordial support at the election on the first Monday in August next.[129]

At the same Salt Lake County caucus on June 24, 1863 a three-man committee composed of Wilford Woodruff, William Clayton and Robert L. Campbell was appointed "to select names of persons to fill the offices vacant."[130] These names were presented in a report of the committee at a meeting held Tuesday evening, June 30, 1863. At the meeting William Clayton presented the written report of the committee:

> ... your Committee would respectfully nominate the following ticket, believing that every gentleman therein named will receive the cordial and unanimous support of the electors of Great Salt Lake County:
>
> . . . . . .
>
> On motion the report of the Committee was adopted, and the several persons recommended to fill the various offices were nominated by the unanimous vote of the meeting.[131]

The outcome of the nominating caucus was the following territorial ticket, which appeared in the *Deseret News*:

TERRITORIAL TICKET

FOR DELEGATE TO CONGRESS

JOHN F. KINNEY

Commissioners to Locate University Lands.

Ira Eldredge,
Chester Loveland,
William Hickenlooper.

GREAT SALT LAKE COUNTY

For Councilors.

Daniel H. Wells,
Wilford Woodruff,
Albert Carrington,
Daniel Spencer.

For Representatives.

Edwin D. Woolley,
Albert P. Rockwood,
John V. Long,
Franklin D. Richards,
John Van Cott.[132]

Kinney traversed the territory in a real campaign, accompanied by some of the General Authorities of the Church, speaking to the people in what he termed an attempt to determine the will of the people. On June 25, 1863, he accompanied President Brigham Young and Heber C. Kimball and Daniel H. Wells, counselors in the First Presidency, along with members of the Quorum of the Twelve, to Provo for a conference in the bowery. In the afternoon session Judge Kinney was called upon to give a political speech:

> The Chief Justice was introduced to the vast sea of upturned faces by Prest. Young, and delivered an address of one hour and forty minutes. . . . The speech was well received and enthusiastically cheered by the conference. *A motion that the nomination of Chief Justice Kinney for our next Delegate to Congress, be concurred in by the citizens of Utah County was carried*, when it appeared that the Hon. John F. Kinney was the choice of the five thousands [sic] persons present. No opposing voice was heard and not an opposition vote offered.[133]

As the *Deseret News* said, the election of 1863 "passed off as usual in this Territory, very quietly,"[134] and "there was but slight opposition to the regular ticket."[135] There were, however, 400 votes cast in opposition to the nominated ticket. This represented an opposition of just under 5 percent of the total vote cast.

The following account of the election in Tooele County appeared in the *Deseret News*:

> The election came off the 3d inst. very peaceably—no riots, stump speeches, drunkenness or bloody noses; all was peace throughout the county, with one exception. In one of the precincts an opposition ticket was got up merely for precinct officers, which, I am told together with a few remarks of persons wise in their own conceit, caused some little feelings. It is somewhat strange that men should be so eager for a petty office as to set themselves up as candidates contrary to the known feelings of the people, and men, too, unqualified for the positions desired.... There was not, however, a dissenting voice in the county for Territorial or County officers.[136]

In this election the political influence of the church was demonstrated. The church was able to take a non-Mormon, one very much in favor with the membership and leadership of the church, and secure his nomination and election without a dissenting vote. It appears, however, that the leadership of the church managed the campaign very carefully by having Justice Kinney speak at church conferences and travel through the territory with some of the leaders of the church.

**Election of 1864**

The People's Ticket for Salt Lake County first appeared in the *Deseret News* on July 20, 1864 and again on July 27, 1864. The paper carried no statement as to whether a nominating caucus had been held to select the nominees or whether the selection of the nominees had been effected privately. The published ticket follows:

PEOPLE'S TICKET

TERRITORIAL

Commissioners to Locate University Lands:

Ira Eldredge,
Chester Loveland,
Vincent Shirtleff.

GREAT SALT LAKE COUNTY

Representatives:

John Taylor,
Edwin D. Woolley,
Albert P. Rockwood,
John V. Long,
Franklin D. Richards,
John Van Cott.[137]

The county caucus for Utah County was held July 9, 1864 in Provo "for the purpose of selecting candidates to be voted for at the coming August election."[138] William Miller was elected chairman of the caucus meeting and "after some considerable talk, the following ticket was agreed to":

For Representative to the Legislative Assembly:

Albert K. Thurber,
Joseph E. Johnson,
David Cluff, Jun.[139]

This election was very quiet, even by Mormon standards, with only eleven scratch or write-in votes. Ballots cast against nominees of the regular Mormon tickets in this election represented less than one-tenth of 1 percent of the total number of votes cast.

**Election of 1865**

As early as June 28, 1865, the *Deseret News* printed on its editorial page the following: "FOR DELEGATE TO CONGRESS WILLIAM H. HOOPER."[140] The People's Ticket appeared in the *Deseret News* for the first time on July 5, 1865:

PEOPLE'S TICKET

For Delegate to Congress:

WILLIAM H. HOOPER

Commissioners to Locate University Lands:

IRA ELDREDGE,
CHESTER LOVELAND,
ANDREW J. MOFFATT.

**Great Salt Lake, Tooele and Green River Counties:**

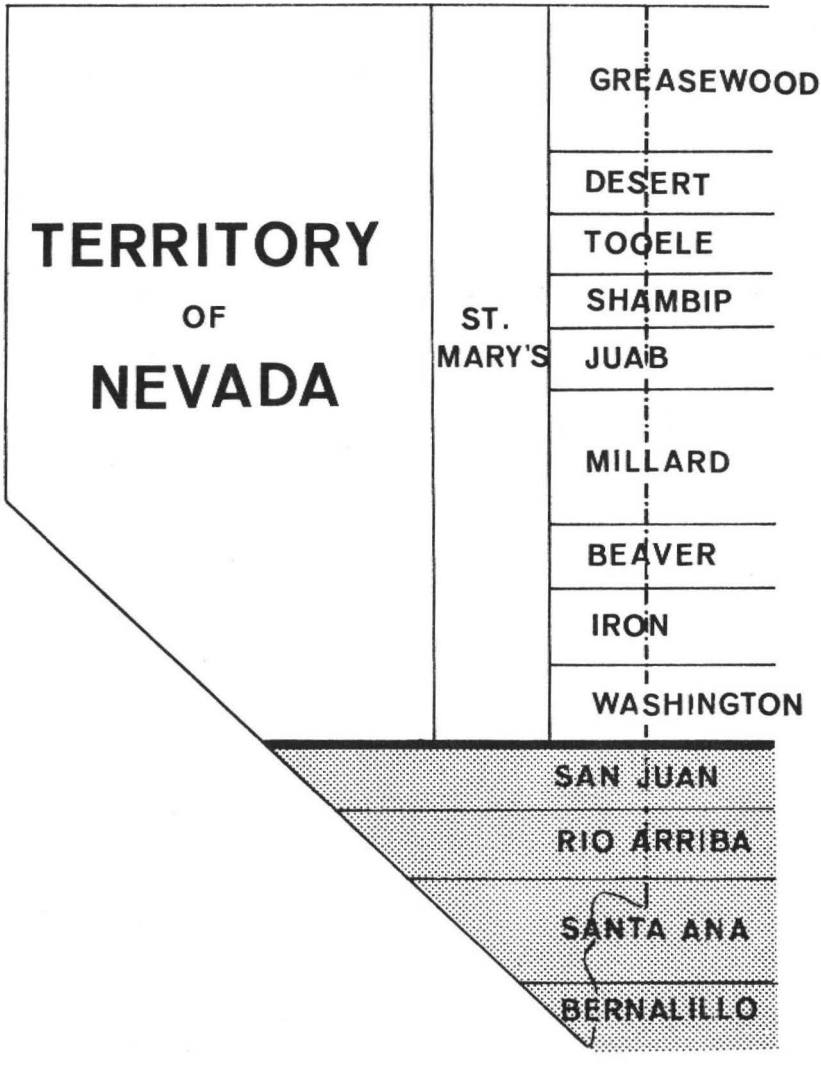
For Councilors,

WILFORD WOODRUFF,
ALBERT CARRINGTON,
JOSEPH A. YOUNG
GEORGE Q. CANNON.

**Great Salt Lake County:**

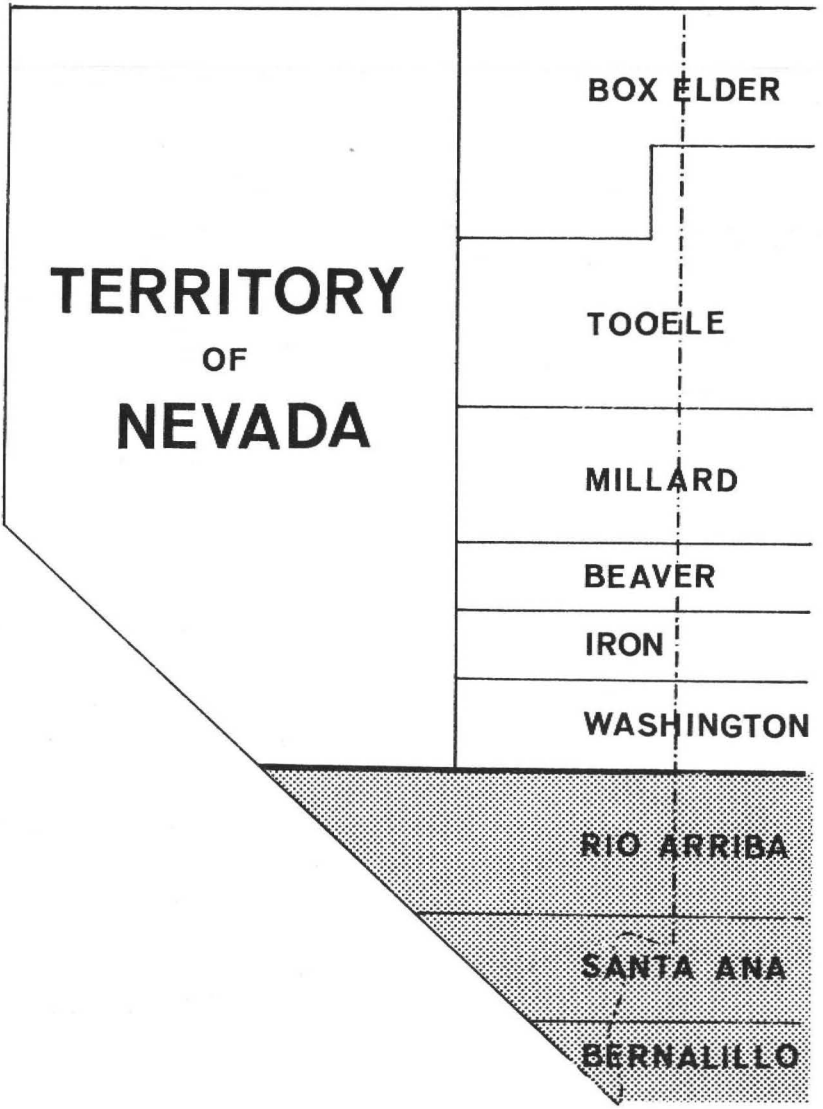
For Representatives,

JOHN TAYLOR,
ALBERT P. ROCKWOOD,
JOHN VAN COTT,
WILLIAM JENNING,
JOSEPH F. SMITH.[141]



