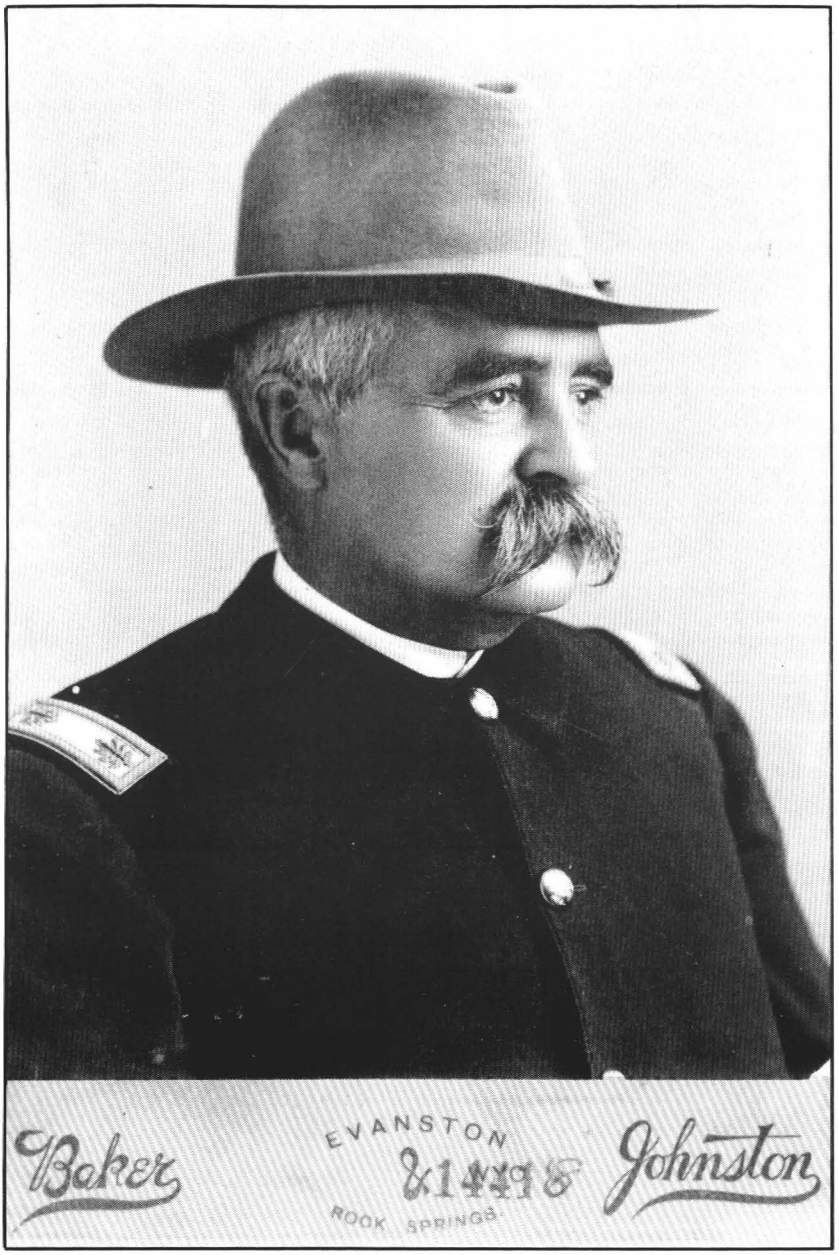
NEVADA HISTORICAL SOCIETY QUARTERLY



WINTER 1989

NEVADA HISTORICAL SOCIETY QUARTERLY

The *Quarterly* solicits contributions of scholarly or popular interest dealing with the following subjects: the general (e.g., the political, social, economic, constitutional) or the natural history of Nevada and the Great Basin; the literature, languages, anthropology, and archaeology of these areas; reprints of historic documents (concerning people, flora, fauna, historical or archaeological sites); reviews and essays concerning the historical literature of Nevada, the Great Basin, and the West.

Prospective authors should send their work to The Editor, *Nevada Historical Society Quarterly*, 1650 N. Virginia St., Reno, Nevada 89503. Papers should be typed double-spaced and sent in duplicate. All manuscripts, whether articles, edited documents, or essays, should conform with the most recent edition of the University of Chicago Press *Manual of Style*. Footnotes should be typed double-spaced on separate pages and numbered consecutively. Correspondence concerning articles and essays is welcomed, and should be addressed to The Editor.

The *Nevada Historical Society Quarterly* (ISSN 0047-9462) is published quarterly by the Nevada Historical Society, 1650 N. Virginia, Reno, NV 89503. The *Quarterly* is sent to all members of the Society. Membership dues are: Student, $15; Senior Citizen without *Quarterly*, $15; Regular, $25; Family, $35; Sustaining, $50; Contributing, $100; Departmental Fellow, $250; Patron, $500; Benefactor, $1,000. Membership applications and dues should be sent to the Director, Nevada Historical Society, 1650 N. Virginia, Reno, NV 89503. Second-class postage paid at Reno, Nevada. POSTMASTER: Send address changes to Nevada Historical Society Quarterly, 1650 N. Virginia, Reno, Nevada 89503.

NEVADA HISTORICAL SOCIETY QUARTERLY

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JUDGE HARRY E. CLAIBORNE AND THE FEDERAL IMPEACHMENT PROCESS

ELEANORE BUSHNELL

ON OCTOBER 9, 1986 FEDERAL DISTRICT JUDGE HARRY E. CLAIBORNE of Nevada became the twelfth official to be tried by the Senate under the impeachment provisions of the Constitution, and the fifth to be convicted.* The House of Representatives has, to date (August 1989), impeached sixteen federal officers: thirteen jurists, one senator, one cabinet member, and one president.[1] Two of the sixteen, Judge Mark H. Delahay (1873) and Judge George W. English (1926), resigned before trial, and the process was abandoned.

Note should be taken of the prevalence of jurists in the roster of impeached officers. Thirteen of the sixteen whom the House impeached, all of the five whom the Senate convicted, and all of the eight impeached in the twentieth century belonged to the judicial branch. That judges have been the subject of eighty percent of the impeachments and one hundred percent of the convictions lends strength to proposals for developing, in place of impeachment, an alternative for investigating and evaluating allegations of miscreant behavior by judges, particularly lower court judges. These proposals abound following impeachments and trials because Congress becomes dismayed when the investigations, hearings, prosecutions, and judgments provoked by an impeachment proceeding intrude upon and delay ordinary legislative business.

Impeachment is an intentionally deliberate and protracted procedure designed to protect public officeholders from removal on spurious or partisan grounds. It is a procedure intended to preserve the independence and integrity of the office itself as well as of its occupant. Whether impeachment is the only way to remove a malperforming jurist remains debatable. Such a debate will be renewed, and with urgency, when the 101st Congress has finished with Judge Alcee L. Hastings, impeached in 1988, and Judge Walter L. Nixon, impeached in 1989.

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Judge Harry Claiborne, c. 1978. *(Nevada Historical Society)*

The current Congress, and the two immediately preceding Congresses, have endured an overdose of deliberating on the conduct of federal trial judges. The unusual cluster of impeachments and trials in the period 1986 to 1989, three impeachments and two trials with a third trial impending, illustrates the burden borne by legislators during that time. Conversely, in the nearly 200 years of United States history that preceded Harry Claiborne's trial, only thirteen officers were impeached and eleven were tried. Thus, the 101st Congress, overburdened by the superabundance of impeachments and trials, can be expected to resume a search for a procedure less invasive of congressional time, but one that still preserves judicial independence.

The impeachment process in which Judge Claiborne became enmeshed in 1986 reaches back to the impeachment and trial of Senator William Blount in 1799. Until the past three years the process has, as noted, been sparingly used, possibly because in an earlier day public officers (1) were more upright or (2) were not detected in malperformance or (3) escaped punishment because the process was too formidable to employ, particularly against a lower court judge.

Judge Harry E. Claiborne's misconduct resuscitated the impeachment procedure, nearly dormant for the fifty years separating his experience and the trial and conviction of Judge Halstad L. Ritter in 1936; the procedure had a brief revival in 1974, when President Richard Nixon's malperformances brought him to the brink of impeachment and trial.

In impeachment annals Judge Claiborne's experience commands powerful attention. He was the first federal official to be impeached after he had been tried in court and the first official to be in prison when impeached and convicted.[2] The first point, court trial before impeachment, has overriding constitutional significance: Can a federal jurist holding a lifetime appointment to office and removable from that office only by impeachment and conviction be tried in court for a criminal offense? Can he, if found guilty, be imprisoned without having been impeached? If so, has he been, thereby, effectively removed from office by a method not prescribed by the Constitution? Obviously, the duties of office are not being fulfilled when the jurist is in prison. Has the judiciary, then, assumed a duty assigned solely to the legislature by essentially ousting a life-tenured judge from his post?

This immensely significant matter, destined to recur in the impending Senate trial of Judge Walter L. Nixon, who was also in prison when impeached (1989), was not fully analyzed in the Claiborne trial. It is not suggested that Judge Claiborne would have escaped conviction under the impeachment provisions of the Constitution had they been invoked before his court trial, but it is suggested that a profound constitutional question remains essentially unsettled.

Judge Claiborne and his impeached predecessors were brought to judgment under the relatively few provisions of the Constitution that define im-

peachable offenses and describe the procedure for examining suspect officers' conduct.[3] The Constitution limits impeachable offenses to a stringent few: treason, bribery, or other high crimes and misdemeanors. The description of these offenses is clear except for the phrase "or other high crimes and misdemeanors." The two accompanying causes for impeachment—treason and bribery—are straightforward, readily identifiable crimes. Both have a common law meaning, both have been defined in statutes, and treason is described, and narrowly, in the Constitution. Treason and bribery have figured only peripherally in past impeachments. The national officers against whom impeachment inquiries have been started have rarely committed such gross and explicit misdeeds as treason or bribery; the few who might have been charged with either of these crimes, Senator William Blount (1799) and Secretary of War William W. Belknap (1876) being the prime examples, were instead accused of "high crimes and misdemeanors."

This slippery phrase, then, one that has eluded any firmly accepted definition, has commanded attention in all the impeachment experiences. The major effort for the House of Representatives as prosecutor has been to convince the Senate as trier that the conduct for which it brought the official to trial qualified as a high crime and misdemeanor. From the beginning of its existence as part of the Constitution, the meaning of "high crimes and misdemeanors" has been argued exhaustively, but a precedent-setting interpretation has never been articulated. On the one side the phrase has been deemed to require a criminal act indictable in court and on the other to require only proof that an official has behaved in a manner inimical to the public welfare and violative of his duty.

Because Judge Harry E. Claiborne had been convicted of a crime in a court of law, neither the House nor the Senate, in the 1986 employment of the impeachment procedure, gave any significant attention to wrestling with what the framers of the Constitution intended by "high crimes and misdemeanors." Unlike any other previously impeached official, Claiborne stood before the Senate as a convicted criminal, and no debate was required over the meaning of the phrase.

However, significant debate did arise over the relationship between a court trial and a Senate trial. Did Judge Claiborne's conviction for underpaying his income taxes assure, almost automatically, his conviction by the Senate? Should the Senate review the trial court's record to appraise the fairness of the trial? The Senate answered no to these questions but will face them once more when it tries Judge Walter L. Nixon, who was also convicted in court before being impeached. In reverse form, the Senate will wrestle with these questions again when it rules on Judge Alcee L. Hastings, tried in court and found innocent before being impeached. These three recent targets of impeachment—Judges Claiborne, Hastings, and Nixon—have presented a problem never before confronted. What should be the consequence to a Sen-

ate trial of a previous decision by a court of law? As matters now stand (August 1989), I expect that the Senate will continue to take note of any court actions, as it did in Claiborne's case, but will insist that its ruling is taken independently and without reliance on a decision reached in any other forum.

Before the courts became involved, if unintentionally, in the impeachment process, complaints against federal officers, presented and analyzed in the House of Representatives, had their first testing in the Senate. The Senate record reveals a hodgepodge of charges against the impeached officers encompassing criminal conduct, improper conduct, unpopular conduct, and incompetence. The record also reveals that only five officials, all of them judges, were found guilty by the Senate of the charges levied against them by the House of Representatives. Two of these judges, West H. Humphreys (1862) and Robert W. Archbald (1913), received the additional verdict of disqualification from ever again holding a post in the national government.

