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NEVADA HISTORICAL SOCIETY QUARTERLY

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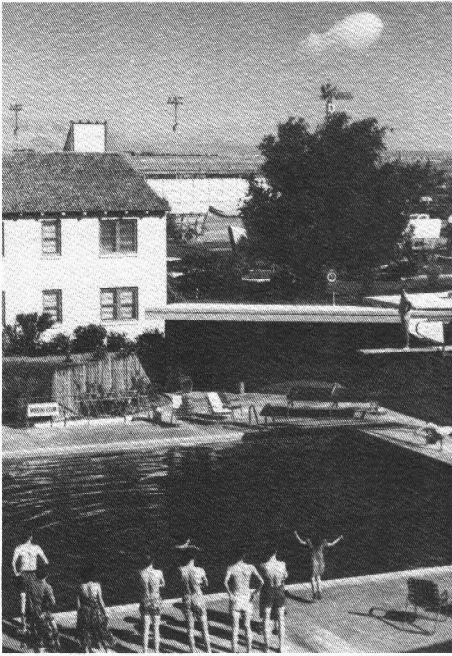
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Atomic clouds to the north of Las Vegas in the 1950s, as viewed from the Last Frontier on the Strip, and the downtown Pioneer Club. The photo below was made into one of the most famous Las Vegas postcards of the era. (Photos courtesy of the Las Vegas News Bureau)



A-Bombs in the Backyard: Southern Nevada Adapts to the Nuclear Age, 1951-1963

A. COSTANDINA TITUS

. . . There have been so many detonations of nuclear devices at the test site in the past ten years that the community [of Las Vegas] is completely accustomed to, and unconcerned about, radiation hazards from such operations.¹

NINETEEN EIGHTY-THREE marks the twentieth year since mushroom clouds last appeared above the Nevada desert. On August 5, 1963, the Limited Test Ban Treaty was signed, moving atomic weapons testing underground and ending an era of great significance in American and Nevada history. This essay examines the years of atmospheric testing, 1951 to 1963, and two main themes are emphasized. First, it describes the government's atomic testing policy with emphasis on activities at the Nevada Test Site (NTS) and the Atomic Energy Committee's public relations program designed to win popular support for these "backyard" operations. Second, the essay analyzes Southern Nevada's response to the atmospheric testing program by examining the politics, the press, and the popular culture of the region during those years. The inescapable conclusion of this inquiry is that throughout the dozen years of above-ground testing, Nevadans enthusiastically supported the atomic testing program and considered the NTS an asset to the state's development.

Historical Background

At 5:30 a.m. on July 16, 1945, the United States exploded "Trinity," the world's first atomic bomb, at White Sands near Alamo-

¹ Edgerton, Germeshausen and Green, Inc., "The Nevada Test Site and Southern Nevada," Report No. L-512 (March 15, 1961) p. 12, Special Collections, University of Nevada, Las Vegas, Library.

gordo, New Mexico. The secretive work of the Manhattan Project was declared a success.² President Truman, conferring in Potsdam at the time with Churchill and Stalin, was immediately notified that “. . . results seem satisfactory and already exceed expectations.”³ Within two weeks similar bombs were dropped on Japan, devastating two of its cities and bringing World War II to a close.

Although it was the first nation to develop the A-bomb, the United States had little understanding of the future potential force and effects of such a weapon. To acquire that knowledge, the Joint Chiefs of Staff, shortly after the end of the war, ordered a task force to select “a suitable site which [would] permit accomplishment of atomic tests with acceptable risks and minimum hazards.”⁴ Such a site had to meet several requirements: it had to be in an area under U.S. control and in a suitable climatic zone; it had to be uninhabited or sparsely populated; and, of course, it had to be far away from the United States.⁵

In January 1946, the government selected as the best site Bikini Atoll, a semicircular chain of some thirty small land dots located in the Marshall Islands region of Micronesia, 2,400 miles southwest of Hawaii.⁶ On February 10, 1946, Commander Ben Wyatt, military governor of the Marshalls, addressed the residents of the atoll and told them they would have to move. He compared the Bikinians to the children of Israel whom the Lord had saved from their enemy and led into the Promised Land. “Would you be willing to sacrifice your island for the welfare of all men?” he asked.⁷ The Bikinians agreed to move,

² For detailed accounts of the development of the atomic bomb, see: Barton Bernstein, *The Atomic Bomb: The Critical Issues* (Boston: Little, Brown and Company, 1976); Anthony C. Brown and Charles B. MacDonald, editors, *The Secret History of the Atomic Bomb* (New York: Dial Press, 1979); Arthur H. Compton, *Atomic Quest* (New York: Oxford University Press, 1956); Leslie R. Groves, *Now It Can Be Told* (New York: Harper and Row, 1962); Lansing Lamont, *Day of Trinity* (New York: Atheneum, 1965); and Henry D. Smyth, *Atomic Energy for Military Purposes* (Princeton: Princeton University Press, 1945).

³ Lamont, p. 255.

⁴ Jonathon M. Weisgall, “The Nuclear Nomads of Bikini,” *Foreign Policy* 39 (Summer 1980) p. 76.

⁵ Ibid.

⁶ The Marshall Islands were seized from Japan during World War II by the United States. They were placed under military control until July 1947, when the area became a U.N. strategic trust territory administered by the United States. See Robert C. Kiste, *The Bikinians* (Menlo Park, California: Cummings Publishers, 1974).

⁷ Ibid., pp. 86–90.

and they were relocated that spring on Rongerik Atoll; the government promised to take care of them there until it was safe to return.⁸

"Operation Crossroads" began immediately. This first series of tests consisted of two shots, "Test Able," detonated on July 1 in the air over a target fleet including the venerable battleship *Nevada*, and "Test Baker" on July 25, an underwater explosion designed to test the effects of a nuclear blast on the hulls of ocean vessels and submarines. These shots received international press coverage; for the first time, reporters from every major American and European newspaper and magazine witnessed and described a nuclear explosion.⁹ By 1958, when President Eisenhower ended the South Pacific testing program, twenty-three nuclear devices, including the hydrogen bomb, had been detonated on Bikini.¹⁰

Meanwhile, a second atomic testing site was established in the fall of 1947 at nearby Eniwetok Atoll, where forty-three tests were to be conducted over the next ten years.¹¹ Again people were relocated and the island was closed for security reasons. The first tests conducted at the new site were dubbed "Operation Sandstone," and they resembled the Bikini maneuvers in both the nature of the bombs detonated and the experiments conducted. One major difference existed, however: whereas "Crossroads" was witnessed by the international press, the "Sandstone" series occurred under a virtual news blackout. Secrecy was the

⁸ A 1967 AEC study found the area once again safe for human habitation and the Bikinians were returned to their homeland. It was a temporary arrangement, however. When subsequent radiological surveys indicated that Bikini was not safe, Secretary of Interior Rogers Morton interrupted the reconstruction and relocation process. He wrote to Secretary of Defense James Schlesinger in March 1975 requesting that a thorough survey of the area be undertaken. The Defense Department declined to take action because of the high costs of the proposed study. The Bikinians, frustrated and confused by the contradictory information they were receiving, filed suit in federal court in October 1975 to force the government to stop the resettlement program until such a survey was taken. The U.S. readily agreed to do so; but it was not until early 1978, after much internal bureaucratic squabbling, that the study was conducted. By March of that year, the atoll had been declared off limits and the inhabitants once again moved to nearby islands. The most recent reports indicate that the atoll may remain uninhabitable for at least another hundred years.

⁹ David Bradley, *No Place to Hide* (Boston: Little, Brown and Company, 1948); Stephen Hilgartner, Richard C. Bell, and Rory O'Connor, *Nukespeak* (New York: Penguin Books, 1983) pp. 72-74; William A. Shurcliff, *Bombs at Bikini: The Official Report of Operation Crossroads* (New York: William G. Wise, 1947) and Michael Uhl and Tod Ensign, *G. I. Guinea Pigs* (New York: Wideview Books 1980) pp. 30-43.

¹⁰ Howard L. Rosenberg, *Atomic Soldiers* (Boston: Beacon Press, 1980) p. 131.

¹¹ *Ibid.*

order of the day; posters depicting a fish with his mouth open warned participants, "Don't be a sucker. Keep your mouth shut."¹²

Atomic Testing in Nevada

While tests were being conducted in the South Pacific, pressure was building for a site within the continental United States. The creation of such an installation would simplify the complex logistical problems and reduce the mounting costs of managing, supplying, and safeguarding a remote test area. Prompted by the Soviet detonation of an atomic bomb in August 1949¹³ and U.S. involvement in the Korean conflict, the AEC¹⁴ ignored persistent warnings from the scientific community about possible health hazards and appealed to President Truman to establish such a continental test site. Relying on a top secret feasibility study code-named "Nutmeg" conducted three years earlier by the Pentagon, the AEC further recommended that the site be located at the Las Vegas-Tonopah Bombing and Gunnery Range which was situated in the desert of Nye County some sixty-five miles northwest of Las Vegas.¹⁵

The southern Nevada site was selected from a list of five possibilities which included Alamogordo/White Sands, New Mexico; Dugway Proving Ground, Utah; Pamlico Sound/Camp Lejeune, North Carolina;

¹² Atomic Energy Commission, press release, December 1, 1947; National Association of Atomic Veterans, "Story of the Eniwetok Cleanup," *NAAV Newsletter* (November/December 1979) p. 14; Giff Johnson, "Paradise Lost," *Bulletin of the Atomic Scientists* 34 (December 1980) pp. 24-29; Uhl and Ensign, pp. 46-53.

¹³ The Soviets actually exploded their first atomic bomb on August 29, 1949, in Siberia. Although U.S. planes detected the fallout almost immediately, President Truman did not publicly announce the detonation until September 23, 1949. See: Herbert York, *The Advisors: Oppenheimer, Teller, and the Superbomb* (San Francisco: W. N. Freeman, 1976) pp. 33-35.

¹⁴ The Atomic Energy Commission was created by Congress with the passage of the Atomic Energy Act of 1946 (P.L. 585, 79th Congress, 60 stat 755). This act created a five member civilian commission, appointed by the President with the Senate's approval, which held a monopoly over nuclear technology at all levels. The Atomic Energy Commission was charged with certain objectives in the original legislation: . . . "subject at all times to the paramount objective of assuring the common defense and security, the development and utilization of atomic energy shall, so far as practical, be directed toward improving the public welfare, increasing the standard of living, strengthening free competition in private enterprise, and promoting world peace." See: Richard G. Hewlett and Oscar E. Anderson, *The New World, 1939-46: A History of the United States Atomic Energy Commission* (University Park, Pennsylvania: Penn State University Press, 1962.)

¹⁵ Aaron Smith, "Nuclear Weapons Testing in Nevada: History and Possible Health Effects," *Nevada Public Affairs Review* 1 (1982) pp. 5-11.

and a fifty-mile-wide strip between Fallon and Eureka, Nevada. The AEC chose the site near Las Vegas for reasons similar to those used in the selection of Bikini and Eniwetok: it was the largest area; it was already under complete control of the federal government; it enjoyed little rainfall and predictable winds from the west; and it had a very low population density. Furthermore, it was a site whose security could not easily be impaired by an outside enemy force; and Camp Mercury, the temporary air base located at the tip of the 5,400 square mile gunnery range, could readily be converted into a testing center.¹⁶

On December 18, 1950, President Truman approved the opening of the Nevada site; and six weeks later, on January 27, 1951, the first atmospheric test was conducted over a section of the desert known as Frenchman's Flat. This initial series, "Operation Ranger," consisted of five bombs, dropped from the air, which ranged from one to twenty-two kilotons in yield. The shots were fairly uneventful with the exception of the fourth, an eight kiloton device detonated on February 2, which shattered several store windows in Las Vegas and prompted one scientist to report that "the factors controlling this are poorly understood."¹⁷ Safety monitors detected no "significant levels" of radioactivity outside the testing area, and no one received any detectable injuries during the series. All in all, the operation was praised for its efficiency, safety, and speed.¹⁸

Plans were immediately made for the expansion of facilities at the test site. Eight million dollars were appropriated and construction was begun on utility and operational structures, including a communication system, a control area, several detonating towers, and additional personnel accommodations. As a safety measure, ground zero (the point of detonation) was moved twenty miles north from Frenchman's Flat to Yucca Flat, a huge expanse of desert surrounded on all sides by mountains.¹⁹ And even more significantly, arrangements were made between the AEC and the military for soldiers to participate in atomic warfare maneuvers at ground zero, beginning with the next test series scheduled for October. These exercises were to provide tactical training for the troops and allow researchers to observe and evaluate the psychological impact of the bomb on participants. To accommodate these

¹⁶ Rosenberg, pp. 25-31.

¹⁷ Los Alamos Scientific Laboratory, University of California, "Operation Ranger: Operational Program Reports," Vol. V (January-February, 1951).

¹⁸ Rosenberg, pp. 32-35.

¹⁹ *Ibid.*, p. 37.

needs Camp Desert Rock was built to station troops near the test site.²⁰

From 1951 through 1958, the NTS was the location of 119 atmospheric tests of nuclear devices. Thirty-one of those were safety experiments which produced very slight or no nuclear yield. Twelve of these 31 were conducted at the surface; 6 in tunnels; 7 in uncased and unstemmed holes; 5 from the top of steel or wooden towers; and 1 suspended from a balloon. In addition, there were 88 weapons-related tests which did produce a nuclear explosion; these included 1 at the surface; 1 rocket; 1 airburst fired from a 280mm cannon; 2 cratering experiments; 5 in tunnels; 19 dropped from aircraft; 23 suspended from balloons; and 36 from the tops of steel or wooden towers.²¹

There was a short-lived, voluntary moratorium on nuclear testing, agreed to by the U.S. and the U.S.S.R., between October 1958 and August 1961. Upon its expiration, testing resumed and there were 102 American detonations occurring over the next two-year period. Of these, however, all but 5 were deep, underground shots; 1 of the 5 was a cratering test and the other 4 were at or near the surface.²² When the Limited Test Ban Treaty (prohibiting testing in outer space, underwater, or in the atmosphere) was signed in Moscow on August 5, 1963, atomic testing moved underground, and some 400 shots have been fired to date.²³

Selling the Bomb at Home

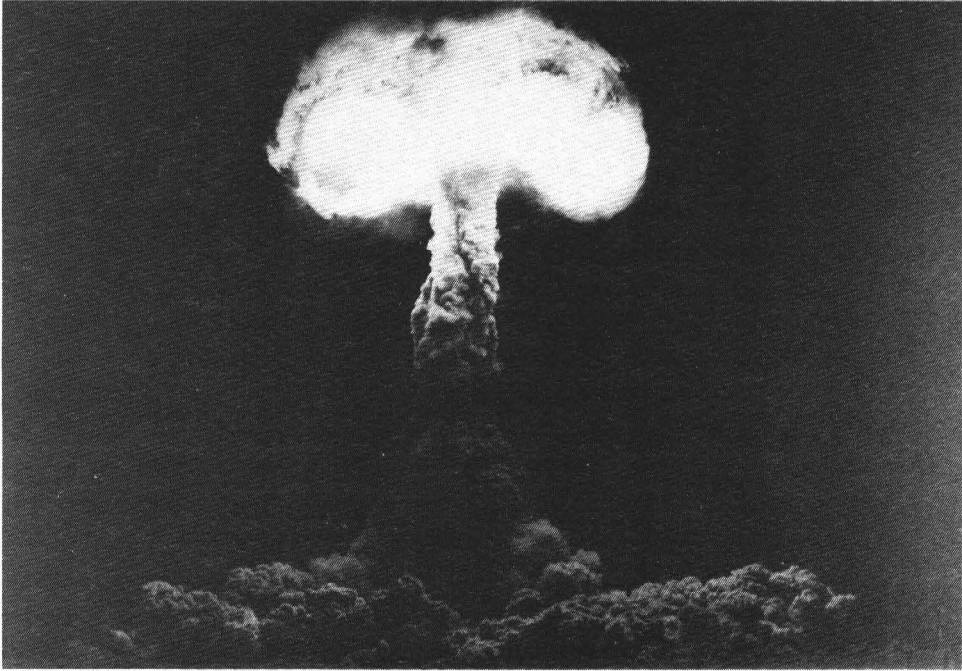
The 1950 decision to begin atomic testing within the continental United States was made in great secrecy and with extreme caution. In

²⁰ See: Ibid.; Uhl and Ensign, pp. 58-108; Thomas H. Saffer and Orville E. Kelly, *Countdown Zero* (New York: G. P. Putnam's Sons, 1982); George Washington University, Human Resources Research Office (HumRRO), "Desert Rock I, A Psychological Study of Troop Reaction to an Atomic Explosion," Technical Report No. 1 (February 1951); HumRRO, "Desert Rock IV: Reactions of an Armored Infantry Battalion to an Atomic Bomb Maneuver," Technical Report No. 2 (August 1953); HumRRO, "Desert Rock V: Reactions of Troop Participants and Forward Volunteer Officer Groups to Atomic Exercises," Information Report (August 1953); Johns Hopkins University, Operations Research Office, "Troop Performance on a Training Maneuver Involving the Use of Atomic Weapons," (March 15, 1952); and United States Army, *Exercise Desert Rock Information and Guide* (1951), available from the Fallout Records Centralization Project, Las Vegas, Nevada.

²¹ United States Department of Energy, "DOE's Nevada Operations Office: What It Does and Why" (July 1983) p. 1, United States Department of Energy, Las Vegas.

²² Ibid.; and United States Atomic Energy Commission, "Nevada Test Site" in *Nevada, The Silver State* (Carson City: Western States Historical Publishers, 1970) pp. 719-722, and United States Department of Energy, "Announced United States Nuclear Tests, July 1945-December 1982" (January 1983).

²³ James H. McBride, *The Test Ban Treaty: Military, Technological and Political Implications* (Chicago: Henry Regnery Company, 1967).



Atomic bomb blast in the Nevada desert in the 1950s. (*Las Vegas News Bureau*)

his memoirs, President Truman recalled the need to take special care not to frighten people about “shooting off bombs in their backyards.”²⁴ From the start, every effort was made by the federal government to insure not only public acceptance but also support for the new “backyard” testing program.

First and foremost, the government took the position that the continued development of nuclear weapons was absolutely essential to the country’s national security. In light of international developments after World War II,²⁵ it was not difficult to convince the public that the communists were a distinct threat to the American way of life. Loyalty

²⁴ Harry S Truman, *Years of Trial and Hope* (Garden City: Doubleday and Company, 1955) Volume II of *Memoirs*, pp. 312–315.

²⁵ In 1948 communists staged a coup in Czechoslovakia which replaced the existing government with one subservient to Moscow; that same year the Russians attempted to force Western Allies out of Berlin by blockading all land transportation routes into the city. In early 1949 forces led by Mao Tse-tung captured Peking and soon after established the People’s Republic of China. And in June 1950 armed conflict broke out between North and South Korea which involved American participation against communist forces.

oaths for government employees were required;²⁶ the House Un-American Activities Committee investigated dozens of people;²⁷ and the Rosenbergs were executed as atomic spies.²⁸ Such red-scare tactics were reinforced by the preparedness activities of the Federal Civil Defense Administration, an agency created by Congress in December 1950 to establish community bomb shelters and instruct the public on how to protect itself in the event of a nuclear attack.²⁹ The military also propagated the notion of a potential nuclear war with the Soviets; soldiers at Camp Desert Rock participated in mock battles against an enemy which was always portrayed as a communist force invading the U.S.³⁰

The government's second strategy for gaining popular acceptance of the testing program was to constantly assure the people that the tests were safe. Numerous proclamations were issued by the AEC throughout the decade of the 1950s claiming that radioactive fallout posed no danger to human health.³¹ In addition, 30,000 copies of a small green pamphlet entitled "Atomic Tests in Nevada" were distributed locally to

²⁶ President Truman initiated an employee loyalty program in 1947; the practice was later intensified when President Eisenhower signed an executive order in April 1953 launching an unprecedented, far-reaching investigation into the loyalty of federal employees.

²⁷ William F. Buckley, *The Committee and its Critics* (New York: Putnam, 1962); Robert K. Carr, *The House Committee on Un-American Activities, 1945-1950* (Ithaca: Cornell University Press, 1952); Athan G. Theokaris, *Seeds of Repression: Harry S. Truman and the Origins of McCarthyism* (Chicago: Quadrangle Books, 1971); Dalton Trumbo, *The Time of the Toad: A Study of Inquisition in America* (New York: Harper and Row, 1972).

²⁸ Solomon A. Fineberg, *The Rosenberg Case* (New York: Oceana Publications, 1953); Louis Nizer, *The Implosion Conspiracy* (Garden City: Doubleday, 1973); and Jonathon Root, *The Betrayers; the Rosenberg Case—a Reappraisal of an American Crisis* (New York: Coward-McCann, 1963).

²⁹ Regularly-scheduled air raid drills were held and public meetings were called to teach self-defense against nuclear attack through such measures as assuming correct physical positions during impact and washing off the radioactive fallout afterward. Dozens of how-to films were distributed; their names alone tell the story: "Pattern for Survival" (1950), "You Can Beat the A-Bomb" (1950), "Duck and Cover" (1951), and "Survival Under Atomic Attack" (1951).

³⁰ Rosenberg; Uhl and Ensign; and Saffer and Kelly.

³¹ Typical of these was a widely-distributed, January 1951 Atomic Energy Commission statement which claimed that "Health and safety authorities have determined that no danger from or as a result of AEC activities may be expected. . . . All necessary precautions will be undertaken to insure that safety conditions are maintained." Similarly, in testimony before Congress in the spring of 1953, an AEC official reported that fallout from atmospheric testing was no more dangerous than medical x-rays. In a *U.S. News and World Report* article (March 25, 1955, pp. 21-26) AEC Commissioner Willard Libby cited evidence from AEC research which indicated that bomb fallout "would not likely be at all dangerous." And Edward Teller, arguing for continued testing in *Life Magazine* (February 10, 1958, pp. 64-66) claimed that radiation from fallout "might be slightly beneficial or have no effect at all."

convince the neighbors of the test site that the blasts were benign. The pamphlet began by apologizing to the residents in the case they had been "inconvenienced" by the operations, and went on to claim that "... findings have confirmed that Nevada test fallout has not caused illness or injured the health of anyone living near the test site."³² It contained cartoons and rhetoric which made light of the potential danger of fallout from the tests; the precautionary measures which residents were advised to take suggested that the risks were minimal: "Your best action is not to be worried about fallout."³³

Evidence contrary to this position was suppressed or discredited. In the spring of 1953 when some 3,400 sheep, grazing near the test site, died after being exposed to radioactive fallout, the AEC reported that "the highest radiation dosage to the thyroid [of the sheep] has been calculated to be far below the quantity necessary to produce detectable injury."³⁴ And on March 1, 1954, following the "Bravo" H-bomb shot, when the wind shifted and carried radioactive fallout over several inhabited islands³⁵ and a Japanese tuna fishing boat,³⁶ AEC Chairman Lewis Strauss reported to the press, "Today, a full month after the event, the medical staff . . . advised us that they anticipate no illness, barring of course disease which might be hereafter contracted."³⁷

Third, the government argued that continued testing was vitally needed for the development of peaceful uses of atomic energy.³⁸ As

³² United States Atomic Energy Commission, "Atomic Test Effects in the Nevada Test Site Region" (January 1955), Nevada Historical Society, Las Vegas.

³³ *Ibid.*, p. 23.

³⁴ The Iron County sheepherders carried their case to the Supreme Court in 1955 (*Bullock v. U.S.* 145 F.Supp. 827) but their claims were denied based on expert testimony presented by the government which "proved" that radiation had not caused the animal deaths and deformities. The case was recently ordered reopened on August 4, 1982, however, by Judge Sherman Christenson on grounds that the government had been "intentionally false and deceptive."