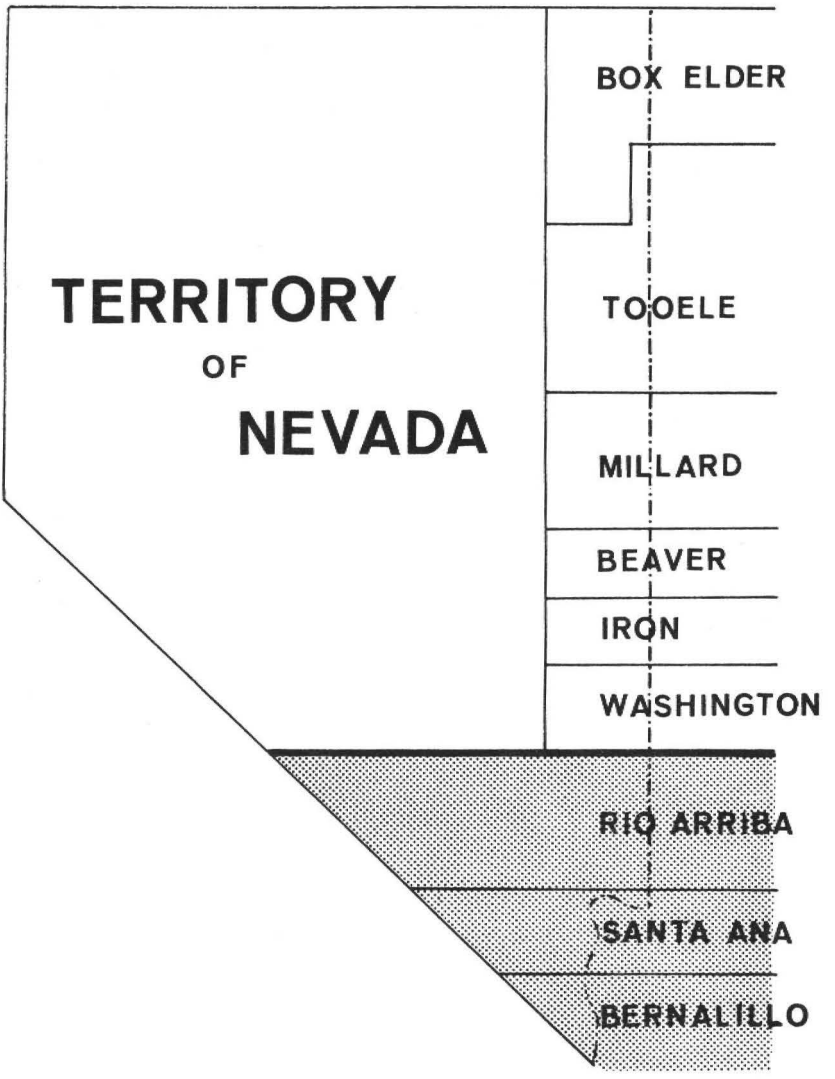

**1861, March – Organization of Territory of Nevada from Carson and Humboldt counties, Utah Territory.**

Reprinted, by permission, from *Political History of Nevada 1965*, p. 66.




**1862, January – Extensive reorganization of Utah Territory counties. St. Mary's County abolished. Box Elder and Tooele counties expanded to absorb Greasewood, Desert, and Shambip. Juab County withdrawn eastward. Millard, Beaver, Iron, and Washington counties extended to Nevada line. San Juan County, New Mexico Territory, abolished.**

Reprinted, by permission, from *Political History of Nevada 1965*, p. 72.




**1862, July – Nevada Territory extended eastward one degree of longitude. Area taken from western portions of Box Elder, Tooele, Millard, Beaver, Iron, and Washington counties, Utah Territory.**

Reprinted, by permission, from *Political History of Nevada 1965*, p. 74.

William H. Hooper, running as delegate to Congress, received 15,458 votes; there were no dissenting votes. Out of 15,431 votes cast for territorial officers, only 365 voters, three-tenths of 1 percent of the total number, cast a ballot in opposition to one or more nominated candidates. These opposition votes were cast in four counties. In Sanpete County, Nelson Higgins ran as an opposition candidate for representative to the legislative assembly and received 246 votes. Higgins pulled these 246 votes from George Peacock, who only received 1,590 votes, while Warren L. Snow received 1,836 votes–the highest number of votes cast in Sanpete County in 1865. The other opposition votes came from Juab County, where two opposition candidates (Bigler and Grace) received 100 votes and 15 votes respectively; Tooele County, where there were three write-in votes; and Utah County, where one scratch vote appeared.

**Election of 1866**

In this election all of the nominees were elected as usual with very minor opposition. In Salt Lake County, H.S. Eldredge received 517 votes as a scratch candidate for representative to the legislative assembly. Each of the six regular candidates running for representative received 1,847 votes except for William Jennings, who received only 1,303 votes. About 20 voters abstained from voting for Jennings, and in effect, 517 voted against him by scratching their ballots and voting for H.S. Eldredge.

In Sanpete County, both candidates for representative (Peacock and Snow, who received 662 votes each) ran behind the candidates for university land commissioners, who received 798 votes each. The votes Peacock and Snow did not receive were cast for Edward Jones, R.R. Allred and others; the total opposition vote was 247. Thus about 31 percent of the voters who cast their ballots for the ticket of university land commissioners scratched their ballots in favor of someone other than the church nominees. A small group of the voters who voted for university land commissioners (about 2 percent) abstained from voting for any of the candidates for representative.

**Election of 1867:**
**Gentile Opposition in the Election for Delegate to Congress**

In 1867 the election for delegate to Congress was held in February. Nearly twice as many voters (16,281) turned out as in the election of territorial and county officers held the following August, where only 8,691 votes were cast.[142]

A nominating convention was held by certain non-Mormons on January 29 with General Connor acting as chairman. This caucus ratified by acclamation the nomination of William McGroarty for delegate to Congress.[143]

At the election held February 4, 1867, McGroarty received only 105 votes, less than one-tenth of 1 percent of the total votes cast–41 votes from Salt Lake County and 64 from Tooele County. In his journal, Elijah Larkin gave his account of the Gentile opposition in the election:

> ...yesterday the Election for a dellegate [sic] to congress, for this territory & member for the State of Deserett [sic] together with the ammended [sic] constitution of the same came off, & W.H. Hoopper Esqr our present dellegate [sic] was elected, & the ammendment [sic] also, notwithstanding the efforts of the misiroble [sic] clink called Regenerators tried to oppose.[144]

**Election for Territorial Officers**

The nominating convention for territorial and county officers for Salt Lake County was held July 29, 1867. With John Taylor acting as chairman, "the following nominations were unanimously sustained":

> Commissioners to Locate University Lands:
>
> STEPHEN CHIPMAN, Utah Co,
> JOHN NEFF, Sen., Great Salt Lake Co,
> EBENEZER BROWN.
>
> For Great Salt Lake, Tooele, Summit and Green River counties:
>
> Councilors:
>
> WILFORD WOODRUFF,
> ABRAHAM O. SMOOT,
> ALBERT CARRINGTON,
> JOSEPH A. YOUNG
>
> For Great Salt Lake County:
>
> Representatives:
>
> JOHN TAYLOR,
> ALBERT P. ROCKWOOD,
> ENOCH REESE,
> BRIGHAM YOUNG, Jun.,
> ORSON PRATT, Sen.
> JOSEPH F. SMITH.[145]

Of the 8,691 voters only 42, less than one-tenth of 1 percent, cast a ballot in opposition to one or more of the candidates on the ticket. There were 15 opposition votes in Sanpete County and 27 in Weber County.

**Election of 1868**

In this election many leaders of the church made an effort to arouse the citizens and to encourage them to vote. The *Deseret Evening News*

acknowledged that the "voters have known that the men whom they wanted to fill the offices would be elected, whether they voted or not."[146] For that reason "Utah has never shown her real numerical strength through the votes of her citizens."[147] The *Salt Lake Telegraph* also attempted to move the citizenry to the polls; on the day of the election it stated: "We do not advise anybody to vote oftener than the law allows, but every voter should vote as often as it allows, and always for the right men."[148] The *Deseret News* desired a large vote, but not a divided one. It was happy that "we have enjoyed such an exemption from strife and contention at elections since our settlement of these valleys."[149] The *Deseret News* attributed the lack of political opposition at the polls to the fact that "our citizens being united upon religion and other questions, have thought that, to be consistent, they should be united in political matters."[150]

A nominating caucus was held July 18, 1868[151] to select the People's Ticket, which was as follows:

THE PEOPLE'S TICKET

FOR DELEGATE TO CONGRESS:

W.H. HOOPER

Commissioners to Locate University Lands:

JOHN NEFF,
EBENEZER BROWN,
JOHN ROWBERRY.

For Salt Lake County Representatives

JOHN TAYLOR,
ALBERT P. ROCKWOOD,
ENOCH REESE,
ORSON PRATT, Sen.,
BRIGHAM YOUNG, Jun.,
JOSEPH F. SMITH.[152]

In Provo the School of the Prophets acted as a nominating convention, selecting William B. Pace and David Evans as nominees for representatives and nominating the county officers for Utah County. Abraham O. Smoot, president of Utah Stake, stated that these were the men "who should be elected [and] should be sustained both here and at the polls." He also asked that "the bishops of the several settlements see to the election in their settlement[s]."[153]

The election turnout was small. Only 8,308 voters cast ballots, even though Salt Lake City and the rest of the territory had "never witnessed such neck and neck exertions and such persistent and energetic drummings up of apathetic voters."[154] Although the voter turnout was smaller than would have been expected, considering the efforts to encourage the people to vote, the number of votes cast in opposition to nominated federal and territorial

officers was negligible—only 22 in all. Yet opposition, where it was found, was considered to be worthy of condemnation. Orson Hyde, a member of the Quorum of Twelve Apostles, at Moroni on Sunday, August 9, 1868, "condemned the course pursued in the recent Municipal Election in Moroni in opposing the nominations made by the priesthood."[155]

**Election of 1869: Organized Gentile Opposition**

On July 28, 1869, the *Deseret Evening News* reported that "a convention of leading citizens of Salt Lake County and City,"[156] with George B. Wallace acting as chairman, had unanimously selected their ticket:

Commissioners to Locate University Lands:

JOHN ROWBERRY,
JOHN VAN COTT,
LEWIS S. HILLS.

For Salt Lake, Tooele, Summit and
Green River Counties.

Councilors for the Territorial Legislature:

WILFORD WOODRUFF,
GEO. Q. CANNON,
JOSEPH A. YOUNG,
WILLIAM JENNINGS.

For Salt Lake County.

For Representatives:

ORSON PRATT,
JOHN TAYLOR,
ALBERT P. ROCKWOOD,
ENOCH REESE,
B. YOUNG, Jun.,
JOSEPH F. SMITH.[157]

The Gentiles of Box Elder County had also selected their candidates to run for representative (Dennis J. Toohy) and council of the Legislative Assembly (J.H. Beadle). The *Utah Semi-Weekly Reporter* said of Toohy's race, "his vote received numbered nearly 800,[158] but of course the Mormon vote was made to exceed it. Every foreigner, unnaturalized, boy and everyone else who had a name was enrolled upon the election poll, and his vote cast for Toohy's opponent."[159]

Toohy, however, did receive about 38 percent of the total number of votes cast for representative in Box Elder County, and J.H. Beadle received 43 percent of the vote for councilor.[160]

In this election, leaders of the church again sought to increase the political activity of the membership of the church. At the Parowan School of

the Prophets on July 31, 1869, S.S. Smith "read letters and telegrams relating to the election and encouraged the brethren to turn out and poll a large vote."[161] The church also took greater interest in how the members of the church voted. William H. Shearman, a Mormon resident of the territory of Utah, stated in 1869:

> Precautions are taken so it is known how every man votes, & if any vote for other candidates they are spotted as "on the road to apostacy." They must change their course or a series of petty persecutions ensue which ultimately drive them from the Church. In this way opposition has been bent down and unity obtained. . . . No personal or physical violence, but coercion of a far different kind, one that affects man's hopes of eternal life, has been brought to bear on these questions.[162]

Outside of Box Elder County, the political opposition to the People's Ticket was slight—45 votes out of over 11,000 votes cast in the election. The only unusual feature in this election was the organized non-Mormon opposition in Box Elder County.