Just sixteen men—all the subjects of impeachment have been males—make up the entire group of federal officials who attracted the distinction of being impeached. This nation cannot be so blessed as to have produced only sixteen evildoers. Many more officeholders must have exhibited unacceptable deportment in the 200 years spanning the nation's existence. If so, why were they not also impeached and, if found guilty, removed from the offices they debased? One reason for the scarcity of impeachments lies in the mechanics of the process as established in the Constitution, a process that is intentionally complicated and time-consuming and thus deters the House of Representatives from instituting frivolous or malicious impeachments.[4] Another clue arises from the effect of a suspect officer's resignation. More than fifty federal judges have resigned when the House of Representatives has moved toward impeaching them; by custom rather than design the House took no further action against them.[5] Several members of Congress during Claiborne's impeachment and trial observed that they would approve termination of the process should he resign.

Because the procedure has been used so infrequently, it is evident that the sixteen impeached officials performed in a flagrantly corrupt or inept manner. They displayed delinquent characteristics, not so conspicuously displayed by those miscreant officers who escaped detection or at least escaped impeachment. Otherwise they too would have sunk from public view along with other officials who did not attract sufficient notoriety to be impeached or who resigned when being investigated for misconduct.

All sixteen officers threatened or were thought to threaten political stability, and were viewed as endangering public confidence in an institution of government. To assemble a melange of facts into some kind of sensible whole requires a standard against which they can be measured and against which a future defective officeholder could in his turn be measured.

The profile of an impeached officer shows him as satisfying one or more of

the following criteria:

1. Serious and persisting misconduct, a train of abuses.
2. Conduct too conspicuously corrupt to permit continuance in office.
3. Misuse of position for personal gain in money or power.
4. Political estrangement from the dominant party in Congress.
5. Alienation from his own party.
6. Behavior offensive to influential personages powerful enough to mount an impeachment inquiry.
7. Recognition by his constituent public that he is crooked or unqualified.
8. Loser of, or never a possessor of, a significant constituency.
9. Inability to perform his duties.
10. An inviting target for a group determined to force a vacancy in order to supplant the incumbent with its own choice, and ready to undertake and pursue the long impeachment process in the face of customary congressional disinclination for the task.

Of course, no single impeached officer could be expected to exhibit all of the foregoing attributes. The person coming closest is Judge Harry E. Claiborne, not because he stands out as the most iniquitous officer ever brought before the bar of the Senate, but because of the circumstances characterizing his experience. Claiborne's conviction for underpaying his income taxes, his confinement in prison when impeached and tried, his refusal to resign from the federal bench, and his unwillingness to relinquish his salary while in prison led to estrangement from his own party, from prominent congressmen, from the judiciary, and from portions of the public.

Other officers, even those who did not deserve to be impeached, all exemplify some of the qualities listed above. The dominant component of impeachment concerns political adhesion, a component conspicuously absent in the Claiborne case. Only four officers were impeached by a House of Representatives in which their political party held a majority: Judge Charles Swayne, a Republican (1905); Judge Harry E. Claiborne, a Democrat (1986); Judge Alcee L. Hastings, a Democrat (1988), and Judge Walter L. Nixon, a Democrat (1989). The House voted no other impeachments against a member of the majority party, and in Swayne's case partisanship revealed itself when the Republican-dominated Senate declined to convict him. The only Senate verdict of guilty when the accused belonged to the majority party occurred in the case of Judge Robert W. Archbald (1913), a Republican, whose brazen misconduct assured the two-thirds vote required to convict. Accusations of political bias leveled against impeachment proceedings are generally sustained by the evidence. Partisanship occurs in varying degrees of intensity in most of the impeachment experiences but not at all in the case of Judge Claiborne, as will be described below.

Impeachment trials have not produced precedents in the same sense that past decisions exert control over subsequent rulings in courts of law. In the latter forum, courts follow precedent; when they do not they ordinarily acknowledge that a formerly adhered-to judicial position is being overturned. But the force and continuity of earlier holdings do not characterize impeachment trials. Each one is essentially new. In the majority of trials both sides have referred to earlier impeachment experiences, claiming variously that a precedent substantiating a point the claimant wished to make had been established in a preceding trial. But it is almost entirely the persuasive skill of the speaker rather than any historically recognized precedent that is dominant in convincing the Senate that a particular position finds support in past cases. In fact, opposing attorneys in impeachment trials have occasionally used the identical "precedent" to sustain contrary positions. Although the trials have not supplied decisive precedents and are susceptible to differing interpretations, they have often been cited in succeeding trials and would probably be used as references in any future impeachments. In the Claiborne trial, this generalization does not hold true with respect to reference to former trials; such references were rare. But the eccentric characteristics of Claiborne's case will cause it to be cited in the forthcoming Hastings and Nixon trials, and in any subsequent Senate trials in which a court decision precedes an impeachment.

Impeachment trials then, have a history, but they have not proved to be part of an evolutionary process. From the first national impeachment experience (1799) to the last one so far (1989) some common threads can be found, but one cannot trace the evolution of impeachment theory and practice in the same sense that development of the presidency or the varying roles of Congress can be traced. The Senate has never ruled on the issues emerging in the trials before it; so no body of precedents exists to be sustained or discarded. One can readily locate Senate decisions, the final vote, but can locate only fleeting proof of the reasoning behind such decisions.

Even though controlling positions gleaned from impeachment trials are scant, I have identified twelve examples, some of them arguable, of oft-repeated principles emerging from United States impeachment history. The examples I consider to be either established, or correct if not established, are these: (1) impeachment is directed to political offenses that threaten good government, offenses that are possibly but not necessarily criminal; (2) the accused must have engaged in repeated misconduct; (3) the misconduct need not have been performed in the subject's official capacity; (4) if the subject is an elected officer, his performance must have been so conspicuously wrong that the public good demanded his removal before expiration of his term; (5) resignation will terminate the procedure (Secretary William W. Belknap [1876] provides the sole exception to this principle); (6) corrupt intent on the part of the accused officer need not be proved; (7) a new session of Congress

does not halt an ongoing impeachment; (8) a Senate finding of guilty by a two-thirds vote on one count among several charges suffices to convict; (9) the accused need not be present at his trial; (10) the Senate in an impeachment trial acts as a court; (11) following Senate conviction, a vote to disqualify the subject from ever again holding a post in the national government requires only a majority of the senators present, not the two-thirds required to convict; and (12) members of the House of Representatives and of the Senate are exempt from impeachment.

Of these "precedents" I consider all except two to be quite solidly established by both habit and good sense. The first principle to which I object concerns resignation as a probable bar to further action. An officer who has been impeached and then resigns, a resignation obviously tendered in order to abort trial, should be tried. Although he is out of office and so does not immediately menace the political process, he could at a later time run for or be appointed to a position in the national government. For this reason only, such an officer should be tried, because if he is found guilty the Senate could disqualify him from holding any further federal post.

The second improper, but apparently established principle is the belief that members of Congress are not liable to impeachment, a belief unjustified by either the Constitution or the English precedents with which the framers were familiar.[6] It crept into United States impeachment history as a consequence of the trial of Senator William Blount (1799), who had been expelled by the Senate before his trial. The record does not establish whether the Senate found Blount not guilty because he no longer held office or because it believed that a senator could not be impeached. A case can be made for either possibility. No other historical evidence supports immunity of legislators from the impeachment process.

The other ten more-or-less established principles listed above have coherent reasons behind their adoption. That the malperformance need not be criminal appears close to being a precedent, but it would undoubtedly be argued anew in future trials.

That the subject display a pattern of misconduct and be generally known as not performing properly is a sensible requirement. Except for Judge James H. Peck (1830), who faced only one charge brought by only one accuser, all the impeached officers have confronted impeachments engineered by several people or groups consisting of between four and thirteen claims of misconduct. The charges brought against them alleged habitual corruption or incompetence, not merely a single foolish or misbegotten act.

Whether the conduct complained of must be a direct product of the office held has been debated in several trials. Harry C. Claiborne's attorney raised this point, insisting that his client had committed no wrong in his judicial role and that the history of impeachment showed that an officer could not be subject to the process unless he had been accused of misconduct in office.

This claim was not accepted by the Senate in Claiborne's case. Former experiences sustain a belief that an officer can be impeached for improprieties not committed while he is serving in his official capacity. Judges engaging in shady business transactions, or failing to pay income taxes, or accepting favors have been impeached: Judges Robert W. Archbald (1913) and Halsted L. Ritter (1936), for example.

On the question of having to demonstrate bad motives on the part of the accused in order to convict, the record is murky, although perhaps no more so than in a court of law. In several of the trials failure to prove evil intent has been argued by spokesmen for the suspect officer as a reason for acquittal. This matter also arose in the 1986 trial; Judge Claiborne sought to demonstrate that, though guilty of carelessness in his personal record keeping, he was not guilty of willful misconduct in failing to pay his income taxes in full; instead, he said, he had been a victim of slipshod accounting procedures by his tax preparers. The Senate was not impressed with this argument.

Four of the other principles recurring in impeachment history may be claimed as solidly established. One is the process does not stop following the end of the congressional session in which it began; no serious argument has been raised on this point. Two, nor has it been asserted that the accused officer must be found guilty on every count; a two-thirds vote on any one charge results in a conviction. Three, no one argued in reference to the cases of the only two officials suffering disqualification from further office (Judges West H. Humphreys [1862] and Robert W. Archbald [1913]) that a two-thirds vote to disqualify was required. Removal from office upon a two-thirds vote is mandatory, but the Senate need not even consider whether to disqualify. If it does decide to disqualify, a majority vote suffices to secure that objective. And finally, in four instances an impeached officer did not attend his trial and the Senate nevertheless proceeded to hear the case; absence of the accused has not invalidated a Senate impeachment hearing and would probably not be a barrier to continuance in a future instance. Thus, continuation of an impeachment in a following session of Congress, a finding of guilt on one charge as sufficient for conviction, a simple majority vote to disqualify, and validity of a trial without the subject being present have enduring qualities and may be considered as precedents.

The Constitution, in addition to specifying the causes of impeachment as treason, bribery, or other high crimes and misdemeanors, contains one other reference to judicial performance bearing on impeachment. Article III, section one states that federal judges hold life appointments "during good behavior." "Good behavior" like "high crimes and misdemeanors" has never been defined. But the impeachment trials of several jurists have in fact hinged upon their bad behavior, a distortion of the impeachment provisions in the absence of a law defining good behavior and making violation of it a high crime and misdemeanor and so impeachable.[7] Senility, incompetence,

alcoholism, profanity, and questionable business practices have been influential factors in the trials of several federal judges. Such a stretching of the impeachment provisions can be accounted for only because no other means was available for cleansing the bench of malperforming jurists.

Because "good behavior" has not been defined, the trial record of United States impeachment history (1797-1986), affords no process for being rid of a jurist except by impeachment, a method so wasteful of congressional time that a judge had to be flagrantly misbehaving or flagrantly out of favor with the power structure to have it applied against him. A step in the direction of activating the good behavior clause was taken by Congress in 1980 when it created a complaint and disciplinary mechanism within the judicial system, the Judicial Councils Reform and Judicial Conduct and Disability Act, PL 96-458.[8] Except that the act did not authorize removal of federal jurists, it created a system similar to the judicial discipline commissions that have existed for several years at the state level.

Alcee L. Hastings, a federal district judge in Florida, has been investigated as a subject for impeachment under the provisions of PL 96-458.[9] In September 1986 the Eleventh Circuit Court of Appeals adopted a recommendation of its special investigating committee that Judge Hastings should be reported to the Judicial Conference as a candidate for impeachment.[10] The committee determined that the judge, who had been tried in 1983 for soliciting a bribe and had been found not guilty, had fabricated evidence that produced the verdict of innocent. The Judicial Conference recommended consideration of impeachment to the House of Representatives on March 17, 1987. Judge Hastings, who is black, has refused to resign, and attributes the judiciary's efforts to dislodge him as racist. The House impeached him by a vote of 413-3 on August 3, 1988, the first exposure to the process generated directly by the judicial branch.

In March 1988 the Judicial Conference asked the House to consider impeaching Judge Walter L. Nixon of Mississippi, the second instance of judicial initiation of an impeachment inquiry. Nixon had been convicted in February 1986 of lying to a grand jury and had received a sentence of five years imprisonment. The House of Representatives acted swiftly on the request, impeaching the judge by unanimous vote on May 10, 1988. Nixon continued to draw his $89,500 salary while in prison, and announced that he would return to the bench when he had served his sentence. In August 1989 a special Senate committee was hearing testimony on Judge Nixon's conduct.