³⁵ Nineteen of the twenty-one children of the island of Rongelap who were under twelve at the time of exposure subsequently developed thyroid tumors, forcing the government to pass the Bikini Compensation Act of 1964, which appropriated \$950,000 to be distributed among the victims. This act was amended on October 15, 1977, when Congress passed P.L. 95-134 to include the inhabitants of nearby Uterik, who were also exposed to the "Bravo" cloud and suffered radiation-related illnesses.

³⁶ Ralph E. Lapp, *The Voyage of the Lucky Dragon* (New York: Harper and Brothers Publishers, 1957); and Stephen Salaff, "The Lucky Dragon," *Bulletin of the Atomic Scientists* 34 (May 1978) pp. 21-23.

³⁷ *New York Times* (April 1, 1954) p. 20.

³⁸ Only two months after dropping the bombs on Japan, President Truman told a joint session of Congress that "the hope of civilization lies in . . . renunciation of the use and development of the atomic bomb." He urged all nations to join the United States in developing atomic energy solely for peaceful purposes. Uhl and Ensign, p. 32.

early as 1948, the testing at Eniwetok was justified not only on grounds of national security, but also because it would "yield valuable information pertaining to the civilian employment of atomic energy."³⁹ This was to become a familiar rationalization in the years to come. For instance, when testing began to move underground in 1957, it was declared that such experiments would augment the development of mining and natural gas production.⁴⁰ And in 1962 the "Plowshare Program" was initiated; drawing its name from the Biblical verse in Isaiah, "when men shall beat their swords into plowshares," the program involved testing of nuclear devices for such civilian uses as digging harbors or canals, developing underground water supplies, and opening new reserves of oil.⁴¹

Throughout this entire period the government was also involved in a general public relations campaign to promote a positive view of atomic power in all its forms. Various public relations techniques, including films, brochures, traveling exhibits, science fairs, public speakers, and classroom demonstrations, were employed.⁴² The AEC even helped the Boy Scouts create an atomic energy merit badge;⁴³ and the American Museum of Atomic Energy was opened in Oak Ridge, Tennessee.⁴⁴ No stone was left unturned as the government sought to sell the bomb to the American people.

Public Response

These various propagandistic efforts by the U.S. government were overwhelmingly successful. Throughout the fifties and early sixties the vast majority of citizens strongly supported further development and stockpiling of nuclear weapons, and implicitly endorsed continued testing in Nevada. Those few who did not were routinely accused of ignorance, hysteria, or involvement in communist plots.⁴⁵

³⁹ Atomic Energy Commission press release, December 22, 1947, National Archives, Washington, D.C.

⁴⁰ Edwin B. Eckel, *Nevada Test Site*, Geological Society of America, Inc., Memoir 110 (1968) p. 2.

⁴¹ Albin J. Dahl, *Nevada's Southern Economy*, Research Report No. 8 (Carson City: University of Nevada, College of Business Administration, March 1969), pp. 23-30.

⁴² A. Costandina Titus, "Back to Ground Zero: Old Footage Through New Lenses," *Journal of Popular Film and Television* 11 (Spring 1983) pp. 2-11.

⁴³ By 1970 about 15,000 scouts had qualified for this merit badge, according to the *Annual Report to Congress of the Atomic Energy Commission for 1969* (January 1970) p. 221.

⁴⁴ Hilgartner, Bell, and O'Connor, pp. 74-78.

⁴⁵ For example, in 1953 when Robert Oppenheimer, former director of the Manhattan

The most vocal opponents of atmospheric testing during these years were scientists who expressed growing concern over cumulative fallout effects. Among their ranks were such noted researchers as Stanley Livingston, President of the Federation of American Scientists; Hermann Muller, Nobel prize winner in genetics; George Beadle, President of the American Association for the Advancement of Science; and Linus Pauling, winner of Nobel prizes in chemistry and peace. For several years a scientific debate raged between these men and the AEC over the possible long-term effects of exposure to radioactive fallout.⁴⁶

The press, however, gave only limited coverage to these scientists who challenged the wisdom of continued testing; consequently, the issue did not become a public one until the 1956 Presidential election. That summer the dangers of fallout were televised nationwide from the Democratic National Convention, and Adlai Stevenson began his campaign with a promise to halt H-bomb tests. Despite considerable evidence presented on the genetic and strontium 90 hazards from the tests, the country (including Nevada) went strongly for incumbent Eisenhower, a long-time proponent of the testing program.⁴⁷

By the late 1950s, with red-baiting on the wane, the anti-testing movement picked up a little momentum. The National Committee for a Sane Nuclear Policy was founded in November 1957, and within one year had recruited 25,000 members.⁴⁸ Small scale "Ban the Bomb" protests took the form of sit-ins at missile bases and refusals to participate in air-raid drills.⁴⁹ More dramatic incidents involved several attempts by activists to sail into the Marshall Islands testing zone.⁵⁰

Project, publicly opposed the development of the H-bomb, he was charged with maintaining communist associations and acting in a way designed to promote the best interests of the Russians; his security clearance was cancelled and his long-term government service was ended. See: Phillip M. Stern, *The Oppenheimer Case: Security on Trial* (New York: Harper and Row, 1969); and York. And in 1957 when Linus Pauling, Nobel prize winner in chemistry, led a petition drive by scientists in opposition to atmospheric testing, President Eisenhower, in a press conference, implied that the petition was the work of an "organization" which did not have the best interests of the nation in mind. Pauling was also called before the House Un-American Activities Committee which further investigated his anti-nuclear connections. See: Linus Pauling, *No More War* (New York: Dodd, Mead, 1958) pp. 160-172.

⁴⁶ Harvey Wasserman and Norman Solomon, *Killing Our Own* (New York: Dell Publishing Company, 1982) pp. 92-101.

⁴⁷ The final vote was 56,049 for Eisenhower and 40,640 for Stevenson. *Political History of Nevada, 1979* (Carson City: State Printing Office), p. 226.

⁴⁸ Douglas T. Miller and Marion Nowak, *The Fifties: The Way We Really Were* (New York: Doubleday, 1977) p. 413.

⁴⁹ *Ibid.*, p. 63.

⁵⁰ *Ibid.*, p. 80. In 1958 four pacifists in a thirty-foot ketch, the *Golden Rule*, tried to sail

Nonetheless, the prevailing view remained steadfastly supportive of the government's position throughout the Cold War era.

Response in Nevada

Support for the atmospheric testing program exhibited by the majority of people in the United States was even greater among the citizens of Nevada.⁵¹ When the government first announced the testing was to be conducted in Southern Nevada, the locals welcomed the infusion of funds that a testing facility would generate. Las Vegas had a limited economy and small population base, and the federal expenditure of millions of dollars and the establishment of a permanent payroll meant increased financial prosperity. Employment opportunities increased; real estate prices rose; and the construction industry boomed. Scores of professional scientists were attracted to the area; and Las Vegas suppliers of varied goods and services enjoyed a bonanza. Even the budding tourist business flourished as people flocked to Las Vegas not just to gamble but to see the mushroom clouds and watch history in the making. As a result, most Nevadans during the fifties seemed generally to believe that the economic advantages of the AEC operations in the state outweighed any potential dangers.⁵²

This positive attitude toward the atomic testing program in Nevada was evident on three levels. First, the powerful politicians of the state

from Hawaii to Eniwetok; they were detained and arrested by the United States Coast Guard.

⁵¹ There were a few instances during the early days of atmospheric testing in which certain individuals expressed opposition to the program. Windows were shattered and some horses were burned by radioactive fallout. However, the Atomic Energy Commission was quick to reimburse local citizens for these property losses, and thus keep complaints to a minimum. One especially dissatisfied resident was Dan Sheahan, owner of the Groom Mine located some thirty-eight miles north of the Nevada Test Site; Sheahan complained that he had to shut down operations during test blasts and this was a great inconvenience and expense for his business. Such protests were the exception, however, not the rule.

⁵² In response to the needs of the new NTS, some 3000 jobs were created between 1951 and 1958, when the voluntary moratorium went into effect; by 1968, this labor force had increased to 10,187, representing a gross annual payroll of \$122.2 million. During the same decade and a half, government investments in the program totalled over \$178.8 million. In 1980 the physical plant was valued in excess of \$300 million and the operating budget for that year alone was \$345 million. See: Dahl, pp. 36-38; Russell R. Elliott, *History of Nevada* (Lincoln, University of Nebraska Press, 1973) pp. 339-341; Joseph A. Fry, "The History of Defense Spending in Nevada: Preview of the MX," in Francis X. Hartigan, editor, *MX in Nevada: A Humanistic Perspective* (Reno: Nevada Humanities Committee, 1980) pp. 37-43; and Mary Ellen Glass, *Nevada's Turbulent Fifties* (Reno: University of Nevada Press, 1981) pp. 43-46.

supported the AEC's activities both in Washington and in Carson City. Second, local newspaper coverage of the test site operations during these years was consistently favorable. And finally, the mushroom cloud itself became a prevalent symbol of southern Nevada's popular culture.

In 1950 Nevada was represented in the U.S. Senate by a powerful Democrat, Patrick A. McCarran.⁵³ Realizing McCarran's potential influence as a member of the Senate Appropriations Committee, AEC Chairman Gordon Dean paid him a special, personal visit to inform him of plans to open the NTS before it was publicly announced. This "courting" continued to insure McCarran's support and smooth the way for AEC activities in his state.⁵⁴ It worked. McCarran consistently voted for increased funding for the AEC, praising the agency for its precision and care in making its tests: "The lead in development of this science is in the best interest of the United States, and we must maintain it. We have an avowed enemy who is developing atomic energy and we must keep ahead."⁵⁵

Nevada's governor during the early fifties, Charles Russell, also publicly defended the NTS against any criticism which arose from leery constituents. His attitude toward the testing activities was captured by his comment to a *New Yorker* reporter in 1952: "We had long ago written off that terrain as wasteland and today it's blooming with atoms."⁵⁶

Measures taken by the Nevada state legislature relating to the test site are conspicuous by their absence; the few resolutions which were passed were, without exception, supportive. The first action did not come until four years after the testing program had gone "on line." Assembly Bill 13, passed on January 19, 1955, granted the consent of the state of Nevada to the acquisition by the U.S. government of lands required by the Department of Defense or the AEC. This increased the size of the NTS from 640 square miles to 1,350.⁵⁷ Two measures adopted in Nevada in 1957, although only peripherally related to the

⁵³ Jerome E. Edwards, *Pat McCarran: Political Boss of Nevada* (Reno: University of Nevada Press, 1982).

⁵⁴ Rosenberg, p. 32.

⁵⁵ Sister Margaret P. McCarran, "Patrick Anthony McCarran: 1876-1954," Part II, *Nevada Historical Society Quarterly* 12 (Spring 1969) p. 50; *Las Vegas Review Journal* (May 26, 1953) p. 1.

⁵⁶ Danial Lang, "Our Far Flung Correspondents: Blackjack and Flashes," *New Yorker* 8 (September 20, 1952) p. 97.

⁵⁷ A.B. 13 (Ch. 202) introduced on January 19, 1955, by Assemblyman Leighton.

test site, further illustrate the positive attitude taken by Nevadans towards nuclear power: Senate Joint Resolution 3 invited the AEC to build an experimental nuclear power generating plant in Eureka County,⁵⁸ and Senate Joint Resolution 15 encouraged the Department of Defense to accelerate the integration of non-conventional weapons, including nuclear, into the Naval Ammunition Depot at Hawthorne.⁵⁹

Only one measure was introduced during these years which was not supportive of the federal government's testing policy, and it did not pass; it was referred to the Committee on Public Health on February 17, 1955, where it died at the end of the session. Sponsored by a one-term state senator, E. C. Leutzinger (R) of Eureka County, the resolution "memorialized the AEC and other agencies to dispense with the exploding of nuclear weapons and devices in the State of Nevada in order to preserve the health and welfare of the Nevada citizenry."⁶⁰ In the context of the resolution, Leutzinger referred to both the "Bravo" and sheep death incidents as justification for ending the experiments, but it was not enough. At the time of the bill's introduction, editorials appeared in both Las Vegas papers condemning the Senator. The *Sun* reported the action as "another humiliation" and asked, "who shall get out of Nevada, the AEC or the crackpot who makes such a suggestion in public?"⁶¹ And the *Review Journal* wrote, "More power to the AEC and its atomic detonations. We in Clark County who are closest to the shots, aren't even flickering an eyelid."⁶²

This stand taken by the local papers was hardly surprising. From the start, news coverage of the testing program was presented in optimistic terms: "Baby A-Blast May Provide Facts on Defense Against Atomic Attack,"⁶³ "Use of Taller Towers . . . Introduces an Added Angle of Safety . . .,"⁶⁴ and "Fallout on Las Vegas and Vicinity . . . Very Low and Without Any Effects on Health."⁶⁵ Editorials invariably took the AEC's side. On January 15, 1951, just prior to the first test blast con-

⁵⁸ S.J.R. 3 (File No. 14) introduced on January 30, 1957, by Senator Leutzinger. Leutzinger is the same senator who previously introduced a measure in February 1955 calling for the Atomic Energy Commission to stop testing atomic weapons in Nevada.

⁵⁹ S.J.R. 15 (File No. 28) introduced on March 1, 1957, by Senators Seevers and Leutzinger.

⁶⁰ S.J.R. 7 introduced on February 17, 1955 by Senator Leutzinger.

⁶¹ *Las Vegas Sun* (February 18, 1955) p. 20.

⁶² *Las Vegas Review-Journal* (February 18, 1955) p. 4.

⁶³ *Las Vegas Sun* (March 13, 1955) p. 1.

⁶⁴ *Las Vegas Review-Journal* (March 11, 1955) p. 1.

⁶⁵ *Ibid.* (March 22, 1955) p. 1.

ducted at the NTS, the *Review Journal* reassured its readers that the furor regarding A-bombs at Indian Springs was "entirely uncalled for."⁶⁶ Shortly thereafter, on January 30, 1951, the *Sun* stated "atomic experimentation must be carried on if we are to maintain our lead in the atomic and guided missiles field."⁶⁷ In the spring of 1953, following the "Dirty Harry" shot which sprinkled fallout on St. George, when Utah Representative Stringfellow called for an end to testing in Nevada, the *Review Journal* warned Stringfellow to stay out of Nevada's business and editorialized, "We like the AEC. We welcome them to Nevada for their tests because we, as patriotic Americans, believe we are contributing something in our small way, to the protection of the land we love."⁶⁸

Local reporters frequently traveled the sixty-five miles to Camp Mercury to cover the announced test blasts. Perched on bleachers at News Nob ten miles from ground zero, they witnessed, photographed, and reported on the nuclear detonations. It was deemed a privilege to be a member of the Ancient and Honorable Society of Bomb Watchers, which included Walter Cronkite, Dave Galloway, John Cameron Swayze, and Bob Considine among its members.⁶⁹ Hardly a day passed during the fifties and early sixties when some story dealing with atomic weapons or a related topic did not appear on the front page.

One particularly noteworthy story revolved around the "Shamrock" shot on March 17, 1953. A typical American community was constructed near ground zero to determine what would happen if it were to become the target of an enemy's atomic bomb. Officially named "Survival City," it was soon dubbed "Doom Town" by troops and reporters. The houses were fully furnished and stocked with supplies, and late model cars were parked in garages; mannequins wearing the latest fashions represented inhabitants of all ages.⁷⁰

Graphically describing the aftermath of a similar exercise, Archie Teague of the *Review Journal* wrote, "Potshot inspection tours were held to learn the odds of survival in the atomic age. People played by dummies lay dead and dying in basements, living rooms, kitchens, and bedrooms."⁷¹ Such accounts were typical of the coverage during these

⁶⁶ Ibid. (January 15, 1951) p. 1.

⁶⁷ *Las Vegas Sun* (January 30, 1951) p. 1.

⁶⁸ *Las Vegas Review-Journal* (May 24, 1953) p. 4.

⁶⁹ Uhl and Ensign, pp. 76-77, 82-83.

⁷⁰ "Operation 'Doom Town'," *Nevada Highways and Parks* 13 (June-December 1952) pp. 1-17.

⁷¹ *Las Vegas Review-Journal* (May 6, 1955) p. 1.

shots; they focused on the descriptive, visual implications of the bomb and failed to question more serious potential hazards.

Not only did atomic news dominate the headlines, but the mushroom cloud also became the symbol of the generation, quickly permeating many aspects of the local culture. The "atomic hairdo," originally designed by GeeGee, hairstylist at the Flamingo, was a popular request for special occasions; the hair was pulled over a wire form shaped like a mushroom cloud and then sprinkled with silver glitter; the cost, \$75.⁷² The "atomic cocktail" was also a big seller in bars along the Strip; made from equal parts of vodka, brandy, and champagne with a dash of sherry, the potent drink was served at breakfast parties following the pre-dawn shots.⁷³ Many of the hotels packed box lunches for bombwatchers to carry to picnics at Angel's Peak.⁷⁴ One establishment even called itself the Atomic View Motel because guests could witness the flash without ever leaving their lounge chairs.⁷⁵ In the Desert Inn



The Sands Hotel's Miss Atomic Bomb, 1957. (*Las Vegas News Bureau*)

⁷² Ibid. (October 18, 1955) p. 4.

⁷³ Lang, p. 91.

⁷⁴ Georgia Lewis, "'Atomized' Las Vegas Danced 'Atomic Boogie,'" *Las Vegas Review-Journal*, "The Nevadan" (January 23, 1983) pp. 6L-7L, 13L.

⁷⁵ Uhl and Ensign, p. 77.

Sky Room, pianist Ted Mossman first played his boogie woogie tune "Atomic Bomb Bounce," which soon had people dancing all over town.⁷⁶ Postcards were printed with the mushroom cloud rising in the background over "Glitter Gulch."

The Clark County official seal also displayed a large mushroom cloud, as did the 1953 yearbook cover for Las Vegas High School. The feature story for the June-December 1955 issue of *Nevada Highways and Parks* was about the NTS with a "typical, mushrooming cloud of fire, smoke, sand and radioactive particles" pictured on the cover.⁷⁷ Local merchants also played on the atomic theme; car salesman "Boob" Jones proudly advertised "Atom Drops on High Prices,"⁷⁸ and Allen and Hanson, Las Vegas haberdashers, placed a barrel full of broken plate glass window panes in front of their store with a sign, "Atomic Bomb Souvenirs—Free." Several casinos posted signs that warned if a tremor from a bomb blast caused the dice to turn or roulette balls to jump to another slot, the house man's ruling was final.⁷⁹ In Southern Nevada evidence of this atomic "mania" was widespread, and reflected the public's interest in the testing program, and belief in its necessity.

Epilogue

When atomic testing was moved underground late in 1963, the danger of fallout lessened as a matter of concern; many believed that radioactivity was now being contained far below the earth's surface where it could do no harm.⁸⁰ New issues drew the attention of the public and press away from the arms race; napalm, pick-ax handles, and love beads replaced the mushroom cloud as the star attraction on the 6 o'clock news. As the proliferation of nuclear weapons accelerated during the sixties and seventies, the public focus on atomic warfare and its dangers declined. Convinced of the necessity of first-strike power, and anesthetized by constant reassurances from the government that they could be safe in the event of nuclear attack, considerable segments of the American people had long since become accustomed to living

⁷⁶ Lang, pp. 95-96.

⁷⁷ "Operation 'Doom Town'," p. 1.

⁷⁸ Rosenberg, p. 82.

⁷⁹ Lang, p. 90.

⁸⁰ While the problem of radioactivity seemed to be solved, some feared that underground testing could cause earthquakes. Dr. Alan Ryall, a University of Nevada geologist, stated that "effects due to the continued firing of large underground tests would be cumulative, possibly eventually resulting in a sizable earthquake." See Elliott, p. 339.

with the bomb. As a result, the operations at the NTS slipped quietly into comparative obscurity.

Only one major local critic of the NTS arose during the late sixties: Howard Hughes, eccentric billionaire, big-time investor in Las Vegas, and ironically, the nation's largest prime defense contractor. Politically conservative, Hughes was not philosophically opposed to nuclear weapons; he only objected to their being tested near him or his hotels. He began a low-key campaign against the AEC in 1967, which escalated to a virtual war by the spring of 1968. Hughes contributed campaign funds to presidential candidates, lobbied the AEC, threatened to withdraw his investments from Las Vegas, and offered to pay any expenses which would result from delaying tests; he even wrote personally to President Johnson urging him to stop the testing program.⁸¹ Interestingly, although Hughes had had little difficulty lining up press support for most of his Nevada resort projects, he was unable to convince the local papers to side with him against the AEC.⁸² Shortly thereafter, Hughes' mental and physical health further deteriorated, and his interests turned elsewhere.

The NTS made the news again in a big way on December 18, 1970, when the "Baneberry" underground shot vented and sent a cloud of radioactive particles into the air.⁸³ The wind carried the cloud over area 12 where some 600 NTS employees were working and had to be evacuated. Three hundred of the workers were found to be contaminated and 20 were sent to the AEC laboratory for further observation and testing. Nominal precautions, such as showering, changing clothes, and washing their vehicles, were taken, but no one was found to need medical treatment.⁸⁴ The AEC reported that "the radiation presented no danger to human health or life and only the most minute traces of fallout were deposited on the ground."⁸⁵ Area 12 remained closed until after the New Year's holiday, but throughout the rest of the test site it was back to business as usual. No Nevada newspaper editorials or "letters to the editor" appeared criticizing the NTS and no official action was taken to interfere with its operations.

⁸¹ Donald L. Barlett and James B. Steele, *Empire: The Life, Legend, and Madness of Howard Hughes* (New York: W. W. Norton and Company, 1979) pp. 340-347.

⁸² *Ibid.*, p. 341.

⁸³ Paul Duckworth, *Baneberry: A Nuclear Disaster* (Las Vegas: Harris Printers, Inc., 1976).

⁸⁴ *Ibid.*; *Las Vegas Review-Journal* (December 19-21, 1970) p. 1; and *Las Vegas Sun* (December 19-21, 1970) p. 1.

⁸⁵ *Las Vegas Review-Journal* (December 20, 1970) p. 1.

In the late seventies the issue of atmospheric testing hazards was revived. Medical findings indicated a higher than normal rate of leukemia among veterans who had participated in maneuvers at Camp Desert Rock and among residents who had lived "downwind" from the test site during the fifties.⁸⁶ Several Congressional hearings were convened;⁸⁷ President Carter named a task force to investigate the long-term effects of low level radiation;⁸⁸ and the Pentagon initiated a follow-up study of "atomic veterans."⁸⁹ Interest groups, including the Nevada Test Site Radiation Victims Association, the National Association of Atomic Veterans, Citizens Call, and the Committee of Survivors, were formed and began pressuring the federal government to admit negligence and compensate the alleged victims of atomic testing. Several court cases were also filed,⁹⁰ and legislation was introduced which would provide benefits to help pay medical expenses of those harmed by radioactive fallout.⁹¹

⁸⁶ "Smoky and Leukemia: High Rate Confirmed," *Science News* (October 3, 1980) p. 118; Glyn G. Caldwell, et al., "Leukemia Among Participants in Military Maneuvers at a Nuclear Bomb Test," *Journal of American Medical Association* 244 (October 1980) pp. 1575-1578; Joseph L. Lyon, et al., "Childhood Leukemias Associated With Fallout from Nuclear Testing," *New England Journal of Medicine* 300 (February 1979) pp. 397-402; and Edward S. Weiss, et al., "Thyroid Nodularity in Southwestern Utah School Children Exposed to Fallout Radiation," *American Journal of Public Health* 61 (1971).

⁸⁷ U.S. Congress, House Committee on Health and the Environment, Hearings, 95th Congress, 2nd Session (January 1978); U.S. Congress, Senate Committee on Veterans' Affairs, Hearings, 96th Congress, 1st Session (June 1979); U.S. Congress, House Committee on Interstate and Foreign Commerce, Subcommittee on Oversight and Investigations, Hearings, 96th Congress, 2nd Session (August 1980).

⁸⁸ The Interagency Task Force on the Health Effects of Ionizing Radiation was headed by Peter Libassi; its report, issued to the public in July 1979, concluded that radiation may cause irreparable change in cells, resulting in cancer, developmental abnormalities, and genetic damage.