Of greater importance than the election was another event which occurred in 1869, the emergence of the Godbeite movement. William S. Godbe, Elias L.T. Harrison and Eli B. Kelsey were excommunicated on October 25, 1869.[163] The Godbeite movement had grown out of the founding of a periodical called the *Utah Magazine* by Godbe and Harrison in January 1868. The editorials of the *Utah Magazine* were critical of Brigham Young's one-man rule in the church and of the economic policy which he had encouraged the Mormons to pursue, and in particular of Brigham Young's rejection of mining in the territory. An article entitled "True Development of the Territory," which appeared in the *Magazine* on October 16, 1869, stated that the mining industry of Utah should be actively developed. A short time after the issue appeared Godbe, Harrison and Kelsey were excommunicated. Soon other prominent men were expelled from the church, Henry W. Lawrence, Edward W. Tullidge and T.B.H. Stenhouse. With Godbe, Harrison and Kelsey, these men provided most of the nucleus of the Liberal Party which was organized in 1870.

**Conclusions**

Prior to their settlement in Utah the membership of the Mormon church had accepted the practice of bloc voting following the desires of their prophet in political as well as religious affairs. This produced the consequence that the church heirarchy was political but the membership of the church was generally apolitical. A member of the church did not conceive of secular politics as an individualistic expression but viewed it only in terms of a corporate activity which should be used to build the Kingdom.

After settlement in Utah the main concern of the settlers was physical survival. Since the church as an organization fulfilled most of the social and political needs of the early pioneers, there was little need for the organization of a civil government until there was an influx of non-Mormons into the

Great Basin. The church hierarchy established the claim of their right to nominate the officers of the people not only when the church organization was used for governing the valley but also when a civil government was established. The role of the people was to "sustain" the officers selected by the priesthood to govern them.

There is ample support for the conclusion that the Mormon church controlled politics in Utah in the period 1847-1869. Church leaders directly influenced, and to a large degree controlled, the nomination of political candidates. In the period prior to the development of political parties (1847-1869) and after the People's party was formed (1870) only one slate of candidates was presented to the people for their acceptance at the polls. Generally, the leading men in the church were selected for, and then elected to, the top political positions. The members of the church were expected to approve those candidates selected by the church leaders by casting their ballot for the candidates at the polls. In effect, the electoral process was regarded as the equivalent of the church practice of sustaining the authorities of the church. Without exception the early slates of political candidates selected by church leaders and presented to the Mormon people were elected. In the period of 1847 to 1874, not one candidate who was approved or selected by the leadership of the church failed to be elected.

However, it does not appear that the church leadership was willing to rely solely on the kind of behavior just described. The territorial legislature in January 1853 had passed a law providing for a marked ballot to be used in elections in the territory. This law was a point of contention between Gentiles and Mormons until 1878 when it was abolished.

Four basic patterns of electoral behavior developed which can be observed:

1. The members of the church, in complete or nearly complete unanimity, voted for a nominee selected by the leadership of the church.
2. Several voters or a small number of voters refrained from voting for one particular nominee. In these cases it is apparent that a handful of voters were antagonistic to a particular candidate and desired to show their opposition by abstaining from voting for him.
3. Where there was minor opposition – usually in the form of several write-in or "scratch" votes – another member of the church knowingly, or as it sometimes happened unknowingly, allowed voters to cast ballots for him.
4. Organized efforts were made by disaffected Mormons and Gentiles to form a coalition in an attempt to oppose or contest the "regular ticket" that had been selected by the leadership of the church, or at least approved by the leaders of the church.

In the election of 1858, political opposition was expressed in the form of a Mormon-Gentile coalition which sought to run a ticket in opposition to the "regular ticket." Although this coalition effort did not receive many votes, it was significant in that it was the first organized opposition developed in the territory.

The early elections in the 1860s followed very closely the electoral

pattern established in the 1850s. The election of 1863 indicated the effectiveness of the church in securing the election of its candidates when former Chief Justice Kinney, a non-Mormon, was elected as delegate to Congress with no opposition.

With the beginning of the mining industry in the mid-1860s, the number of non-Mormons in the territory began to increase. The first indication of the competing value systems was the difference in perspective with which mining was regarded. Brigham Young maintained the position that the Saints should engage in agricultural pursuits and home manufacturing and stay away from the gold and silver fields. Many of the Gentiles believed that mining would cause an influx of non-Mormons thereby diluting the influence of the church and thereby reducing church domination in the territory.

The Gentile opposition to the domination of territorial politics by the church was expressed in the election of 1867. In this election an organized effort to oppose the regular ticket supported by the leadership and membership of the church was made. Although the Gentile ticket only received 105 votes, the church sensed a growing opposition to its influence.

The church, in the elections of both 1868 and 1869, was very active in attempting to increase the attendance of the citizens of the territory (over 95 percent Mormon) at the polls. There is evidence to suggest that many members of the church responded or at least recognized the challenge facing the church. For example, in the elections of 1870 and 1871, over 20,000 votes were cast at the polls. With the completion of the transcontinental railroad in 1869, the number of non-Mormons in the territory increased rapidly.

In 1869 the Gentiles in Box Elder County produced an opposition slate (Dennis J. Toohy was the candidate for representative and J.H. Beadle for council to the legislative assembly) which polled about 40 percent in that county.

Of greater importance than the election in Box Elder County was another event which also occurred in 1869, the emergence of the Godbeite movement. William S. Godbe, Elias L.T. Harrison and Eli B. Kelsey were excommunicated for their activity in promoting the development of the mining industry and for being critical of Brigham Young's one-man rule in the church. These men were soon joined by other prominent men who were expelled from the church, Henry W. Lawrence, Edward W. Tullidge and T.B.H. Stenhouse. A coalition between the Godbeites and Gentiles served as a basis for the formation of the Liberal party in 1870, which saw the introduction of parties and party politics into Utah.

## *Notes*

109. Robert Joseph Dwyer, *The Gentile Comes to Utah: A Study in Religious and Social Conflict (1862-1890)* pp. 19-20. (Washington: The Catholic University of America Press, 1941).

110. Whitney, *History of Utah*, vol. 2, p. 374.

111. Dwyer, *The Gentile Comes to Utah*, p. 63.

112. Shaffer to Fish, July 22, 1870 (N.A., State Department MSS, Utah, vol. 2, no. 706).

113. Dwyer, *The Gentile Comes to Utah*, p. 62, quoting "Report of the Governor Made to the Secretary of the Interior for the Year 1878" (Washington, D.C., 1878), p. 3.

114. Melville, "Political Ideas of Brigham Young," pp. 196-197.

115. Glen Milton Leonard, "A History of Farmington, Utah to 1890" (unpublished Master's thesis, Department of History, University of Utah, 1966), p. 129.

116. *Mountaineer*, July 28, 1860. The *Mountaineer* was a pro-Mormon weekly newspaper which was published in Salt Lake City between 1859 and 1861.

117. *Ibid.*, August 4, 1860.

118. *Ibid.*, August 11, 1860.

119. *Ibid.* However, the *Mountaineer* went on to assure the elected candidates that they had the support of the people. "Those whom we select for our constables, our justices of the peace, our sheriff, or our representatives, to defend our rights in the halls of legislation; in fact, all for whom we have a right to vote, should enter upon their duties and take up their commissions with the full assurance that they are the people's choice. That can only be decided by the people's full vote."

120. Note attached to the official vote tally sheet sent to the Secretary of the Territory from Beaver County.

121. *Mountaineer*, July 20, 1861.

122. *Ibid.*

123. *Ibid.*

124. Cecil J. Alter, *Utah, the Storied Domain: A Documentary History of Utah's Eventful Career* (New York: The American Historical Society, Inc., 1932), vol. 1, p. 338. The following ticket appeared in the *Deseret News*, July 30, 1862, "People's Ticket–Great Salt Lake County–*Commissioners to Locate University Lands*–IRA ELDREDGE, CHESTER LOVELAND, SIDNEY A. KNOWLTON–*Representatives*–JOHN TAYLOR, HIRAM B. CLAWSON, EDWIN D. WOOLLEY, JOSEPH A. YOUNG, ALBERT P. ROCKWOOD, JOHN V. LONG."

125. James B. Allen, "Ecclesiastical Influence on Local Government in the Territory of Utah," *Arizona and the West*, vol. 8, no. 1 (Spring 1966), p. 47. Allen cites the County Court Minutes, Davis County, vol. 1, p. 101.

126. *Deseret News*, August 13, 1862.

127. Neff, *History of Utah*, p. 661.

128. *Deseret News*, July 1, 1863.

129. *Ibid.*, June 24, 1863.

130. *Ibid.*, July 1, 1863.

131. *Ibid.*

132. *Ibid.*, July 1, 1863 and July 8, 1863.

133. *Ibid.*, Italics supplied.

134. *Ibid.*, August 5, 1863.

135. *Ibid.* The opposition voting occurred in the voting for county and territorial officers and not in the voting for delegate to Congress.

136. *Ibid.*, August 26, 1863.

137. *Ibid.*, July 20, 1864.

138. *Ibid.*, July 13, 1864.

139. *Ibid.*

140. *Ibid.*, June 28, 1865. It appears that part of the reason for the early endorsement of William H. Hooper was intended to inform the Saints that he was a potential candidate whom the leadership of the church would like to see formally elected and also to generate a favorable opinion. After a visit to the territory in the summer of 1865, Samuel Bowles wrote: "Selection for office is, of course, nominally made by the people voting as in other states and territories, but the real choice is made beforehand by the Church authorities and the vote is usually quite small." Samuel Bowles, *Across the Continent*, p. 122, quoted in Helen Magdalene Cortez, "The Rise of the Liberal Party in Utah" (unpublished M.A. thesis, University of California, 1929), p. 28.

141. *Deseret News*, July 5, 1865. This ticket also appeared on July 12, 19, 26 and August 2, 1865.

142. One should not conclude that the election for delegate to Congress drew such a large number of voters out for the election simply because of the token opposition put up by the Gentiles. In the 1865 election for delegate to Congress, 15,431 voters cast their ballots for William H. Hooper, who did not receive any opposition from either the Gentiles or from his fellow church members.

143. This nomination was the result, as Baskin explained, of the practice certain Gentile businessmen had after business hours "of meeting at the office of Abel Gilbert, a merchant, and a gentleman of infinite wit and social qualities. At these meetings the state of affairs in Utah was often discussed and condemned." At one of these meetings in 1867 at which William McGroarty, several other men... and myself were present... I stated that if we intended to stay in the Territory we should organize and oppose the political control of the priesthood. As my suggestions were approved by all the other persons present, I moved that we begin by nominating Mr. McGroarty ... in opposition to Captain Hooper.... McGroarty stroked his long beard and said 'Barkis is willing.'" R.N. Baskin, *Reminiscences of Early Utah*, p. 23. Two different spellings of McGroarty were used by writers of this period. Tullidge, Whitney and generally most writers spelled the name McGrorty; Baskin spelled the name McGroarty.

144. Elijah Larkin, "Journal of Elijah Larkin, 1854-1867," Brigham Young University, p. 708. The term "Regenerators" was first used by the *Salt Lake Telegraph*: "The *Telegraph* seized the ready lance [of opposition to the *Union Vendette*, a newspaper put out by the soldiers at Fort Douglas] and expressing the ineffable scorn of the Mormon people, dubbed the folks at Camp Douglas 'Regenerators.'" Tullidge, *History of Salt Lake City*, Appendix, p. 8.