Judge Claiborne had also been subject to observation by the Judicial Conference which recommended to the House of Representatives that he be investigated. This action lacked force because the House was already engaged in impeaching him (July 1986).

Convicted in August 1984 on two counts of underreporting his federal income taxes, Claiborne spent the twenty-one months between his conviction

and his incarceration employing every available legal appeal of his sentence. None of the appeals succeeding, he had been led off to the prison at Maxwell Air Force Base. Although he had not heard a case or served in any judicial capacity for more than two years, Judge Claiborne did not resign, and continued to receive his annual salary of $78,700, a fact causing several one-time adherents to turn away from him. Some urged him to resign, others at least to give up his salary while in prison. He followed neither of those suggestions, and was, of course, under no obligation to do so.

A successful and colorful trial lawyer, Claiborne, a Democrat, had been appointed district judge by President Jimmy Carter in 1978 upon the recommendation of Nevada's senators Howard Cannon, a Democrat, and Paul Laxalt, a Republican. Former Senator Cannon acted as an adviser to Claiborne's lawyers as they prepared for and conducted the impeachment trial.

Judge Claiborne's troubles began soon after his elevation to the federal bench. The Justice Department started a probe into his alleged failure to pay sufficient income taxes; purported acceptance of a bribe from Joseph Conforte, operator of a Nevada brothel; and filing of an inaccurate judicial ethics report. Judge Claiborne attributed the Justice Department's "hounding" of him to his outspoken criticism of the department's "roughshod" investigations of political corruption in Nevada. Skilled as an advocate, Claiborne appears to lack the temperament and bearing generally believed to befit a jurist, at least in the latter's public deportment. He lambasted the federal agents in immoderate and unjudgelike language. "Those bastards," he announced, "are out to destroy Nevada and I'm not going to let them do it."[11]

A federal grand jury indicted Judge Claiborne December 8, 1983 on the three charges just mentioned: income tax evasion, receiving a bribe, and filing a false ethics report. Understandably, he made vigorous efforts first to avoid trial, next to avoid being convicted when tried, and finally to avoid prison following conviction, all to no avail.

His initial effort, to escape being tried, Claiborne based on the ingenious claim that he could not be brought before a court of law unless he had been impeached. Such a claim of immunity had not been made by Vice President Aaron Burr, indicted in 1804 for killing Alexander Hamilton. But it had been made by Vice President Spiro T. Agnew in 1973 when he faced criminal charges for bribery, extortion, and income tax evasion. Agnew asked the House of Representatives to begin an impeachment inquiry, a request that President Nixon supported. The House declined to honor the request, and the vice president resigned in disgrace.

Judge Alcee L. Hastings, accused of bribery, also insisted that as a life-tenured jurist he must be impeached before he faced a court trial. This argument was disallowed by a circuit court.[12] Hastings is currently (August 1989) about to be tried by the Senate.

In the Claiborne instance the Ninth Circuit Court of Appeals rejected the

argument that impeachment must precede trial in court. Claiborne's appeal of this decision to the United States Supreme Court was also rejected.[13] Thus Agnew, Hastings, and Claiborne did not succeed in avoiding trial unless they had been impeached, and found no legal support for their construction of the Constitution. On this topic, crucial to the early phases of the Claiborne case, the United States Supreme Court in 1974 had declined to review a decision holding that a federal district judge could be convicted in a court of law without having been impeached.[14] And William Rawle, noted attorney and constitutional scholar, had observed, more than one hundred years before Claiborne raised the issue, that "the ordinary tribunals . . . are not precluded either before or after an impeachment from taking cognizance of . . . official delinquency."[15] No question exists that "the ordinary tribunals" can try an officer who has been impeached and convicted; the Constitution plainly establishes that "the party convicted" is subject to court trial (article I, sec. 3, cl. 7). The question, then, is whether the provision presupposes that conviction in an impeachment trial must always precede trial in court.[16] According to extant interpretation, but clearly debatable, the Constitution permits a trial following impeachment and conviction but does not prohibit a trial before the official has been impeached; either impeachment or a court trial may come first, and neither procedure precludes the other.

Having failed to forestall going to court, Judge Claiborne was tried in March 1984. The trial ended in a hung jury, probably because Joseph Conforte, the brothel operator, proved to be a confused, unconvincing witness. In a second trial, held in July, the government dropped the claim that Claiborne had received a bribe from Conforte. This trial resulted in the jury finding the judge innocent of filing a false ethics report but guilty on two counts of failing to report $106,000 of taxable income on his 1979 and 1980 returns, a failure the judge attributed to inaccurate work by his accountants. He was subsequently fined $10,000 and sentenced to two years in prison.

Now that they had lost their attempts to have Judge Claiborne declared ineligible for trial until he had been impeached, and had lost their battle in court, his attorneys, displaying zeal and tenacity on the judge's behalf, appealed his conviction in all possible legal directions, none of them successful.[17] They also advanced a claim that material relating to income tax evasion had been obtained by burglarizing Claiborne's home. The burglary had been conducted, they alleged, by the Federal Bureau of Investigation and the Las Vegas Police Department; both agencies denied participating in such unlawful entry. The Clark County (Las Vegas) district attorney's office investigated the break-in but could unearth no proof that it had taken place.

However, Claiborne might not have salvaged his case even had such proof been discovered. Congressman Robert W. Kastenmeier (D., Wisconsin), a member of the House Judiciary Committee, commented during House investigation of the judge's conduct that if an unauthorized seizure of

Claiborne's tax records occurred, such an illegal act would not wipe out the fact that he had submitted false income tax returns.[18] And Congressman Barney Frank (D., Massachusetts) noted that proof of unlawfully obtained evidence would, by the exclusionary rule, keep someone out of prison but "there is a somewhat higher standard between staying out of prison and staying on the federal bench."[19]

Finally, Judge Claïborne struggled to avoid imprisonment. He claimed that he, or any other judge, would have solid reasons to fear being locked up with criminals, seeming to forget that Maxwell Air Force Base houses only nonviolent white collar prisoners. His fellow-inmates, though not of so elevated a status as he, would be gentlemen crooks, given to obstruction of justice, income tax evasion, or perjury, but not to knifings or throttlings.

Judge Claiborne did not show any notable awe of public opinion. He disregarded calls for his resignation made by Nevada political figures, congressmen from several states, newspapers, columnists, and the American Judicature Society, whose president, L. Stanley Chauvin, Jr., said that Claiborne "violated the public trust and should be removed [because lifetime appointment of federal judges] was never intended to protect felons."[20] As well as disdaining suggestions that he resign, Claiborne showed similar indifference to suggestions that he give up his salary while in prison, a salary he had obviously done nothing to earn since the end of 1983.

But he did show continued interest in being subjected to an impeachment inquiry, insisting that it would provide his first real opportunity for demonstrating that federal agents had pursued him mercilessly and unjustly. He declared that impeachment would at last give him a chance to tell his side of the story, an opportunity, he said, not available at his trial. He added that he had been treated unfairly because "I'm a judge. Had I been the average citizen and not a member of the judiciary, I wouldn't be facing what I'm facing today."[21]

Claiborne's chief attorney, Oscar Goodman, also looked forward to impeachment and a Senate trial. He said of his client, "If we go to the Senate, it's no holds barred. He's going to let everything hang out."[22] Goodman insisted that facts and arguments supportive of the judge's position had not been previously disclosed and that their disclosure would reveal the strength of Claiborne's contentions. He said that the judge had been "hounded, prosecuted, and convicted" because he was "a judge unpopular with federal agents and prosecutors."[23] The "vendetta" theme appeared throughout Judge Claiborne's court trials and various appeals, and recurred peripherally in the course of the impeachment proceedings. It might have raised the substantial question of interference with judicial independence had Claiborne's attorneys been able to demonstrate that the "vendetta" arose because some of the judge's ruling antagonized federal agents. But the revenge motif did not prove adequate to overshadow the unarguable fact that Claiborne had been

found guilty of improper income tax reporting, a specific crime unrelated to any judicial decisions he rendered, whatever their possible unpopularity.

The spectacle of a federal judge sitting in prison, refusing to resign, drawing his full salary, and possibly remounting the bench after being released from prison stimulated introduction in the House of Representatives of an impeachment resolution on June 3, 1986, a few weeks after Claiborne went to prison.[24] Congress, a substantial segment of the judiciary, and portions of the public were offended by his stubborn continuance in office after he had been convicted of a crime. Therefore, as matters stood, because Judge Claiborne was alive and well and had no intention of resigning, impeachment remained the only procedure by which his removal from office could be secured.

On June 24, a mere three weeks after the resolution to impeach Judge Harry E. Claiborne had been introduced in the House, a fifteen-member subcommittee of the Judiciary Committee voted unanimously to recommend Claiborne's impeachment to the full committee. And just two days later the judge's professed desire to be impeached moved closer to fulfillment. The Judiciary Committee, composed of twenty-one Democrats and fourteen Republicans, eight of whom, including Chairman Peter W. Rodino (D., New Jersey), had served on the committee during its investigation of President Richard Nixon's conduct in 1974, adopted three articles of impeachment by a unanimous vote: thirty-five to zero. The three articles accused the judge of willfully and knowingly filing incorrect income tax returns in 1979 and 1980, and of being convicted in a court of law for those violations. A fourth article, stating that Claiborne had brought the federal judiciary into disrepute, was adopted following some changes in wording. The four articles were then incorporated into a single resolution that the committee adopted without dissent. Not a word of support for Harry E. Claiborne was offered by any member of the committee.[25]

In the midst of House of Representatives appraisal of his deportment, Claiborne received another dent in such judicial reputation as may have remained to him. Chief Justice Warren Burger reported to the House on July 2 that the Judicial Conference had found that Claiborne's behavior might constitute grounds for impeachment. Thus another institution of government indicated serious doubt of Harry Claiborne's fitness to remain in office. A day or two later, the judge's lawyer, Oscar Goodman, exhibiting no dismay over actions that had already been taken against his client, stated that Claiborne "was a credit to the judiciary"; his attempted ouster showed "a lack of sensitivity to the entire judicial process" on the part of his detractors, Goodman asserted.[26] This intrepid comment was made after the Judiciary Committee, lawyers all, had voted unanimously for impeachment, and after the Judicial Conference and the American Judicature Society had recorded their lack of confidence in Judge Claiborne.

On July 22, a month after the Judiciary Committee's unanimous recom-

mendation, the House of Representatives voted 406 to 0 to adopt the impeachment resolution.[27] The magnitude of House repudiation of the judge boded ill for his chance of exoneration in a Senate trial. Lacking partisan, professional, or geographical support, Claiborne became the archetypal outcast of impeachment theory.

During House of Representatives consideration of Claiborne's impeachment, no congressman spoke in explanation or support of the judge's conduct; several members referred to his behavior as a mockery of justice. Hamilton Fish (R., New York), who had served during the Judiciary Committee's inquiry into President Nixon's performance, viewed Judge Claiborne as "more than a mere embarrassment. He is a disgrace—an affront—to the judicial office."[28] William J. Hughes (D., New Jersey) referring to Judge Claiborne's conviction for income tax evasion, noted that he "did not cheat just once. He cheated two years in a row."[29] Romano Mazzoli (D., Kentucky) called Claiborne's failure to resign "evidence of arrogant behavior," showing "brazenness" and a "contemptuous attitude toward the country, toward the bench, toward the public service."[30] And of the same subject, declining to resign, Congressman F. J. Sensenbrenner (R., Wisconsin) observed that greater criminals than Harry Claiborne might have been federal judges "but they all had the sense of decency and sense of decorum to step down."[31] In the one hour allotted to impeaching Claiborne, seven Democrats and seven Republicans spoke in the spirit and tone of the foregoing excerpts; and four congressmen, including both of Nevada's representatives, unable to obtain floor time for their presentations, received permission to publish their opposition to Claiborne in the printed record.

Having secured an unambiguous decision to impeach Judge Claiborne, the House selected nine members, called managers, to prosecute the case before the Senate. Five Democrats and four Republicans comprised the board of managers, reflecting the nonpartisan nature of the prosecution.