⁸⁹ Efforts were made to identify all the soldiers who had participated in atomic test maneuvers, and toll free telephone lines were installed so that "atomic veterans" could check in from anywhere in the country to get information on their dosage levels, etc. See: Saffer and Kelly, pp. 177-179; and Uhl and Ensign, p. 91.

⁹⁰ A class action suit was filed in Salt Lake City on August 30, 1979, by 1200 "downwind residents" charging the government with negligence: *Allen v. U.S.* (CA No. C-79-515). The widows of two test site workers filed suit following the Baneberry incident: *Dorothy Roberts v. U.S.* (Civil LV. 1766 RDF) and *Louise Nunamaker v. U.S.* (Civil LV. 76-259 RDF). Several cases have also been filed by "atomic veterans": *Jaffee v. U.S.* (79-1543, February 20, 1980) and *Broudy v. U.S.* (79-3829, June 18, 1980). To date, not one of these cases has been decided in favor of the plaintiff.

⁹¹ Recent radiation compensation bills include H.R. 4766 introduced by Representative Gunn McKay on July 12, 1979; S. 1865 by Senator Edward Kennedy on October 4, 1979; H.R. 872 by Representative Henry Gonzales on January 16, 1981; H.R. 1564 by Representative Norman Mineta on February 5, 1981; H.R. 2229 by Representative Tony Coelho on

The reaction to these events in Nevada has been less than enthusiastic. The local papers covered the proceedings of the Salt Lake City case filed by "downwind residents" and the Baneberry case filed by two test site workers exposed during the 1970 venting, but there has been no public outcry about the validity of these claims. Although Nevada's representatives in Congress were cosponsors of the legislation to compensate "atomic victims," no mention was made of the bills by any of the parties during Nevada's heated political campaigns in 1982. Relatedly, no nuclear freeze question appeared on the ballot in Clark County, although it was a major issue in many areas.⁹² And on January 27, 1983, the thirty-second anniversary of the first atmospheric shot at the NTS, a protest in front of the Federal Building drew only thirty marchers.⁹³ Though no official polls have been conducted, one is led to believe that, despite increasing evidence that activities at the NTS have caused damages in the past, the majority of southern Nevadans still support the test site and favor its continued operation in the state.⁹⁴

March 2, 1981; H.R. 4012 by Representative Robert Davis on June 25, 1981; S. 1483 by Senator Orrin Hatch on July 14, 1981; and H.R. 6052 by Representative Dan Marriott on April 1, 1982. These bills all died in committee. Currently pending in the Senate is S. 921 introduced on March 21, 1983, by Senator Hatch (R) of Utah; this bill calls for pro-rated payments of awards up to \$500,000 to people who suffer from radiation-related illness as a result of exposure to fallout from atmospheric testing. See A. Costandina Titus, "Governmental Responsibility for Victims of Atomic Testing: A Chronicle of the Politics of Compensation," *Journal of Health Politics, Policy and Law* 8 (Summer 1983) pp. 277-292.

⁹² The Clark County Commissioners kept the question off the ballot with a vote of 4 against, 1 in favor.

⁹³ *Las Vegas Review Journal* (January 28, 1983) p. 1B.

⁹⁴ The author wishes to thank Ms. Vera Thompson, Mr. David Millman, and the class of POS 408b (Summer Session II, 1983) for their research assistance.

Chance, Culture and Compulsion: The Gambling Games of the Kansas Cattle Towns

GARY L. CUNNINGHAM

THE AMERICA of the late nineteenth century, in the words of its great social historian Vernon Louis Parrington,

. . . had had enough of skimpy, meager ways, of scrubbing along hoping for something to turn up. It would go out and turn it up. It was consumed with a great hunger for abundance, for the good things of life, for wealth. It was frankly materialistic and if material goods could be wrested from society it would lay its hands heartily to the work. Freedom and opportunity, to acquire, to possess, to enjoy—for that it would sell its soul.¹

In such a culture, where the goal of rapid economic achievement—the proverbial American dream of getting rich quick—was preeminent and the accompanying status no less, the lure of gambling surely bordered on the irresistible. And nowhere in the nation was this state of affairs more apparent than in the West, that promised land of financial meritocracy. For those who were gamblers, those who had made the spirit of the age their profession, the West appealed as that place where the opportunities seemed unlimited, the competition comparatively insignificant, and the social and legal restraints no more than trifling. Not a few of them decided that one or more of those Kansan fusings of trail, track, and trade known as the cattle towns was an altogether fine place in which to ply their chosen trade. Whether the selected site was Abilene, Newton, Ellsworth, Wichita, Dodge City, Caldwell, or any combi-

¹ Vernon Louis Parrington, *Main Currents in American Thought, Volume Three: The Beginnings of Critical Realism in America; 1860-1920* (New York and Burlingame, California, 1956), 11.

nation thereof, made no difference. They were all typical frontier boom towns and thus places where gambling flourished virtually at will.²

And so professionals, notable and nonentity alike, came to the crude but lively towns of Kansas where the beef of the South was exchanged for the cash of the North.³ They did so because the practice of gambling was indispensable to the acknowledged intention of the towns, i.e., the rapid removal of newly-acquired cash from Texan pockets.⁴ Manifestly, the towns believed that they could prosper only through the attraction and retention of the cattlemen's patronage.⁵ Accordingly, they were obliged to continually provide what the Texans most desired, the "privileges of a riotous liberty"—gaming, drinking, and whoring.⁶ In fact gambling was so essential to the local economies that the mere presence of professionals was taken as an indication of prosperity, so preponderant that a visiting journalist could matter-of-factly observe that yes, "the banking business seems to be extensively followed . . . , though it is not all confined to the discounting and exchanging

² For example, a visiting journalist wrote of Newton, "It is but two months old, and has now one hundred and twenty-five houses, about twenty-five of which are saloons. There are five houses of ill-fame, five or six faro banks, two keno banks, and several institutions of the same stripe, where the unwary are taken in and done for after the most approved style." *Abilene Chronicle*, August 3, 1871.

As a profession gambling operated under a quasi-legal arrangement involving periodic fining. Officially it remained against the law, but as Jean Baptiste Racine once observed, "Crime like virtue has its degrees." Cattle town gamblers were granted what were essentially licenses to perform patently illegal acts simply by paying regular monthly fines. For a convenient summary of the individual implementation of this policy see Robert R. Dykstra, *The Cattle Towns* (New York, 1968), 126-7. The quote is from Philip D. Jordan, *Frontier Law and Order: Ten Essays* (Lincoln, Nebraska, 1970), 33.

³ Among the better-known gambling personalities associated with the towns were James Butler, "Wild Bill" Hickok, Wyatt Earp, (Bartholomew) W.B. "Bat" Masterson, John H. "Doc" Holiday, Clay Allison, Ben Thompson, and Luke Short. See Nyle H. Miller and Joseph W. Snell, eds., *Why the West Was Wild: A Contemporary Look at Some Highly Publicized Kansas Cowntown Personalities* (Topeka, Kansas, 1963), 25-27, 145-162, 173-210, 221, 314-449, 519-565, 635-639.

⁴ And worth removing it was. By the conclusion of the era, almost six million cattle in the company of possibly 28,000 men had made the long journey from Texas to Kansas. With beef cattle bringing eighteen to twenty-four dollars a head, and cowboys typically receiving from twenty to thirty dollars a month and accumulating two to three months worth of salary during a drive, this was indeed a resource worthy of conscientious exploitation. Ernest S. Osgood, *The Day of the Cattleman* (Minneapolis, 1929), 32; David Galenson, "The Profitability of the Long Drive," *Agricultural History*, 51 (1977), 744-5; J. Marvin Hunter, ed., *The Trail Drivers of Texas: Interesting Sketches of Early Cowboys and Their Experiences on the Range and on the Trail During the Days That Tried Men's Souls—True Narratives Related by Real Cow-Punchers and Men who Fathered the Cattle Industry in Texas* (Nashville, 1925), 59, 135, 147, 235, 367, 535, 735, 779; *Wichita Eagle*, July 26, 1872; Dykstra, *The Cattle Towns*, 5-6, 88-9.

⁵ Dykstra, *The Cattle Towns*, 356.

⁶ Stuart Henry, *Conquering Our Great American Plains: A Historical Development* (New York, 1930), 115. Henry used this phrase in explaining the typically assertive behavior of Abilene's prostitutes, but it is perfectly descriptive of the Texans' other interests as well.

branches. Faro, keno, monte, etc., have many followers and customers." Clearly, in such places where "As much money change[d] hands in . . . the night as in the day," gambling was more than an endeavor; it was a symbol for much of the local collective behavior.⁸

Wagering in the cattle towns was conducted primarily in the gambling halls and saloons, but also in the dance houses and some of the local brothels as well.⁹ If judged solely on the basis of construction and physical appearance many of these institutions would hardly have proved irresistible to even the most desperate of visitors. Some were simply multi-purpose shacks, barely advanced from the two kegs-and-a-plank-in-a-dugout-or-a-tent stage, while the majority were just relentlessly uninspired wooden boxes with false front exteriors and spartan interiors, although there were a few that were actually papered, decorated, and passably attractive.¹⁰ Regardless, all of that was in the insig-

⁷ Ellsworth Reporter, July 7, 1873; [Topeka] *Kansas Daily Commonwealth*, July 1, 1873.

⁸ Ellsworth Reporter, August 29, 1872.

⁹ All of these establishments were similar, with specific designations of function often being determined by the specialties emphasized rather than the diversions included or excluded. While a distinction between saloon and gambling hall was commonly made, it reflects word choice more than historical reality. There were no abstemious gambling halls until reform replaced the Texas trade, and the drinking house which lacked gaming was something of a rarity. Essentially the two terms were interchangeable. Heinie Schmidt, *Ashes of My Campfire: Historical Anecdotes of Old Dodge City as Told and Retold by Heinie Schmidt*, Vol. 1 (Dodge City, 1952), 67; [Dodge City] *Ford County Globe*, August 19, 1879; Ellsworth Reporter, July 3, 1873; J.B. Edwards, *Early Days in Abilene* (Abilene, 1938), 6; Herbert Asbury, *Sucker's Progress: An Informal History of Gambling in America From the Colonies to Canfield* (New York 1938), 350. This blurring of functions, based upon the inherent connections between gambling, whoring, and drinking, was not limited to the West. Like most other frontier customs, it undoubtedly originated in the East and was copied from Middle Border examples. See, for instance, John R. Dos Passos, "Gambling and Cognate Vices," *Yale Law Journal*, XIV (November 1904), 9-17. Nell Kimball, *Nell Kimball: Her Life as an American Madam*, edited by Stephen Longstreet, (New York, 1970), 203. Apparently in some establishments the featured attractions changed with the passing of the day. "A few years ago at early candle-light nearly every saloon was turned into a public gambling or dance house. The 'girls' came out from almost every nook and corner and solicited customers with as much affrontery as the waiter girls do for their counters at a church festival." *Ford County Globe*, July 22, 1884.

¹⁰ George D. Freeman, *Midnight and Noonday or the Incidental History of Southern Kansas and the Indian Territory, Giving Twenty Years Experience on the Frontier; Also the Murder of Pat. Hennesey, and the Hanging of Tom. Smith, at Ryland's Ford, and Facts Concerning the Talbot Raid on Caldwell. Also the Death Dealing Career of McCarty and Incidents Happening in and Around Caldwell, Kansas, From 1871 Until 1890* (Caldwell, 1892), 22; Topeka *Daily Commonwealth*, September 17, 1871; Kos Harris, "Old New York—Schweiter Corner—A Narrative of Early Wichita," in O.H. Bentley, ed., *History of Wichita and Sedgwick County, Kansas, Past and Present, Including an Account of the Cities, Towns, and Villages of the County* (Chicago, 1910), 267; Miller and Snell, *Why the West Was Wild*, 9; Dale T. Schoenberger, *The Gunfighters* (Caldwell, Idaho, 1971), 117; Dodge City Times, July 31, 1880; Merritt L. Beeson to Walter Stanley Campbell (undated letter in response to the latter's letter of April 28, 1951), Selected Papers from the W.S. Campbell Collection, Kansas State Historical Society; *Ford County Globe*, June 15, 1880, April 18, 1882.

nificant light of day. "At night," an observer remembered, "the saloons changed into fierce spots of white lights—a flaming Hades—in a darkened country, in a darkened State."¹¹ For despite their less than impressive appearances, the gambling hall-saloons were at base oases of pleasure, near total environments that were quite capable of altering attitudes and channeling behavior, wooden sanctuaries of and for play. And play, as the modern researcher Roger Caillois has argued, is that which "mocks at work and represents a competing attraction, which, at least in some cases, assumes sufficient importance to partly determine the life-style of an entire community."¹² Such indeed was the case in the cattle towns.

But strikingly juxtaposed with the aura of play was that of potential violence. Professionals tended to be a bellicose lot, and the demonstrated ability to back up one's gambit or to counter that of an opponent was an inherent part of any gaming contest.¹³ Add to this known predilection that of many of the patrons for alcoholic overindulgence and the resulting atmosphere was ripe with a heady mixture of danger and excitement.¹⁴ The impact for the entering would-be player was both immediate and intense. His senses were assaulted with the clicking and spinning of the wheels; the sheer vocal volume of massed, somewhat less than genteel, certainly less than sober humanity; a few (although not too few) women of obvious charms and availability; and a small collection of vociferous souls who might charitably be called musicians; and dominating all was the oh-so-seductive sound that only money placed upon money can make. The message was as unmistakable as it was timeless: here was the opportunity to transcend one's lot in life and its surrounding limitations without struggle or sacrifice. Here was life being led to its fullest, yours to experience for but the piddling price of a small wager. If one did not look too closely, pleasure, passion, exhilaration, and perhaps even happiness all seemed to have a purchasable price. In short, the flourishing of cattle town gambling was

¹¹ Henry, *Conquering Our Great American Plains*, 112.

¹² Roger Caillois, *Man, Play, and Games* (New York, 1961), 145.

¹³ As the *Ford County Globe* of April 8, 1879 acknowledged in regard to the perennial lack of enforcement of the standard concealed weapons ordinance, "Gamblers, as a class, are desperate men. They consider it necessary in their business that they keep up their fighting reputations, and never take a bluff."

There is a substantial amount of overlap between gamblers and those who have traditionally been identified as gunfighters. The former found it occupationally essential to be accomplished gunmen, and the majority of the latter derived the bulk of their income from card playing, for no matter how adept, one did not make a living solely by shooting people.

¹⁴ The element of danger in the saloon environment should not necessarily be thought of as a negative factor. It may well have been a key component in creating and maintaining a prevailing sense of excitement, much as it does in the wilderness environment.

not so much a result of a preexisting demand but one that was purposefully stimulated by mood-creating and supporting elements.¹⁵ Moreover, not only did this environment determine that most would gamble, it also determined which games most would play.

Those who chose to patronize the professionals' tables had their choice of a variety of ways in which to lose their money.¹⁶ The games proffered included roulette, faro, three-card monte, wheel of fortune, keno, red and black, hazard, high ball, chuck-a-luck (chucker-luck), *vingt-et-un* (twenty-one), euchre, old sledge (seven-up), and poker. With the exception of the last three, all of these were inherently chance-oriented games, with the factor of skill being largely limited to the realm of cheating. Most of those who played seemed to be looking in their gambling for something other than intensely competitive contests of skill and will wagered with potentially substantial outlays of cash. The reasons for this were as much social and environmental as they were personal. Naturally each game played had its own aggregate of enticements which varied in their effectiveness in accordance with the temperament of the players. But while it was the factors which the games held in common that were of telling significance, the individual structures and natures of the contests themselves were not without importance.

Likely the most symbolic of all of the games played in the cattle towns or, for that matter, the entire West, was the perfectly named wheel of fortune. Garishly decorated and vividly colored, the ever-turning wheel seductively ticked its way into the awareness and the pocketbooks of its admirers. The rhythmic whirl produced by the initial spin of the dramatically sized wheel was designed to grab the attention of all within the room, and it did so with notable success. "Among

¹⁵ Similarly, it has been reported that a chief of police of a major city found that he was able to drastically reduce the extent of local prostitution simply by limiting the use of liquor, music and lights. He did not attempt to impede the sale of sex but accomplished the same by curtailing its associated, attracting, and supportive elements. In other words, "the prostitution that you find in a town is not the gratification of a preexisting demand, but [one] that . . . has been skillfully stimulated." See State of Wisconsin [Wisconsin Vice Committee], *Report and Recommendations of the Wisconsin Legislative Committee to Investigate the White Slave Traffic and Kindred Subjects* (Madison, 1914), 185.

¹⁶ Anyone with anything of value to lose was of course not limited to table diversions. Horse racing provided a major form of wagering, a not unexpected situation on the frontier where horses were important and thus subject to impassioned debate as to relative merits. Human foot races were prevalent and on occasion contests were even arranged between man and horse. Dog racing and prize fighting, although more sporadically held, were also quite popular with the sporting fraternity. *Ellsworth Reporter*, July 3, 1873; *Ford County Globe*, May 7, 1878; *Caldwell Standard*, February 7, 1884; *Dodge City Kansas Cowboy*, June 27, July 11, 1885; George Meltzer, "Social Life and Entertainment on the Frontiers of Kansas, 1854-1890," (M.A. thesis, University of Wichita, 1941), 95, 100, 102-7.

the other principal institutions of this town at this blessed moment," duly recorded the *Caldwell Standard*, "is the 'wheel of fortune' Buy a chance and try your luck. You may win a \$100 on a single turn."¹⁷ And then again

Sensually if not structurally similar to the wheel of fortune was the game of roulette. Typically it functioned in conjunction with other games, most obviously the wheel of fortune, although in at least one instance it managed to succeed with only an ersatz business operation to compliment it.¹⁸ Likely roulette and the wheel of fortune enticed the same sort of patron, enabling him to spend his time and money alternating between the two as his whims and/or luck dictated, a clear indication if not a proof of the frontier adage that "Man's the only animal who can be skinned more'n once."¹⁹ Other games of course provided much faster means for discovering one's economic fate, but tantalizing slowness, then as now, was not without its adherents. Moreover, there was an equally myopic compensation for the relative lack of speed—the gripping tension created by the gradual process of resolvment. It provided cattle town gamesters with a mesmerizing attraction which offered a contrasting respite to other, faster diversions.

"Keno is all the go now-a-days," proclaimed the *Caldwell Post*, and so it seemed to be periodically.²⁰ Although played in saloons like other games, keno was unique in that to fully utilize its economic potential a fairly substantial room had to be largely given over to it, so that any other supporting amusements had to be fitted in peripherally.²¹ A mass

¹⁷ *Caldwell Standard*, May 29, 1884; John Philip Quinn, *Gambling and Gambling Devices: Being a Complete Systematic Educational Exposition Designed to Instruct the Youth of the World to Avoid All Forms of Gambling* (Montclair, New Jersey, 1969, reprint of 1912 ed.), 89–93. A full-color photograph of a truly wonderful specimen may be found in Editors of Time-Life Books, *The Gamblers* (Arlington, Virginia, 1978), 150.

¹⁸ "An enterprising firm have just established themselves One branch of the business is roulette and another a photograph lottery. We believe they are prospering, and their 'mary [sic] patrons' always go away smiling blandly—thinking 'what might have been.'" *Dodge City Times*, July 21, 1877.

¹⁹ Quoted in Ramon Frederick Adams, *The Cowman Says It Salty* (Tucson, 1971), 104.

²⁰ *Caldwell Post*, March 6, 1879; Kos Harris, "A Lawyer's Reveries of the Times When Wichita Was in the Gristle," in Bentley, *History of Wichita and Sedgwick County*, 133; *Ellsworth Reporter*, July 10, 1873. But noted the *Dodge City Times*, not without some arrogant condescension, "A keno bank was put in motion last week, but it didn't pay, and had to suspend. Keno is too insignificant for Dodge City." August 11, 1877.

²¹ *Ellsworth Reporter*, July 10, 1873; *Caldwell Standard*, January 22, 1880; Harris, "Old New York—Schweiter Corner—A Narrative of Early Wichita," 266. The most famous of such establishments was Wichita's self-described Keno Room, which was "about 45x70 feet, and had six or eight long tables running from east to west. There was a chair about every two feet around this table, and these chairs were usually occupied. At midnight there was served a lunch, and those who were thirsty did drink." Harris, "Old New York—Schweiter Corner—A Narrative of Early Wichita," 267.

number-selection game, using a container from which individual numbered balls were procured, nineteenth-century keno was very similar to the modern game of bingo.²² As played in the cattle towns, one wagered a small amount of money in hopes of winning a large amount for which one had little chance. Essentially one bought a few minutes worth of hope for the price of a card, which may or may not have been a bad bargain. Perhaps significantly, no one seemed to mind much; the money was paid, the balls were drawn, the money was lost, and somehow a few managed to win. But for all there was the continuing sonorous tone of the caller, creating a separate mood with ever-building anticipation. "The gentle racket of the keno man is now heard and the boys are happy," noted the *Caldwell Post*.²³ Many players and only a few winners, but then under designed conditions it takes but a few winners to keep the rest of the players in the game.

The most popular dice diversions were hazard and its sibling chuck-a-luck.²⁴ In the playing of both games a betting layout was used with the dice being mixed and then displayed from a birdcage affair, a roulette-like wheel, or a dual-funneled horn.²⁵ Hazard and chuck-a-luck were games of wondrous simplicity, of almost instantaneous comprehension, and very fast. Using three dice one simply picked any number from one to six, or any combination thereof, and then awaited fate's decision. Equally simplistic was the game of high ball, an ersatz form of poker played with balls (instead of cards) that were drawn singly by a dealer from a bottle and based, ostensibly, upon a random selection.²⁶

Of the card games played in the cattle towns, one could hardly begin with anything other than three-card monte, although it is not really

²² John Scarne, *Scarne's Encyclopedia of Games* (New York, 1973), 562-3; Richard D. Blayney, *Win More at Keno: A Scientific Analysis of the Game of Keno* (Garden Grove, California, 1971), 11, 13. Also see illustration in Editors of Time-Life, *The Gamblers*, 155.

²³ *Caldwell Post*, March 6, 1879.

²⁴ Not to be confused with the differing game of English hazard, forerunner of craps.

²⁵ *Abilene Chronicle*, June 1, 1871; *Ford County Globe*, May 7, 1878; Jonathan Green, *Gambling Exposed: A Full Exposition of All the Various Arts, Mysteries, and Miseries of Gambling* (Montclair, New Jersey, 1973, reprint of 1857 ed.), 163; Richard A. Epstein, *The Theory of Gambling and Statistical Logic* (New York, 1967), 171-2; Scarne, *Scarne's Encyclopedia of Games*, 473-5. Visual examples may be found in Editors of Time-Life, *The Gamblers*, 134, 178-9.

²⁶ *Dodge City Times*, February 23, 1882; John Philip Quinn, *Fools of Fortune: Or Gambling and Gamblers, Comprehending a History of the Vice in Ancient and Modern Times, and in Both Hemispheres; An Exposition of Its Alarming Prevalence and Destructive Effects; With an Unreserved and Exhaustive Disclosure of Such Frauds, Tricks and Devices as Are Practiced by "Professional" Gamblers, "Confidence Men" and "Bunko Steerers"* (Chicago, 1892), 433-4.

accurate to refer to monte as a game.²⁷ Basically it is the ageless "three shells and a pea, the hand is quicker than the eye" ploy played with cards.²⁸ A game, in Albert Morehead's words, "so simple and so time-honored that it is no less than wonderful that it can still find its victims."²⁹ Generally speaking, gambling it is not and its more obvious purveyors were treated accordingly.³⁰ But as the true nature of monte was not always apparent, some practitioners were considered professional gamblers. The diversion's continual appeal seems to have been to the most naive of transients, those individuals who would likely not venture into an obvious, relatively straightforward sort of gamble.³¹ Once convinced of the decidedly mistaken belief that their eyes *were* faster than the dealer's hands, they did not see their betting as gambling at all. It is perhaps too harsh to recall the familiar argument that one cannot cheat an honest man, but as the Biblical injunction reminds us, "he that maketh haste to be rich shall not be innocent."³²

A second card diversion was red and black, a simplified version of the game of thirty and forty, based upon varying degrees of color domination in five card hands.³³ There was also *vingt-et-un*, an early version of the modern blackjack, and a game which was less popular than the others.³⁴ The primary reason that *vingt-et-un* was not the great favorite that it has since become, even though it did not

²⁷ Not to be confused with Spanish monte. See William Brisbane Dick, *The American Hoyle: Or, Gentleman's Handbook of Games, Containing All the Games Played in the United States, with Rules, Descriptions, and Technicalities Adapted to the American Method of Playing* (New York, 1886), 286-7.