145. *Salt Lake Telegraph*, July 30, 1867. This ticket also appeared on July 30, 31 and August 1, 2, 3 and 4 in the *Telegraph*.

146. *Deseret Evening News*, July 16, 1868.

147. *Ibid.*

148. *Salt Lake Telegraph*, August 3, 1868.

149. *Deseret Evening News*, July 18, 1868.

150. *Ibid.*

151. This nominating caucus was reported in the *Deseret Evening News* of July 18, 1868.

152. *Ibid.* This ticket also was published in the *Salt Lake Telegraph* of July 20, 1868.

153. Minutes of the Provo School of the Prophets, 1868-1871. M.S. Collection, Utah State Historical Society, p. 60.

154. *Salt Lake Daily Telegraph*, August 3, 1868.

155. Moroni Historical Record, Book A, August 9, 1868, quoted in Jensen, p. 86.

156. *Deseret Evening News*, July 28, 1869.

157. *Ibid.*

158. Despite the claim of the Corinne newspaper (the *Utah Semi-Weekly Reporter*), Toohy received only 546 votes, according to the report of the county clerk of Box Elder

County. That Toohy received 546 votes and Beadle received 622 was evidence of the increasing number of non-Mormons in the territory. The *Utah Reporter* of February 1, 1870 printed a census of non-Mormons in the territory: "From the best evidence at hand we estimate roughly as follows: Corinne–1,000; Promontory, Ogden, Uintah, Echo, Wasatch and Bear River–600; Salt Lake City –500; Camp Douglas–400; Bingham, Cottonwood and Rush Valley–300; Sevier mining district–300; scattering–400; Total–3,500. Deducting soldiers and U.S. officials, this would leave three thousand citizens. Of the entire number at least two-thirds are voters."

159. *Utah Semi-Weekly Reporter*, October 16, 1869.

160. The *Utah Semi-Weekly Reporter* of October 16, 1869 claimed that besides the fraud perpetrated by the Mormons having foreign, non-citizens voting, which disadvantaged the small number of non-Mormon voters, that some Gentiles had not known of the election. "... there never was any notice of the election published in Corinne or Promontory, and hence the Gentile vote was not as large as it would have been had all been advised of the election by a proper notice published."

161. Minutes of the Parowan School of the Prophets, typescript copy, Utah State University Library, p. 40.

162. William H. Shearman, "Tendencies of Our System to Despotism," *Utah Magazine*, December 18, 1869, pp. 523-524, quoted in Cortez, p. 28.

163. Notice of the excommunication appeared in the *Deseret News*, October 26, 1869. The public notice of excommunication was addressed "TO WHOM IT MAY CONCERN.–This certifies that Wm. S. Godbe, E.L.T. Harrison, and Eli B. Kelsey were cut off from the Church of Jesus Christ of Latter-day Saints on Monday, the 25th day of October, 1869, by the High Council of Salt Lake City, *for harbouring and spreading the spirit of apostacy*. Wm. Dunford, clerk of Council." (Italics supplied.)

# A History of Water Rights in Nevada

by John W. Bird

A STUDY of the early laws and decisions concerning water rights in Nevada is often considered confusing. There are early decisions that have been interpreted to be of an appropriative nature, followed by judicial decisions that explicitly follow the riparian doctrine, and finally a judicial decree indicating that the riparian doctrine is not suitable for Nevada. An examination of the sequence of events may be illuminating.

The territory of Nevada was formed in 1861 from a part of the territory of Utah. Prior to 1858, the majority of the non-Indians in Nevada may have been only traveling through to other areas. There was an attempt by the Mormon church to settle and consolidate Nevada from 1855 to 1857, at which time the settlers were recalled to Salt Lake City.

Except for a small amount of mining in Gold Canyon and some farming in scattered locations there was little activity in Nevada until the Comstock Lode was unearthed and became widely known in 1859. Miners did not often stay all year in Nevada since there was little or no water for panning after the late summer months; they usually returned to California for the fall and winter. Discovery of the Comstock Lode resulted in a rush to Washoe in the winter of 1859-60 and then to a renewed search in other areas by those that arrived too late in Virginia City, Nevada. The rush prompted the growth of many new communities; towns like Aurora, Washoe City, Ophir City, Unionville (new name for Dixie) and Austin.

With the influx of miners came a need for food and thus many farmers and ranchers began to grow the needed food to supplement that shipped in from California. There was also a need for law and order. Because of the

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distance to Salt Lake City and Sacramento, the United States government was requested to create a separate territory of Nevada out of the western part of Utah Territory. This was accomplished in 1861 and territorial laws were enacted. One such law was the adoption of the Common Law of England,[1] except where it was repugnant to the Constitution of the United States.

One feature of the common law is that it recognized only the riparian doctrine of water rights. The riparian doctrine states that only property owners along waterways have rights to the water; and that right is to the full flow of the stream, undiminished in either quantity or quality. Modification of that doctrine has allowed use of the water by property owners for domestic or some irrigation uses. No other legislation regarding water was enacted.

This was a time of troubles not only in Nevada but in the nation as a whole. The Civil War erupted and there was much turmoil. Nevada wanted to become a state so that there could be elected officials with the ability to enact stronger laws. President Lincoln wanted Nevada to become a state to help pass the Thirteenth Amendment to the U.S. Constitution. Thus in 1864 the state of Nevada was admitted to the Union.

In 1865 the legislature passed an act[2] for the protection of agricultural lands and the preservation of water. This was generally for the protection of farm lands from backed-up waters caused by sawmills. Another act[3] allowed a person to divert the waters of any river or stream and provided for a right of way for a ditch or flume to carry the diverted waters over lands owned by other persons. Thus, diversions of water were encouraged, which is in contradiction to the riparian doctrine, but is allowed in the appropriation doctrine. The same legislature passed an act to continue the laws of the territory "until altered or repealed." This, of course, included the common law with the riparian doctrine.

In 1865 a dispute concerning the waters of Desert Creek in Esmeralda County led to an 1866 Nevada Supreme Court decision in *Lobdell* v. *Simpson*.[4] In this case, as in several earlier California cases,[5] no riparian rights were claimed because neither party held title to the land, and to claim a riparian right one must hold title to the land over which the water moves. As a consequence, the court decided the water rights based upon the prior appropriation of water by individuals. Since neither party owned the riparian land the court could not resort to riparian law, but followed the same general decisions made in California. It has been interpreted by some that the court was upholding the appropriation doctrine instead of the riparian doctrine; but the riparian situation did not exist.

As a matter of interest, in 1866 the chief justice of the Nevada Supreme Court was James F. Lewis, a native of Wales who moved as a child with his family to Utica, New York. In 1856, he moved to Wisconsin, where he studied law and was admitted to the bar in 1860. He moved to Nevada in 1862 and was elected to the supreme court in 1864. Both Justice Lewis and Justice C. Brosnan, from Virginia City, had been practicing attorneys, working with miners and mine operators, and were familiar with the appropriation aspects of mining law.

A few years later in the *Ophir Silver Mining Company* v. *C. Carpenter*,[6]

an 1869 decision concerning the diversion of water from the Carson River to supply water to the town of Dayton, another application of the appropriation doctrine was made to the withdrawal of water from the Carson River. Again, no riparian rights were claimed and the riparian doctrine was not considered.

During these years, until 1889, no legislative acts were passed concerning water rights. Apparently the legislature was satisfied to let the judicial process take care of the water rights of the state. During this time the various parts of Nevada blossomed with mining camps that almost as rapidly vanished again. And the cattlemen, such as Henry Miller and John Sparks, along with sheepherders such as G. Kimball came to Nevada to raise livestock. One major difference between a miner and a rancher is that if the water supply is short or becomes non-existent, the miner can close the mine for a period of time, but a rancher will lose everything if his herds die of thirst. Furthermore, a miner will generally realize that it takes only a relatively short time to deplete a mine–a few years perhaps–while it may take a rancher many years to build up a herd and/or reliable pasturage.

To clarify the riparian position in Nevada, the supreme court said, in 1869 in *Covington* v. *Beecher*[7] that no riparian ownership can be developed on public lands, only on privately owned lands. Then, three years later in 1872, in *Van Sickle* v. *Haines*[8] the first truly riparian case came before the state supreme court. Haines owned the land over which Daggett Creek, a small stream in Douglas County, flowed. Van Sickle had appropriated the waters of Daggett Creek before Haines acquired the property from the U.S. government. Haines wanted the water that he felt belonged to him and the dispute ended in court. This was the first case to be brought before the supreme court where a claim was made to landownership and a riparian right due to that landownership. Lewis was still chief justice and he delivered the opinion of the court that "The common law is the law of this state and must prevail in all cases where the right to water is based upon the absolute ownership of the soil." Thus, the supreme court held for the first time that the riparian doctrine controlled in Nevada.

Yet, in 1886, only fourteen years later the supreme court held, in *Jones* v. *Adams*,[9] a somewhat different view. Joseph Jones first appropriated and used 0.7 of all the waters of Sierra Creek in Douglas County. Adams then appropriated the other 0.3 of the same stream. Jones owned the downstream land and claimed that the riparian doctrine should be applied since both he and Adams had been riparian landowners since 1865. Applying the riparian doctrine would mean that Adams would have to let all the water go down to Jones, who could use it all since there was no riparian landowner downstream from Jones. Instead, the supreme court held that both parties had appropriated the waters of Sierra Creek before 1866, and thus the Congressional Act of 1866 applied. This act states, in part, "that whenever, by priority of possession rights to the use of water for mining, agricultural, manufacturing, or other purposes have bested and accrued.... Such vested rights shall be maintained and protected." In effect, the supreme court repudiated the riparian doctrine at that time and expressly overruled any part of *Van Sickle* v. *Haines* that was in conflict with the views expressed in *Jones* v. *Adams*.

This was reinforced three years later, in 1889 in *Reno Smelting, Milling, and Reduction Works* v. *Stevenson.*[10] Here the supreme court cited *Coffin* v. *Haggin of California* and *Jones* v. *Adams of Nevada*, and then stated that "it was the intention of the legislature to adopt only so much of the Common Law of England as was applicable to our conditions. The common law doctrine of riparian rights is unsuited to the condition of this state." This was the final death knell for the riparian doctrine in Nevada–from then on the appropriation doctrine prevailed.

The state legislature now became more active in the area of water legislation and in 1889 passed an act[11] to form irrigation districts to provide for the storage of water to encourage milling, and a method to adjudicate priority of water rights. Then in 1891[12] they repealed the part of the act of 1889 relating to the storage of water for milling and then reorganized irrigation and water storage districts. It was claimed that the storage of water for milling purposes was for the benefit of the mills that had to shut down during periods of low streamflow in the summer months.

In 1893 the legislature *repealed*[13] the act of 1889 that provided for the settling of priority rights for water and for recording claims to water rights with the water commissioners. This meant that there was no standard method by which water rights could be acquired. There were probably several reasons why the act was repealed. The mines in Nevada had an almost steady increase in production from 1860 until 1877. After 1877 the mining production decreased considerably. With the decrease in mine production there was a corresponding decline in population (from about 62,000 in 1880 to about 42,000 in 1900) and also a reduction in agricultural output. It was admitted that irrigation was necessary, but water used for irrigation was not available for mining; and the miners had the political power. With the decline of the mines there was a partial power vacuum until the large ranchers asserted themselves in competition with the railroad interests. And, it must be admitted that, being human, personal animosity between state legislators and/or senators occasionally contributed to the lack of constructive action.