The House of Representatives then notified the Senate of its action and reported that the managers were ready to present the articles of impeachment. Then followed a bizarre episode: the Senate declined to receive the message, an entirely unheard-of event in impeachment history and one called "institutionally outrageous" by an anonymous congressman, who added, "You just don't insult the House this way."[32] By existing rules, the Senate must announce a schedule for a trial within one day of receiving articles of impeachment.[33]

On August 7 the Senate's peculiar stalling tactic ended and it accepted the articles from the House managers. It then broke with impeachment tradition once more by naming a twelve-member panel of six Republicans and six Democrats, all lawyers, to sift through the evidence and submit its findings to the Senate. A rule permitting this procedure was adopted in 1935, just before the trial of Judge Halsted L. Ritter, but was not used in his case. All impeach-

ment proceedings have taken place before the full Senate or before those members who chose to appear, poor attendance being a hallmark of most trials.

In addition to the claims that Harry E. Claiborne had been damaged by careless tax preparers, victimized by an inexorable band of federal prosecutors bent on his destruction, and convicted on evidence improperly obtained by a break-in at his home, one other matter was raised by his defenders: that his appeals both before and after conviction had been incorrectly or inadequately weighed by the appellate courts. When this matter came before the Senate in Claiborne's trial, the Senate declined to consider material connected solely with actions taken within the court system and concerned with admission of evidence or denials of appeals, nor did it accept arguments concerning illegal seizure of material in his residence.

The next flurry of pre-trial activity on Judge Claiborne's behalf centered on an effort to have him released from prison so he could help his attorneys prepare for the coming trial in the Senate. "The defendant has suffered the ignominy of being the only sitting federal judge to be incarcerated," the motion for release stated.[34] Here, again, the judge was not successful.

As the trial date neared, Oscar Goodman attempted to derail the proceedings, even though he had appeared to welcome them. He asserted that Judge Claiborne had not been accused of anything relating to discharge of his office. The accusations against the judge, Goodman reported to the Senate Rules Committee, were based on alleged misconduct, private in nature, not on official misconduct. Hence, the case against Claiborne did not involve impeachable behavior.

Later, before the Senate impeachment trial committee, Goodman made the same argument, insisting that Claiborne's purported misbehavior had to be part of "his official function as a judge."[35] Senator Paul Sarbanes (D., Maryland), a member of the House Judiciary Committee during the impeachment inquiry into President Nixon's performance, asked whether Goodman meant that, had the judge "committed murder or rape, and not in doing his official duties, that this is not an impeachable offense?" To which Goodman replied, "That is my position."[36] Oscar Goodman did not know, or failed to recall, that the Constitution does not specify *official* misconduct, and that some of the impeached jurists had been accused of off-duty improprieties, not of activities performed on the bench or directly connected with their judicial function.

The subject of whether the conduct under scrutiny had to be an official act was mentioned in Charles Swayne's impeachment trial (1905), when Manager James B. Perkins supposed a judge, in jail for forgery or embezzlement, could claim he could not be impeached for acts committed in his private capacity. If this claim were accepted, Perkins said, the judge "as he marches to perform hard labor . . . will receive . . . his salary as a judge of the United States Court. Such a result shows the absurdity of the position."[37]

On September 15, 1986, the Senate Impeachment Trial Committee began its open and televised hearings, which continued for seven days. Judge Harry E. Claiborne, accompanied by Oscar Goodman and former Senator Howard Cannon, attended. Claiborne restated his position on three points: (1) the twelve-member Senate panel was unconstitutional, (2) the full Senate should hear the evidence supporting his contention that the national government had pursued a relentless vendetta against him, and (3) the full Senate ought to consider his claim that material central to his conviction in court had been illegally obtained by agents of the national government. The House managers, conversely, insisted that evidence presented to the special Senate panel, and subsequently to the Senate, should be limited to the record of the court trial in which Judge Claiborne had been convicted of evading part of his income taxes. The managers considered that a line-by-line review of the litigation resulting in the judge's conviction would be wasteful: he had duly been found guilty of a crime, had exhausted all of his appeals, and should be evaluated by the Senate on the basis of these established facts. The special Senate panel essentially accepted the House managers' request, but did agree to hear arguments that witnesses for the judge in his tax evasion trial had been intimidated or coached by federal agents.

One witness, Jerry Watson, operator of "Creative Tax Planning" in Las Vegas, had prepared Judge Claiborne's 1980 tax return. He recounted alleged threats against him by Internal Revenue agents, threats made, he said, unless he altered his trial testimony that had been supportive of the judge's position. Watson reported discovering that he had made a mistake in telling the grand jury investigating Judge Claiborne that he did not know that the judge had received $88,000 in legal fees in 1980, fees obviously earned before Claiborne became a judge. Watson subsequently remembered that he had known about the fees and had wired the grand jury of his error in denying having such knowledge. Whereupon, he said, he was threatened by Federal Bureau of Investigation and Internal Revenue Service agents with prosecution unless he withdrew the amended statement and reaffirmed his original claim that Claiborne had not informed him about the $88,000 in fees. Watson reported being asked by the agents whether he understood federal statutes on conspiracy and fraud and knew he might be a target of a grand jury for lying and covering up for Judge Claiborne.[38]

The Senate panel paid little attention to this, or other, evidence of harassment by federal agents. The panel focused its attention on the two faulty income tax returns. The first incorrect return, 1979, had been prepared by Joseph Wright, who had been Judge Claiborne's accountant for thirty years. It understated his income by $18,700. The judge insisted that he had supplied Wright with all the information about his income and that the accountant had made an error. Wright said that he had not been told about all of Claiborne's income from his former law practice. Wright noted that the judge, who for many years had had all his bank statements sent directly to

Wright's firm, had abruptly ceased doing so. Therefore, Wright possessed only the information supplied to him by Judge Claiborne. Unlike most taxpayers who acknowledge examining their returns "under penalty of perjury," Claiborne told the Senate Committee that he had not seen his 1979 return before it went to the Internal Revenue Service.

The 1980 return had been prepared by Jerry Watson, whose testimony before the Senate Committee did nothing to justify the faulty report submitted to the I.R.S. Watson's tangled and bumbling description of his procedure in preparing the 1980 return, one submitted in pencil, incompletely filled out, and understating the judge's income by $87,900, did not exemplify professional accounting practices.[39] Nor did Claiborne's subsequent expression of total reliance on his tax preparer, "I was a hundred percent sucked in by this man,"[40] clarify the basis for Judge Claiborne's confidence in Mr. Watson. The Senate committee received no explanation showing why a tax preparer would create a false return favorable to a client but unbeknownst to that client. As Senator Warren Rudman (R., New Hampshire) commented to Watson, the Senate could not be expected to believe that a man in the accounting business "independent of the client, sat down and constructed a wholly artificial series of transactions resulting in a loss."[41] Jerry Watson was called by Senator Dennis De Concini (D., Arizona) "the most reprehensible witness I have ever seen come before the Senate."[42]

To view the judge as a caricature of the ignorant, befuddled taxpayer, fallen under the control of careless tax preparers defies acceptance; he may have been inattentive in these instances, but even his detractors acknowledge his intelligence and energy.

The impeachment committee ended its seven days of hearings on September 23, 1986, and two weeks later the Senate met to decide on Harry E. Claiborne's guilt or innocence. The first matter presented to the full Senate was a motion by Oscar Goodman to postpone the trial until Claiborne's request to the Ninth Circuit Court of Appeals for reconsideration had been acted on. Goodman told the Senate that important testimony had not been admitted at the judge's trial: development of the "vendetta" theme and discussion of the alleged burglary of Claiborne's home. Manager Henry J. Hyde (R., Illinois) replied that Claiborne had had a fair trial and had exhausted all appeals; hence, his efforts to delay the Senate trial should not be allowed.[43]

Next Goodman moved to have the Senate special impeachment committee declared unconstitutional, thereby providing for the entire Senate to hear the witnesses and evaluate their reliability and conduct.[44] Of this motion, Manager William J. Hughes (D., New Jersey) noted that creation of a special impeachment committee was "a wise, prudent, and constitutional delegation of authority,"[45] and that Claiborne was reaching in all directions in an effort to postpone the trial.

The third motion made on Judge Claiborne's behalf asked the Senate to designate the phrase, "beyond a reasonable doubt," as the standard of proof

in the trial. Manager Robert Kastenmeier (D. Wisconsin) replied that past impeachment trials had set the standard as "preponderance of evidence"; he noted that a Senate trial was not a criminal proceeding, but one simply to decide whether Claiborne should be removed from office.[46]

The Senate by voice vote defeated Claiborne's motion to postpone the trial, whereupon Managers Hamilton Fish (R., New York) and Peter Rodino (D., New Jersey) summarized the evidence pointing to conviction.[47] They described Harry E. Claiborne's underpayment of his taxes as willful, intentional, and fraudulent. Respecting Article Three, conviction in trial court as sufficient ground for a Senate verdict of guilty, Congressman Rodino argued that the converse should not be inferred: that acquittal at a court trial would provide a complete defense against conviction under impeachment. This possibility concerned several senators who probably were thinking about Judge Alcee L. Hastings, acquitted at trial but recommended for impeachment by the Eleventh Circuit Court of Appeals, and later by the Judicial Conference. (The House impeached Hastings in 1988, and his trial in the Senate is pending at the time of this writing, August 1989).

The trial concluded with summary statements by Oscar Goodman[48] and Judge Claiborne.[49] Goodman called attention to the judge's high standing as a jurist and repeated his arguments that the full Senate should hear the witnesses, that no proof of willful misconduct had been put in evidence, and that Claiborne provided the only example of an impeached official being "charged with a situation outside of his judicial function,"[50] a debatable point, as mentioned earlier.

Judge Claiborne told the Senate that he had been unable to present his position on government misconduct in any forum, that he had been a hard-working and dedicated jurist, and that the independence of the judiciary was threatened by "young Turks in the Justice Department" who had become "headhunters" to gain publicity.[51] He had disregarded urgings from supporters that he resign, he said, because he could not walk away from a situation in which he was not guilty of anything.

Following an hour of closed session on October 7, the Senate voted on the motion advanced by Judge Claiborne to accept the phrase, "beyond a reasonable doubt," as the standard of proof. The vote was seventy-three to seventeen against adoption; the seventeen no votes were cast by ten Democrats and seven Republicans.[52] Thus on the second of Claiborne's motions, as on the one to delay the trial, his position did not prevail.

The next day, October 8, the Senate met in closed session for nearly three hours. It then took the only public action for that day by defeating Judge Claiborne's third motion: a request that the full Senate hear the witnesses who had appeared before the special panel. Sixty-one senators voted against the motion, thirty-two in favor.[53] The thirty-two supporting the judge's position included twenty Democrats and twelve Republicans.

On the last day of the trial, October 9, the Senate again met in closed

session, this time for nearly five hours. It then voted on the four articles of impeachment.[54] On Article One, underpayment of income tax in 1979, the vote was eighty-seven guilty, ten not guilty; senators voting not guilty included five Democrats and five Republicans. On Article Two, concerning Judge Claiborne's 1980 tax return, ninety senators voted for conviction, seven against; four Democrats and three Republicans cast the no votes. Article Three, proposing a guilty finding because Claiborne had been convicted in court, proved to be the only article not receiving a two-thirds guilty vote. Forty-six senators favored adoption and seventeen senators, five Democrats and twelve Republicans, rejected adoption; thirty-five senators voted present. The fourth article charged Claiborne with betrayal of public trust and of bringing disrepute on the federal judiciary. The Senate found him guilty by a vote of eighty-nine to eight; four Republicans and four Democrats comprised the senators voting not guilty.

Therefore, on three of the four articles, Harry Claiborne was found guilty by far more than the two-thirds needed for conviction and was convicted on Article Three by a substantial majority, 86 percent of those voting. Upon conclusion of the vote, the Senate ordered "that the said Harry E. Claiborne be, and he is hereby removed from office."[55]

The vote on Article Three deserves particular notice. Senators may have feared the consequences of accepting that article if it could be interpreted as establishing that conviction in court mandated conviction in an impeachment trial. Two problems might arise from such an interpretation. First, the Senate could be ceding its unique role in impeachment to the judiciary. Second, despite Congressman Rodino's argument to the contrary, a vote upholding Article Three might be viewed as establishing a reverse precedent: a court trial resulting in a verdict of innocent precludes, or constitutes an argument against, a Senate finding of guilty. This second point worried several senators, undoubtedly because Judge Alcee L. Hastings, as mentioned, had been acquitted in court on a bribery charge, and could be expected to argue that his acquittal should be decisive proof of innocence in an impeachment trial.