²⁸ On May 28, 1878 the following editorial appeared in the *Ford County Globe*: "Again we appeal to our City authorities to prevent all 'sure thing' men from running their games in Dodge this summer. We know that nine tenths of all the bad blood that has ever cropped up in Kansas cattle towns, has been engendered by those robbing concerns." Although "sure thing" endeavors took a number of forms, the most common were the showcase games, so called because the operator sold trinket jewelry from portable vendors. The cheap baubles served to attract the attention of the potential customer who was then led into the playing of a game of monte.

²⁹ Albert H. Morehead, "The Professional Gambler," *Annals of the American Academy of Political and Social Science*, CCLXIX (May 1950), 87.

³⁰ For a more detailed discussion of the "game" see Quinn, *Gambling and Gambling Devices*, 56-7. "Skinny nosed Jim and his handsome partner, who were attachees of the Sweeney show-case outfit in this city, visited Hayes in the prosecution of their very legitimate calling two weeks ago. They now languish in the Hayes jail bound over for robbing a greeny. Their chances for five years in the State Penitentiary are very favorable." *Ford County Globe*, July 30, 1878.

³¹ Topeka *Daily Commonwealth*, September 17, 1871; Abilene *Chronicle*, August 5, 1871; *Ford County Globe*, May 7, 1878; Caldwell *Commercial*, October 5, 1882.

³² Proverbs 28:20, quoted in Green, *Gambling Exposed*, 273.

³³ Scarne, *Scarne's Encyclopedia of Games*, 326. For a detailed description of thirty and forty see Dick, *The American Hoyle*, 281-5.

³⁴ Dick, *The American Hoyle*, 101-5.

markedly differ from the modern version, was the dominance of another, more elementary game. *Vingt-et-un* was then its insignificant rival and eventually its casino replacement, but during the cattle town era, as well as much of the nineteenth century, the most popular game by far was faro.

Faro was the first institutionalized card game in this country, the foundation that enabled the creation and the thriving of the specialized gambling house. As John Philip Quinn, a former gamester turned moralistic reformer recalled, "In the United States, it is a game *par excellence* at every gambling establishment, being at once the most absorbingly fascinating to players and the most profitable to the bank."³⁵ Around faro evolved the use of supplementaries—cappers and ropers-in—a casino practice which continues to outlive the game that spawned it. Finally and most importantly, faro became the medium of institutionalized cheating in the West and the rest of the nation as well.³⁶

What faro offered to the potential player was fast and repeated action, in effect symbolizing the frontier process itself with the "grace of beginning again and ever again."³⁷ One selected any card or cards represented on a layout and bet it or them to win or to lose. The dealer then pulled cards out of a box one by one, each alternately winning and losing for the bank and the player(s) respectively.³⁸ In other words, one simply selected one's card or cards and then waited for judgment to be rendered. No pedestrian complications such as thought or sobriety were matters for concern. What faro offered was an ideal medium for the personal expression of impulse and choice. And if perchance the selection proved to be a fortuitous one, there was the opportunity of "going paroli," of parlaying the winnings in hopes of eventually breaking the bank. With this potential for recklessness and perhaps great success, faro was a natural audience participation game, providing its own encouragement for the less than stouthearted players and an increasing level of excitement for the nonparticipants, acting, as it were, as a shill for itself as well as the other diversions in the establishment. Small wonder that it was the favored game.

³⁵ Quinn, *Gambling and Gambling Devices*, 44; Asbury, *Sucker's Progress*, 3, 5-6; Abilene *Chronicle*, August 5, 1871.

³⁶ Asbury, *Sucker's Progress*, 6.

³⁷ The quoted phrase is attributed to Martin Buber in Julius Lester, "Growing Down," *Change*, 11 (October 1979), 37. The adaptation to the frontier is my own.

³⁸ For a more extensive discussion of the game and the variations possible within the betting structure, see Scarne, *Scarne's Encyclopedia of Games*, 276, 302-41 and Dick, *The American Hoyle*, 272-281.

The next card game, poker, was one whose popularity does not measure up to its ongoing image. It is a game of skill, strategy, competition, and concentration, one which functions best under conditions opposite to those which were fostered by and prevailed in the cattle town gambling hall-saloons. To be sure it was played in them, but only after a fashion. For the most part poker was the game of the professionals, augmented on occasion by prosperous eastern visitors or by those who dealt in cattle, but rarely by those who merely worked them.³⁹ For the herders with their unsubtle needs and particularly impatient desires there was faro and the other chance-oriented contests.⁴⁰ The very factors that are crucial to success at poker—self-control and patient concentration—are precisely the sorts of behavior that the typical transient was trying to divest himself of.⁴¹ Gambling to him was an activity which rendered such qualities irrelevant; yet poker clearly fostered them. In our contemporary sense of gaming, poker lacked action, at least of the type he was seeking. It was slow, required clear thought and methodical study, and optimally, it demanded calm, relative quiet, and concentration. For the cowboy nothing could be less appealing. He had come to *gamble*, not calculate.

But for the professional, poker had much to offer. As Robert D. Herman has observed, "Agonistic gambling fits a competitive society," and what could be more competitive than the society of professionals?⁴² Here was the opportunity to confront one's colleagues as opponents, to take the measure of one's competition. Poker was the conscious medium for the ascertaining and establishing of one's character under pressure before peers. It was the forum in which to stake

³⁹ See, for example, the *Dodge City Times*, March 24, 1877, which contains a description of a classic poker confrontation between a former governor of Kansas and three local professionals.

⁴⁰ "Experiments suggest that . . . [generally] the more able prefer to gamble when the element of chance seems to them minimized and the element of skill maximized; the less able prefer situations in which these two components are ordered the other way around." John Cohen, *Psychological Probability or the Art of Doubt*, (London, 1972), 72-73.

⁴¹ See Gerritt M. Evans, *How Gamblers Win: or, the Advantage Player's Manual; being a Complete and Scientific Exposé of the Manner of Playing All the Various Advantages in the Games of Bluff, or Poker; Seven Up; Euchre; Vingt-Un, or Twenty-One; Whist, etc., etc. Together with a Thorough and Finished Analysis of the Science of Playing "On the Square," and a General Treatise on Advantage Playing*, (New York, 1865), 15-16, and Thomas M. Martinez and Robert LaFranchi, "Why People Play Poker," in Gregory P. Stone, ed., *Games, Sport and Power* (New Brunswick, New Jersey, 1972), especially 56-57.

⁴² Robert D. Herman, *Gamblers and Gambling: Motives, Institutions, and Controls* (Lexington, Massachusetts and Toronto, 1976), 87. Also see John McDonald, *Strategy in Poker, Business and War* (New York, 1950), 44.

out, justify, and defend one's reputation.⁴³ And perhaps nowhere was this more in evidence than in what was the premier saloon in the most famous town of the American frontier, the Long Branch of Dodge City.

The Long Branch catered to "the elite of the gambling fraternity of the west." It featured two monte tables and one table each for hazard and red and black. And just beyond the main room was a room within a room, a secluded retreat expressly provided for the rituals of poker.⁴⁴ Shut off from the self-perpetuating din of the gambling hall proper, the players were able to engage in their game under conditions designed to promote its play. As Herman has hypothesized, something more than a modicum of quiet is necessary to encourage not only strategy in games like poker but also mimicry or role playing. An integral part of agonistic contests, role playing can be an end in itself, transcending the actual playing of the game. Thus the personal image which the contest enables one to project can have as much importance to the player as the game itself.⁴⁵ In many ways the social environment created by professionals playing poker recalls that of modern service occupations in which feelings of solidarity among group members and a heightened sense of separation from others are prominent characteristics.⁴⁶ In other words, under the proper conditions the playing of poker was a reaffirming ritual for the professional gambler. Surely the keep of the Long Branch was as ideal an environment for the professional as the gambling hall-saloon was for his customers.

Whether fast or slow in pace, whether the structure featured numbers, dice, layouts, mechanical devices, just cards, or a combination of any two or more, the essential appeal, the defining element in all of the truly popular games discussed was the factor of chance. It was the chance for a blind stab at a relative fortune that brought patrons in, kept them in, and presaged their perpetual returning. For as the nine-

⁴³ See the discussion of Erving Goffman's analysis of "fateful" gaming incidences in Herman, *Gamblers and Gambling*, 15. It is worth recalling the fact that gamblers and those who are generally called gunfighters were frequently one and the same. The parallels between the activities of gambling and gunfighting are brought into relief in the context of the poker game—the ability to reliably estimate the quality of the opponent, to rigidly control one's movements, especially those of the hands, eyes, and face, and to accurately assess one's chances and act accordingly, without hesitation.

⁴⁴ Beeson to Campbell, W.S. Campbell Collection, Kansas State Historical Society. Merritt L. Beeson papers, Kansas State Historical Society.

⁴⁵ Herman, *Gamblers and Gambling*, 15.

⁴⁶ This part of the discussion is based upon Howard S. Becker, *Outsiders: Studies in the Sociology of Deviance* (New York, 1963), 82. The argument that gambling may be considered as a service occupation is my own.

teenth-century gambling historian John Ashton argued, as chance becomes ascendent over skill, the money motive increases.⁴⁷ Or as a more recent researcher has put it,

For the assured but ill-esteemed rewards of patience and effort there is substituted the seductive mirage of sudden wealth, leisure, and luxury. For the masses who work hard and earn little, the prospect of getting rich quickly seems the only way to ever emerge from lowly or wretched status.⁴⁸

No doubt few if any players truly expected to win a fortune at the tables, but such a realization had precious little effect on their hopes. Though it seems all too true that "Chance, like merit, selects only a favored few," it does not stop the rest from trying.⁴⁹ Financial paradise may only be a pleasant illusion, but a bet of hard money offers an important nexus between one's dream and the reality of cold cash. Even if it lasts for but the duration of a single play, it simply overshadows all that wishing alone might conjure up. Moreover, and perhaps as importantly, the feeling was always readily renewable. Fate might well decide against you, but for the cost of another wager you could, often within seconds, get another if not always different rendering of the verdict.

Of the chance-oriented games discussed, all offered large amounts of action for small amounts of money. One could play chuck-a-luck, for instance, for as little as five cents.⁵⁰ Typically the bets were small but numerous, the winners few but likely heralded, and the hopes undaunted and steadfastly unrealized.⁵¹ After all, an anonymous observer has suggested, "To be rich in our dreams is the only kind of riches most of us are likely to possess. Who, without a twinge of con-

⁴⁷ John Ashton, *The History of Gambling in England* (London, 1898), 2.

⁴⁸ Caillouis, *Man, Play, and Games*, 145.

⁴⁹ *Ibid.*, 120. "Every man who sets out deliberately to free himself from the grip of chance is going to have a thin time. He can stop smoking because of the risk of lung cancer; he can give up alcohol for fear of damaging his liver; he can stay indoors to avoid the hazards of travel; he can keep his money in an old sock to avoid the risk of losing it. But if he carries his apprehensions to logical conclusions he will atrophy in bed, while his risk-taking nephew grabs the sock, spends the money on riotous living, and dies happily at the age of 94. With chance, as with many things, there is little justice." Alan Wykes, "The Gambler and His Motives," in John K. Hutchens, ed., *The Gamblers' Bedside Book* (New York, 1977), 183.

⁵⁰ *Abilene Chronicle*, June 1, 1871.

⁵¹ *Dodge City Times*, September 1, 1877; *Abilene Chronicle*, June 1, 1871. Quick losses deflate hope and do not readily constitute a basis for continued prosperity. Still, games involving more than a hundred dollars must have been not unusual, for when they are mentioned in the local press it is not the sums which are deemed as newsworthy but some occurrence related to the playing of the game. See, for example, the *Abilene Chronicle*, June 29, 1877 and the *Ford County Globe*, January 6, 1880.

science, could grudge toiling mortals this handful of 'fairy gold'?"⁵² Certainly not the toiling mortals.

So if we consider the generally popular cattle town amusements—the wheel of fortune, roulette, keno, hazard, chuck-a-luck, red and black, high ball, three-card monte, and faro—we see that they are all variations of a single theme. They are relatively modern adaptations of the ancient and time-honored practice of casting lots. The other common contests of lesser popularity—euchre and old sledge (seven-up), simplified predecessors of modern bridge, and the much storied poker—are essentially small group games in which skill is theoretically at least dominant over luck.⁵³ Without question the favored contests were those games in which the odds were either decidedly advantageous to the house or obviously so neutral that the house must necessarily create an advantage. That play continued under such conditions implies a dearth of sophistication and a rather firm belief in one's own luck. It also suggests an affinity if not an outright preference for thoughtless, perhaps mindless play, a situation nurtured by the omnipresence of alcohol.⁵⁴

Alcohol was as vital to cattle town gambling as money is to politics. It not only got the prospective player to become a part of the evening's crowd in the shared bonding ritual of imbibing, but it also helped break down his very understandable resistance, enabling him to build-up his courage to join in on the games. It added its own intensity to the natural feelings brought on by the thrill of winning, thus boosting the desire to continue in the hopes of duplicating, perhaps exceeding, those feelings. More commonly, it helped assuage the pain of financial loss, personal defeat, and shaken confidence. And of

⁵² The quote and the basis for this argument are drawn from Nachama Tec, *Gambling in Sweden* (Totowa, New Jersey, 1964), 58–59.

⁵³ The division between chance-oriented banking games and small group games was also recognized by the local authorities in that they were listed separately in some of the ordinances. See Ellsworth *Reporter*, June 12, 1873. Although a chance-oriented banking game, *vingt-et-un* also involves a degree of skill and concentration not required in the other contests, a fact which likely contributed to its lack of widespread popularity. For descriptions of euchre and old sledge see William Brisbane Dick, *The American Card Player, Containing Clear and Comprehensive Directions for Playing the Games of Whist, Euchre, Napoleon, Cribbage, Bezique, Sixty-Six, Penuchle, Cassino, Straight and Draw Poker, Jack Pots, All-Fours, Pitch and Pedro Sancho* (New York, 1881), 54–79 and 138–142.

⁵⁴ Edward O. Thorp, "Probabilities and Strategies for the Game of Faro," in William R. Eadington, ed., *Gambling and Society: Interdisciplinary Studies on the Subject of Gambling* (Springfield, Illinois, 1976), 445. Doubtless not all of the players of these games saw their participation as a matter of blindly giving themselves over to the whims of pure chance, but rather considered themselves to be "assiduous students of form" who made their selections of cards or numbers only after the most "prudent deliberations." Cohen, *Psychological Probability*, 72.

course it further served to dull the mind to the sensible alternative of quitting games which could not be won. Additionally, the sensory effects of alcoholic consumption created a sort of personal, internal form of noise which encouraged and enhanced the playing of chance-oriented games while it hindered the desire and ability to play strategy-oriented contests.⁵⁵

The impact of alcohol also extended to another major component of cattle town gambling, that of cheating. Most of the players did not approach their wagering with any noteworthy degree of sophistication; that was a quality, like skill, which was part of cheating, not play. A combination of naivety and alcoholic fog made deception inevitable, continuous, and successful. The mere fact that three-card monte was for so long considered as a gambling game on a par with all the others is ample proof of the commonness of chicanery.⁵⁶ Naturally deception was not limited to monte. It is likely that the invention of altered gambling paraphernalia just slightly predates that of the non-altered variety. What no doubt began as an irresistible temptation became, by the nineteenth century, a readily-available commodity, a mail order catalogue item with national marketing.⁵⁷

Reporting on opportunities in the West, a visiting Horace Greeley wrote, "Land speculation here is about the only business in which a man can embark with no other capital than an easy conscience."⁵⁸ He was wrong. One could cheat at cards.⁵⁹ Likely not all of the cattle town professionals were customarily dishonest, but then again, one is not overwhelmed by the amount of evidence to the contrary.⁶⁰ As an admittedly moralistic type recalled regarding a gamester that he had

⁵⁵ Herman, *Gamblers and Gambling*, 84-85. It is interesting to note that while would-be determiners of cattle town societal morality may not have fully understood the inter-relations between alcohol, gambling, and prostitution, they knew all too well the manifestations. The focus of reform agitation did not lock upon the liquor question until the passage of state prohibition in 1880, but there were attempts as early as 1871 to control the extent of vice through alcoholic restriction. See Dykstra, *The Cattle Towns*, 254; Minute and Council Record Books, Records of the City of Abilene, 1870-1876, KSHS, especially July 19, 1871.

⁵⁶ For specific references to individual games see *Abilene Chronicle*, June 29, 1871; *Hays City Sentinel*, September 14, 1877; *Ford County Globe*, January 6, 1880.

⁵⁷ For a reprint of a descriptive catalog of such implements see Quinn, *Fools of Fortune*, 430-437. For a more comprehensive although less detailed listing see Will and Finck Company, [Price List] (San Francisco, 1887).

⁵⁸ Quoted in James C. Malin, "Mobility and History: Reflections on the Agricultural Policies of the United States in Relation to a Mechanized World," *Agricultural History*, 17 (October 1943), 180.

⁵⁹ It is beyond the scope of this article to deal adequately with cheating as a phenomenon, but a good, brief starting point is John Welcome, *Cheating at Cards: The Cases in Court* (London, 1963). For some specific techniques see Quinn, *Gambling and Gambling Devices*, 60-70, 89-93.

⁶⁰ See, for example, *Abilene Chronicle*, June 1, 1871.

known well and considered to be the most honorable man in the profession,

[he] was straight. That is as straight as a gambler could be. He would not steal, that is, if the larceny was too visible. Trickery, however, was legitimate. If by trick, or the use of a stool pigeon, the victim could be fleeced, the wool belonged to him. If he was shorn, he waited to win back his wool from another and made no complaint of his loss. He recognized equal rights in the art of separating fools from their money.⁶¹

Certainly rascality is never an easy calling, but it is no doubt not without its rewards. The cattle town gamester, much like a character in a Balzac novel, convinced himself that success was virtue.

And what of the clientele who seemed to have been remarkably tolerant of a patently intolerable situation? For some their passivism may have been a reflection of their lack of skill with firearms, while others were either too timid, befuddled, or simply too unaware to raise an objection.⁶² Still one may rightfully wonder at their continuance, their unrewarded obstinacy. The cowboys, the cattle owners and buyers, eastern travelers, local townsmen, and nearby soldiers all repeatedly risked their money against altered odds. There are additional reasons why.

First, there was the cowboy himself. Stripped of all the accumulated glamour, he was a pastoral proletarian whose youth, pernicious but ennui-laden occupation, and fondness for copious amounts of less than certifiable whiskey made him frivolous with both his health and money. An adult by age and an adolescent by behavior, the cowboy arrived in town with a good deal of bravado, a fair amount of cash, and an outright aptitude for trouble.⁶³ The awaiting professional was more than a match for him.

Excluding the factor of adolescence, much of the preceding descrip-

⁶¹ "Exciting Early Day History of Ellsworth," *Ellsworth Reporter*, August 8, 1957.

⁶² "Every night four or five tables in almost all of the saloons were occupied by gamblers and their victims—the Texas cattlemen and cowboys—who were fleeced and robbed in a way they did not understand." *Ellsworth Reporter*, August 8, 1957. Also see [Gerritt M. Evans,] *How Gamblers Win, or the Secrets of Advantage Playing Exposed. Being a Complete and Scientific Exposé of the Manner of Playing All the Various Advantages in the Games of Poker, All Fours, Euchre, Vingt-Un, Whist, Cribbage, etc., As Practiced by Professional Gamblers Upon the Uninitiated. Together with a Brief Analysis of Legitimate Play. By a Retired Professor* (New York, 1868), 75–76.

⁶³ The literature on the cowboy is massive. Among the most rewarding works are Charles W. Harris and Buck Rainey, eds., *The Cowboy: Six-Shooters, Songs, and Sex* (Norman, Oklahoma, 1976); E.C. "Teddy Blue" Abbott and Helena Huntington Smith, *We Painted Them North: Recollections of a Cowpuncher* (Norman, Oklahoma, 1955); Lon Tinkle and Allen Maxwell, eds., *The Cowboy Reader* (New York, 1959); Joe B. Frantz and Julian E. Choate, *The American Cowboy: The Myth and the Reality* (Norman, Oklahoma, 1955).

tion is equally applicable to the cattle buyer or drover who was no less indulgent and a good deal more solvent than the cowboy.⁶⁴ Many of the local residents and the nearby stationed soldiers who ventured into the saloons were also prone to the gambling-at-whatever-risk mentality, as were the primarily eastern visitors, many of whom came to the towns for the express purpose of divesting themselves of as much money as possible within the shortest but most pleasurable amount of time.⁶⁵

With the limited exception of the local inhabitants, all of those who contributed so freely if not so wisely to the economic amelioration of the gamester did so as transients.⁶⁶ As such they were subject to an awareness of being in an unaccustomed environment, a consciousness of being removed and isolated from home. This is a situation, as Herman has theorized, which temporarily frees the individual from the usual conventions and obligations which determine and control much of his behavior. Under these conditions the ability to take risks and the desire to do so are effectively promoted.⁶⁷ It is critical here to keep in mind that money is not the only thing that men then as now gamble for. Consider the case of a modern lottery player:

In his day dreams, . . . [he] pictures himself free from the drudgery of work, free from the necessity of economizing his money and his time, free from insecurity and worry and off on a fictitious 'holiday' . . . What lottery does . . . is to dramatize these escapist dreams and lend them a fascinating element of reality and promise. Although escape is still not a legitimate expectation, the possession of a lottery ticket gives a stamp of authenticity to the hope for

⁶⁴ Henry, *Conquering Our Great American Plains*, 62; Victor Murdock, *Folks* (New York, 1891), 150-151; Jesse James Benton, *Cow by the Tail* (Boston, 1943), 56.

⁶⁵ *Ford County Globe*, April 23, 1878; *Dodge City Times*, April 28, 1877; Harry (Sam) Young, *Hard Knocks: A Life Story of the Vanishing West* (Portland, Oregon, 1915), 83. For example, "there are different classes of men who are producers or money-makers, and misers, up to a certain amount. There were numbers of people . . . who would carefully save up from two hundred dollars to five hundred dollars, and then come to Dodge City and turn it loose, never letting up until every dollar was gone. There were others whose ambition was higher. They would carefully save up from five hundred to two thousand dollars, come to Dodge City and spend it all. There were still others who would reach out to five thousand dollars and upwards, come to Dodge, and away it would go . . . [returning] to their different avocations perfectly satisfied. They had started out for a good time and had had it, and went back contented." Robert M. Wright, *Dodge City: The Cowboy Capital and The Great Southwest in The Days of The Wild Indian, the Buffalo, the Cowboy, Dance Halls, Gambling Halls, and Bad Men* (Wichita, 1913), 152.

⁶⁶ Actually, given the habitual mobility of the typical urban pioneer, it is likely that most of the local inhabitants did not regard the towns as permanent places of residence. Temporarily non-transient probably best describes them and suggests why their behavior was not entirely different from the transients.

escape. The lottery ticket represents a tiny hole in the closed system of toil and budgeting, a 'safety valve' through which the repressed wishes crowd for escape.⁶⁸

Thus for the determined escapist, the mere act of participation at the gaming table is an experience to be protracted as long as possible. One may lose money but one does not lose what is truly sought. In such cases being cheated is not totally unacceptable.