A large rancher, at that time, may not have wanted anyone to know what his specific water right was. If the rancher was particularly influential he may have greatly preferred to not have any written record of his water right but to rely on a friendly court to arrive at a decision in his favor when he needed additional water in the future. It may have been for that reason that many influential ranchers had the act of 1889 relating to the determination of water rights repealed.

Nevada, of course, is one of the United States, and federal action concerning the western states clearly affects Nevada. In 1888[14] Congress authorized John W. Powell to conduct extensive surveys of streams and reservoir sites in the West and to designate which lands were irrigable. Congress also withdrew all irrigable land from the public domain until the completion of the survey. Nevada appropriated funds for a number of years to pay the United States Geological Survey to conduct surveys to determine how much surface water was in the state and where it was located. This may have been another factor in the ranchers' desire to repeal the Water Rights Act of 1889. As long as the water rights were not settled, claims could be made for

water to irrigate lands that could be acquired by the ranchers after the Powell survey was completed. The legislature may have decided to withhold further action until the Powell survey was completed. This, with the depression of the 1890s meant that other problems were considered to be more pressing than the problem of water rights.

In 1888 Wyoming pioneered legislation for an equitable division of the available water that was later followed by Nevada. There followed a ten year period during which time the politicians, ranchers, and other interested parties had an opportunity to discuss the new Wyoming laws, the irrigation problems in general, and the fact that a comprehensive water survey takes a great deal of time. And, after ten years of not knowing what the water rights were, coupled with an expanding economy (the depression was over) there was a renewed interest in an equitable distribution of water.

Finally, in 1899, the state legislature declared that "all natural water courses and natural lakes and the waters belong to the state."[15] They also passed a comprehensive act to define and preserve existing water rights, and regulate the mode of using and acquiring the use of water in the future. Relative rights were preserved, and a Board of Water Commissioners was created. The county surveyor was to receive the application for a water-right and a certificate of water-right was to be recorded with the county recorder.

In 1902, on the Reese River in Lander County, the supreme court held in *Walsh* v. *Wallace* "To constitute a valid appropriation of water, there must be an actual diversion of it, with intent to apply it to a beneficial use, followed by an application to such use in a reasonable time.... doctrine of riparian rights does not prevail in Nevada...."[16]

Finally, in 1903, the state legislature created the office of state engineer,[17] and provided for the measurement, appropriation and distribution of water, the determination of water rights and preserving and certifying the records thereof; and creating officers for the enforcement thereof. They also said that the waters of the state were subject to appropriation for a beneficial use, and the right to the use of water so appropriated for irrigation shall be appurtenant to the land irrigated. The method for appropriating water was set forth, with the county recorder required to transmit a transcript of all claims to the state engineer; and all county clerks to transmit a copy of all decrees on file in their offices affecting rights to the state engineer.

In 1903 the appointment of a state engineer was authorized, with all applications to appropriate water required to be made with the state engineer. At last there was one place, and one person, statewide, who had control of water appropriation and who could apply the laws uniformly.

## *Notes*

1. Secretary of State (John Koontz), *Political History of Nevada*, 4th ed. (Carson City: State Printing Office, 1960), p. 24.
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# Frank O. Broili: The Transformer

**by June Broili**

FRANK O. BROILI will long be remembered for his talents and accomplishments as an engineer in Nevada and northern California. Frank pioneered in the fields of electrical engineering and radio broadcasting at a time when Nevada's towns vied with each other for recognition as the "wildest," "toughest," "fastest growing," and later as the "most cultured" or "most progressive." Arriving in the booming, young mining camp of Tonopah in 1904, he crisscrossed the state in subsequent years developing sources of electrical power which contributed greatly to Nevada's modern growth and economic well-being.

Frank's father, Anton Broili, came to America in 1867 from Wurzberg, Germany. Anton was a descendant of the noble de Broglie family of Piedmont, located near the Italian Alps. The family moved to Venice early in the seventeenth century and later crossed into Germany. Anton Broili settled in Nebraska where he met and married Amelia Keller. In 1874, while Anton and his wife were living in North Platte, Frank was born.

Only a few short years after Frank was born, the Broili and the Keller families moved to Alameda, California, a move which was quickly followed in 1884 by another to Willow Ranch, California. Willow Ranch was situated in the triangular section between the borders of California, Oregon and Nevada. Frank's father opened a general store in Willow Ranch and also operated the area's post office. In addition to the Broilis' store, Willow Ranch sported a hotel, saloon, flour mill, country school, and a few sawmills nearby.

Land surrounding Willow Ranch had been opened to homesteading by

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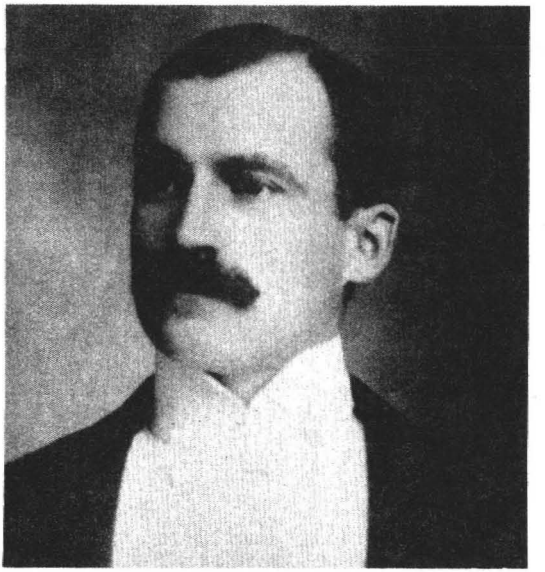

*Frank O. Broili*
*early 1900s*

the federal government; Anton found this excellent opportunity very appealing and homesteaded 160 acres about a mile from town. The Broili home was situated in a natural grazing area that abounded with deer and antelope trails. Viewed from the house the beauty of the surrounding desert lake country was amply displayed. The location was truly appreciated by the practical German, Anton, who knew the value of land, esthetically and practically.

Life was good to the Broili family and in 1886 Frank's brother, Julius, was born. When Frank graduated from country school, his father became concerned about finding a way for him to continue his education. Anton sent to Germany for school books and began tutoring the children, he found Frank especially bright in mathematics.

Self-reliance was a necessary quality for a young man living in a pioneer area to develop. Anton taught Frank to hunt geese, ducks, deer and other game that abounded in the Willow Ranch area as a means of supplementing the family's food supply. As Frank grew older, his enthusiasm and resourcefulness prompted his father to give him more responsibilities.

Frank's acceptance of a greater role in caring for the family became even more important as Willow Ranch prospered and grew in size. This prosperity attracted a new breed of man into the area; men who were adventurous and unfettered by families and businesses moved into Willow Ranch. The small community soon found itself in the midst of a lawless element that threatened the peace and safety of its citizens. Increasing numbers of desperados found the isolated area a welcome place to rest, eat, and drink; Willow Ranch became their "watering hole."

Protection of the Broili family required that Anton share his duties with Frank. The decision facing Anton was where was his presence most essential, at home or at the store which was a mile away. It was decided that Anton would sleep at the store, and Frank who could shoot a gun as well as any man would guard the family at night. Apparently this arrangement proved satisfactory and a routine was established which continued for several months. Anton would go home to dinner in the evening, then ride horseback or walk back to the store, spend the night, and return home at daybreak for breakfast and a brief rest. The routine would then begin again. One morning, however, Anton did not arrive home at the expected time. Frank was sent to look for him; he found his father lying in a patch of willows about midway between the house and the store–he had been shot and was dead.

Frank, only fourteen at the time, ran home to report that Anton had been murdered, then went for the sheriff. Later it was discovered that two teenaged brothers who lived nearby had murdered Anton for the day's receipts from the general store–receipts which amounted to thirteen dollars. They had evidently also attempted to break into the store but had been unable to open the difficult lock on the door.

Anton's tragic death left Frank, the oldest son, with the responsibility of helping his mother care for five younger brothers and sisters. His training and self-reliance were put to the test and he performed his duties well. The store, however, proved too much for Frank and his mother to operate alone and it was sold.

When Frank was seventeen, his mother married a man named Charles Taylor whose own wife had died after their children were raised. Mr. Taylor loved the Broili children as his own and expressed great concern for their future. He encouraged Frank to complete his education as Anton had always dreamed. He helped Frank with plans to go to San Francisco where he could live with an uncle, work for him, and attend school while doing so. Frank, however, proved somewhat reluctant to leave his mother, brothers, and sisters. It was Charles Taylor who removed this reluctance by spinning yarns about his own adventurous youth in the West. How when only nine years old he had come west and camped on the Truckee River, fording it near the present Virginia Street bridge and riding horseback toward Washoe Valley. Later Frank was not certain whether it was the story telling or the hunting trips with Charles Taylor, but something made him feel he almost had his father back for counsel. Frank agreed to go to San Francisco.

Frank's uncle, Richard Keller, owned a dairy on Fell Street in San Francisco and Frank's first job was not much different than the one he had left behind at Willow Ranch. For a salary of $3 per week he helped milk sixty cows each day and then delivered the milk. Awed with life in the big city, Frank found each morning's delivery a new adventure.

Attending school in the exciting environment of San Francisco broadened Frank's outlook and he began to make plans for his future. Soon one desire gained predominance over all others–he wanted to become an electrical engineer. In pursuit of this goal, Anton's special tutoring of Frank paid off when he applied for a job with the California Electric Company. His proficiency in mathematics served him well as he worked and studied as an

apprentice engineer.

Frank's studies as an electrical engineer brought him into contact with another example of the "magic" of the time–radio broadcasting. With his usual enthusiasm and curiosity Frank began an intensive study of radio. When the letter "S" was signaled across the Atlantic by Marconi on December 12, 1901, Frank was hooked–he had to learn how to send radio waves too.

He joined others and built a wireless, but he did not stop there. After he was certain that the wireless worked properly he transported it to the Farallon Islands outside of San Francisco and waited. Marconi was experimenting again, this time attempting to send a radio message around the world. As there were no professionals in the field of radio transmission, Marconi had to depend on amateurs to assist him with his experiment. Frank listened carefully at the wireless, barely risking to leave it for a moment. His perseverance was rewarded when he picked up Marconi's signal on his homemade wireless–excitedly Frank transmitted the signal on its way. For this act he received recognition from Marconi; he had assisted in completing the first transmission of a radio signal around the world.

The publicity surrounding the radio experiment soon brought Frank to the attention of his employers. His reputation as a bright young man grew and several professional promotions followed. Important jobs began coming to him as his ability became better and better known. He was placed in charge of a million dollar project to make San Francisco Bay safer for sea-worthy vessels. Eliminating marine hazards in San Francisco Bay meant that huge Skagg Rock had to be dynamited and removed; Frank had to become an explosives expert to accomplish the task. The harbor was cleared and Frank was credited with the successful completion of the project.

In 1904, the California Electric Company sent Frank to Nevada to scout for new business opportunities. Arriving in the dusty, rip-roaring, mining camp of Tonopah, Frank was reminded of his youth at Willow Ranch. In his report on Tonopah to his employers, Frank managed to include his comments on Reno. He saw Reno as the progressive town of the future in western Nevada. He indicated that although Sparks possessed the railroad, people seemed to choose Reno to live in. Perhaps it was because of the sparkling Truckee River that wound its way through the midst of the town–or perhaps because the university had been moved there. Frank wanted to help Reno get "all lighted up."

Appointed electrical engineer for the Truckee River General Electric Company, Frank was transferred to Reno. Despite the fact that Reno was the place Frank wished to reside in, and had plans for the development of, he was shortly moved to Virginia City to design, construct, and maintain an electrical substation for the community. Work began on March 24, 1905 and before a year had passed the project was completed.