Harry E. Claiborne's conviction was unequivocal, showing no partisan or geographic characteristics. Senators voting not guilty on one or more articles, or expressing only qualified support for the verdict, stated, variously, that (1) Claiborne had made negligent, not willful, errors on his income taxes; (2) he should have been subjected to a civil, not criminal, action for underreporting his income taxes; (3) the possible, but unexamined, overreaching of government agents to catch the judge tainted the proceedings; and (4) the full Senate should have heard the witnesses, not relied on the testimony presented to the twelve-member hearing panel. But no senators advanced an argument that Judge Claiborne was innocent; and only a handful cast a not guilty vote on the basis of the reasons just noted.

These observations are derived from the statements filed by eighteen sena-

tors, twelve Democrats and six Republicans, at the conclusion of the trial.[56] Only three senators—Daniel J. Evans (R., Washington), Orrin G. Hatch (R., Utah), and David Pryor (D., Arkansas)—voted not guilty on all four articles. The Senate gave no consideration to permanent disqualification of Claiborne, undoubtedly because no expectation existed that he would be appointed to, or run for, a national office at some future time.

Given Judge Claiborne's conviction in court; the rejection of his many appeals; the disavowals of his conduct by the Judicial Conference, the American Judicature Society, and prominent public figures; his impeachment by unanimous vote of the House of Representatives; and finally, his being found guilty by a staggering 92 percent vote in the Senate, why did he continue his efforts to have his court conviction overturned? The most solemn attempt to deal with this question has produced no solid answers.

The best explanation of Claiborne's persistence seems to be that he considered himself innocent of willful misconduct. That he had underpaid his taxes he acknowledged, but he claimed that the underpayments occurred through mistakes made by his accountants, not by any intention on his part to defraud the government. The inadequate income tax payments should have been a subject of civil, not criminal, action, Claiborne argued; and he added that he had been convicted on evidence secured by a burglary of his home. Furthermore, he said, the trial court had not permitted introduction of proof alleged to show prejudice and misconduct by agents of the federal government. For these reasons, Judge Claiborne felt badly used.

Although the vindication he had hoped for at an impeachment trial had completely failed, he continued to press for reversal of his court conviction. Such a reversal could be expected to clear his name but, obviously, not permit him to resume his judgeship or secure a federal pension. The years of seeking to overturn his conviction and the expenditures of money in that cause can be understood only as the effort of a man who viewed himself as unjustly treated by the system he was sworn to uphold. Such an appraisal falls short when measured against the record, but it is the only one that makes sense. Otherwise, Harry E. Claiborne had been flying in the face of crushing evidence against him, and of significant public and professional repudiation of his position.

Post-conviction activities on Harry E. Claiborne's behalf include continuing to press the Ninth Circuit Court of Appeals for reconsideration of his conviction; the court, in a three to zero ruling, rejected the appeal on March 22, 1989. On January 21, 1987 the United States Parole Commission had voted eight to zero to deny Judge Claiborne's request for immediate parole. The commission said that the judge had breached the public's trust by submitting "fraudulent tax returns."[57]

On May 18, 1988, the Nevada Supreme Court ruled that Claiborne, who had completed his prison term, could resume practicing law in the state. In

reaching this decision the court suspended operation of its rule (SCRIII) that requires a disciplinary hearing conducted by the state bar on matters concerning suspension or disbarment of an attorney. The reason for suspending the rule, the court stated, arose from the fact that the court had conducted its own extensive examination of all material relevant to Harry E. Claiborne's trials and appeals. State bar officials were unwilling to study this voluminous review and, instead, proposed hiring an outside investigator. The court rejected the proposal as too time consuming. It pointed out that the state bar was empowered only to make a non-binding recommendation to the Nevada Supreme Court, a body already satisfied that its own exhaustive study of the case demonstrated that Claiborne was entitled to resume the practice of law.

Another unusual aspect of the decision concerns the Nevada Supreme Court's reliance on dissenting opinions of the Ninth Circuit Court of Appeals and on minority opinions of senators in the impeachment trial. Not once did the court cite a circuit court majority opinion or a majority position of senators involved in the impeachment trial.[58]

Whatever its unusual characteristics, the court's ruling is the most complete presentation of Claiborne's position that can be found in any single source. In a summary sympathetic to the judge's contentions, the court reviewed the conduct of federal agents (the "vendetta" theme); the federal government's dubious reliance on the testimony of brothel owner Joseph Conforte as a witness against the judge; the rebuffs Claiborne encountered in his court trials in trying to present evidence of governmental misconduct; and the absence of proof of willful failure to pay his income taxes in full. The Nevada Supreme Court's appraisal of Judge Claiborne's experience led it to conclude that "questionable investigative and prosecutorial motivations, as well as anomalous and arguably unfair practices and procedures pervade the record of this matter from its inception. . . . In light of the above we decline to impose additional punishment upon respondent Claiborne. . . ."[59]

Harry E. Claiborne also applied for readmission to practice before the federal courts. His application was denied in September 1988; the ruling included a proviso that he could not reapply for admission to federal practice for a year.

Judge Claiborne occupies an eccentric position in impeachment history; his case is unique in some respects and unusual in others. Claiborne's involvement in the impeachment process reveals his participation to be something of an anomaly when compared with the history and habits of earlier impeachments and trials, and insures him a star role in the literature of impeachment.

The unique aspects of the judge's experience began with the fact that no other target of impeachment had been convicted of a crime for which he was currently imprisoned. In nearly two hundred years, the Senate had never before being presented with a trial record as part of its evaluation of an offi-

cer's performance. Whether a trial transcript would be conclusive in any subsequent impeachment trial is not plainly established from the Claiborne example. Certainly the judge's criminal record proved to be the key to his conviction by the Senate, but the Senate shied away from a pronouncement that court conviction in itself formed an absolute ground for impeachment.

Other unique attributes of the Claiborne example include the following: Senate delay in accepting the articles; creation of a special Senate investigating panel; the highest attendance at a trial, ninety-eight Senators present, ninety-seven voting; the first instance of a subsequently impeached official claiming that he could not be tried in court unless he had been impeached; and the only allegation by an impeached officer that the government had waged a relentless vendetta against him.

Judge Claiborne's case also reveals certain qualities that, though not unique, are rare in impeachment history: (1) unanimous impeachment by the House of Representatives, shared with Secretary of War William Belknap (1876); and Judge Walter Nixon (1989); (2) impeached by a House in which his own party composed the majority, a characteristic of the impeachments of Judge Charles Swayne (1905), of Judge Alcee L. Hastings (1988), and of Judge Walter L. Nixon (1989): (3) a board of managers composed of a majority of his own party, a quality also of Swayne's impeachment; and (4) a short trial, consuming only brief portions of three days, exceeded in this regard only in the case of Judge West H. Humphreys (1862) whose trial took a mere half-day.

In at least two other respects, Harry E. Claiborne's association with impeachment is unusual. Neither the House of Representatives nor the Senate displayed any partisan attitudes either for or against the judge; his fellow Democrats failed to support him, and only a few senators of either party pointed out any mitigating circumstances accounting for his conduct. Most of the preceding impeachments and trials reveal noticeable, often controlling, partisanship. The other unusual quality concerns the scant and fleeting references to earlier Senate impeachment trials. Claiborne proved to be so singular a subject that the trial records of his predecessors did not supply useful material to his attorneys nor did the House managers need to rely on historical support in demonstrating the judge's culpability.

Had Judge Claiborne resigned, past experiences indicate that Congress would not have proceeded against him; he would then have been an obscure footnote instead of a major figure in impeachment history. Comments by several representatives and senators involved in Claiborne's case, as previously mentioned, support the thesis that resignation would have halted further congressional action against him; so also does the history of the effect of past resignations in stopping proceedings. Congress has shown more concern for the first prong of the process, removal from office, than for the second, disqualification from obtaining any further federal post.

Two constitutional amendments were proposed as a consequence of Judge

Claiborne's misconduct. Senator Strom Thurmond (R., South Carolina), stating that it was an "unacceptable quirk" and "outrageous that the time and energies of Congress are spent on this tedious and unwarranted process,"[60] proposed that any officer appointed by the president and confirmed by the Senate who was convicted of a felony forfeited his office. Senator Dennis De Concini (D., Arizona) also proposed an amendment; it too provided for automatic forfeiture upon a felony conviction, and added a section empowering the Supreme Court to discipline judges.[61] Nothing came of these potential amendments, but, as mentioned earlier, the current increase in impeachments and trials may well lead Congress to a comprehensive study of alternative routes to appraising jurists—perhaps to activating the "good behavior" clause.

Claiborne's case may also prove of enduring significance by tightening future Senate appraisals of judgeship nominees. Senators may look less intently at a nominee's political connections and more intently at the character, temperament, and judicial qualities of such a nominee.

If it had no other consequence, the example of Harry E. Claiborne would be of permanent importance in underlining the value of the impeachment mechanism. It is the only device for reaching delinquent judges, who, immune from dismissal and immune from being voted out of office, can, unless they die or resign, be ousted only by employment of that mechanism.

Notes

* William J. Raggio, who represented Judge Claiborne during his court trials, and Lawrence J. Semenza, who appeared as a character witness for the judge during his impeachment trial, read this article. My presentation was neither endorsed nor opposed by either attorney.

[1] Alcee L. Hastings, a federal district judge in Florida, was impeached by the House of Representatives on a vote of 413 to 3 on August 3, 1988. At the time of this writing (August 1989) his hearing before a Senate impeachment committee had concluded. Walter L. Nixon, Jr., a federal district judge in Mississippi was unanimously impeached by the House on June 10, 1989; he was in jail at the time of his impeachment. Like Judge Claiborne, he continued to draw his salary ($89,500) while imprisoned.

[2] Judge Claiborne had been housed at the federal prison at Maxwell Air Force Base in Alabama since May 16, 1986, following his conviction in federal district court of underpaying his income taxes in two successive years.

[3] Article I of the Constitution assigns to the House of Representatives the sole power to impeach. It assigns to the Senate the sole power to try an impeachment, and further stipulates that (1) a two-thirds vote of the senators present is needed to convict, (2) the chief justice presides when the president becomes the subject of the trial, (3) the Senate's judgment extends only to removal from office and disqualification from holding any other national office, and (4) a convicted official may subsequently be tried in a court of law. The executive article (II) gives the president power to grant pardons except in cases of impeachment, and further specifies that the president, vice president, and all civil officers of the United States shall be removed from office if impeached and convicted of treason, bribery, or other high crimes and misdemeanors. Article III, the judicial article, establishes trial by jury for all crimes except in cases of impeachment.

[4] The impeachment mechanism is activated by introduction in the House of Representatives of a resolution to investigate the suspect official's conduct, a recommendation by the investigating committee that impeachment is warranted, approval of the recommendation by the House Judiciary Committee, and

House adoption, by ordinary majority vote, of articles of impeachment setting down the specific misconduct of the officer involved. The official is then tried in the Senate. If found guilty by a two-thirds vote, he is removed from his post and may suffer the additional shame, by majority vote of the Senate, of being disqualified from ever again holding a national office of "honor, trust, or profit." The sentence of perpetual disqualification has been pronounced only twice: on Judge West H. Humphreys in 1862 and on Judge Robert W. Archbald in 1913.

[5] As reported by Carlos J. Moorhead (R., California), *Hearings Before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the House Judiciary Committee*, 99th Cong., 2d Sess., 4.

[6] See Raoul Berger, *Impeachment, The Constitutional Problems* (Cambridge: Harvard University Press, 1973), chapter 7.

[7] Violation of the "good behavior" requirement was cited in the impeachments of Judges Charles Swayne, Robert W. Archbald, George W. English, Harold Louderback, and Halsted L. Ritter.

[8] The Judicial Councils Reform and Judicial Conduct and Disability Act, Public Law 96-458, 28 U.S.C. § 372. In 1985, 191 new complaints were received and 211 complaints were disposed of; 184 were dismissed as frivolous, or related to the merit of a decision. *Annual Report of the Director of the Administrative Office of the United States Courts*, 93-95. For a discussion of the problems of correcting improper judicial behavior before passage of this act, see Berger, *Impeachment* 122-180, and Joseph Borkin, *The Corrupt Judge* (New York: Clarkson N. Potter, Inc., 1962), 189-210.