In conclusion, it is easy to look back upon the games of the cattle towns as little more than simple devices which relatively complex men used against either relatively simple or single-minded men to "relieve . . . [them] of their spare cash, and indeed of cash which they cannot conveniently spare," but were nonetheless willing to part with.⁶⁹ Yet the patrons in question likely remembered not the slickness but the excitement, not the deception but the hope. The games provided the promise of a chance at fortune and the players were grateful. If the manner in which they were dispensed was often inconsistent with honor or integrity, it was not markedly different from much of the general environment, social or physical. And if the costs involved in the games, both immediate and ultimate, proved to be excessive for all parties it is perhaps inappropriate for us to object. There is little to indicate that the participants did.

An analysis of the cattle town gambling games provides us with not only an indication of the nature of the contests and the conditions under which they were played, but also of the kind of men who played them and their hopes, desires, and aspirations in doing so. For taken collectively, the games assumed a significance far beyond what their economic successes indicated because quite simply, they fit the needs of the people and their time. As a Dodge City editor shamelessly proclaimed, "We are here to live and get rich—if we can."⁷⁰ And no matter how broadly such goals might be defined, gambling provided a means for all involved to pursue them.

⁶⁷ Herman, *Gamblers and Gambling*, 87.

⁶⁸ E.C. Devereux, Jr., "Gambling and the Social Structure: A Sociological Study of Lotteries and Horse Racing in Contemporary America," (Ph.D. thesis, Harvard University, 1949), 781-82, quoted in Tec, *Gambling in Sweden*, 58-59.

⁶⁹ [Evans,] *How Gamblers Win*, 102. The quote is in reference to three-card monte but it is appropriate for all.

⁷⁰ Dodge City *Times*, May 28, 1885.

The Office of the Attorney General of Nevada in the Nineteenth Century.

Part I.

WILLIAM N. THOMPSON

THROUGH THEIR ACTIONS, state officials are able to mold public perceptions of the duties, responsibilities, and roles of the offices they hold. The effective powers of positions are sometimes defined and exercised in ways that reflect the personality, character, and approach of individuals, as much as by lists of powers found in constitutions and legislation. This article attempts an initial exploration of the office of Nevada attorney general by focusing upon the careers and activities of the individuals who have held the office. Twenty-seven men have served as the state attorney general, and two as Nevada territorial attorney general. In this first part of the study, attention is given to those attorneys general who guided Nevada through its territorial days and the formative years of statehood, from 1850 to 1879. The structure and powers of the office are also examined. Part two of the article will deal with the personal careers of the attorneys general who served in the remaining years of the nineteenth century.

The position of attorney general in Nevada provides an appropriate object for such an exploratory study. In a formal sense, the office possesses a set of powers which might be appropriate for any of the three branches of government.¹ The attorney general is an "officer of the

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¹ For discussions of the roles of state attorneys general see John L. Thompson and William N. Thompson, "Careers of Mississippi Attorneys General," *Journal of Mississippi History* 33 (1973): 183-193; also S. Krislov, "Constituency versus Constitutionalism," *Midwest Journal of Political Science* 3 (1959): 3.

court.” The incumbent is responsible for all civil litigation on behalf of the state government, as well as for the initial criminal prosecutions begun by county district attorneys. The attorney general’s powers to write and circulate legal opinions are in many respects analogous to policy-making powers exercised by legislative bodies. As an advisor to all state agencies as well as a manager of his own staff, the attorney general is clearly attached to the executive branch and operates as a public administrator.² With this diverse array of powers and roles, the personal inclinations or motivations of an individual attorney general may lead to an emphasis on particular types of office activities. An attorney general can leave a style imprint perhaps more easily than can an official whose powers and activities are more closely defined and controlled by set political and public expectations.

The office of attorney general in Nevada is also one of intrinsic interest, because in its history the Silver State has been in a continuous confrontation with a variety of rather unique policy issues—issues that have never been far removed from litigation. For instance, the state has been involved in boundary questions, control of water and power resources, nuclear testing, divorce, gaming, prostitution, control of federal lands, and organized crime. Personal inclination and activities of attorneys general may consciously or unconsciously place the office either on the fringe or at the center of important policy determinations regarding these and other questions.

The position also appears to have been (and continues today) to be one capable of generating changing role expectations. The campaign themes of the 1980 election indicated these potential fluctuations. Since the two most recent attorneys general (Robert List and Richard Bryan) successfully moved from the position to the governorship, the possibility of a candidate “using” the position as a “stepping stone” to the governorship was a negative issue for his opponents, one of whom used the slogan “elect an attorney general who doesn’t want to be governor.” The victorious candidate was subsequently viewed by the news media as a “rising star” and as a likely candidate for higher office in the future. The issues of the 1980 campaign also involved competing expectations of the office as the civil legal advisor to the state government, its role in the investigation of crime, and its supervision of county district attorneys. A perspective on this contemporary set of role ambiguities may be gained by examining the individuals who have held this position in the past.

² See *Nevada Revised Statutes*, Chapter 228.

Pre-Territorial Organization

Effective though rudimentary forms of American jurisprudence were established over the geographical region encompassing present-day Nevada with the creation of Utah and New Mexico Territories by acts of Congress on September 9, 1850.³ The organic law of Utah provided that the President would appoint a United States Attorney, and on September 29, 1850, Seth M. Blair received the appointment.⁴ He was succeeded by Alexander Wilson of Iowa who was appointed by President Buchanan in 1858.⁵

The abandonment of the Nevada portions of Utah Territory (Carson County) after Brigham Young's call to the faithful to return to Salt Lake during the Utah War of 1857 left remaining Nevada settlers without an effective government. The void was filled by squatter governments, and attempts were made to gain territorial status or even statehood.⁶ In 1859, a constitution was written and adopted for a new state. The document made no provision for an office of attorney general.⁷ However, the governor was empowered to employ counsel "whenever the public interest requires it." Such counsel would be compensated on a case by case basis as determined by the legislature.⁸ Congress did not accept this document, and statehood was denied in 1859. However, an effort to gain separate territorial status for Western Utah was begun and attained success within two years.

The Territorial Office

On March 2, 1861, the Organic Act of the Territory of Nevada was passed by Congress. The Act was closely modeled after the Utah Organic Act. It also provided for an appointment of an attorney for the territory. The attorney was to serve a term of four years "unless sooner removed by the president." His salary was to be the same as that of the United States Attorney in Utah.⁹

³ *United States Statutes at Large*, Thirty First Congress, Session I, Chapters 49, 51 (September 9, 1850).

⁴ Hubert Howe Bancroft, *History of Utah* (San Francisco: The History Company, 1890), pp. 453-456.

⁵ *Ibid.*, p. 539.

⁶ Myron Angel, ed., *History of Nevada* (Oakland, Calif.: Thomson and West, 1881), pp. 61-63. Hereinafter referred to as Angel, *History of Nevada*.

⁷ *Ibid.*, pp. 70-72.

⁸ *Ibid.*, p. 70.

⁹ *United States Statutes at Large*, Thirty Sixth Congress, Session II, Chapter 83 (March 2, 1861).

Benjamin B. Bunker of New Hampshire received the first appointment as United States Attorney. He assumed the title of attorney general. Bunker had sought an appointment in letters to both President Lincoln and Secretary of State William Seward. He had not wanted a post in Nevada, but had wished to become the United States Counsel at Halifax, Nova Scotia.¹⁰

Benjamin Bunker may have thought that the position he received was somewhat below his assigned status in life. The position did, however, enable him to make the acquaintance of young Samuel Clemens, who on at least two occasions was his traveling companion on adventures to the remote reaches of the territory. Bunker's role as a small footnote in Mark Twain's life is one he would probably have been happy to do without. In his honor, Twain named his horse "Bunker."¹¹ In a letter to his mother, Twain described the horse as "infernally lazy . . . a poor, lean infatuated cuss," that would "go on thinking, and pondering, and getting himself more and more mixed up and tangled in his subject." The description was perhaps a veiled attempt to record the characteristics of the namesake.¹² In a letter to a friend, Twain claimed that Bunker was a "d--d old Puritan" who "cheated at cards."¹³ Bunker's rather domineering character and pompous manners did not sit well with local citizens. During his joint tenure as attorney general and private Carson City attorney he became the brunt of a rather involved "practical joke" that is recorded in the pages of Mark Twain's *Roughing It*. Bunker was asked to represent a rancher named Dick Hyde. Hyde's ranch had supposedly been covered over by a landslide. The "landslide" consisted of Tom Morgan's Ranch, which had previously resided uphill from Hyde's. Hyde sued Morgan for recovery of his property. Bunker very ably argued Hyde's case in the local court, receiving considerable applause from members of the audience, who must have had to struggle hard to disguise their collective knowledge of the hoax—there had been no landside. Isaac Roop presided as judge, and commended Bunker for his outstanding presentation. He then rendered his verdict in favor of Morgan saying that Hyde had "been deprived of his ranch by the visitation of God! And from this

¹⁰ Andrew J. Marsh, *Letters from Nevada Territory, 1861-1862*, edited by William C. Miller, Russell W. McDonald and Ann Rollins (Carson City: Legislative Counsel Bureau, 1972), p. 679. Hereinafter referred to as Marsh, *Letters*.

¹¹ Franklin R. Rogers, ed., *The Pattern for Mark Twain's Roughing It: Letters from Nevada by Samuel and Orion Clemens*. University of California English Studies, No. 23 (Berkeley: University of California Press, 1961), p. 30.

¹² *Ibid.*

¹³ Frank Anderson, Michael B. Frank, and Kenneth M. Sanderson, eds., *Mark Twain's Notebook and Journals* (Berkeley: University of California Press, 1975), v. I, p. 79.

decision there is no appeal." Bunker, whom Twain called "General Buncombe," left the courtroom with great indignation, calling Roop a "miraculous fool, an inspired idiot."¹⁴

Certainly, there was a serious side to Bunker's tenure as territorial attorney general. He did render two advisory opinions. On October 12, 1861, William Osborn, a member of the Territorial House of Representatives, requested a legal opinion on the validity of a law granting criminal jurisdiction to probate courts.¹⁵ On October 16, Bunker presented his reply. He stated that if it would be legal to give criminal powers to the court, it would hardly be "politic." It was a rather interesting response, suggesting that the chief legal officer of the territory was willing to share not only his legal expertise but his political advice with the lawmakers. Marsh writes (perhaps tongue in cheek) that "several members characterized the document as historical, eloquent, learned, profound, polemical, and so on."¹⁶ Later in the same month, the House of Representatives requested an opinion by Bunker regarding the liability of Nevada Territory for claims against Carson County, Utah Territory.¹⁷

Marsh's records of the Territorial Legislature indicate that Bunker involved himself in the legislative process in other ways. The first attorneys general were permitted to augment their salaries with service as private counsel.¹⁸ Bunker organized the private law firm of Bunker, Carson, and White during his stay in Nevada. The firm presented a bill to the legislature for its services in prosecuting various parties on behalf of the state.¹⁹ We can certainly speculate that Bunker the attorney general awarded the legal work to Bunker the private attorney on some basis other than competitive bidding. In his capacity as a private counsel, Bunker represented Ephriam Durham, a sitting member

¹⁴ Samuel L. Clemens, *Roughing It*. In *The Works of Mark Twain* (Berkeley: University of California Press, 1972), v. II, pp. 224-229.

¹⁵ Marsh, *Letters*, pp. 74-75.

¹⁶ *Ibid.*, pp. 85-86.

¹⁷ *Ibid.*, p. 131.

¹⁸ The possibility of using political positions for professional gain was not lost on the attorney general. While never a Nevada attorney general, the career of William Stewart illustrates the point. In 1854, Stewart was appointed attorney general of California by Governor Bigler. He was able to utilize the post in order to form a partnership with Henry Stuart Foote who had been the former governor and United States senator from the state of Mississippi. Stewart cemented the relationship with his marriage to Foote's daughter. These connections were not unimportant in launching Stewart's dominant career in early Nevada politics. See Ruth Herman, *Gold and Silver Colossus: William Morris Stewart and his Southern Bride* (Sparks, Nev.: Davis Printing and Publishing, 1975), pp. 61-68.

¹⁹ Marsh, *Letters*, p. 298; see also the *Territorial Enterprise*, July 20, 1861.

of the Territorial House of Representatives, in a contest over the validity of his election to that body. In the victorious presentation, Bunker gave voice to the primary concern of the day by accusing the challenging party, R. W. Billett, of being a "sympathizer of Jefferson Davis."²⁰

Bunker frequented the legislative chambers and upon occasion was asked to participate in the debates. However, he was denied the opportunity when he wanted to defend his position that the attorney general should be allowed to appoint deputies to handle prosecutions in the various counties.²¹ Upon initial organization, the counties elected their own prosecuting attorneys. Bunker did remain on the legislature floor and "circulated among the members, giving his views in a conversational way."²² Later, he was permitted to explain his position to the entire House "at length, with his characteristic force and eloquence."²³ He was unsuccessful in his efforts. Probably during 1862 (but after March of that year²⁴), Bunker left the territory and resigned his position as attorney general; he was succeeded by Theodore D. Edwards.²⁵

Edwards was a native of Kentucky. He came to Nevada in 1863 and settled in Carson City with his family. He was about thirty-two years old at the time.²⁶ He quickly became active in politics, and was appointed district attorney of Ormsby County on October 2, 1863, a position he retained until February 10, 1864.²⁷ It is almost certain that the service as district attorney was concurrent with his service as

²⁰ Marsh, *Letters*, p. 103.

²¹ *Ibid.*, pp. 180-181.

²² *Ibid.*

²³ *Ibid.*, p. 181.

²⁴ The date of Clemens' second letter referring to Bunker was March 8, 1862. Anderson, et al., v. I, p. 79.

²⁵ Available records are not precise regarding facts of the succession. The *Political History of Nevada* indicates that the position of attorney general changed in 1864. William D. Swackhamer, *Political History of Nevada, 1979* (Carson City: Secretary of State, 1979) p. 107 (referred to below as *Political History of Nevada, 1979*). Angel, *History of Nevada*, p. 679, indicates that J.W. North followed Bunker as attorney general. North was then appointed as an associate justice and resigned the attorney generalship, and Edwards received his appointment on August 31, 1863. The reference to North is not substantiated in any other official or unofficial record, and it is quite likely that it was either a printing error or reporting error in Angel's *History of Nevada*.

²⁶ *White Pine News*, June 13, 1891. Angel, *History of Nevada*, has Edwards as a native of Pennsylvania (p. 673), while the *White Pine News* indicates that he was originally from Kentucky.

²⁷ Angel, *History of Nevada*, p. 529.

attorney general, but documentation is lacking on his term of office. His mark in Nevada history was made in subsequent public service.²⁸

Statehood

Edwards was serving as territorial attorney general when statehood was achieved. Two constitutional conventions were held during his incumbency. The first, which met in 1863, produced a document that failed to win ratification.²⁹ The document drawn up by the second convention was ratified by the voters, and Nevada was admitted to the Union.

²⁸ Edwards' later career shows service in several other positions. He was a Republican member of the Assembly during the second session of the Nevada legislature in 1866. In 1867 he was a member of the state senate, and in 1869 was president *pro tempore* of that body. Edwards left office for two legislative sessions and then returned to the senate in 1875 and 1877. Again he was the president *pro tempore*. In 1875, because of the absence of both the governor and lieutenant governor from the state, Edwards served as acting governor for a day. His attention turned toward the judiciary in 1882, and he was elected district judge for Ormsby County. In 1886 he was unsuccessful in a bid for a seat on the Nevada Supreme Court. Following this contest, he was clerk for the United States District Court, and in 1890 he was elected district attorney for Ormsby County. Edwards did not serve out the term of that office. On June 2, 1891, in what was described as a "fit of temporary insanity" he committed suicide by shooting himself twice in the left temple. He was buried in Oakland, California. *Daily Nevada State Journal*, June 4, 1891.

Available documents in Nevada do not permit a total assessment of the role of territorial attorney general. Such an assessment must be the subject of other research. Our scant evidence indicates that the territorial office did utilize the title "attorney general" and that it did perform functions as courtroom representative of the territory and legal counsel to the territory, two of the most basic functions performed by the office today. The strong personality of Bunker interjected the office into the political arena. However, Bunker's failure to secure control over district attorneys may have contributed to lessening of the importance in the office structure almost from its inception. Historians consider the territorial office of attorney general to be one of the lesser territorial offices. See Russell R. Elliott, *History of Nevada* (Lincoln: University of Nebraska Press, 1973), p. 69; and Kent David Richards, "Growth and Development of Government in the Far West: The Oregon Provisional Government, Jefferson Territory, Provisional and Territorial Nevada" (Ph.D. Dissertation, Department of History, University of Wisconsin, 1966), p. 177. The unsuccessful efforts of Bunker may have contributed to the categorization of the office as a lesser one. Had Bunker won control over the local prosecutors in what was probably one of several battles between local forces and centralized federal power, the office of attorney general might have been a much more vital force in early state politics.

²⁹ The 1863 constitutional convention provided for an election of new state officials to take place on the same day as the ratification election. On January 19, 1864, as the voters rejected the constitution they "elected" H.G. Worthington to be attorney general. Worthington was later able to achieve actual office when statehood became a reality. He was elected as the state's first member of the United States House of Representatives. Worthington was born on February 9, 1828, and he studied law in Cumberland, Maryland. He practiced law in Tuolumne and San Francisco, California. He had been a member of the California legislature before moving to Nevada in 1862. He was a Republican. He served as a pall bearer for President Abraham Lincoln. He was also United States Minister to Uruguay and Argentina and a United States district judge. See *Biographical Directory of the American Congress 1774-1949* (Washington: United States Printing Office, 1950), p. 2045.

The state constitution of 1864 provided that an attorney general would be elected for a four-year term.³⁰ However, the initial incumbent would serve from December of 1864 until January, 1867.³¹ Any elector was eligible to hold the office, but federal officers were specifically excluded from eligibility to state posts.³² Vacancies in the position were to be filled by gubernatorial appointments that would expire with the next election.³³ The attorney general and other state officers were subject to impeachment.³⁴ The constitution provided that the initial salary of the attorney general would be \$2500 per year; he was not allowed to receive any other fees for his public service.³⁵

The governor, secretary of state, and attorney general together constituted the Board of State Prison Commissioners, which was empowered to supervise all matters connected with the state prison.³⁶ The three officials were also a Board of Examiners charged with the responsibility of dealing with all claims against the state.³⁷ The attorney general served with the governor and justices of the supreme court on a Board of Pardons.³⁸ Other duties of the attorney general were to be determined by law.³⁹

The legislature paid little attention to the office during the first two legislative sessions of 1864-5 and 1866. By law the attorney general was placed on a state Library Board of Directors⁴⁰ and qualifications for the office were narrowed to electors over twenty-five years old and citizens of the state for over two years.⁴¹ The office did not, however, commence operations without a wide base of power. In two 1865

³⁰ *Constitution of Nevada*, Article V, Section 19.

³¹ *Ibid.*, Article XVII, Section 8.

³² *Ibid.*, Article IV, Section 9; Article V, Section 12; Article V, Section 19.

³³ *Ibid.*, Article XVII, Section 22; Article V, Section 8.

³⁴ *Ibid.*, Article VII, Sections 1, 2.

³⁵ *Ibid.*, Article XVII, Section 5.

³⁶ *Ibid.*, Article V, Section 21.

³⁷ *Ibid.*, Article V, Section 21.

³⁸ *Ibid.*, Article V, Section 14.

³⁹ *Ibid.*, Article V, Section 22.

⁴⁰ *1864-1865 Statutes of Nevada*, Chapter XLIII, pp. 153-155 (Approved February 14, 1865).

⁴¹ *1866 Statutes of Nevada*, Chapter CVIII, p. 232 (Approved March 9, 1866). Other statutes passed during the first two legislative sessions authorized the attorney general to rent office space in Carson City: *1864-1865 Statutes of Nevada*, Chapter CXIV, p. 368 (Approved March 10, 1865); empowered the office to take legal action to collect toll road franchise taxes: *1864-1865 Statutes of Nevada*, Chapter CV, p. 352 (Approved March 9, 1865); and gave the attorney general the power to spend funds for special counsel to defend the constitutionality of a state poll tax before the United States Supreme Court: *1866 Statutes of Nevada*, Chapter LXXVII, p. 167 (Approved March 1, 1866).

cases⁴² the state supreme court determined that Nevada followed the common law of England. The common law tradition had established the primacy of the office of attorney general as the legal counsel to all executive agencies and as the sole representative of the government in court.⁴³

The third session of the legislature met in 1867, and it passed the first comprehensive piece of legislation on the office and its powers.⁴⁴ The attorney general was required to reside in Carson City, and he was not to be absent from the state for more than sixty days without permission of the legislature. He was required to attend sessions of the supreme court and to represent the state and counties when they were parties before the court. He was also required to give legal opinions on any questions of law presented to him by the governor, other state officials, or the district attorneys. The attorney general was required to keep a docket of all court actions affecting the state, and he was mandated to report all actions taken by his office to the governor in an annual report. The legislature and governor could also request that he furnish any other information concerning his office.

George A. Nourse

On November 8, 1864, Union Party (Republican) candidate George A. Nourse defeated Democrat William H. Rhodes by a vote of 9,798 to 6,510 and became the first state attorney general.⁴⁵ Nourse was born in Maine in 1825, and was the son of a United States senator—his father, Amos, had replaced Hannibal Hamlin in the senate. Nourse practiced law in Maine and Minnesota before coming to Nevada, probably in 1862. He was admitted to the Nevada Bar in June of that year.⁴⁶ While in Minnesota, he had established a close friendship with John Wesley North. Nourse endorsed Lincoln in the 1860 election,⁴⁷ was prominent in the St. Paul Republican convention, and unsuccessfully attempted to persuade North to run for the governorship of Minnesota. When North decided to come to Nevada, both Nourse and John Lewis followed. (Lewis later became Chief Justice of the Nevada

⁴² *Hamilton v. Kneeland*, 1 *Nevada Reports* 40 (1865); *Burling v. Goodman*, 1 *Nevada Reports* 314 (1865): "We have in this state adopted the common law and our courts are subject to its mandates and provisions . . . except when that law has been modified or changed by legislation." (at pp. 317-318.)

⁴³ For an excellent commentary on the common law powers of the office of attorney general see *People v. Miner* 2 *Lans.* (New York) 396 (1868).

⁴⁴ *1867 Statutes of Nevada*, Chapter LXVII, pp. 106-107 (Approved March 11, 1867).

⁴⁵ *Political History of Nevada*, 1979, p. 202.

⁴⁶ See 31 *Nevada Reports* 31 (1909).

⁴⁷ Angel, *History of Nevada*, p. 86.

Supreme Court.) North became a territorial judge and president of the 1863 Constitutional Convention. While North was on the Nevada territorial bench, Nourse and John Lewis "took over some of North's private affairs." Nourse sat as a delegate in the successful constitutional convention of 1864.⁴⁸

As attorney general, Nourse was required to render advice to public officials at a time of transition between territorial government and statehood. Much of this advice was given in written responses to questions that officials presented to the first state attorney general. Nourse initiated the practice of recording this legal advisory correspondence in a manual that was also utilized by his successors into the second year of the twentieth century. The handwritten records of Nourse and his successors leave a legacy that can help contemporary scholars grasp fresh perspectives on the early days of Nevada statehood. In all, Nourse recorded forty-one letters containing his legal advice.

His first opinions concerned the title to some property that had been part of the federal domain.⁴⁹ Nourse interjected his office into the middle of a controversy regarding the sale of lands by Abraham Curry to the state for the establishment of a prison. The territorial legislature agreed to pay Curry \$80,000 for land and buildings that had previously been leased for a prison. Curry was given \$5,000 in currency; the remainder of the price was paid in bonds.