Frank remained in Virginia City after completion of the substation, taking a position with the Sutro Tunnel Coalition. He was hired by Mr. Frank Leonard, supervisor for the coalition, to electrify the tunnel. While in the employ of Mr. Leonard, Frank began escorting his daughter, Frances, to social events–later they were married.

Julius Broili, Frank's younger brother, was encouraged to move to

Reno and to attend business school. Only eighteen at the time he entered business school, by 1910 Julius had completed school, married his childhood sweetheart, and was ready to go into business with Frank. That same year Frank went to Tonopah, bought the Nevada Machinery and Supply Company and transferred it to Reno. The company had been housed in an army tent in Tonopah and moving the name and merchandise was not as difficult a job as it might at first seem. Before much time had passed Frank renamed the company Nevada Machinery and Electric Co.–the name that the successful company is still known by throughout the state.

This company was the basis of Frank's electrical engineering and contracting business which operated throughout Nevada, northern California, and as far north as Portland, Oregon. The partnership between Frank and Julius proved to be ideal, Julius excelled in the business management of the firm. What Frank found bothersome and time consuming was a delight to Julius. As a result, the brothers made a fine business team.

Frank's professional ability and personal charm won him a wide circle of friends in the Reno area. One of these acquaintances was Emmet D. Boyle, who upon being elected governor appointed Frank to serve on the Public Service Commission as state engineer for four years. As state engineer Frank traveled extensively over the dusty, unpaved roads of Nevada. The difficulty of such travel Frank considered one of the major hindrances to the industrial development of the state–an opinion which he never failed to reiterate to Governor Boyle who often accompanied him on these trips. Perhaps these trips with Frank influenced Governor Boyle to make highway construction one of his major goals as governor.

World War I and the use of the airplane brought Frank's old love for radio back to the forefront of his thoughts. Radio equipment installed in airplanes had proven a great advantage to the U.S. Army in the conflict. Enemy troop movements could be observed from the air and the information radioed to allied troops on the ground. It was also possible to direct artillery fire via the radio. Tested in war, radio began to expand its civilian role after the conflict had ended.

Frank Broili was quick to recognize the potential of radio for civilian commercial uses. The government, particularly the military, was reluctant to give up its monopoly in the field of radio communications. Eventually President Wilson placed the responsibility for developing controls for civilian radio broadcasting in the hands of Herbert Hoover in the Department of Commerce. As secretary of commerce, Hoover endeavored to assist private industry in solving the many problems facing the fledgling enterprise. Painstakingly Hoover assigned specific broadcast frequencies to weather stations, government agencies, army, navy, private stations, and amateur operators. He attempted to iron out the problems of signals splashing over into other areas or frequencies because of equipment not yet adequate in design; he tried to settle the difficulties caused by competition from foreign stations and the policies they were adopting. Secretary Hoover soon became known as the "ether cop."

Despite the problems involved Frank applied for, and received, a license to operate a radio station. The station was assigned the call letters KDZK and

the Broili brothers found themselves holding the license for the first radio station in the state of Nevada.

Frank, Julius, and Charles Gorman of the University of Nevada thoroughly discussed the problems of building a wireless station. Julius was sent to Sacramento to visit the radio station owned by the *Sacramento Bee* and to San Francisco to study the new station located in the *San Francisco Examiner's* building on Market and Third streets. Next he interviewed radio engineers looking for one to assist Frank in construction of the station. He chose an engineer from Sacramento who was paid $500 for his part in building a twenty watt station. Through Frank's continued efforts KDZK soon increased its power to fifty watts.

The power and quality of an early radio station could only be determined by a method of trial and error. To measure the distance at which a satisfactory signal was being received, early stations requested their listeners to send post cards to the station stating the time of day and strength of signal received. The public responded wholeheartedly and cards flooded into station KDZK. Freakish weather conditions sometimes brought unusual responses from listeners; quite a stir was caused at the station when a post card was received from Alaska or the East Coast. KDZK was generally on the air some three hours per day although an engineer remained on duty twenty-four hours a day in case a national emergency should occur. As part of the station's programming, John Sanford of the *Reno Evening Gazette* presented thirty minute news broadcasts each day.

As the radio industry matured the public began demanding more and better programming–they wanted programs other than news broadcasts. This new demand made operation of radio stations a much more expensive proposition than when Frank and his brother first began station KDZK. Further difficulties were caused by the labor unions; the musicians' union was strong enough to prevent the transmission of any music other than that performed by live orchestras. To encourage the use of live orchestras, the publishing houses shipped bundles of free sheet music to any and all radio stations, however, often there simply was not enough money to hire the musicians and in many cases no musicians to hire.

Frank Broili began to think in terms of the retail selling of wireless sets. He found that the public was not interested in building its own sets; people wanted wireless sets ready made. The problem was that such sets did not exist in the quantity necessary for successful retailing. Frank was aware, however, of the potential profit in such an enterprise.

Due to the ever increasing expense of operating KDZK, Frank decided not to renew the station's license when it became due in 1921; the station went off the air. Eventually the station was dismantled and stored in the basement of the Ginsburg building on North Virginia Street. A man from Sparks expressed considerable interest in purchasing the equipment but Frank refused the offer, hoping he would again be able to open the station when conditions improved. KDZK was not destined to return to the Reno airwaves; late one night a large portion of the equipment was stolen and KDZK no longer existed even in a dormant state.

While attending a Lions Club luncheon April 26, 1922, Frank listened to a speech given by Charles Gorman in which he indicated that some thirty thousand radio sets had been sold in 1921. Gorman further indicated that sales to date had grown to eight hundred thousand sets with some $15 million worth of unfilled orders on the books of the large radio manufacturing companies. This information prompted Frank to give up the idea of ever returning to radio broadcasting, instead he decided to sell radio sets to the public.

Unencumbered by the extra work of operating station KDZK, Frank turned his full attention to his electrical engineering career. His company completed many jobs for private industry, schools, and governmental agencies during the following years. Some of the area's brightest young men came to apprentice under Frank's supervision and become licensed electricians. While engaged in the construction of a substation in Pioche which was designed to provide power for the operation of mines in the area, Frank suffered a heart attack. Urged to return to San Francisco because of its lower altitude for his convalescence, Frank passed away in 1938.

Frank O. Broili's life in Nevada spanned the era which saw the state change from a primitive pioneer area to a region struggling to take its first steps toward modernization. Frank Broili's professional career was devoted to the furtherance of that modernization process. His development of electrical power sources within the state and his early experimentation with radio broadcasting contributed much to Nevada's effort to move into the modern age. This devotion to his adopted state can be seen yet today; each year a deserving electrical engineering student is awarded the Frank O. Broili Scholarship by the University of Nevada.

## What's Being Written

*Southern Gentleman of Nevada Politics: Vail M. Pittman*, by Eric N. Moody (Reno: University of Nevada Press, 1974; 136 pages; bibliography, index; $3.50).

UNTIL HIS CAMPAIGN for lieutenant governor of Nevada in 1942, at the age of fifty-nine, Vail Pittman had contented himself with the local prominence of a newspaper editor and civic leader, first in the Tonopah area from 1904 and then in Ely from 1920. He had run successfully for the state legislature in 1924 and again, unsuccessfully, in 1936. It was only after the death of his more illustrious brother, Key, in 1940, following Key's reelection to a fifth term in the U.S. Senate, that Vail Pittman determined to emerge from the local scene into statewide Nevada politics.

Successful in his initial statewide campaign for lieutenant governor, he ran for U.S. senator in 1944 against Key Pittman's ancient enemy, Pat McCarran, and went down to defeat. Two years later, he won the governorship, but he failed to be reelected in 1950 and failed again in his final effort, at the age of seventy-one, in 1954. Failing to form an effective political organization of his own within the Democratic party, he was obliged to give up the fight against Senator McCarran's domination of the party within the state, at the climax of the McCarran-McCarthy era nationally.

As Eric N. Moody makes clear in his study of Vail M. Pittman's political career, it was not Pittman's controversial program or personality that accounted for his relative lack of success at the polls. Moody quotes approvingly the judgment of one of Pittman's friends that Pittman had been no more than "a good enough governor for the time." Indeed, it appears from Moody's account that he fell considerably short of being good enough for the time. Vail Pittman presided over Nevada during the crucial years when legalized gambling, with its attendent tourism, supplanted mining and agriculture as the state's leading industry. Governor Pittman was not personally involved in the scandals that accompanied this transition, but neither was he much involved in coping with the problems that were arising out of this expansion of the gaming industry.

Pat McCarran dominates this monograph, Pittman being permitted to win office at the state level only on the two occasions–in 1942 and 1946–when McCarran was distracted by other contests. Moody concludes that "... Pittman's demonstrated lack of partisan political leadership was most likely due to inability..." while his lack of administrative leadership reflected his limited view of the constitutional powers of the governor. By contrast, McCarran's success appears to be attributed to his possession of a political machine, much like the political machine that had earlier functioned on behalf of Key Pittman but that had been dismantled by the time Vail Pittman ran against the McCarran machine.

As his extensive documentation indicates, Moody has researched his subject thoroughly; yet the reader is left with little more awareness of the real political situation in Nevada during Vail Pittman's career than the politically ineffectual Pittman apparently possessed at the time. A well-written and scholarly study, this monograph is nevertheless limited by the limits of Pittman's political capacity, which Moody is content to chronicle impartially throughout its indifferently successful career.

GILMAN M. OSTRANDER
*University of Waterloo,*
*Waterloo, Ontario*

*Sagebrush Statesman: Tasker L. Oddie of Nevada*, by Loren B. Chan (Reno: University of Nevada Press, 1973; 189 pages; index; bibliography; illustration; photograph; $4.00).

TASKER ODDIE was elected Republican governor of Nevada in 1910 and served in that office from 1911 to 1914. Defeated in 1914, he ran again in 1918. Oddie was elected to the United States Senate in 1920 and served two terms until he lost his senate seat to Pat McCarran in 1932.

The book provides a brief account of Oddie's early life in the East before he moved to Nevada in 1898 when, at the age of twenty-eight, he served as secretary to the Nevada Company and as a representative of the Stokes family who had widespread holdings in Nevada. Oddie's rise to affluence and subsequent financial ruin as a mine operator, all in the space of seven years, is told in the context of Nevada's boom and bust cycles.

In 1900 Oddie ran unopposed as District Attorney and County Superintendent of Public Schools for Nye County. Oddie then served one term in the Nevada State Senate from 1905 to 1909. In evaluating Oddie's performance, Chan writes:

> At best, then, the career of state senator Tasker Oddie was a mediocre one. In Carson City, his first appearance as an elected state official was just a supporting role–a matter of answering quorum calls and casting votes. In most of the bills that he himself introduced, he failed to exhibit outstanding qualities of political leadership.

Chan provides a good accounting of Oddie's shoestring gubernatorial campaign in 1910 which was run from Oddie's chain drive Thomas Flyer automobile. Oddie's administration is dealt with in a chapter entitled "Nevada Progressive" but Chan's assessment of Oddie is that "as a governor, he was mediocre."

Chan develops a good chapter on "The Bipartisan Machine" which operated in Nevada from 1913 to 1933 to protect the interests of the business community on the state level. His treatment of the 1920 Senate campaign between Oddie and Democratic incumbent Charles B. Henderson, however, is rather scanty and might have been developed in more detail.

Chan includes chapters covering Oddie as "Freshman Senator," Oddie's second term—"Solid Statesman" and "Nevada and the Navy" which chronicles Oddie's performance on the Committee on Naval Affairs and subsequent location of the Naval Ammunition Depot at Hawthorne, Nevada. Chan also treats Oddie's involvement in the construction of Hoover Dam.