[9] Hastings, a Florida state judge, was appointed a federal district judge for the southern district of Florida by President Carter in 1979. When he appeared in his confirmation hearing before the Senate Judiciary Committee, Hastings was asked his opinion of the pending Judicial Conduct Act. He opposed it, saying that the existing system "has managed to eliminate that person [a faulty judge] when a serious problem arose." *Hearings Before the Committee on the Judiciary, United States Senate*, Serial 96-21, Pt. 4, 1979, 463. Hastings had been classified as "qualified" by a majority of the ABA's Standing Committee on the Federal Judiciary; a minority of the committee found him not qualified. *Ibid*, 457. Impeached by the House in 1988, Hasting's Senate trial has been scheduled for September 1989.

[10] The Judicial Conference is composed of the chief justice of the United States, the thirteen chief judges of the courts of appeal, and twelve district judges.

[11] Quoted in *Hearings Before the Senate Impeachment Trial Committee*, 99th Congress, 2d sess., Pt. 1, 1140. Hereafter cited as *Senate Committee*.

[12] *U.S. v. Hastings*, 681 F.2d 706 (1982); the supreme court did not accept review of this decision, 459 U.S. 1203 (1982).

[13] *U.S. v. Claiborne*, 727 F.2d 842 (1984); 469 U.S. 829 (1984).

[14] *Kerner v. U.S.* 417 U.S. 976 (1974).

[15] William Rawle, *A View of the Constitution of the United States of America* (Philadelphia: H.C. Carey and I. Lea, 1825), 204.

[16] For an analysis supporting that assumption, see Melissa H. Maxman, "In Defense of the Constitution's Judicial Impeachment Standard," *Michigan Law Review* 86 (1987): 420.

[17] *U.S. v. Claiborne* 765 F.2d 784 (Ninth Circuit 1985) affirmed the judge's court conviction; the United States Supreme Court declined review of this decision, 475 U.S. 1120 (1986); *U.S. v. Claiborne* 790 F.2d (Ninth Circuit 1986) denied a stay of execution of the judge's jail sentence and rejected the argument that a jurist cannot be imprisoned prior to impeachment and removal from office.

[18] *Markup of House Resolution* 461, 99th Congress, 2d sess., Serial 11, 7. Hereafter cited as *Markup*.

[19] *Ibid.*, 17.

[20] *Reno Gazette-Journal, 13 June 1986.*

[21] *Ibid., 17 May 1986.*

[22] *San Francisco Chronicle*, 20 June 1986.

[23] *Reno Gazette-Journal*, 7 August 1985.

[24] *House Resolution 461, Impeachment of Judge Harry E. Claiborne, House of Representatives Report*, Report 99-688, 3.

[25] *Markup, passim.*

[26] *Reno Gazette-Journal*, 8 July 1986.

[27] *Congressional Record*, 99th Congress, 2d sess., V. 132, no. 95, 4721. Hereafter *Cong. Rec.*

[28] *Ibid.*, 4713.

[29] *Ibid.*, 4716.

[30] *Ibid.*, 4717.
[31] *Ibid.*, 4718.
[32] *Reno Gazette-Journal*, 4 August 1986.
[33] *Procedure and Guidelines of Impeachment Trials in the United States Senate*, 99th Congress, 2d sess., Doc. 99-33, Rule III.
[34] *Reno Gazette-Journal*, 4 August 1986.
[35] *Senate Committee*, Pt. I, 77.
[36] *Ibid.*, 80.
[37] *Cong. Rec.*, 58th Congress, 3d sess., 3246.
[38] *Senate Committee*, 714, 718, 1084-85.
[39] *Ibid.*, 366-84; also *Addendum* to *Senate Committee*, 2133-44. A copy of his 1980 return is reprinted in Part I, 327-38.
[40] *Ibid.*, 1032. The transcript has Claiborne saying he was *not* "totally sucked in," but one of his attorneys confirmed that my text is correct in stating that the judge claimed total confidence in Watson. William J. Raggio, letter to author, 27 June 1987.
[41] *Ibid.*, 1046.
[42] *Ibid.*, 1070.
[43] *Cong. Rec.*, no. 137, 15482-485.
[44] *Ibid.*, 15485-487.
[45] *Ibid.*, 15487.
[46] *Ibid.*, 15490.
[47] *Ibid.*, 15491-6.
[48] *Ibid.*, 15496-3.
[49] *Ibid.*, 15503-5.
[50] *Ibid.*, 15502.
[51] *Ibid.*, 15504.
[52] *Ibid.*, 15507.
[53] *Ibid.*, No. 138, 15557.
[54] *Ibid.*, No. 139, 15759-62.
[55] *Ibid.*, 15762.
[56] *Proceedings of the United States Senate in the Impeachment Trial of Harry E. Claiborne* (Washington: Government Printing Office, 1987), Senate Doc. 99-48: 301-72.
[57] *Reno Gazette-Journal*, 22 January 1987.
[58] *State Bar of Nevada v. Harry Eugene Claiborne*, 104 *Nev.*, Advance opinion 22, 18 May 1988.
[59] *Ibid.*Ibid., 113.
[60] *Hearings Before the Subcommittee on the Constitution of the Committee on the Judiciary, United States Senate*, 99th Congress, 2d sess., Serial No. J, 99-126, 7.
[61] *Ibid.*, 5-6.

NOTES ON THE MILITARY PRESENCE IN NEVADA, 1843-1988

MICHAEL J. BRODHEAD

IN NEVADA, AS IN MOST OF THE UNITED STATES, the presence of the military has had a major impact. From the beginning, it contributed significantly to the settlement, growth, and economic life of the state. Military activity in Nevada has been varied, usually benign, and often beneficial to the civilian population.

THE AGE OF EXPLORATION, 1843-1859

One of the earliest appearances of the Euro-American in what is now Nevada was an expedition led by Lieutenant John C. Frémont of the United States Army's surveying and mapping arm, the Corps of Topographical Engineers. Frémont and his party, travelling through what was then Mexican territory, entered present-day Washoe County in 1843; moved southward to Pyramid Lake (which he named); marched along the Truckee, Carson, and Walker rivers (which he also named); and crossed the Sierra Nevada into California, observing Lake Tahoe en route. Returning eastward in 1844, Frémont and his men followed the Old Spanish Trail and stopped for a time at the Las Vegas spring.

In 1845 Frémont returned to the area, this time moving across northern Nevada. Along the way the Pathfinder explored the Humboldt Basin, the Ruby Mountains, Big Smoky Valley, Walker Lake, and Donner Pass.[1] These expeditions (his second and third into the West) brought public attention to what Frémont labeled the Great Basin and his reports contributed significantly to the knowledge of this region's topography, geology, ethnology, and natural history.[2]

Additions to scientific knowledge came with later army explorations of the Great Basin. In the 1850s, after the United States had acquired the present southwestern quarter of the country (including what was to become Nevada) as a result of the Mexican War, the topographical engineers conducted a series

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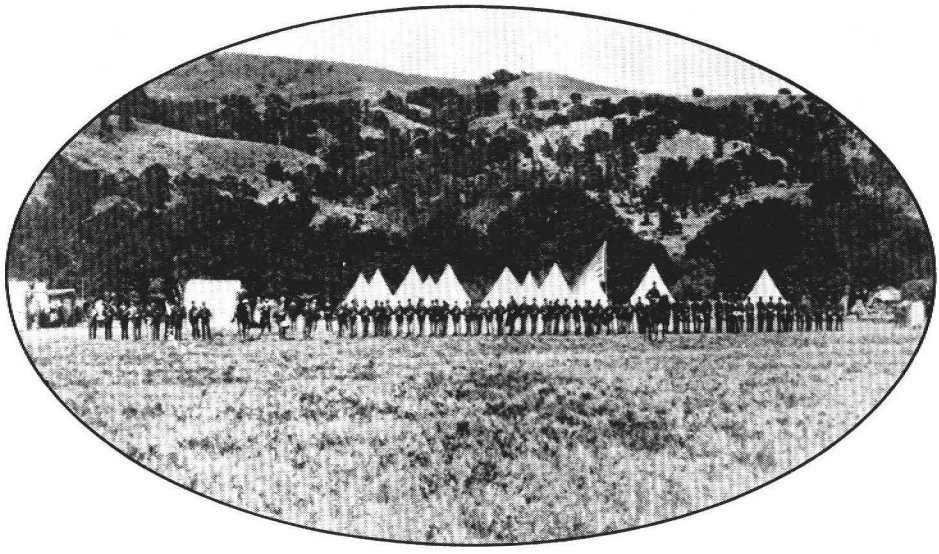


Fort Halleck, Nevada, c. 1870. *(Nevada Historical Society)*

of reconnaissances through the trans-Mississippi West for the purpose of locating favorable routes for a transcontinental railroad. Indians killed the leader of the party surveying the central route, Captain John W. Gunnison, near Delta, Utah, and Lieutenant Edward G. Beckwith, Third Artillery, assumed command. After spending the winter of 1853-54 in Salt Lake City, Beckwith continued the survey westward. Traveling through what was then the western part of Utah Territory, Beckwith's party crossed the Goshute Range and the Ruby Mountains, followed the Humboldt River, passed through the southern end of the Black Rock Desert, explored the Honey Lake area, and concluded the expedition at Fort Reading, California.[3]

In 1855 Brevet Lieutenant Edward J. Steptoe led two companies of artillery through northern Nevada. At Lassens Meadows his adjutant, Captain Rufus Ingalls, took the dragoon escort and pack animals to Fort Lane, Oregon, while Steptoe continued with the remainder of the group to Benicia Barracks, California. Ingall's official report of the Steptoe expedition contained several astute observations about the lands traversed.[4]

In 1857-58, Lieutenant Joseph C. Ives, of the Corps of Topographical Engineers, conducted a scientific exploration of the Colorado River and the Grand Canyon. His party touched briefly on lands that would later be part of southern Nevada, having reached Las Vegas Wash, in the vicinity of the present-day city of Las Vegas.[5]

The last army exploration of western Utah Territory before the Civil War was that led by Captain James H. Simpson, also of the topographical engineers, in 1859. With the rapid populating of California, there was a pressing

need for a shorter wagon road between Salt Lake and San Francisco. Simpson and a party of sixty-four (which included several scientists) marched out of Camp Floyd, Utah, in search of the better route. They passed north of what would later be Austin, Nevada, entered Carson City, and concluded the survey at Genoa. Following a brief trip to California, Simpson returned to Camp Floyd, travelling a somewhat different, slightly more southern route than that taken westward.[6]

Volunteers and Regulars, 1860-1889

As with the reports of Frémont, Beckwith, and Ingalls, the account prepared by Simpson greatly increased the body of knowledge about the geographical features, natural resources, and flora and fauna of the Great Basin. The work of these intrepid and observant soldiers also facilitated migration across and settlement within the region. This in turn produced tensions between the indigenous inhabitants and the white newcomers, leading to armed hostilities in what was to become, in 1861, Nevada Territory.

The first clash of significance was the Pyramid Lake War of 1860, a conflict that consisted for the most part of two battles. In the first, the Paiute Indians inflicted a crushing defeat upon a badly organized, ill-disciplined band of volunteers from Virginia City, Carson City, and the surrounding communities. The second engagement resulted in a victory over the Indians, outnumbered by a force composed of regulars dispatched from California and local volunteers.[7]

The war ushered in a period of building fortifications in northern Nevada. The leader of the regulars, Captain Joseph Stewart, Third Artillery, erected temporary earthworks on the Truckee River in June 1860, and named them Fort Haven and Fort Storey.[8] In the following month Stewart established Fort Churchill. Located in Lyon County, midway between the Pyramid Lake and Walker River Paiutes, this post became the largest and best known of Nevada's nineteenth-century military installations. During the Civil War it was garrisoned largely by California and Nevada volunteer units. Following the war the regulars resumed occupation and remained until orders for abandonment of the fort were issued in 1869.[9] Since 1935 the site of Fort Churchill has been a state park.

The war saw the establishment of several short-lived posts. They, too, were manned by California and Nevada volunteers (the latter belonging to the Nevada Battalion, which consisted of cavalry and infantry). Most were in northern Nevada, and existed principally to protect settlers, the Overland Route, mail routes, and the transcontinental telegraph line from Indian raids. Occasionally the troops responded to rumors (usually unfounded) of pro-Confederate activities.