The new state legislature made provision for converting the prison bonds into state bonds. Nourse addressed questions regarding the legal obligations for the bonds, and also the state treasurer's duty to make the exchange when questions about ownership of the bonds were raised.

The title to the lands was challenged by Alvah Mitchell and a man named Meyer. They claimed that they had secured title to the former federal lands through preemption by settlement and construction of buildings. Nourse maintained, however, that Curry's title was good and that the property had been purchased legally by the state. In a communication to the Commissioner of the General Land Office written April 17, 1865, Nourse outlined the reasons that Mitchell's land claim should be denied. He pointedly indicated that Curry, Mitchell, and Meyer were

⁴⁸ Merlin Stonehouse, *John Wesley North and the Reform Frontier* (Minneapolis: University of Minnesota Press, 1965), pp. 92, 162; the *Daily Old Piute* (Virginia City), May 17, 1864, advertised the business of George A. Nourse and J. F. Lewis, counselors at law, Washoe City.

⁴⁹ Opinion of the Attorney General, December 19, 1864, p. 15. (The opinions cited here and below appear in the handwritten manual referred to in the text and filed with the papers of the Nevada Historical Society. Opinions are hereinafter referred to as "OAG.")

involved in a plan to defraud the state; the law, he stated, "is sufficient to prevent the gross swindle planned by Curry and his associates, a swindling of the State of Nevada out of property for which the Territory of Nevada paid Mr. Curry \$80,000."⁵⁰ (Curry was required to defend himself from other charges during this period. During October of the next year, he issued an affidavit asserting that he had not bribed territorial governor James Nye in order to win approval of the original land sale. The *Carson City Appeal* referred to the matter as "the Penitentiary Swindle."⁵¹)

Seven of Nourse's opinions related to questions regarding military personnel.⁵² In one, he interpreted federal law for the state adjutant general, thus illustrating for the first time the role of the attorney general as a "law transmitter" in Nevada's intergovernmental political system.⁵³ This was evident also in an opinion to the Nye County Public Administrator; Nourse informed the official that a district court had ruled on the question he was asked.⁵⁴

Nevada's first attorney general also established the practice of giving advice to district attorneys not only on questions of law, but also on the propriety of taking certain court actions. For instance, he recommended that the district attorney of Esmeralda commence a suit on the question of bonding the county treasurer.⁵⁵ He further indicated that the attorney general's name should be attached to the case to assure that the bond was in proper form.⁵⁶ To the Douglas County district attorney, he indicated that action on a particular tax case would be at a deadlock, because no court had jurisdiction to hear the case.⁵⁷ Regarding another case, he urged the Douglas attorney not to appeal.⁵⁸

Financial and salary questions dominated much of Nourse's time. The legislature received advice regarding the use of its contingency fund,⁵⁹ and also compensation for legislative aides.⁶⁰ Other opinions

⁵⁰ Ibid., and January 12, 1865, p. 1; April 17, 1865, p. 23; April 17, 1865, p. 27; April 20, 1865, p. 31.

⁵¹ *Carson City Appeal*, October 7, 1866.

⁵² OAG, March 13, 1865, p. 13; April 29, 1865, p. 35; May 31, 1865, p. 41; July 25, 1865, p. 47; June 19, 1866, p. 72; September 1, 1866, p. 81; June 30, 1866, p. 75.

⁵³ OAG, June 30, 1866, p. 75.

⁵⁴ OAG, November 25, 1865, p. 57.

⁵⁵ OAG, April 28, 1866, p. 69.

⁵⁶ Ibid.

⁵⁷ OAG, February 28, 1865, p. 9.

⁵⁸ OAG, September 21, 1865, p. 55.

⁵⁹ OAG, January 19, 1866, p. 67; January 22, 1866, p. 65.

⁶⁰ OAG, January 3, 1865, p. 6; March 9, 1865, p. 11.

resolved questions about the source of salaries for judges⁶¹ and county tax collectors,⁶² and another determined that the lieutenant governor could not get extra salary during his term for performing the duties as prison warden.⁶³ School funds, school taxes, school lands, property assessment poll taxes, oaths of office, dual office holding, beginning dates for terms of office, gubernatorial pardons, and the proper currency utilized in public affairs were also topics of opinions.⁶⁴

At times, Nourse vigorously expressed opinions not relating to his official duties. In a letter to the *Sacramento Union*, reprinted in the *Territorial Enterprise* on October 11, 1866, he attacked the plans of the Lake Tahoe Water Company and A.W. Von Schmidt to build a channel from Lake Tahoe to furnish water for San Francisco and other California cities. Nourse was vehemently opposed to the project, and he emphatically asserted the claims of the Silver State to the waters.⁶⁵ The *Territorial Enterprise* wrote "we do not apprehend that the drain would ever prove very serious . . . but still we like to see those generous Californians—those magnanimous summit-boundary-fellows—receive a little plain talk, such as our attorney general gives them. . . ."⁶⁶

While he was attorney general, George Nourse appeared as a counsel before the Nevada Supreme Court twenty times.⁶⁷ On ten of these occasions he was representing a private client in a civil action. He was counsel for the State of Nevada ten times. Five of these cases involved appeals of criminal convictions. Nourse was able to sustain four of the verdicts. The civil cases involved mining taxes, poll taxes, revenue stamps, and the constitutionality of a law regulating contracts. During his term, Nevada was a party to several civil actions in which other counsel represented the state. In addition, on several criminal appeals, the district attorney appeared as counsel for the state.

Nourse did not survive the rigors of Nevada politics. The Union

⁶¹ OAG, February 28, 1865, p. 10.

⁶² OAG, October 28, 1865, p. 57.

⁶³ OAG, April 3, 1865, p. 21.

⁶⁴ OAG, July 20, 1865, p. 45; January 19, 1866, p. 61; August 21, 1866, p. 79; July 11, 1865, p. 43; April 17, 1865, p. 25; June 19, 1866, p. 73; December 13, 1866, p. 83; July 10, 1866, p. 77; September 13, 1865, p. 55; April 29, 1865, p. 33; September 8, 1865, p. 53; April 3, 1865, p. 19; August 11, 1865, p. 49; September 8, 1865, p. 51; April 30, 1865, p. 39.

⁶⁵ *Territorial Enterprise*, October 11, 1866.

⁶⁶ *Ibid.*

⁶⁷ *Nevada Reports*, v. I, II (1865-1866).

Party (Republican) state convention met in Carson City on October 4, 1866. The convention delegates cast fifty votes for the renomination of Nourse, but that was not enough; Robert M. Clarke received fifty-six votes and the nomination.⁶⁸

We can only speculate on the reasons for Nourse's failure to win renomination. He had certainly taken on the "powers that be." Von Schmidt's interest in Nevada politics was not slight, and Curry had important political alliances. And Nourse's close friend John A. North had suffered political defeats at the hands of United States Senator William Stewart, and he had left the state for other opportunities. As a result, George A. Nourse returned to the private practice of the law.⁶⁹

Robert M. Clarke

The second attorney general, Robert M. Clarke, was born in Lancaster, Fairfield County, Ohio on June 26, 1837.⁷⁰ He was the first of sixteen state attorneys general with prior service as a prosecuting attorney. In 1864, he was the district attorney for Ormsby County. He also served as Nevada's first United States District Attorney. He also maintained an active legal practice and business career, and he often appeared before the Nevada supreme court. On one occasion he was co-counsel with attorney general George Nourse.⁷¹ He became an officer in the Lake Tahoe Empire Flume Company in 1866, and Governor Blasdel commissioned him as the judge advocate general of the Nevada militia with the rank of colonel.⁷² Clarke defeated Democrat William

⁶⁸ *Carson City Daily Appeal*, October 5, 1866.

⁶⁹ Nourse did not remain long in Nevada. On March 18, 1868, the *Carson City Daily Appeal* reported that Nourse and his family were leaving for San Francisco "in which city the General will enter upon the practice of his profession." The *Appeal* further stated "we cannot blame them for going—more of us would be apt to do the like if a favorable inducement was offered; but it is a matter of regret to those of us who remain here to see families moving away from us. Nourse will succeed in San Francisco. He is an able lawyer, a gentleman of the best habits and takes with him an excellent reputation in his profession. We wish him and his family a pleasant and prosperous trip." Nourse remained in San Francisco until 1884 when he moved to Fresno. Later, Nourse was a candidate for the California Supreme Court. He died on June 28, 1901, at the age of 77, in Fresno. *Reno Evening Gazette*, July 1, 1901.

⁷⁰ Walter Van Tilburg Clark, ed., *The Journals of Alfred Doten, 1849–1903* (Reno: University of Nevada Press, 1974), p. 2058; In Memoriam of Robert M. Clarke, 24 *Nevada Reports* 487 (1900).

⁷¹ Angel, *History of Nevada*, p. 529; see *Nourse v. Clarke*, 3 *Nevada Reports* 566 (1867); and *Maynard v. Railey*, 2 *Nevada Reports* 313 (1866).

⁷² Angel, *History of Nevada*, p. 189; *Territorial Enterprise*, May 6, 1866; *Washoe Weekly Times*, June 3, 1865.

H. Rhodes by a vote of 5193 to 4056 to win the position of attorney general on November 6, 1866;⁷³ he took office on January 7, 1867.⁷⁴

The opinion book initiated by Nourse reveals that Clarke issued twenty-seven opinions during his term. The first three of these—given to the state controller—concerned utilization of a legislative contingency fund.⁷⁵ The *Territorial Enterprise* indicated that Clarke's opinions had "thrown a small bomb shell into the legislative camp."⁷⁶

In another opinion regarding the legislature, Clarke informed three senators that Sundays were included in the sixty day legislative session.⁷⁷ In the opinion he wrote "My mind is not yet entirely free from doubt . . . but these doubts are largely overborne by the opinion of my predecessor in office." The attorney general was acknowledging for the first time the value of previous opinions by the attorneys general as precedents for legal decisions. Disposition of federal lands and questions of taxation dominated Clarke's opinion writing; he issued eight opinions concerning each topic.⁷⁸ Other opinions concerned the legality of the creation of Lincoln County, teacher oaths, and peddlers' licenses.⁷⁹

In 1869, a troublesome issue that arises periodically even to this day emerged for the first time. Secretary of State C. N. Noteware asked Clarke if a temporary absence of the governor from the state created a vacancy in the office. Clarke responded that the state constitution was silent on the question of what constituted a vacancy. He then listed conditions under which the governor's powers could be exercised by the

⁷³ *Political History of Nevada*, 1979, p. 202.

⁷⁴ However, eleven days later his right to hold office was challenged by his predecessor, George A. Nourse. Nourse asserted that the Nevada Constitution prohibited an official of the United States government from being elected to the post of attorney general. He maintained that on November 6, 1866, Clarke was the United States district attorney. Since Clarke was not qualified to hold office, Nourse contended, the office legally remained with him, Nourse, until the next general election. The term of office was four years, or "until a qualified successor takes office." Clarke claimed that he had resigned the post of United States district attorney on November 5, 1866. On that date, Clarke mailed a letter to Washington, D.C., stating that he had resigned effective immediately. The Nevada Supreme Court agreed that Clarke's November 5 resignation was immediate and total at the moment the letter was placed outside of Clarke's control—at the moment it was posted. Hence, the court held that Clarke was legally the attorney general. *Nourse v. Clarke*, 3 *Nevada Reports* 566 (1867).

⁷⁵ OAG, January 26, 1867, p. 85; January 29, 1867, p. 86; January 30, 1867, p. 87.

⁷⁶ *Territorial Enterprise*, February 5, 1867.

⁷⁷ OAG, February 25, 1869, p. 108.

⁷⁸ Opinions on land questions are at OAG: pp. 96, 98, 101, 102, 104, 105, 106, 109; opinions on taxation questions are at OAG: pp. 92, 94, 100, 102, 103, 110, 114.

⁷⁹ OAG, July 3, 1867, p. 95; December 5, 1869, p. 107; November 10, 1867, p. 97.

lieutenant governor; these included impeachment, death, inability, resignation, or absence from the state. Only if the condition were to be permanent would the lieutenant governor actually become governor. There was a certain vague quality to the opinion, a quality that has remained in subsequent ones on the powers of the office of lieutenant governor.⁸⁰

Clarke's final opinion was issued on May 21, 1870. At the time it attracted considerable attention in the press, and certainly is a document that merits inspection by anyone interested in Nevada and Civil War history.⁸¹ B. H. Hereford, the secretary of the board of school trustees of the Hawthorne district in Hamilton, Nevada, addressed a letter to Clarke on May 9, 1870. He asked if the Fifteenth Amendment to the United States Constitution carried with it the right of "Africans of American birth" to attend public schools. An 1864 Nevada state law had precluded "Negroes, Mongolians, and Indians" from public school attendance. Clarke examined the full substance of the question without confining his dicta to the Fifteenth Amendment. His attention also focused upon the Fourteenth Amendment, which forbids states from abridging the privileges and immunities of citizens, and guarantees all persons due process of law and equal protection of the law.

Clarke held that citizenship does not carry with it the right to a public school education; he decided that the privileges and immunities clause was only "incidental to citizenship," and did not affect public school education. Clarke decided that the due process and equal protection clauses could not include rights to public education, since education was available to children only. Thus he ruled that the 1864 Act of Nevada was constitutional. He then went on to record his personal view, which seemed dramatically opposed to the finding of the opinion:

Whilst I participate in no degree in that impractical fanaticism which cannot and will not distinguish in point of fitness for self government between a barbarous Hottentot and an enlightened Christian; neither do I participate in that other spirit which for the "skin's sake" would deny to men their just and equal privilege before the law. Now that the African is a voter, I would fit his race by education for the discharge of that new and high prerogative. Above all I would not be guilty of the double wrong of taxing him for the support of the schools and denying him their benefits. It is the duty of Empires and Kingdoms to educate their rulers, that they may govern wisely and well; so upon a like principle, and for a greater reason it is the duty of Republics to educate the people who make and execute its laws. This is the keystone of the Arch upon which the splendid fabric of our Common School system rests. Nor can this principle be restricted to class or creed or color. It is as universal

⁸⁰ OAG, August 10, 1869, p. 111.

⁸¹ OAG, May 21, 1870, p. 115.

and comprehensive and important as the public good which it promotes, and the public liberty which it perpetuates. The more ignorant the class, the greater the necessity of its application. For as ignorance is the chief promoter of crime; the greater enemy of progress: so is the intelligence the inseparable handmaid of civilization: the indispensable requisite of stable republican government.

While he was attorney general, Clarke remained active in the private practice of law. In July of 1868 he established a partnership with W. C. Kennedy in Washoe City.⁸² He later joined in partnership with Thomas Wells. In 1869 he was private counsel for Washoe County in a land dispute.⁸³

During his four years as attorney general, Clarke appeared in the Nevada supreme court as a legal counsel eighty-one times.⁸⁴ He was counsel for the state (acting as attorney general) thirty-seven times. He acted as a private counsel forty-four times. Nineteen of the thirty-seven public cases he handled were appeals of criminal convictions. In several of these cases he was joined by his partner Thomas Wells in conducting the state's case. Nine of the civil cases dealt with taxation or property assessments, three with powers of county government, and one each with legal currency, voting rights and a mandamus action against a district judge.

Clarke was not a candidate for reelection in 1870. The Republicans nominated William Campbell and the Democrats Luther A. Buckner. Clarke sought to become a delegate to the Republican state convention which nominated Campbell, but he failed in his bid to win the primary election and a delegate seat.⁸⁵ Clarke never held a public office after he left the attorney general's post in 1871.⁸⁶ He died in San Francisco, on

⁸² *Reno Crescent*, July 11, 1868.

⁸³ *Ibid.*, August 28, 1869.

⁸⁴ See *Nevada Reports*, v. III-VI (1867-1871).

⁸⁵ Clarke did attend the convention in Elko. He was a proxy for delegate D. J. Rogers of Washoe County. *Elko Chronicle*, September 21, 1870.

⁸⁶ Clarke remained active in politics for a considerable time. He became a leader in the "reform" group of the Republican Party, and suggested during the tenure of President Grant that he was leaving the party altogether because it was "too corrupt." The very unsympathetic *Territorial Gazette* wrote: "were it [the Republican Party] as corrupt as a whole as R. M. Clarke is individually, the stench would fill the whole land." October 25, 1872. In 1872 Clarke was a candidate for the position of presidential elector on the unsuccessful Democratic ticket. *Political History of Nevada*, 1979, p. 203. The *Carson City Daily Appeal* remarked in 1874 that Clarke "seems to be a candidate, in a small way, for the United States Senate." September 19, 1874. He was not seriously considered. The *Appeal* further remarked, "Mr. Clarke is not preeminent as a successful politician, nor is he to be regarded as either consistent or strong. He is a man of some cunning, considerable plausibility, and much glibness of speech; but since his rather peculiar nomination for attorney general in 1866, he has met with no successes, though he has tried all parties and constantly bellowed reform." September 19, 1874.

February 11, 1900 at the age of sixty-four. He had been taken there "as a last resort" to cure an illness of many months. His remains were returned to Carson City for burial.⁸⁷ The *Reno Evening Gazette* reported that Clarke

was as much a part of the town [Carson City] as the oldest shade tree. . . . A man with many strong points of character. His ideas of right and wrong were clearly drawn. He was of strong prejudice for or against propositions affecting his state, Country, or Town, but his judgment was always tempered with fairness. General Clarke years ago participated in some of the most stirring political campaigns this state ever witnessed, but of late years has not taken much of a part in politics, having evidently become somewhat disgusted.⁸⁸

Clarke was survived by his wife, son, daughter, two brothers, and a sister.⁸⁹

Luther A. Buckner

The Democratic convention of 1870 met in Elko, and nominated Luther A. Buckner of Winnemucca for attorney general.⁹⁰ The convention was described as the "liveliest Democratic convention ever held in the state."⁹¹ However, the press of the day reported very little of the details of action taken. "Of Buckner," the *Carson City Appeal* commented, "we know little about."⁹² The Republican *Territorial Enterprise* was delighted with the slate chosen by the Democrats: "A worse ticket might have been nominated, but a weaker could not conveniently have been put in the field."⁹³

The *Territorial Enterprise* was mistaken. The Democrats, led by gubernatorial candidate L. R. Bradley, swept to victory in November. Buckner defeated Republican Will Campbell by only 28 votes, 6650 to 6622.⁹⁴ A major concern of the campaign was the issue of Chinese immigration and citizenship.⁹⁵

Regarding Buckner's background, little is known. According to Angel's *History of Nevada*, Buckner was a native of Kentucky who

⁸⁷ *Carson City News*, February 12 and February 14, 1900; *Reno Evening Gazette*, February 13, 1900.

⁸⁸ *Reno Evening Gazette*, February 13, 1900.

⁸⁹ *Carson City News*, February 12, 1900.

⁹⁰ *Carson City Appeal*, September 17, 1870.

⁹¹ *Ibid.*, September 16, 1870.

⁹² *Ibid.*, September 17, 1870.

⁹³ *Territorial Enterprise*, September 17, 1870.

⁹⁴ *Political History of Nevada*, 1979, p. 203.

⁹⁵ *Territorial Enterprise*, October 12, 1870.

came to California in 1854 and to Humboldt County in 1862.⁹⁶ He was admitted to the Nevada bar on January 9, 1871, after he began service as attorney general.⁹⁷ The 1875 Census indicated that he was then 55 years old.⁹⁸

The questions about Buckner's background were ostensibly a mystery to some hostile elements of the press even after his term had run most of its course. The Carson City *Daily Appeal* asked in its October 18, 1874 issue, "where was he domiciled during the years which preceded his elevation to his present prominence? With what great law case in California or Nevada was his name coupled prior to 1871? Where in the state of California did General Buckner reside, and in what courts did he practice prior to coming to the capital of Nevada?"⁹⁹

Yet Buckner did win, and in his own county he led his ticket.¹⁰⁰ There can be little doubt that he was swept into office on the statewide strength of those heading his party's ticket. But how he got onto the ticket is hard to determine; possibly a measure of "ticket balancing" may have been involved. On June 4, 1870 the *Humboldt Register* editorialized that a Judge G. G. Berry of Humboldt County was ineligible to become governor, because of his judgeship.¹⁰¹ The paper further indicated that Berry had been the leading Democrat for the gubernatorial nomination. Berry's withdrawal from the race may have been secured for a price, namely that Humboldt be represented on the ticket. It is quite conceivable that Judge Berry sponsored Buckner's candidacy.

Buckner was the first attorney general to occupy offices in the new state capitol building. His office was on the first floor in the southwest corner. He occupied space currently utilized by the secretary of state's office complex.¹⁰² Buckner shared the first floor with the governor,

⁹⁶ Angel, *History of Nevada*, p. 670; *Silver State*, February 1, 1899.

⁹⁷ See 31 *Nevada Reports* 31 (1909).

⁹⁸ 1875 *Census of Nevada*, v. I, p. 403 (in *Appendix to the Journals of the Senate and Assembly*, 8th Session, 1877). The records of the Nevada Supreme Court do not indicate any appearances of Luther Buckner before he became attorney general. *Nevada Reports*, v. I-VII (1865-1872). The *Humboldt Register* did not list an advertisement card for his practice as it did for other attorneys. It is doubtful that he was a "leading citizen" of Winnemucca before his foray into state politics. An 1869 listing of voters in Winnemucca did not include his name. *Humboldt Register*, December 4, 1869, and December 18, 1869. He was not on the lists of organizers of social functions such as Christmas, New Year's, or Washington Day Balls. No advertisements indicated he was in any kind of business. *Humboldt Register*, December 4, 1869 and January 22, 1870. The *Register* gave no mention to this "favorite son" during the 1870 campaign.

⁹⁹ *Carson City Daily Appeal*, October 18, 1875.

¹⁰⁰ *Humboldt Register*, November 19, 1870.

¹⁰¹ *Ibid.*, June 4, 1870.

¹⁰² *Daily State Register* (Carson City), January 1, 1871.

treasurer, controller, surveyor general, and superintendent of public instruction.¹⁰³

Possibly Buckner rushed into the position of attorney general without too much planning on his own part. The office did not quickly win his fancy. The press reported that he resigned on March 2, 1871, "on account of insufficiency of salary."¹⁰⁴ That date preceded by less than a week the final legislative vote on salary appropriations. The lawmakers were unimpressed with the "resignation" and set the salary at \$2500 per year,¹⁰⁵ the same as it had been during the first ten years of statehood. The resignation was probably a ploy, and in all likelihood it was never formalized.

In any event, Buckner remained on the job in Carson City. Five days after his "resignation," he advised the warden of the state prison not to remand three mail robbers to federal authorities. The robbers had been convicted in state courts and were serving twenty year sentences. The federal grand jury indicted them for a federal offense arising out of the same robbery, and federal agents wished to put them on trial and seek the death penalty.¹⁰⁶

Buckner maintained his office's interest in state water rights. In 1871 he visited Von Schmidt's operations at Lake Tahoe.¹⁰⁷ In 1872 he represented the state in an informal negotiation ("quite a significant parlay," as the *Territorial Enterprise* reported it) with Chief Natches of the Piute Nation. Natches wished Buckner to help stop the liquor trade with the Indians, and also to end the "too many indecent familiarities between whites and the women of the Piute and Washoe." Buckner agreed to urge the new town government of Carson City to adopt an ordinance forbidding Indian women to be in town after dark. Natches and his warriors withdrew from the talks very pleased: "A decided murmur of applause following the proposition to keep the squaws away from town after nightfall."¹⁰⁸

Buckner was at the side of Governor Bradley and the secretary of state as all three were refused admission to the state prison during the "prison war" of 1873. This was followed by the militia seizing the institution from a bogus warden.¹⁰⁹

¹⁰³ *Humboldt Register*, November 20, 1870.

¹⁰⁴ *Reno Crescent*, March 4, 1871; and *Territorial Enterprise*, March 3, 1871.

¹⁰⁵ *1871 Statutes of Nevada*, Chapter LXXV, p. 151 (Approved March 6, 1871).

¹⁰⁶ *Territorial Enterprise*, March 8, 1871.