Chan includes a brief recounting of Oddie's defeat at the hands of Pat McCarran in 1932 which ended Oddie's political career. Oddie did make a rebid for his senate seat in 1938 but won only Douglas and Washoe counties and lost the other fifteen counties.

In terms of his Senate service, "Oddie was, at best, an average public official. During his two terms, he proposed virtually no legislation of national importance." Chan concludes:

> Although his public career contained sufficient evidence of positive accomplishments, it was rather limited in nature. It would be difficult to call Tasker Oddie "great" in the context of either twentieth-century Nevada history or modern American history. That, however, does not mean that his life lacks historical significance. For life, and history as a record of life, are just as much the products of average men and women as of great ones.

Chan's book is engaging and interesting. He has attempted to record the public career of Tasker Oddie in very human and personal terms. Sometimes without completely building his case the author seems to be somewhat critical in his assessment of Oddie's political failures. The book is enjoyable reading and students of Nevada history and politics will find it worthwhile and illuminating.

RONALD C. JACK
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*The Life and Adventures of James P. Beckwourth*, as told to Thomas D. Bonner, introduction, notes and epilogue by Delmont R. Oswald (Lincoln: University of Nebraska Press, 1972; 649 pages; $9.75). *Jim Beckwourth: Black Mountain Man and War Chief of the Crows*, by Elinor Wilson (Norman: University of Oklahoma Press, 1972; 248 pages; $8.95).

JAMES PIERSON BECKWOURTH (Beckwith), the multifarious mulatto of the nineteenth century West, would seem an irresistible subject for biography. Trapper! Explorer! War Chief of the Crows! Discoverer of a passage through the rugged Sierra Nevada and founder of a small community in California! Such is the stuff of legend, yet Beckwourth's contributions have been shrouded by controversy since they were made public in the 1856 publication of his dictated autobiography by Thomas D. Bonner. Several biographies and more than a century later interest in ole Jim has re-emerged—so too has the controversy over his inclusion into the galaxy of recognized Western superstars typified by Jim Bridger, Kit Carson, Jedediah Smith, *et al.*

Despite this reader's assessment that the mere traversing of the 537 pages of Bonner's prose which have been reprinted in the Oswald volume is, in itself, an adventure fraught with the greatest of difficulties, the basic text may just be an illustration of Wild West literature at its most flavorful. Beckwourth is portrayed as an archetype of nineteenth century stereotypes of manliness; an individual driven by an insatiable thirst for "renown," hotly in pursuit of fame and fortune in the still unsettled West. During this life-long quest, Jim endures an endless series of "Penny dreadful" adventures and overcomes every challenge from the recurrent prospect of certain death, to the equal rigors of successive marriage bouts and a continuous pursuit of "hymeneal" pleasures. And through it all, our hero displays nothing less than classic magnanimity and humility by eschewing the righteous fruits of his unlimited successes. One feels constantly compelled to scream "Dy-no-mite"! But upon closer inspection, Beckwourth loses his tangible reality. He is cast as a shadowy figure stranded between two worlds, functional and successful in both, but ultimately uncomfortable in either. Beckwourth is a mulatto, living in both the White and the Red world—but seldom, if ever, in a Black World. Moreover, the presence of Oswald's notes and epilogue, and the implicit promise of clarity concealed therein, offers very little to the construction of a final answer to the many questions surrounding Beckwourth. The notes, in particular, are awkward, speculative, and poorly placed within the volume. Quite simply, they raise many more questions than they could possibly answer.

The Wilson volume, meanwhile, is much closer to this reader's understanding of what biography should be. Impressively documented by diligent research into extra-biographical material, *Jim Beckwourth* utilizes a smoothly analytic narrative to secure the reader on controversial points. And despite the fact that the author makes liberal use of the Bonner original, particularly in quotations, the reader finds little difficulty in keeping pace. Perhaps the most serious failing of this volume for the neophyte reader of Western history resides in Ms. Wilson's failure to fulfill her self-appointed task—of proving that Jim does not deserve the "gaudy liar" rap appended to him by several historians of the nineteenth century West. The chief strength of the work, on the other hand, counterbalances this failing, for Ms. Wilson's work just might force a more positive reevaluation of Beckwourth as a nineteenth century historian and anthropologist of considerable expertise. Perhaps this is justification enough for Elinor Wilson's *Jim Beckwourth*

becoming a welcome addition to the library shelves of those interested in the history of the West.

MICHAEL S. CORAY
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*Native American Politics: Power Relationships in the Western Great Basin Today*, edited by Ruth M. Houghton (Reno: University of Nevada, Bureau of Government Research, 1973; 124 pages; notes, tables, bibliography).

THE PROBLEMS of local Indian political organization in the Western Great Basin, the role of tribal government in preserving native culture and identity, and its effectiveness in coping with the impositions of non-Indian society are all closely examined in this collection of scholarly papers edited by Ruth M. Houghton of the University of Nevada, Reno. Originally prepared for a symposium of the Great Basin Anthropological Conference at the University of Utah in 1972, these papers offer a sampling of the kinds of research presently being conducted by anthropologists and political scientists in the Great Basin culture area. Most of the authors have recently completed doctoral dissertations on their paper topics. As a result, a rather intensive view of a variety of cultural and political questions are considered in this volume.

Douglas C. Braithwaite, a political scientist from Georgia, examines how the Paiute people of two bi-cultural communities in southern Utah and northern Arizona cope with their relatively powerless political and social position. The degree of conflict and compatability between "council" and "traditional" leadership among several Western Shoshone and Goshute tribal groups is analyzed by Richard O. Clemmer, an anthropologist from New York. Michael Hittman of Long Island University describes how the Indian Reorganization Act produced factionalism among members of the Yerington Paiute tribe, and editor Ruth M. Houghton, who also served as symposium chairperson, studies the effects of an OEO Community Development program on the socio-political structure of a Northern Paiute reservation.

In dealing with other Northern Paiute problems, Robert N. Lynch of Rhode Island University observes the BIA in its interchanging role of client and patron, and political scientist Faun Mortara (UN-Reno) views the positive political and legal effects of the Indian Reorganization Act on Pyramid Lake Reservation. In the most extensive paper, Elmer R. Rusco (UN-Reno) shows the discriminatory nature of Nevada law as applied to its Indian citizens. The willingness of Ute and Shoshone tribal governments to cooperate with non-Indians in solving social problems is then pointed out by Mary Kiehl Rusco. Finally, comments on the papers are offered by two Nevada Indians who took part in the symposium (Warren Emm and Leah Manning), and two anthropologists who have done extensive research on Great Basin tribal life (Warren L. d'Azevedo of the University of Nevada, Reno, and Joseph G.

Jorgensen of the University of Michigan).

*Native American Politics* contributes a great deal toward the further understanding of political behavior and leadership among tribes of the Great Basin, as well as to our knowledge of contemporary Indian problems in general. The authors are all intimately acquainted with reservation life and their research is based on sound and intensive field work. As a result, this volume is recommended to all interested scholars. Hopefully, it will suggest and encourage similar research in those vast areas of modern Native American political life which have not yet been investigated or explored.

MICHAEL L. LAWSON
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*Sand in a Whirlwind: The Paiute Indian War of 1860*, by Ferol Egan [forward by A.B. Guthrie, Jr.] (Garden City and New York: Doubleday & Co., Inc., 1972; 316 pages; xv, illustrations, bibliography, index; $8.95).

ON SEVERAL OCCASIONS in recent years, the sensibilities of the general American public have been jarred by events dramatizing the social and economic plight of this country's ethnic minorities: the long "hot" summers of '65 through '68, the Poor People's Campaign, the occupation of Alcatraz, the California grape pickers strikes, the second incident at Wounded Knee, etc. Television newsmen were "on the scene" in each instance with live coverage and interviews with participants. Editors, columnists, "anchormen" and others dissected the climate of the times in an attempt to clarify causes and make predictions about the future. Some years hence, social historians will re-analyze these materials from the perspectives of detachment and comparison and perhaps draw some additional conclusions.

In several senses, a similar task in social historical reconstruction has been attempted by Ferol Egan in *Sand in a Whirlwind*. In May of 1860, western Nevada (then Utah Territory) and adjacent California were shocked by news of the near annihilation of a troop of local militia under Major William Ormsby at the hands of Northern Paiutes led by Numaga. A frightened and confused frontier rallied to prepare itself for attack. Newspaper reporters were dispatched from the cities of San Francisco and Sacramento to the towns of Washoe to ascertain the facts and cover additional events. Participants and bystanders were interviewed on the scene. Editors and other social critics attempted analyses for causes and provided prescriptions. Later, several of the parties involved wrote short memoirs.

These and other data provide the baseline for Egan's reconstruction of the social climate surrounding the events of the Paiute War of 1860. Egan describes this war, principally known by students of western history, as a struggle pitting Northern Paiutes angered by frontier prejudices and misunderstandings, against rough, frequently insensitive and ultimately vengeful miners and settlers from the western Sierra slope. The data, drawn

from particularly rich contemporary accounts, are presented in the form of an historical novel, with actual and simulated conversations between participants. Chapters alternate between frontier settlements and the camps of the Paiutes. Attention is given to the weather, the living conditions in the camps and town, and many other matters of human detail. The shootings and battles are less than bloodless.

The book is divided into five parts. The first two, titled "A Season of Discontent, 1859-60" and "The Gathering Fury, 1860" examine the developing tide of misunderstanding and hostility between the native Indian populations and the new invaders. A series of mutual depredations are examined to set the stage. The scene then shifts to the Paiute camps at Pyramid Lake where Numaga, a respected leader, in an attempt to avert violence, has begun a self imposed fast. At its climax, word reaches the Paiute camp that the balance has been tipped and that four whitemen have been killed at Williams Station. Numaga reluctantly takes charge and prepares the men for an inevitable clash.

Part III, "The Cost of Violence, 1860" describes the climate surrounding the enlistment of volunteers in the towns of Washoe to punish the "hostiles." Disorganized, lacking military discipline and experience, and barely sober, the militia sets out for disaster. A detailed account of the first battle of Pyramid Lake in which the Paiutes are the undisputed victors then follows. The tally of over seventy white men killed, including their leader, Major Ormsby, creates fear and near panic in the settlements.

Part IV focusses on the struggle to organize the disparate, but better trained, detachments sent from California and Nevada to quell the hostilities. Details of the second battle of Pyramid Lake are then recounted, focussing on verbatim descriptions of the fighting given by participants. The outcome, characterized as "a draw" sees the Paiutes withdraw to the mountains and deserts to the north, thereby avoiding further conflict.

Part V, "An End to Glory, 1860," is the concluding section. It contains a chapter on the negotiations toward a peace by Numaga and other Paiute headmen and Colonel F.W. Lander, government surveyor and special agent. An epilogue appended to this section discusses later events in an attempt to bring the reader up to date on the present status of Northern Paiutes in Western Nevada.

Generally, I feel Mr. Egan is to be commended for an interesting and readable account of the events of 1860. He has brought together the rich source material in a format that should have popular appeal and make this period better known. The account is contemporary and meaningful in the sense that treatment is given to parties and feelings on both sides. While some readers might find the account somewhat biased toward the Paiute side of the controversies, it seems to me not overly so. Some of the material is over dramatized, however, and in a few instances this is further complicated by some inaccuracies. For example, the death of Captain Truckee (pp. 49-52), while certainly a time of sorrow, seems a bit overplayed. In addition, by other accounts, Truckee died near Como, Nevada, and not at Pyramid Lake where Egan places him. In addition, in the narrative of the first battle of Pyramid Lake, Mr. Egan describes the attempt by Numaga to save the life of Major

Ormsby (p. 152), quoting Sarah Winnemucca's account (*Life Among the Paiutes*). Although it is a nice touch to credit Numaga with the act–if indeed there was such (see Thompson and West's *History of Nevada* account, p. 157)–it should not be by Ms. Winnemucca's word, as she gives the credit to her brother, Natchez. In some cases, problems such as this arise because of confusions and perhaps inaccuracies in the original source materials–matters of which Mr. Egan should make the reader aware.