The soldiers were housed in the rudest and most temporary forms of shel-

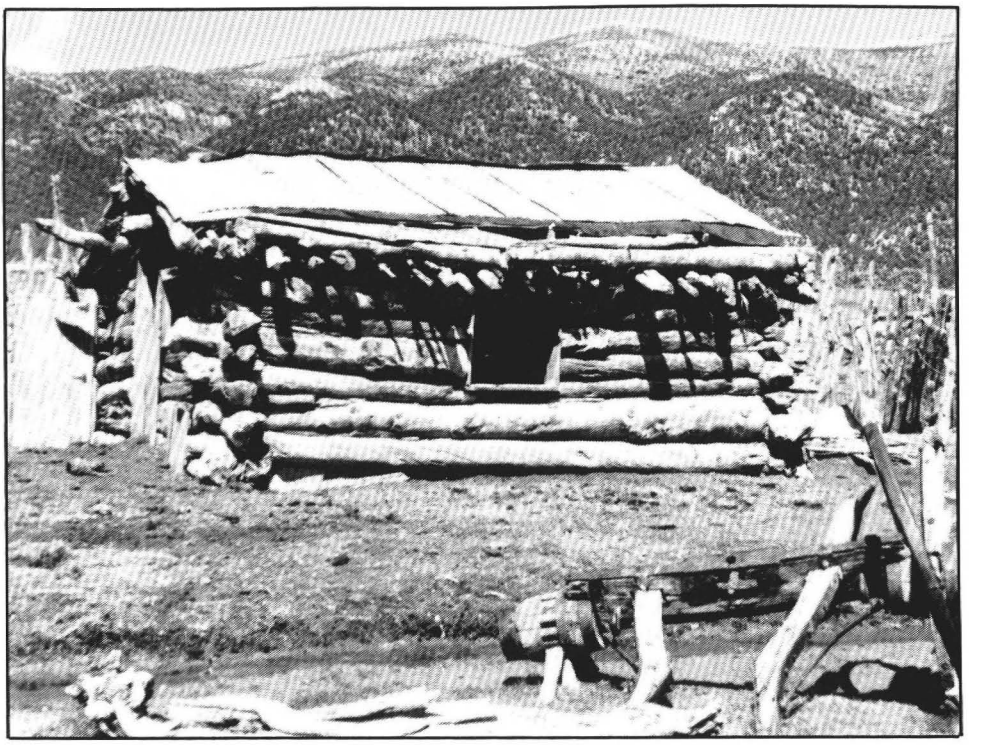
ter in these camps and so-called forts.[10] Among them were Camp near Aurora (Esmeralda County, May-August, 1862), Camp Black (Massacre Lake in Washoe County, Paradise Valley in Humboldt County, and elsewhere, all 1865), Camp Dun Glen (present Pershing County, 1865-66), Camp McKee (Washoe County, 1865-66), Camp Overend (Humboldt County, 1865), Camp Pollock (Washoe County, 1864), Camp (and depot) Smoke Creek (Washoe County, 1862-64, 1865), Post at Virginia City (Storey County, 1864), and Camp at Willow Point (Humboldt County, 1865).[11] In December of 1861 the commander of the District of Southern California ordered that the adobe fort erected by the Mormons in Las Vegas in 1855 be occupied by California volunteers. This proposed Fort Baker, however, was apparently never garrisoned.[12]

Of the several camps for Civil War volunteers, that for which the most information is available is Camp Nye. A post of this name, located on the southern edge of Washoe Lake, five miles north of Carson City, served as a bivouac area for a company of California cavalry for about one week in 1862. A longer-lived and more significant Camp Nye, situated in Kings Canyon, two miles west of Carson City, housed two companies of Nevada volunteer cavalrymen. Its barracks or huts were constructed in the fall of 1864 and continued to be occupied until late in 1865.[13]

Three installations established by California volunteers during the Civil War were destined to continue, at least briefly, as regular army posts after the close of the war. Camp Ruby was erected on the western side of Ruby Valley, northwestern White Pine County, in 1862, for the purposes of protecting the Indians of the area and patrolling the Overland Mail and emigrant routes. Regulars occupied Camp Ruby from December 1865 until its abandonment in 1869.[14]

Fort McDermit, created by California troops in August 1865, enjoyed the longest life of any Nevada post. Located on the east bank of the Quinn River, Humboldt County, the main responsibility of its soldiers initially was to guard the stage routes and wagon roads of the vicinity. The troops were quartered in adobe, stone, and, later, frame structures. Regulars replaced volunteers in 1866 and were given the added duty of protecting the nearby Indian agency. Abandoned in 1888, the fort's reservation was transferred to the Interior Department for use by the Fort McDermit Indian Agency and the Indian school, which continues to operate there.[15]

Also in Humboldt County are the remains of Camp McGarry. California infantrymen created this post on the Applegate Cutoff in the fall of 1865. Its main function was to guard the mail routes extending from Idaho into California and Oregon. Regular troops occupied the camp from 1866 until its abandonment in 1868. For a short time it replaced Fort Churchill as the headquarters of the District of Nevada. Since 1871 it has been in the hands of the Interior Department, as part of the Summit Lake Indian Reservation.[16]



Fort Ruby, White Pine County, Nevada, c. 1867. *(Nevada Historical Society)*

Two regular United States Army posts in Nevada came into being after the Civil War. The first, Camp Winfield Scott, was situated at the foot of the Santa Rosa range, in the northwestern corner of Paradise Valley, Humboldt County. Troops of the Eighth Cavalry began construction of its adobe, sod, and stone buildings soon after the official establishment of the post in December 1866. Soldiers of this regiment and the First Cavalry were garrisoned here until its abandonment in 1871. Their primary duty was controlling the Indians of this portion of Nevada and southern Idaho.[17]

Second in longevity to Fort McDermit among Nevada's nineteenth-century military installations was Fort Halleck, which owed its creation to the building of the Central Pacific Railroad. Soldiers were needed to protect the railroad's workers, as well as travellers using the Hastings Cutoff. This two-company post was established in 1867 and was located on the east bank of Cottonwood Creek (now Soldier Creek), on the western slope of the Ruby Mountains in Elko County. Its buildings were of logs, adobe, and stone. The War Department relinquished the Fort Halleck Military Reservation in 1886. The lands formerly belonging to it and to Camp Winfield Scott have long been privately owned.[18]

An executive order of 1874 created a 960-acre military reserve one and a

half miles from Carlin, but the projected Fort Carlin was never built, and the lands were turned over to the Department of the Interior in 1888.[19] Similarly, in 1871, plans were made for a camp in Elko, but the proposed Camp Elko never materialized.[20]

Three quite temporary camps for regular troops also existed briefly in this period. Each was for the purpose of protecting miners and other settlers from Indians: Camp Eldorado (present Clark County, 1867), Fish Lake Camp (Esmeralda County, 1866-67), and Fort Sage (Washoe County, 1870).[21]

Although troops from all of Nevada's regular United States Army posts engaged in forays against Indians, Nevada was the scene of little actual combat, compared to most other states. The armed encounters between Indians and whites were brief and localized, and usually consisted of mutual depredations and retaliatory raids. After the second battle of the Pyramid Lake War in 1860, regulars participated in only six engagements of any consequence in Nevada, all of them relatively minor and confined to the years 1866-68.[22] Some soldiers stationed in the Nevada posts did, however, see action in neighboring states.

As elsewhere, the soldiers of the regular army were protecting Indians from whites and from each other as well as protecting whites from Indians. The foremost voice of the Paiutes, Sarah Winnemucca (at one time a hospital matron at Fort McDermit) wrote of the "generosity . . . and kind care and order and discipline that make me like the care of the army for my people . . . [The soldiers] know more about the Indians than the citizens do, and are always friendly."[23] The same cannot be said of the volunteer soldiers of the Civil War era, who probably provoked more ill will and bloodshed than did their Indian adversaries.

Contrary to the popular image of western posts, those in Nevada and elsewhere in the Far West housed not only cavalrymen, but infantry and artillery troops as well. Moreover, not all army personnel in Nevada in the post-Civil War years were there as actual or potential warriors. After the war scientific exploration under army auspices resumed. The most ambitious such undertaking in this period was the United States Geological Surveys West of the One-Hundredth Meridian. Led by Lieutenant George M. Wheeler of the Corps of Engineers, the survey started preliminary work in 1867 in California and Nevada, and began officially in 1872 at Fort Halleck. When Wheeler and his parties concluded their efforts in 1879, they had mapped most of Nevada and large portions of California, Arizona, New Mexico, and Colorado. As with the antebellum army surveys of the West, military and civilian scientists accompanied Wheeler and made important contributions to the knowledge of the geology and natural history of the West.[24] Another of the Great Surveys of this era was Clarence King's Geological Exploration of the Fortieth Parallel, which was conducted largely within Nevada. Although it was under the direction of the War Department, the survey was a civilian undertaking, except for its military escorts.

Other such activity includes the reconnaissance led by Lieutenant Charles E. Bendire, First Cavalry, which, in 1867, scouted and mapped part of Death Valley and large portions of southern and central Nevada.[25] The United States Army Signal Corps accomplished still other scientific work. In the 1870s and 1880s the corps served as the nation's weather service, operating observation stations throughout the country. Two such stations, manned by enlisted men, were located in Pioche and Winnemucca.[26]

Officers of the Corps of Engineers became involved in the building of the Sutro Tunnel. In the early 1860s Adolph Sutro, prominent businessman and mill and smelter operator on the Comstock Lode, proposed the building of a four-mile tunnel, to extend from the foothills east of Mount Davidson through the mountain and on to a point near the Carson River. It was to facilitate removal of ore, provide drainage, and improve ventilation. Rival mining interests fought the proposal and continued to oppose the plan even after the United States Congress had approved it in 1866. In 1869, while work on the tunnel was in progress, Congress created the Sutro Tunnel Commission. Consisting of two army engineers and a civilian expert, its mission was to provide an objective examination of the project and to report on its feasibility. The members of the commission were Lieutenant Colonel Horatio G. Wright (later chief of the Corps of Engineers), Lieutenant Colonel John G. Foster, and Wesley Newcomb, a civil and mining engineer. In 1872, after a thorough study of the project and the hearing of much testimony, the commissioners issued a report expressing qualified approval of the tunnel. Nonetheless Congress declined to make the loan Sutro had requested.[27]

Decline and Fall of the Militia, 1890-1918

Supplementing the United States Army regulars—on paper at least—was Nevada's militia. The militia, an English legacy, had existed in America since the early colonial period. The Uniform Militia Act, passed by Congress in 1792, made all able-bodied male citizens between eighteen and forty-five years of age members of the militia. But the act left actual organization and discipline of the citizen-soldiers in the hands of the states and territories. This meant that most militia-age males were simply in the "enrolled" militia, with no actual military responsibilities. Others, however, organized themselves into groups that were reasonably well equipped, regularly drilled, and had a semblance of discipline.

From 1850 until 1861, militia-age citizens in what was later Nevada were subject to the militia laws of Utah Territory. In 1862 the legislature of the new Territory of Nevada enacted legislation creating a territorial militia. After statehood, the statute was re-enacted, with a few minor changes. It was typical of the militia laws of other states. Under its terms the governor was the commander-in-chief of the militia, with an adjutant general as its highest

officer. The act provided for the organization of divisions, brigades, regiments, and companies; the appointment of general officers by the governor and the appointment or election of other officers; discipline and drill; armament and equipment; pay when called into active service; the establishment of armories; and exemption from militia duty for some classes of citizens.[28] Militiamen should not be confused with the soldiers who served in volunteer units (such as the Nevada Battalion) during the Civil War; the former were citizens subject to being called into temporary service by the state or the federal government; the latter were full-time, active-duty soldiers belonging to units that were integral parts of the federal armies.

In Nevada, as elsewhere in the union, some citizens took their militia responsibilities seriously enough to form adequately equipped and regularly drilled companies. Such units made up the "organized" (as distinct from the "enrolled") militia. Examples of such companies in the territorial and early statehood periods were: the Emmet Guards, Virginia City; Esmeralda Rangers, Aurora; Lander Guards, Austin; Silver City Guards; Lexington Guards, Pioche; Nevada Rangers, Eureka; Ione City Guards; Virginia City Tigers; and the Galena Guards, Washoe County.[29]

In the last quarter of the nineteenth century, state militias throughout the country, following New York's lead, began styling themselves as National Guards. Along with the name change came the growing belief that National Guard units should be better organized, disciplined, armed, and in other ways more fully prepared to accept military responsibility than were the old militias. The National Guard movement also called for increased federal supervision, equipping, and financial support of state units. These goals were partially achieved with the passage by Congress of the Dick Act in 1903 and other early-twentieth-century legislation.