¹⁰⁷ *Weekly Nevada State Journal*, August 19, 1871.

¹⁰⁸ *Territorial Enterprise*, July 25, 1872.

¹⁰⁹ Angel, *History of Nevada*, p. 548.

Luther Buckner was also on the scene in the courts. He appeared as the attorney general representing the state in the supreme court forty-two times.¹¹⁰ Thirty-two were for criminal appeals, while ten were civil actions. These ten cases involved matters of property assessments, bonded indebtedness, construction of the state capitol, bonds for county officers, and a major victory over the Central Pacific Railroad in a 1873 tax suit.¹¹¹

The Central Pacific Railroad played a dominant role in Nevada politics throughout the latter years of the nineteenth century. Lobbyists from the railroad actively courted legislators as well as county officials. State authorities who attempted to deal with such railroad abuses as discriminatory rates charged to Nevadans and failure to pay taxes were often checked by the political power of the railroad. Appeals to the public could lead to electoral support, but usually could not be translated into enactment of state laws that would effectively control the railroad.¹¹²

The election of cattleman Lewis R. Bradley as governor was partially in response to protests against the Central Pacific.¹¹³ Bradley was able to enlist the support of his attorney general in litigation that assured the Central Pacific would pay its tax bills in full. Washoe County assessed a \$74,000 bill (for county and state property taxes) against the Railroad for the years 1869, 1870, and 1871. The Central Pacific refused to pay its tax bill (\$18,042) for 1869. The state brought a suit for its recovery. While the suit was pending, in December, 1871, the railroad offered the Washoe County commission \$22,355 as payment in full for all three years' taxes, and the county commissioners accepted the offer. The district court in Washoe County then dismissed the state's suit; Buckner, aided by R. M. Clarke, appealed.¹¹⁴

The supreme court reversed the district court, holding that the county commissioners had no power to reduce taxes once the taxes had been assessed. The state was a party to the action for tax recovery, and if counties could make such compromises, the counties would in effect be dictating terms. This position was not defensible. The county commission was able to act as a board of property assessment equalization, but its activities in that regard were completed before taxes were actually assessed.

¹¹⁰ *Nevada Reports*, v. VI-X (1870-1875).

¹¹¹ *State of Nevada v. Central Pacific Railroad Company*, 9 *Nevada Reports* 79 (1873).

¹¹² See Gilman M. Ostrander, *Nevada: The Great Rotten Borough* (New York: Alfred A. Knopf, 1966), pp. 82-90; and Elliott, pp. 157-160.

¹¹³ Ostrander, p. 85.

¹¹⁴ Clarke received a fee of \$250 for his activity on the case. *Report of the Controller*, p. 127 (in *Appendix to the Journals of the Senate and Assembly*, 7th Session, 1875).

The ruling effectively eliminated the power of the Central Pacific Railroad to pressure counties into releasing it from tax obligations. In 1874, the state was successful in the federal courts in defending the constitutionality of its laws on state and county taxation of Central Pacific property.¹¹⁵ The courts provided one arena where a modicum of control over the railroads could be attained.

The opinion book started by Attorney General Nourse and continued by Clarke shows no entries from Buckner. It is regrettable that the only records of his advice to state and local officials come from very scant references reported in the press, such as cited above.

Buckner turned out to be a one-term attorney general. The party was changing, a "Southern" branch was increasingly predominant, and Buckner was expendable. He lost renomination to John R. Kittrell. Of the nominating convention, the Carson City *Daily Appeal* wrote:

The reawakened possums, minus their "liberal" allies, have met nominated and adjourned. . . . What has been done in the way of making a ticket would have filled the bill Democratical even in the days when Valandingham was banished from Ohio under Burnside's General Order No. 8. . . . There are Bradley of Virginia, and Kittrell of Mississippi . . . "constitutional" anti-war Democrats. This is Bourbonism pure and undefiled. The Hunkers have captured the party. . . . Our honest, guileless, unsuspecting friend Buckner, was slaughtered to make way for Lawyer Hillhouse—it was part of the Bradlerian slate, was this sacrifice of General Buckner. Right through to the last, the ticket is a slate performance—all except Kittrell, who was too strong to be crowded aside.¹¹⁶

"Kit and His Bowie"

Attorney General John R. Kittrell brought quite an interesting set of personality traits to the office. He was fiery, boisterous, hot tempered, and of controversial background, to say the least.

¹¹⁵ See Ostrander, p. 89.

¹¹⁶ *Carson City Daily Appeal*, September 30, 1874. A.M. Hillhouse was passed over for the attorney generalship and instead was nominated for a seat on the supreme court. He lost the election. *Political History of Nevada*, 1979, p. 203. Despite his convention defeat, Buckner did not leave politics in 1874. He was able to win a county nomination for a state legislative seat from Humboldt County, and he emerged victorious in the general election. *Humboldt Register*, November 12, 1874. His legislative career lasted only one term and private life ensued. Two decades later he was the successful candidate for the post of district attorney of Humboldt County. *Silver State*, November 10, 1892. Buckner served four years as district attorney, and in 1898 he contested for the position of district court judge. He ran on the Silver Party ticket and was defeated. *Silver State*, November 9, 1898; *Political History of Nevada*, 1979, p. 210. Buckner became seriously ill shortly after this contest, and died in January, 1899. He was buried in Lexington, Kentucky. *Silver State*, January 12 and February 1, 1899.

Kittrell was born in North Carolina about 1828.¹¹⁷ Details of his early life and education are very sketchy. Apparently he remained in North Carolina long enough to be acculturated to the values of the Old South. His obituary indicates that he "was a Southern Democrat and inherited all the prejudices of the South in his dislike of everything Republican. . . . He was always strong in his love for Nevada, as he was for his native state North Carolina."¹¹⁸ Another account portrays Kittrell as "uncompromising a foe to the causes and institution of the Union as any White Leaguer of the South." The account also stated that he was "a man of pleasing manners when he don't display the bitter Rebel side of his character."¹¹⁹

When Kittrell ventured West, he settled first in California. There he became clerk in the office of California State Controller Sam Brooks.¹²⁰ During the campaign of 1874, Kittrell was bitterly attacked by the *Territorial Enterprise* for his behavior during the Civil War. According to the Virginia City paper, Kittrell left California in 1862 because he would not take the attorney's oath in the Golden State.¹²¹ The oath required a pledge of allegiance to the Union. He admitted that he did go to British Columbia. The *Enterprise* felt that his sense of direction was somewhat misplaced. "While Kittrell felt his place was in the Confederate arms, he ignominiously fled to the domain of Queen Victoria, where he knew that he was free both from the alarms of war and the pressing demands of his creditors."¹²²

The *Enterprise* wrote a satire on Kittrell's celebration of union victories, suggesting that "while the guns of Vicksburg and Gettysburg were pealing the death knell of the Confederacy, Kittrell was its rear guard."¹²³ Kittrell denied the claim that he raised the Confederate flag over his home in British Columbia.¹²⁴ The newspaper raised a more serious political question: had Kittrell become a subject of the British Empire and had he renounced his United States citizenship? His activities made "it reasonable to suppose he filed his declaratory intentions

¹¹⁷ Kittrell's 1915 obituary indicated that he had lived about "fifteen years beyond the allotted time of man," ergo 85 years. *Nevada State Herald*, March 15, 1915. This conforms with a news item which stated Kittrell was a "single man of over thirty" when the Civil War broke out. *Carson City Daily Appeal*, October 8, 1874. The 1875 *Census of Nevada*, v. I, p. 809, listed his age as 47 years.

¹¹⁸ *Nevada State Herald*, March 15, 1915.

¹¹⁹ *Carson City Daily Appeal*, October 8, 1874.

¹²⁰ *Ibid.*

¹²¹ *Territorial Enterprise*, October 9, 1874.

¹²² *Ibid.*

¹²³ *Territorial Enterprise*, October 14, 1874.

¹²⁴ *Ibid.*, October 20, 1874.

to become a citizen of the realm."¹²⁵ The paper added the hope that Kittrell would "clear the matter up, because he might be elected (lightning strikes sometimes) and we certainly do not want an English subject for the legal advisor of our state government."¹²⁶

While the question raised certainly deserved a response, Kittrell can be excused for not replying to the *Enterprise* charges. The paper's attacks upon him during the campaign of 1874 were vitriolic and harsh beyond the boundaries of good taste. For instance, the editor claimed that in Kittrell's town there were seventeen attorneys, and "in point of ability" Kittrell ranked seventeenth.¹²⁷ He also wrote:

This individual seems to have gone entirely daft since he tried the hazardous experiment of stumping the state. A friend in White Pine, and a Democrat withal, writes us . . . that Kittrell is losing ground everyday and that he cannot carry his own county because of his brutal personalities on the stump and because of his general cussedness. . . . This man Kittrell, by reason of both his present and 'previous condition' is unworthy the suffrages of honorable men.¹²⁸

In another editorial, it was asserted

there never was a greater fraud than that same Kittrell. He has the cheek of a sewing machine agent, and a certain air of dash which he inherited from his slave-driving ancestors, and that is all. He is not entitled to the office to which he aspires by any qualifications for the high place, and then his political record ought to be a perpetual bar against his ever holding office in this state.¹²⁹

After the Civil War, Kittrell had returned to the United States. He settled in White Pine County and resumed his legal practice. In 1870 he was elected district attorney.¹³⁰ He was also active in the Democratic state convention at Elko that year. He gave speeches and managed the unsuccessful bid of A.C. Ellis for the gubernatorial nomination.¹³¹ This political effort of 1870 might explain the reason that he was not part of Bradley's original team in 1874. Nonetheless, his political leanings were quite compatible with those of the "slate." Despite the gyrations of the *Territorial Enterprise*, "lightning did strike"; in November of 1874 Kittrell defeated Republican W. Moses Tebbs, winning the

¹²⁵ Ibid., October 1, 1874.

¹²⁶ Ibid.

¹²⁷ *Territorial Enterprise*, October 10, 1874.

¹²⁸ Ibid., October 27, 1874.

¹²⁹ Ibid., October 25, 1874.

¹³⁰ Angel, ed., *History of Nevada*, p. 651.

¹³¹ *Carson City Daily Appeal*, September 16, 1870.

attorney generalship by a vote of 9050 to 8956, a margin of only 94 votes.¹³²

During his one term in office, Kittrell recorded eight opinions in the opinion book. The first of these was issued on May 10, 1875. It dealt with a familiar question—the powers of the lieutenant governor when the governor is absent. Governor Bradley suffered from paralysis for several months, and left the state. Kittrell ruled that lieutenant governor J. W. Adams was “clothed with the powers” of the governor’s office until Bradley’s health returned.¹³³ Kittrell also offered opinions that mining taxes were to be levied on the assay value of bullion and not on the market value,¹³⁴ and that the governor should request California to send a fugitive back to Nevada for trial.¹³⁵ In response to the Lincoln County district attorney, Kittrell refused to appear in a matter of litigation, because it was one between private parties. He added, “should my services, however, as an attorney be desired, I shall cheerfully render your side any aid in my power to give.”¹³⁶ Other opinions dealt with property assessments and road taxes.¹³⁷

The 1867 Statutes of Nevada¹³⁸ provided that the attorney general shall “on the first day of January annually, report to the Governor” on the condition of affairs in his department, and Kittrell was the first attorney general to leave a record of such a report.¹³⁹ In his 1876 report (for the year 1875) he merely listed cases in which he appeared as the attorney general. One case was begun in the circuit court of the United States for the purpose of recovering state prison land.¹⁴⁰ The case considered the same issues that concerned attorney general Nourse in his first opinion in 1864. The other cases listed in the report were heard in the state supreme court. Kittrell offered a second report in 1877, but there is no record of reports for 1877 or 1878.¹⁴¹

General Kittrell appeared as counsel in the Nevada Supreme Court on forty-seven occasions.¹⁴² On all but two, he was acting as the attorney general for the state; he was private counsel in two estate

¹³² *Political History of Nevada*, 1979, p. 203.

¹³³ OAG, May 10, 1875, p. 123.

¹³⁴ OAG, October 21, 1875, p. 131.

¹³⁵ OAG, November 4, 1875, p. 132.

¹³⁶ OAG, October 14, 1875, p. 130.

¹³⁷ OAG, September 17, 1875, p. 128; June 15, 1875, p. 125; August 5, 1875, p. 127; and May 30, 1876, p. 133.

¹³⁸ *1867 Statutes of Nevada*, Chapter LXVII, p. 106 (Approved March 11, 1867).

¹³⁹ *1876 Report of the Office of Attorney General* (in *Appendix to the Journals of the Senate and Assembly*, 8th Session, 1877).

¹⁴⁰ *Adams v. Bradley*; see *ibid.*, p. 8.

¹⁴¹ *1876 Report of the Office of Attorney General*.

¹⁴² See *Nevada Reports*, v. X–XV (1875–1880).

suits. Of the forty-five other cases, thirty-eight involved criminal appeals or applications for writs of habeas corpus. Other cases involved property assessments, mining taxes, insurance taxes, the salary of a prison doctor, the reapportionment of judicial districts, and banking regulations.

Kittrell maintained his political fire throughout his term, and frequently gave speeches at rallies. In 1876, his efforts again were rebuked by the Virginia City press. The *Enterprise* wrote, "Kittrell is making 'reform' speeches. This is a goodly sight to see!"¹⁴³ "The man who doesn't think he is a reformer is mistaken; he has travelled to many lands and can appreciate the U.S. . . . (He is) a natural born reformer."¹⁴⁴

The days of the Democrats were numbered, however. Even though Governor Bradley was old and ill, he attempted to gain a third term in office. He was renominated. Press accounts suggest that the delegates to the 1878 Democratic state convention in Carson City nominated their full ticket by acclamation. The *Daily Nevada State Journal* reported that the convention "is perfectly harmonious."¹⁴⁵ Kittrell was the first attorney general to stand for reelection, because he was the first attorney general who was not passed over by his own party's state convention: Nourse, Clarke, and Buckner had all been cast aside by their own party.

The Republican convention met in Eureka. There they nominated Michael Augustus Murphy by acclamation to be their candidate for the post of attorney general.¹⁴⁶ In November he defeated Kittrell by a vote of 9995 to 8957.¹⁴⁷ Kittrell never held office again.¹⁴⁸ Instead of winning the ever-illusive third term, Lewis Bradley led his ticket to defeat. Only the Democratic candidates for lieutenant governor and superintendent of public instruction survived the Republican sweep.¹⁴⁹

Kittrell's mark in state history probably comes from his personality. Wells Drury wrote that "the Comstock went in for honorary titles. All lawyers and leading saloon keepers were called colonels excepting those

¹⁴³ *Territorial Enterprise*, September 29, 1876.

¹⁴⁴ *Ibid.*, August 8, 1876.

¹⁴⁵ *Daily Nevada State Journal*, September 24, 1878.

¹⁴⁶ *Ibid.*, September 21, 1878.

¹⁴⁷ *Political History of Nevada*, 1979, p. 204.

¹⁴⁸ Kittrell did make a very weak attempt to win his party's nomination for a district court seat at its 1882 convention. *Reno Evening Gazette*, September 23, 1882. He moved to Stanislaus County, California soon afterwards. Eventually Kittrell relocated in Fresno, where he died on February 1, 1915. *Nevada State Herald*, March 12, 1915. Kittrell had a wife and three daughters, one of whom was born in British Columbia in 1865. *1875 Census of Nevada*, v. I., p. 809.

¹⁴⁹ *Political History of Nevada*, 1979, p. 204.

called judge. This rule was laid down by John Kittrell when he was attorney general of Nevada and nobody dared to dispute Kit and his bowie on such a proposition as that."¹⁵⁰ Following his death in 1915, the *Nevada State Herald* offered this final word: "He was a man of unimpeachable integrity, a good friend, and likewise, a good enemy."¹⁵¹

Part II of Professor Thompson's article will appear in the Spring, 1984 *Quarterly*.

¹⁵⁰ Wells Drury, *An Editor on the Comstock Lode* (New York: Farrar Rinehart, 1936), p. 21.

¹⁵¹ *Nevada State Herald*, March 12, 1915.

NOTES AND DOCUMENTS

Dominique Laxalt: Basque Sheepherder

There's a bearing and a cast of face that come with men who lived in that American day when the ranges were open and the western streets were dirt. You can see it in the old-timers who come to the big rodeos in Reno, and fewer of them each year, who carry themselves as straight as if they were still in the saddle, with the quiet dignity and privacy in their faces that come from much time spent alone, and they are not unlike the faces of old Indian chiefs.¹

ON JUNE 5, 1983, the Nevada Historical Society opened a new exhibition in its Changing Gallery in Reno, "Dominique Laxalt: Basque Sheepherder." The focus of the display was Laxalt's mountain sheep camp—with its heavy canvas tent, camp bed, stove, pack saddle, saddle bags and other equipment—loaned by his son Robert, the Basque Studies Program at the University of Nevada, Reno, and the Santa Fe Hotel in Reno. Family photographs and quotations from Robert's book about his father, *Sweet Promised Land*, interpreted the sheepherder's life in the Sierra Nevada. Laxalt's saddle, chaps, Winchester, and other gear from his buckaroo days were shown in the adjoining Conference Room. The exhibition closed on August 28.

Dominique Laxalt (1886–1971) was one of the many Basques from France and Spain who came to Nevada to make their fortunes by herding sheep. He arrived in Reno just after the turn of the century and went to work for the Smoke Creek Ranch. In 1910 he joined his older brothers Pierre and Jean Pierre in the sheep business. Later, with three partners, he formed the Allied Land and Livestock Company, with the main ranch located in Smith Valley. Although, like many other Nevada

¹ Robert Laxalt, *Sweet Promised Land* (New York: Harper & Row, 1974), p. 3.



Dominique Laxalt in his last years. Until his death in 1971, he still preferred to wear a short-brimmed hat, leather jacket, and workshirt. (Photo by Addison Millard)

sheepmen, Laxalt lost his business when the bottom fell out of the livestock industry in 1921, he really never abandoned the occupation. The only interruption was the time he spent buckarooing. His wife Theresa ran a Basque hotel and restaurant in Carson City and brought up their children. As the boys grew older, they would join their father in the mountains with the sheep, at least during the period before they went to college and pursued their careers. Eventually Laxalt retired and intended to stay home; he grew restless, however, and news of another shepherd's death soon after he had retired drove Laxalt back to the mountains, and he signed on again to herd sheep.

Laxalt's camp is typical of those used in the mountains—sparse and efficient. The camps of the rangeland were carried in wagons or on trucks. In the mountains everything had to be loaded on the back of a burro and moved as the flock traveled in search of feed. The equipment and the photographs tell much about the lean and solitary life Laxalt led in the mountains, but it was hardly a lonely life. He loved his wife deeply and was very proud of his children's accomplishments.



Wedding portrait of Dominique and Theresa Laxalt, taken in Reno in 1921. They were married in St. Thomas Cathedral. This was the famous suit that Dominique wore on his return to the Basque Country, as related in the book *Sweet Promised Land*.

Noted Nevada author Robert Laxalt wrote the captions that accompany his family's photographs. In *Sweet Promised Land* he told his father's story:

My father was a shepherd, and his home was the hills. So it began when he was a boy in the misted Pyrennees of France, and so it was to be for most of his lifetime in the lonely Sierra of Nevada. And seeing him in a moment's pause on some high ridge, with the wind tearing at his wild thickness of iron-gray hair, you could understand why this was what he was meant to be.²

² *Ibid.*, p. 1.



Sheep on the move, circa 1946, from shearing corrals near Dayton, Nevada.



Jean Pierre Laxalt packing burros in the Sierra Nevada west of Carson City, near Snow Valley Peak, circa 1946. These were the small years, after Dominique went broke in the livestock depression of 1921. Dominique, afterwards, took to the road with his wife, working as sheepherder, sheep foreman, and buckaroo.

Book Reviews

Touring Nevada: A Historic and Scenic Guide. By Mary Ellen Glass and Al Glass. (Reno: University of Nevada Press, 1983. x + 243 pp., introduction, illustrations, maps, index. \$7.95)

THIS NEW GUIDE BOOK to the Silver State contains a number of attractive features, and it undoubtedly will be helpful to native Nevadans as well as to recent arrivals and tourists. Mary Ellen and Al Glass outline thirty-four tours in meticulous detail, and sage advice is given regarding weather and road conditions, possible problems, preservation of the environment, and major historical, recreational and scenic sites. The color photographs are striking, and the numerous historical photographs interspersed throughout the book are interesting and aptly chosen, as are the quotations from present-day and pioneer Nevadans. As is indicated by the subtitle of the volume, there are historical introductions to the seven defined geographical regions, and a number of clear and accurate maps are included. Four brief "essays" on such diverse topics as Basque restaurants, gambling in Nevada, the pronunciation of certain place names, and the impact of Max Fleischmann on the state are an added filigree. The importance of the sections dealing with Nevada's history, which together constitute nearly half of the text, is underscored by the likelihood that they will be the only accounts of the state's history to be read by many tourists and newly-arrived Nevadans.

A typical example will demonstrate the authors' approach to the tours. They guide the visitor to Lahontan Reservoir as follows:

Drive 1.3 miles to the junction with Alternate U.S. 50, and turn left (south) on Alt. U.S. 50. Drive 7.1 miles, and turn left to the Lahontan Reservoir Recreation Area. This is a good, gravel road. Be alert for traffic, as this is a very popular playground. Drive 0.6 miles to a fork and bear right. Drive 0.3 miles and cross the Carson River; Lahontan Dam is visible upstream to your right. Drive 0.2 miles, and go straight ahead; another 0.2 miles will take you to the park entrance. (p.41)

They then comment on the "excellent recreation facilities," give background material on the dam, note the "pleasant park," and, after further instructions, they note that another location nearby offers an "excellent and interesting look at the surroundings."

The prose in *Touring Nevada* often contains the homey touches of authors who are intimately acquainted with Nevada's history and geography: "We always enjoy this little jog off the main highway, to see the contrast between the old and new in this tiny agricultural community in transition." For the most part, the writing is clear, concise, and often appealing, though in spots it becomes rather too perfunctory and occasionally turgid.

Most of Nevada's major events and historical developments receive some description and analysis, and there is a nice balance between straightforward accounts of standard topics and mention of relatively obscure but colorful happenings. The authors are secure and accurate in their knowledge of most of the areas of Nevada. In the sections concerning the northwestern, northeastern, central, east-central, and southeastern portions of the state, there are only a few problems. James Flood and William O'Brien were not Comstock residents (p. 9); in discussing Myron Lake and Reno, the text appears to indicate that Washoe County was not yet created in 1880 (p. 15); the depletion of profitable ores is not mentioned as a major reason for the decline of the Comstock (p. 10); major reasons for the growth of Fernley are its location close to Reno and its affordable housing, more so than the point emphasized that it has "quiet surroundings" (pp. 20-21); Metropolis is Nevada's most prominent, but not its only agricultural ghost town (p. 67). There is an overemphasis on the incidence of range "wars" between cattlemen and sheepmen; according to the authors, such "wars" lasted into the 1920s and 1930s and ended only with the passage of the Taylor Grazing Act (p. 60). The omission of any treatment of labor relations problems in the Ely-Ruth-McGill region does not seem to be justified in view of the many other topics of lesser importance that are discussed. Given the breadth and complexity of their subject, matters of selection and emphasis posed difficult problems for the authors.

The historical section "Southwestern Nevada" encompasses a variety of Nevada's most colorful and famous camps, cities, mining booms, and individuals. For the most part, the Glasses' comprehensive summary of the region's complex history is well-organized and accurate. In dealing with the labor problems of the Tonopah-Goldfield area, however, there are questionable and misleading assertions. The picture of Tonopah as having a "generally quiet labor history" (p. 200) until the I.W.W. moved into the city in 1919 cannot be sustained, since there is

evidence of significant and sometimes violent activity associated with the I.W.W. in Tonopah in 1906-1907, and again in 1914. Further, the treatment of the Goldfield labor troubles of 1906-1908 is one-sided and simplistic. The stress in the text is on the problems associated with the high-grading issue and the institution of "change rooms" by management; other issues in this very complex situation are ignored. The statement that a strike ended in 1907 because "no union leadership could successfully defend its members' right to steal . . ." is not particularly helpful in clarifying the issues. Labor-management relations in Goldfield and Tonopah were far more complicated than the authors indicate.