The epilogue is also a weak point in the book. In some senses, it might have been better to end the preceding account, rich in human detail, at the finish of negotiations. The continuity of the book is broken by the attempt to compact 110 years of equally complicated history into a few short pages. The book also could have used a clearer and more detailed map to help the reader keep pace with the details of group movements, etc.

However, in all, Mr. Egan has provided the general reader and the ethnohistorian as well with a pleasing narrative, put together from the perspective of the social historical context of events and times. The book should be generally enjoyed by a wide audience.

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# What's Going On

## NEW SLIDE-SOUND PROGRAMS

The Nevada Humanities Committee has made a grant to the Historical Society for the preparation of four new slide-sound programs dealing with Nevada history topics. This is the third year that the Humanities Committee has generously participated in the Society's audio visual work. The subjects treated this year will be the Nevada legislature, Nevada folklore, the humanities, and the geographic history of the state. The programs are available to the public at no cost.

## FLEISCHMANN FOUNDATION AIDS AV PROJECT

The Fleischmann Foundation has provided the Historical Society with an $11,000 grant which will enable the Society to duplicate its existing slide-sound shows and have them placed in each Nevada school district. This will locate the programs where use is greatest and also reduce problems of correspondence and scheduling. The Society is elated that the foundation has recognized the need for supplemental Nevada history materials at the classroom level.

## MANUSCRIPT GUIDE IN PREPARATION

The National Endowment for the Arts has added $2,700 to an earlier grant for the preparation and publication of a *Guide to Manuscripts of the Nevada Historical Society*. Jim Higgins, Curator of Manuscripts, is updating the checklist to the Society's manuscript collection which was issued last spring. This long-needed reference work will be available for sale in late 1975.

## NATIONAL REGISTER OF HISTORIC PLACES

The Historical Society has again contracted with the Nevada Division of Parks to perform consulting work for that agency. During the current fiscal year, the Society hopes to complete the research for fifty nominations to the National Register of Historic Places. Suggestions for register nominations should be communicated to the staff.

## INDEX PROGRESSES

The index to publication project, under Eric Moody, has been completed through the *Papers* and the manuscript of the index is now in preparation. This project, funded by the National Endowment for the Humanities, will result in a complete index to all publications of the Society from its beginning in 1904 to the present.

## JUNIOR HISTORY NEWS

The Washoe Canaries of Archie Clayton Middle School have just completed the election of new officers. They are: Julie Roach, president; Clara Arriola, vice president; Stephanie Phillips, secretary; and Dawn Albert, historian. Club members are currently engaged in laying plans for trips to the Historical Society Museum, the University of Nevada campus in Reno, and the Lake Mansion as soon as it opens. The Washoe Canaries also are planning a historical review of the mansion.

The Conestoga Junior History Club of Sparks Middle School held its first overnight campout of the year in September at Ichthyosaur Park. Fossil hunting and exploring were the main activities; each new find served to increase the excitement of the search. Interest in the hunt for relics of Nevada's past had already been set by a stop at petroglyph sites at Grimes Point near Fallon.

Due to the length of the trip to Ichthyosaur Park, a stop was made at Sand Mountain where everyone "rested" by taking a climb to the summit.

In October the club celebrated Mrs. Mary Holliday's (club sponsor) birthday by hiking to the summit of Mt. Rose. The twenty participants entered their names in the summit register.

Currently Conestoga club members are instructing the student body of their school in the art of using wild flowers to make parchment stationery.

The Conestoga Junior History Club has an item of particular interest to report this issue. Conestogan Patti Cleere is the winner of the 1974 statewide Junior History Essay Contest. As winner of the contest, Miss Cleere was presented a check for $100 at the Society's Seventieth Anniversary Meeting and Dinner held October 19, 1974. The award is made possible by an annual donation given by Dr. Russell R. Elliott of the board of trustees of the Nevada Historical Society.

Miss Patti Cleere's essay is as follows:

## King of the Sierra

TO THE PEOPLE living west of the Sierra Nevada in the mid-1800s, John A. Thompson was a very kingly man. When winter storms hit Nevada, the mail going over the mountains was usually backed up for months at a time. For over twenty years, John, popularly known as Snowshoe Thompson, skied over the Sierra Nevada with the mail strapped on his back. He traveled the frozen ninety miles from Placerville to Genoa in just three days and two nights, taking no coat or gun. His only food was a few strips of jerked beef and some dry biscuits. Every winter, until the last winter he lived, Snowshoe was constantly performing feats that excited the wonder and admiration of all his neighbors and friends.

Snowshoe was born April 30, 1827, in Upper Tins Telemark, Norway, and was christened Jon Torsteinson Rui. In the year 1837, he moved with his father and family from their native land to America and made Illinois their first stopping place. In 1841 they moved to Iowa where they changed their family name to Thompson. Snowshoe's name was now John Albert Thompson. In 1845 they returned to Illinois. When Snowshoe was twenty-four years old, he submitted to "gold fever" and came across the plains to California, settling at Hangtown, later known as Placerville.

Dissatisfied at the life and luck of a miner, he decided to try ranching in the Sacramento Valley. There he lived on his ranch for two years, but his eyes were constantly turned eastward to the snowy peaks of the Sierra. He did not like mining nor did he feel at home in the valleys.

Early in the winter of 1856, while still on his ranch, Snowshoe read an article in the newspaper about the trouble the United States mail service was having getting the mail across the snowy summit of the Sierra Nevada. This set him to thinking about Norway. When he was a boy, the only way they got around was on snowshoes. Why couldn't someone carry the mail on them?

At once he set to work and made two snowshoes (now called skis). They were ten feet long and weighed twenty-five pounds. Being made of green oak, they were very ponderous affairs. But their owner was a man of great strength and splendid physique. He stood six feet high in stockings and weighed 180 pounds.

Snowshoe set out to find a quiet place to practice. Although his muscles were in good shape, they soon tired; but he kept practicing; and after a month he flew up and down the hillsides ducking under trees and jumping as high as twenty feet.

Declaring himself ready, he traveled to Placerville to apply for the job of carrying the mail over the mountains. Upon getting the job, he was told he had to go from Placerville to Genoa; a distance of ninety miles.

Three days later, all of Genoa was mystified by a man on two big boards sliding into their town. But when they saw the United States mail bag on his back, he was greeted by a roar of cheers. His name was then officially changed to "Snowshoe" Thompson by those that received mail.

He had made it that January 1856; and for twenty years thereafter, the

only mail that crossed the Sierra Nevada in wintertime was the mail in the eighty pound sacks carried on the back of Snowshoe Thompson. Through him, was the only land communication between the western and eastern side of the Sierra.

All depended on Snowshoe, and he never failed. No matter how bad the storms were, he always came through and generally on time. Never stopping for storms, he left on the day appointed. He traveled by night as well as by day, and never followed a certain path.

He lived and worked as foreman on a ranch in the summers. In 1861, after carrying the mail for five years, he bought his own ranch in Diamond Valley.

For all the years Snowshoe carried the mail, he received no pay. As Snowshoe neared the age of fifty, he began to feel he should be paid for his services. He asked six thousand dollars for all he had done and endured during twenty years. In the winter of 1874 he went to Washington to look after his claim, but all he got was promises.

It would be hard to find another man combined with Snowshoe's courage, physique and powers of endurance. To the ordinary man, there is something terrible in the cold winter storms that often sweep through the Sierra, but the louder the howlings of the gales, the higher rose the courage of Snowshow Thompson – A kingly man "Gone but not Forgotten."

# Letters to the Editor

To the Editor:

I read with considerable interest Susan Kennedy's article "Nevada's Banking Holiday: 1932" published in the *Nevada Historical Society Quarterly*, 17 (Fall, 1974), 124-129. The collapse of the George Wingfield banks in 1932 is a significant event in Nevada history. Unfortunately, it seemed to me, Ms. Kennedy's article was misleading on several major points. Doubtless this was because it was only a small section of a much larger work, and the author was not able to give the subject the primary research it really deserves.

I was initially puzzled when I read in the article that George Wingfield "controlled virtually all of the state's banks" (p. 126). Two paragraphs later and somewhat contradictorily, one reads that his banks "held more than 80 percent of the banking resources of the state" (p. 126). Both statements are wrong. The Wingfield group of banks consisted of thirteen out of thirty-two banks in the state (which is 40.6 percent of the number), situated in every major city with the important exception of Las Vegas, and they held 57.3 percent of total bank deposits and 59.9 percent of total bank assets in the state. This is obviously domination of the banking resources, but it is not virtual control "of all of the state's banks" – in fact it was a smaller percentage of total banking resources in Nevada than that achieved by the First National Bank of Nevada in the early 1950s. The single largest bank in the state in 1932, the First National Bank in Reno, was *not* a Wingfield bank.[1]

The author is not incorrect, but is misleading, when she writes of the collapse of the Wingfield banks after the RFC refused its request for a $2 million dollar loan (p. 127, 128-129). Her conclusion is that "national authorities could not agree to sustain the Wingfield banks within a reasonable time" (p. 129). That is true but she should have added that the RFC had previously been quite accommodating to the banks, and had already pumped considerable funds into the system. Jesse H. Jones, the head of RFC, later wrote:

> To the Wingfield banks, the RFC made several loans; but finally the time came when they had no more available collateral. Under the law requiring us to have full and adequate security, we could render no further help; and we had to watch the banks go to the wall. Mr. Wingfield . . . later made a comeback. The RFC didn't lose a dime on these loans.[2]

The previous RFC loans were considerable. According to George B. Thatcher, attorney for the banks, they totaled $4,000,000 in addition to $863,000 in loans from the Crocker First National Bank of California and the Federal Reserve Bank of San Francisco. Thus the Wingfield collapse came only after considerable help had already been advanced by outside agencies.[3]

The fact that San Francisco interests were involved is at variance with the author's contention that Nevada banks "had almost no ties beyond Nevada" (p. 129). Indeed this is further disproved by the report of a special legislative committee which determined that "officials of the Crocker National Bank were virtually in charge of all Wingfield banks for a period of 90 days during the summer of 1932."[4]

There is no really good, scholarly monograph on the Wingfield bankruptcy. It is to be hoped that Ms. Kennedy's article will generate renewed interest by students in an event which is of such major importance in Nevada's history.

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*Notes*

1. F.W. Barsalou, "The Concentration of Banking Power in Nevada: An Historical Analysis," *Business History Review*, 29 (Dec. 1955), 355-56, 359; Francis Wilfred Barsalou, *An Economic Analysis of Commercial Banking in Nevada* (Unpublished Ph.D. dissertation: University of Southern California, 1953), p. 229.

2. Jesse H. Jones, *Fifty Billion Dollars; My Thirteen Years with the R.F.C., 1932-1945* (New York: The Macmillan Company, 1951), pp. 42-43.

3. *Reno Evening Gazette*, Nov. 18,1932; *Las Vegas Age*, Nov. 19, 1932.

4. "Report of the Joint Committee on Investigation of Closed Banks," pp. 8-9. Found in *Appendix to Journals of Senate and Assembly, Nevada, 37th Session, 1935*, vol. 2. Carson City: State Printing Office, 1935.

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