If instances of historical inaccuracy and faulty interpretation are only distracting in the greater portion of the guide, they reach epidemic proportions in the "Southern Nevada" section. Many of the problems have to do with naming and location, or wrong or dubious dating of events. These are too numerous to list completely, but an indicative list might include the following: the establishment of Bunkerville (1877, *not* 1880s, p. 163); the completion and dedication of Hoover (Boulder) Dam (dedicated in September, 1935 and completed in early 1936, *not* on May 29, 1935, p. 168); the anachronistic naming of Nellis Air Force Base (it was so named well *after*, not *during* World War II, p. 171); the oft-repeated attribution of the naming of Henderson, Nevada to A.S. Henderson (p. 174; the name in fact honors Charles B. Henderson, former U.S. Senator from Nevada and chairman of the Reconstruction Finance Corporation); and the location of the Nevada State Museum and Historical Society (*not* Nevada State Museum South) in Lorenzi Park on North Las Vegas Boulevard (p. 179; the facility is in Lorenzi Park, but the park is several miles from the stated location). Embarrassingly, the authors mislocate the oldest and most notable landmark in the area, the Old Las Vegas Fort, which is *not* in Lorenzi Park (p. 179).

Other problems are of a more serious sort and merit more extended examination. The treatment of the nineteenth century period of southern Nevada history is badly muddled in several regards. The authors suggest, without confirming, that Francisco Garcés is thought to have entered Las Vegas Valley in 1776. Hardly anyone thinks this; certainly no contemporary scholar does. Garcés did not ascend the Colorado River much, if any, farther than the southernmost tip of the state. The confusion regarding early explorers and trails is compounded by the suggestion that Jedediah Smith "traveled along the Colorado River, but apparently did not enter the Great Basin" (p. 161). Indeed, Smith had just traveled the length of the Great Basin from north to south. Apparently, the authors meant to say that Smith did not approach Las

Vegas, as on the following page, Las Vegas is located, incorrectly, in the southern Great Basin. In the same context, it is stated that traders brought a wagon train through the area in 1830–1831. If reference here is to the Wolfskill-Yount party, this was a loose assortment of fur trappers and traders traveling without wagons. The earlier Armijo party of 1829–1830 was a pack train. The first wagon to make the journey to southern California from Santa Fe was in 1837 (route unknown) and wagons did not become common until the late 1840s.

Mormon routes and settlements also come in for their share of confusion. The Mormon Road from the beginning was essentially that through Las Vegas traversed by John C. Fremont in 1844. The statement that a second road was opened in 1847 leading into Death Valley is puzzling, to say the least. Several groups did stumble in the direction in 1849 with tragic consequences, but this hardly qualifies as a second road. As for the Mormon settlement in Las Vegas, it was established largely as a way station on the Mormon Road to southern California for emigrants and supplies, not, as is suggested, merely to convert the Indians to the faith. The settlement was disbanded in 1857 (*not* 1858) because of severe disagreements at the mission itself and difficulties involving the lead mining operation, not, as claimed, because of difficulties at Salt Lake City.

Twentieth-century southern Nevada material is handled with more assurance, though there are inadequacies here as well. Goodsprings receives mention, but its importance is distorted by emphasizing its nineteenth-century origins as a gold mining camp. It was not gold that led to the area's boom town status early in this century, but the near simultaneous arrival of the railroad and the discovery of extensive lead and zinc ore deposits. Goodsprings' importance is as a twentieth century lead-zinc mining area.

As in other sections of the guide, several prominent southern Nevadans are featured and their importance discussed. The roles of two of these men, though one hesitates to mention them in the same paragraph, are somewhat distorted. Walter Bracken and Benjamin Siegel both played prominent roles in the development of Las Vegas, one early, and one later. Both were front men in a sense—Bracken as a representative of absentee railroad officials who scrutinized his minutest decisions, and Siegel for various syndicate leaders, most notably Meyer Lansky. The roles of both men as independent actors are somewhat over-emphasized in the book.

Turning to the southern Nevada touring section, here too the tours are generally sensibly and carefully planned, though a major disappointment requires comment. At many southern locations, the guide fails to stimulate a sense of wonder and excitement. Tour one (of five)

directs the traveler through the Muddy Valley to Glendale and on to Mesquite, where the sole attraction noted is the historical marker at the high school. Whereupon, the route is retraced to Overton. The reviewer has stood on the embankment overlooking the innocently placid Virgin River near Mesquite and marveled at the courage of people who scratched out an existence from the sandy soil of these mesquite flats, repeatedly failing to make their rock dams secure against angry torrents. A guide book should provide some such supplement to the dry lines on an historical marker.

Similarly, in tour four, there is no mention of Boulder City's most interesting and salient features—the meticulously laid out public buildings, parks and streets, designed by a disciple of Pierre Charles L'Enfant, designer of Washington, D.C. Similar observations could be made about the rather humdrum treatment of Goodsprings, Searchlight, Blue Diamond, etc. Finally, one wonders if the potential traveler, having purchased the book, will examine the carefully measured tours and ask himself: "Why should I go there?"

If a major part of this review has been critical of *Touring Nevada* with regard to a single, albeit important, section, this should not overshadow the fact that other portions of the book are generally sound and most informative. Admiration is due the authors for their successful efforts in producing a sensibly planned and attractive volume. The University of Nevada Press has somehow managed to make it available for just \$7.95. It is unfortunate that greater care was not devoted to that section of Nevada which attracts the most tourists, has the greatest proportion of the state's population, and claims a bit of history worthy of more accurate note.

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Nevada Historical Society

The Mormons in Nevada. By Leonard J. Arrington. (Las Vegas: *Las Vegas Sun*, 1979. 67 pp. Illustrations, bibliography, \$2.50)

THE MORMONS IN NEVADA, by Leonard J. Arrington, originally ran as twelve articles in the *Las Vegas Sun* from April to September, 1979. These articles have been published as twelve essays in booklet form by the *Sun*. The essays deal with the impact of the Mormons in Nevada when it was part of Utah Territory, their settlement of Carson Valley and establishment of the Las Vegas Mission, and the later founding of Mormon farming communities such as Panaca and Bunkerville; there is also a concluding essay on the LDS community today in Nevada.

This book is written for the Mormon faithful. It is not a systematic

or critical coverage of the Mormon impact on Nevada, but rather it concentrates on those aspects which would most interest, and be of most pride, to Mormon readers. In short, it is selective rather than comprehensive; filiopietistic rather than critical. The tone is well summed up in the concluding sentence: "The Latter-day Saints, exhibiting a strong spirit of commitment, of sociability and morality, are pleased to have played a role in making Nevada a good state in which to raise a family—a place of strong churches and communities which they are proud to call home." (p. 63)

This is a narrative of vigorous leadership, and of strong community and family life. The book is anecdotal rather than analytical, and there are many short, useful biographies of leading Mormon settlers. The author is always mindful of the present-day descendants of these stalwart pioneers. Yet there is considerable material which is of value to the non-Mormon reader in understanding this important force in Nevada history. The book gives, for example, a feel of how it was to live in a Mormon community, and it presents considerable and trustworthy information not well known outside (and perhaps inside) the LDS church.

The author, Leonard Arrington, is a nationally recognized Mormon historian. He has based his material on official Church archives, and on research in the libraries of Brigham Young University, and of the Nevada Historical Society in Reno. There is a foreword by former Nevada Governor Mike O'Callaghan.

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The New West of Edward Abbey. By Ann Ronald. (Albuquerque: University of New Mexico Press, 1982. xvi + 255 pp. Bibliography, index.)

THIS REVIEWER'S initial response, before opening *The New West of Edward Abbey*, indicates as well as anything the need for the book. "What," I said to myself, "a study of Abbey already. It's much too soon." I imagine many readers will have the same reaction, for it is hard to realize that it has been nearly thirty years since Abbey's first novel, *Jonathan Troy*, initially saw print in 1954. Yet such is the case, and it is certainly time for a preliminary assessment of Abbey's literary career, even though the final word cannot be said, we hope, for many years to come. And *The New West of Edward Abbey* is valuable precisely because it attempts an evaluation of Abbey's entire career, rather than merely offering explications of his various works.

Indeed, Ronald's avowed purpose is to offer a unified look at a multi-faceted author, rather than—as is too often the case in Abbey criticism—a series of pot-shots at various works. Like her subject, Ronald does not shy away from controversy, and her basic point is at the same time her most controversial: that Edward Abbey is primarily an imaginative writer of great force and insight, and that his role as social commentator, environmental activist, and general gadfly to the state is secondary. Not everyone will agree with this point, but it is one which definitely needs making, for the limitations of prior commentaries on Abbey are simply that they have uniformly contented themselves with an advocacy position, praising (or occasionally condemning) him for his position on various touchy social issues. This perspective, of course, is not false, but it is incomplete. Moreover, it addresses itself completely to the "what" of Abbey's art, ignoring the question of "how" Abbey's world works.

What, then, does Ronald see as significant in Abbey's art? She begins by making the point that Abbey is not a conventional novelist, but rather a romancer, and that his books can best be approached as romances—a term which for Ronald primarily translates as parables—rather than as conventional novels, Western or other. She sees the great fictional problem in these romances as that of combining two views of the world—the red, or industrial, man-forged world and the green, or what we would unthinkingly label the "natural"—into a synthesis superior to both.

This last point will also not please every student of Abbey, since Abbey's career appears from some perspectives to be an out-and-out attack on the red world of twentieth-century American life from the vantage point of that green world it is destroying. Ronald sees Abbey's point as much more subtle. In her view, the red world is not an absolute evil for Abbey, but rather an aspect of modern life which has run amok and threatens totally to destroy the green. A properly managed society could exist with both red and green worlds in equilibrium.

How to do it is of course the problem, and Ronald does not gloss over the fact that Abbey's social thought, though brilliant in its analysis of problems, is woefully short of solutions. His almost pathological fear of any kind of joint enterprise seems to doom any social program even before it starts. Abbey, like many visionaries, hopes for a radical change in the nature of mankind which will render joint social action unnecessary. He does not like the comparison too often made between himself and Thoreau, although it is unclear whether his objection is primarily to the comparison or to those who make it. In his hope for a radical change in the nature of mankind he seems indeed to be more like Gandhi.

Ronald devotes much of her study to analysis of Abbey's style, which she succeeds in showing has developed into a supple instrument capable of more effects than most readers give it credit for. Not a pyrotechnic writer, Abbey's art is to conceal his stylistic artfulness. The surface clarity of his writing opens to reveal an inner brilliance which varies depending on the effects Abbey wishes to convey. When Abbey writes purple passages, he generally writes badly. When he speaks softly, he speaks convincingly. And, of course, one might well apply Schopenhauer's maxim to his writing, that he writes well because he has something important to say.

All in all, *The New West of Edward Abbey* is an excellent study. It is deferential without being worshipful, thorough without pedantry, unified without being reductive. It represents, in this reviewer's opinion, the best kind of literary criticism, expanding the reader's enjoyment and understanding without posturing or cleverness.

James K. Folsom
University of Colorado, Boulder

Westward in Eden: The Public Lands and the Conservation Movement.

By William K. Wyant. (Berkeley and Los Angeles: University of California Press, 1982. xiii + 536 pp. Illustrations, map, notes, bibliography, index. \$24.50)

WILLIAM K. WYANT'S PRINCIPAL CONCERN is "federally owned public lands—their history and their prospects as seen from the vantage point of the late 1970s." Since the days of the American Revolution, debate has raged over who should own the land and for what purposes. Tensions have existed between developers and conservationists, private and public interests, local and national viewpoints, and present and future needs. Wyant explores these tensions and the national policy that evolved, largely at a time when the public interest was poorly represented.

Wyant devotes roughly one-third of his lengthy book to explaining the origins of public land policy, the misuse of early land laws, and the ineffectiveness of Congress and federal agencies in safeguarding the land. He follows with several chapters on specific resources and regions: mining; oil; tidelands and the outer shelf; coal, natural gas, and oil shale; forests; grasslands; and reclamation and power development in the Southwest. He ends with two chapters on Alaska, the first focusing on statehood and the discovery of oil at Prudhoe Bay and the second analyzing the complex issue of land disposal.

Wyant repeatedly criticizes the contention that private land owners

should be free to utilize the land as they please. He also argues that the federal bureaucracy and Congress—subject to pressure from special interest groups—have frequently aided those who sought access to public lands for private profit. Although the United States could afford the luxury of a laissez-faire attitude toward land use in its earlier years, it clearly could not tolerate such a policy when people became increasingly interdependent and access to land became restricted.

For the most part, Wyant travels a well worn path in his discussion of public land policy. His early history is necessarily sketchy and offers little that Paul Gates and others have not already discussed more fully. Still, he has a journalist's knack for a well-turned phrase, and his judicious use of quotations enlivens the text. Serious students of land policy will particularly appreciate his discussion of recent legislation and land use controversies in the 1970s even though these references are unsystematic and scattered throughout the book.

Unfortunately, weaknesses detract from *Westward in Eden*. Although some chapters, such as the two on Alaska, are cohesive and provide valuable insight into complex issues, others—particularly those discussing specific resources—are sometimes difficult to follow because of the author's penchant to jump back and forth. It is also not clear why some chapters have breadth while others are narrowly focused. The chapter on forests, for example, deals largely with the establishment of the Redwood National Park, and National Forest Service policy on clear cutting. Perhaps the emphasis simply reflects Wyant's particular interests. Some topics receive little attention. Wyant allows Rachel Carson three sentences and barely mentions use of chemicals and poisons on the public lands. He focuses on traditional conservation issues, principally the use of natural resources, rather than on more recent concerns such as the threat of toxic wastes to human health and ecological systems. Finally, it is striking that a book that lends itself so beautifully to maps has only one, that of territorial land acquisition.

Nonetheless, there is much of interest in *Westward in Eden*, particularly for those who reside in states such as Nevada with a predominance of federally owned land. Wyant hammers home his conclusion that the public lands have been mismanaged. The Mining Act of 1872, in particular, reflected an unfortunate policy in which the public interest was sadly neglected. Regardless of the reader's point of view, Wyant's book provides valuable background for consideration of two vital questions: who should control resources within the United States and who should benefit from their development?

Douglas H. Strong
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The New Urban America: Growth and Politics in Sunbelt Cities. By Carl Abbott. (Chapel Hill: University of North Carolina Press, 1981. Pp. x, 317. Paper, \$9.95; cloth, \$19.95.)

THE WORD "SUNBELT" came into household usage during the decade of the 1970s. In the last decade, the term has fallen into semantic bedlam. Although journalists, social scientists and politicians generally used it to describe the sunny southern stretches of the United States from the Carolinas to southern California, numerous variations have appeared. Some include Delaware, others only Virginia. A few push the definition into Colorado and Oregon, whereas others do not. Carl Abbott, a well-known and able urban historian, has redefined the region to include an area from Delaware to Florida, west to Texas and California, and then northward up the Pacific coast, including Oregon and Washington.

Some historians will not like his definition. It has little to do with numbers of sunny days or the height of the temperature. Rather Abbott's definition depends upon influx of population, economic growth, sizeable energy resources, good agricultural hinterlands, high-technology industry, and mushrooming institutions of higher learning.

The topic of this book covers the entire region, albeit superficially. The focus is on five metropolitan areas: Norfolk, Atlanta, San Antonio, Denver, and Portland. The scope is from 1940 to 1980. It is during these four decades that the author sees the emergence of these urban networks.

Because this is a comparative history, Abbott presents ten chapters in which topics such as urban renewal and suburbanization are the focus. Data from the five cities are then woven into each theme. This format is cumbersome, and the overall history of each city is nearly impossible to follow or discern.

Relying upon census data, public documents, oral histories, newspapers, journals, and manuscript collections, Abbott has presented (despite the book's flaws) an original and well-researched survey of some of America's fastest growing cities.

Historians, of course, have not ignored the five cities Abbott covers. Nevertheless, he has done more than anyone else with such subjects as the recent history of housing and urban-suburban politics.

Students of Nevada history will be disappointed that Las Vegas is ignored. But all students of American urban history will find useful insights in this important book.

Lyle W. Dorsett
Wheaton College

Forging the Copper Collar: Arizona's Labor-Management War of 1901-1921. By James W. Byrkit. (Tucson: University of Arizona Press, 1982. xv + 435 pp. \$24.95)

HOW CAN ONE EXPLAIN the Jerome and Bisbee, Arizona, deportations of 1917? On July 10 several hundred Jerome citizens seized and deported 67 Wobblies; two days later several thousand Bisbee residents rounded up nearly 2000 labor sympathizers and loaded 1186 men on a freight train bound for Columbus, New Mexico, where some of them remained as wards of the state and U.S. Army until September 17. James W. Byrkit investigates these tragic incidents and argues that the notorious deportations were the "climax" of a struggle for control of Arizona society. In his Prologue he asserts: "This book is about power: about eastern power sponsoring and manipulating economic, political, social and cultural life in the American West; about corporate interests in Arizona gaining power, using it, abusing it, losing it—and regaining it" (xiv).

Professor Byrkit's monograph addresses three issues: the deportations, the character of Arizona progressivism which prompted the corporate reaction, and the motives and aspirations of the principals, George W. P. Hunt, reform politician and seven-term Democratic Governor, and Walter Douglas, Hunt's corporate protagonist and heir to the administration of the Phelps Dodge Corporation. The book also portrays assorted lesser figures such as United Verde Copper Company functionaries, Henry J. Allen and Will L. Clark, Calumet and Hecla surgeon Nelson Bledsoe, Cochise County Sheriff Harry Wheeler, Republican Governor Thomas Campbell, labor activist H. S. McCluskey, deported Bisbee attorney William B. Cleary, and other unfortunate victims of the vigilante action. James Byrkit writes well and is adept at creating brief and memorable verbal portraits. Without doubt he has written the most comprehensive modern reassessment of the events that precipitated, accompanied, and followed the deportations.

He maintains that the events of 1917 can only be understood in the context of the progressive attitudes and reforms that had challenged corporate domination of Arizona in the preceding fifteen years. According to Byrkit, Arizona progressivism stemmed from a temporary coalition of the working class, "agrarian-stockmen Populists," and "middle class Progressives." Led by Governor Hunt, these progressives enacted many of the era's popular nostrums, including initiative, referendum, recall, more equitable taxation, mining safety laws, workmen's compensation, and an anti-injunction law. The author asserts that the cumulative effects of these reforms threatened Arizona's mining companies.

In 1916 Walter Douglas, a Columbia University graduate and management specialist, had succeeded his father as president of Phelps Dodge, Arizona's dominant mining concern. At the same time, Douglas assumed the presidencies of both the American Institute of Mining Engineers and the American Mining Congress, and so became simultaneously the national spokesman for the copper industry and the Arizona mine operators. For Byrkit, Douglas was also the architect of the corporate reaction that reversed the progressive tendencies, discredited and "defeated" the popular George Hunt, and culminated in the deportations that broke Arizona's nascent labor movement and restored a tractable work force. While he advances little direct evidence that Douglas orchestrated this assault, he assembles a plethora of circumstantial evidence that links Douglas to it, even though Douglas skillfully avoided local public notice.

Determined to indict and convict Douglas for his roles in stemming progressivism and deporting innocent men in Bisbee, Byrkit employs a variant of the evil genius theory, which assigns the roles of marionettes to the other characters. In adopting a conspiracy theory, he portrays the Arizona mine owners as predominantly cynical and selfish men who "screen[ed] their own profit-making ambitions with violent but socially acceptable union-smashing methods" (326). He characterizes them as educated and sophisticated individuals who "tended to be indifferent to social ideologies." "In fact, employers preferred and encouraged militant, radically dominated unions to tractable, conservative ones" (150). As any reading of managers' papers will demonstrate, this caricature underestimates the operators' capitalistic and individualistic ideology which comported with their ideas about profits, governmental regulation, and perceived labor union constraints.

Similarly, he misrepresents the heritage of the Western Federation of Miners, renamed in 1916 the International Union of Mine, Mill and Smelter Workers. Correctly depicting it as a radical industrial union, he nevertheless emphasizes its affinity for "national labor goals" (24) while ignoring its advocacy of socialism (1902-1916) and its participation in the founding of the Industrial Workers of the World. The WFM-Mine Mill could be rent by the Wobblies "New Blood" movement precisely because an important segment of its membership was alienated from and antagonistic toward America's capitalistic society. Byrkit thus underestimates working-class radicalism that emerged after employer repression at the turn of the century and contributed to employer apprehension and more repression. The history of the WFM may not have been a "heritage of conflict," but it undoubtedly seemed so to most mine owners. Here too a careful reading of the extant WFM

records, especially the convention proceedings and *The Miners Magazine*, would have clarified the book's presentation.

James Byrkit utilizes a wide range of sources: newspapers, contemporary periodicals, interviews with surviving participants, legal proceedings, government reports, and manuscript records of governmental agencies, corporations and individuals. The breadth of this research sustains Byrkit's essential findings and permits him to present some provocative interpretations, notably his effort to suggest that the close personal friendship between President Wilson and Cleveland Dodge may have resulted in special treatment for the culprits, though his dependence upon the dated Ray S. Baker edition of the Wilson papers is inexplicable. This is a complex, interesting, and occasionally flawed book that should be read by anyone interested in progressivism, labor history, Arizona, or the corporate legacy in the twentieth-century American West.

Ronald C. Brown
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NEWS AND DEVELOPMENTS

NEVADA HISTORICAL SOCIETY

The exhibition "Quilts in Nevada" opened on January 6 as part of the Society's Third Annual Mid-Winter Gala. The show features materials from the collections of the Society. Funding for the exhibition, which will be located in the Changing Gallery of the NHS museum in Reno through April, comes in part from a grant by the Nevada Humanities Committee. Also scheduled in the near future are public lectures, and a film about quilt making. Call the NHS at 789.0190 for information.

Another exhibition to keep in mind is "Historic Photographs of the Great Basin" at the Sierra Nevada Museum of Art in Reno from January 15 through March 5, which contains several photos from NHS collections. During the same period, the Society's Downtown Gallery will feature pictures of contemporary Nevada by photographer Martin Stupich.

NEVADA STATE MUSEUM AND HISTORICAL SOCIETY, LAS VEGAS

The Nevada State Museum and Historical Society held its first annual membership reception on the evening of October 21. The reception featured the opening of the new Changing Gallery exhibit "Frozen in Silver," a photographic essay by P.E. Larson on Goldfield during its heyday as a mining boomtown. Larson operated the Palm Studio there. Included in the exhibit is a variety of antique photo equipment used by Larson. At the reception, the museum's volunteer Docent Council, which is sponsored by the Junior League of Las Vegas, served a repast of champagne and hors d'oeuvres.

Contributors

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Gary L. Cunningham is a research historian at the University of California, Santa Barbara, where he received his Ph.D. in 1980. He is the author of a forthcoming study of prostitution and gambling in Kansas cattle towns entitled *Moral Corruption and the American West*, and he is currently at work on a reinterpretation of the significance of the Donner Party.

William N. Thompson received his Ph.D. from the University of Missouri, and is an Associate Professor of Public Administration at the University of Nevada, Las Vegas. He previously taught at Western Michigan University, and has authored *State Attorneys General and the Environment* as well as a number of articles.

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FOUNDED IN 1904, the Nevada Historical Society seeks to advance the study of the heritage of Nevada. The Society publishes scholarly studies, indexes, guidebooks, bibliographies, and the *Nevada Historical Society Quarterly*; it collects manuscripts, rare books, artifacts, and historical photographs and maps, and makes its collections available for research; it maintains a museum at its Reno facility; and it is engaged in the development and publication of educational materials for use in the public schools.