The movement received support in Nevada. By 1883 the reports of the adjutant general were referring to the state's militia as the National Guard. In fact, however, the militia/National Guard of the state was moribund by the end of the century. Since the 1870s there had been no full-time adjutant general; Nevada's lieutenant governors served in this capacity ex officio until 1926. The state's already small and scattered population declined even further in the last two decades of the nineteenth century, making it even more difficult to raise and maintain local companies. The few units in existence by the turn of the century were mostly social organizations, suited for little more than parades and other ceremonial functions.[30]

A major motive behind the drive to convert the state militias into National Guard organizations was the need to relieve the United States Army regulars of the duty of policing strikes and other domestic disturbances. But when the Pullman Boycott of 1894 reached Nevada, state troops were too few and too sympathetic to the workers to be an effective force against the boycott; President Grover Cleveland had to dispatch regular army units to Winnemucca

and other points of tension in Nevada.[31]

The power of organized labor in Nevada was a strong factor in the disappearance of the state's National Guard in the early twentieth century. Unions charged that the guard was an instrument of the employers, to be used for breaking strikes and otherwise hindering the union movement. In 1906 Nevada's National Guard was officially disbanded after a federal inspection revealed that it fell far short of the requirements of the Dick Act. For twenty years Nevada was the only state in the union without a guard. Several attempts to revive it, including a serious effort in 1912, failed. Meanwhile, labor disturbances in Goldfield in 1907 prompted President Theodore Roosevelt to send regulars to the area to restore order.[32]

Despite the demise of the guard, Nevadans responded enthusiastically to calls for troops during America's wars in this period. With the outbreak of the Spanish-American War, Nevada men formed volunteer units: a battalion of infantry and two troops of cavalry. The infantrymen remained in Carson City, in temporary quarters designated Camp Sadler and Camp Clark, and were discharged from the federal service after a few months. One of the cavalry units saw service in the Philippines; the other languished in Florida.[33]

Upon America's entry into World War I Nevadans again rushed to the colors in large numbers. But since the state lacked a National Guard, they had to join units formed in other states or enlist or be inducted into the regular forces.

Even though the state had no National Guard units, the lieutenant governor continued to function as the adjutant general of the state. In this capacity he submitted regular reports on the condition of armories and equipment, and maintained military records. During World War I the adjutant general administered the Selective Service System within the state.[34]

Between the Wars, 1919-1941

In the period between the two world wars, Nevada experienced not only the revival of the National Guard but also the return of a federal military presence. Advocates of the National Guard were finally able to overcome labor opposition and form a guard unit that received recognition by the United States Army's National Guard Bureau in 1928. The unit, the Fortieth Military Police Company, was attached to the Fortieth Division, made up largely of the California National Guard. The rebirth and subsequent growth of the guard in Nevada owed much to the efforts of the man Governor Fred B. Balzar appointed as adjutant, Brigadier General Jay H. White, who served in this position until 1947.

Under General White's determined leadership the Nevada guard enjoyed at least modest growth during the 1930s. By 1940 three companies and a medical detachment of the Second Battalion of the 115th Regiment of Com-

bat Engineers had been organized. The various units were located in Carson City, Reno, Elko, and Winnemucca.[35]

In 1926 a fire and resultant explosions at the United States Navy's ammunition depot at Lake Denmark, New Jersey, brought an important naval presence to Nevada. The catastrophe caused fifty deaths and several injuries and led to a decision to build a replacement facility in a sparsely populated inland area. A 1928 act of Congress authorized establishment of the Naval Munitions Storage Depot near Hawthorne, at the south end of Walker Lake. Operations at the installation (later known as the Hawthorne Naval Ammunition Depot) began in 1930, with seventy-two military personnel (including marine corps guards) and ninety civilian employees, and had an immediate impact on the depression-ridden economy of Mineral County. To house the base's personnel, the Navy established the town of Babbitt.[36]

More directly related to efforts to ease the effects of the Great Depression was the creation of the Civilian Conservation Corps—the CCC—in 1933. In Nevada, as elsewhere in the nation, regular army personnel oversaw the CCC camps and the conservation and construction projects undertaken by the young men of the corps. Between 1933 and 1939 there were four thousand CCC employees stationed in twenty-four camps throughout the state.[37]

Other federal action affecting Nevada during the early twentieth century included the National Defense Acts of 1916 and 1920, which among other things created the Reserve Officer Training Corps (ROTC). Since 1888, as required by the Morrill Act of 1862 and Nevada's constitution, there had been military training at the University of Nevada, Reno, with officers of the regular army providing the instruction. The new ROTC provided students who completed the four-year program with the opportunity to receive commissions in the Officer Reserve Corps, also a creation of the legislation of 1916 and 1920.[38] ROTC programs were also launched in some of Nevada's high schools during the World War I era.

World War II and Beyond: 1942-1988

As in the 1914-18 war, Nevadans in large numbers enlisted or were conscripted into the armed forces during World War II. This time, however, some were able to serve in the state's National Guard, which was inducted into federal service on June 22, 1941. Prior to federalization, the army's National Guard Bureau had prevailed upon General White to agree to the conversion of the Nevada guard's military police and engineer units into the 121st Separate Battalion, Coast Artillery Corps, Anti-Aircraft. The battalion was first ordered to Camp Haan, Riverside, California. Later it went to Fort Sill, Oklahoma, and became the 121st Rocket Battalion. Because of transfers in and out of the battalion, only a handful of Nevadans remained in it by the

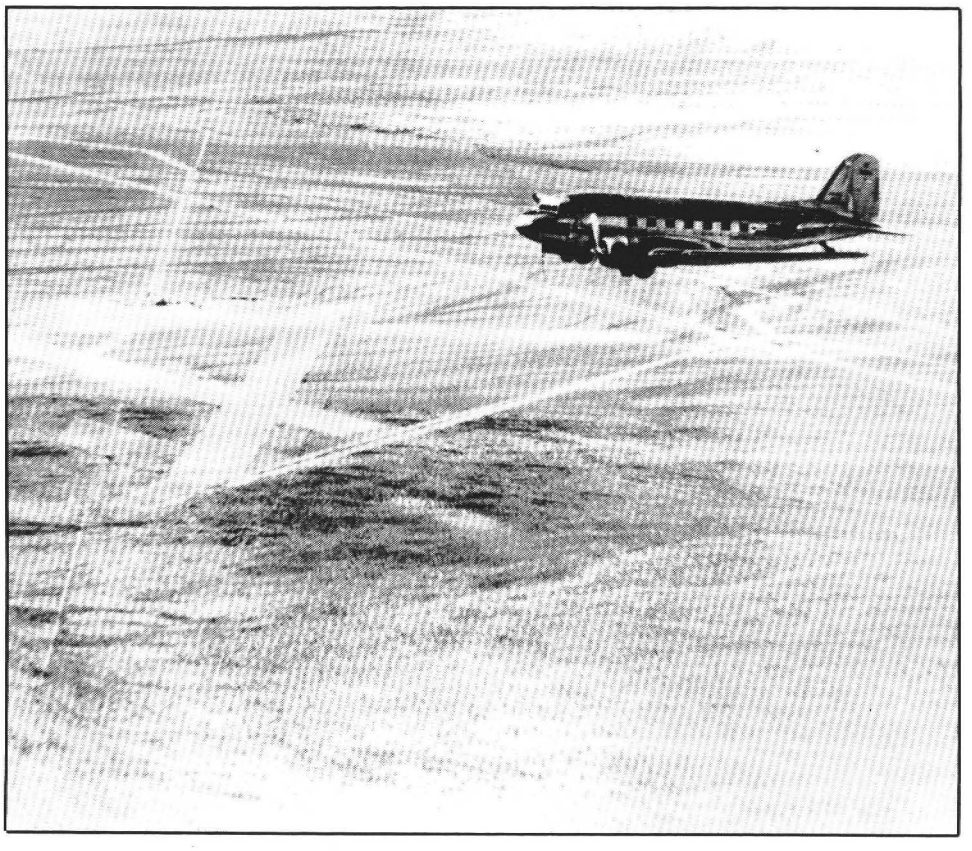
time it was sent into combat at Okinawa. At the end of the war, the 121st was deactivated and its members discharged.[39] Unlike most states, Nevada did not form a home guard during the war to replace its federalized National Guard. As in the first world war, Nevada's adjutant general administered the draft within the state during World War II.

Nevada became the home of a number of military air bases during World War II. The state's inland location, good flying weather, and vast tracts of federally owned, relatively unpopulated desert made it well suited for such installations. The bases at Wendover and Tonopah were involved mainly with the training of bomber pilots and crews. The crews that dropped the atomic bomb on Hiroshima and on Nagasaki were trained at the Wendover facility. Deactivated at the close of the war, the base was sold to the city of Wendover for one dollar. Tonapah Army Air Base remained active until 1948.[40]

Three other bases proved to be longer lived. Reno Army Air Base, operated for most of the war by the Air Transport Command, was used for training cargo-plane crews. Closed in 1945, it reopened in 1948 as an Air National Guard facility, and became fully reactivated during the Korean War, renamed Stead Air Force Base. Stead housed the Helicopter Pilot School, established in 1958, but the base's main mission, from 1952 until its closing in 1966, was to provide a particularly rugged survival training program for thousands of officers and enlisted men.[41] In 1968 the site became part of the city of Reno.

The air base at Fallon began life in 1942 as an army facility, but in 1943 it was transferred to the United States Navy for use as an auxiliary station. Reportedly the largest inland airport in the West during the war, the base dispatched planes on torpedo practice runs over Pyramid Lake, gunnery practice over northeastern Churchill County, and dive-bomb practice over Frenchman's Flat. The navy closed the base at the end of the conflict, reactivating it during the Korean War. The Fallon Naval Air Station has remained in operation ever since. Known as Strike University, its chief task has been to train pilots over its bombing and electronic-warfare ranges. Aviation components of the army, the air force, and the marines have also used these training ranges.[42]

Until World War II there had been no military installations of significance in southern Nevada. This was to change in 1941 when the army selected the area north of Las Vegas for what was originally known as the Las Vegas Army Air Corps Gunnery School. At the height of the war the base (renamed the Las Vegas Army Air Field) was graduating 600 gunnery students and 215 co-pilots every five weeks. During 1945-46 it served as a separation center for personnel returning to civilian life. After a brief period of deactivation, the base returned to active status in 1947 and was later redesignated as the Las Vegas Air Force Base; still later it became (and remains) Nellis Air Force Base. In the post-World War II era, the primary responsibility of the base has



Las Vegas Army Air Corps Gunnery Range, c. 1942. *(Nevada Historical Society)*

been to train pilots, at first of single-engine fighters, and later, with the coming of the Korean War, of jet fighters.[43]

Located at the southern edge of the Nellis Bombing and Gunnery Range is Indian Springs Air Force Auxiliary Field. This facility was established in 1942 as a training camp to facilitate air-to-air firing and was named Indian Springs Subpost Auxiliary Landing Field in 1943. For the past several years the chief duty of personnel stationed there has been to maintain and support the bombing and gunnery ranges. Also part of the Nellis complex is Nellis Air Force Base II, situated at the northeast edge of the main base. Formerly a navy weapons-storage area known as Lake Mead Base, it is now the home of equipment maintenance, depot, and civil engineering units.[44]

Closely associated with the Nellis and Indian Springs operations is the Nevada Test Site, created as the Nevada Proving Grounds in 1950. Although the Department of Energy now operates the facility, the military aspects of its existence are obvious, and about fifty military persons are currently stationed there.[45]

To date, the federally controlled military installation in Nevada with the longest continuous life is the ammunition depot at Hawthorne. Activity at the depot of course increased considerably during World War II. By August 1945 it employed 1,736 civilians and 3,889 military personnel. In 1977 the facility was transferred from the navy to the army. Since 1980 a civilian contractor, operating under the command of an army officer, has managed the Hawthorne Army Ammunition Plant.[46] Also located on the huge expanse (237 square miles) of the plant's reservation is the United States Naval Undersea Warfare Engineering Station Detachment, established in 1976. This operation, largely staffed by civilian federal employees, tests and repairs electronic components of undersea weaponry.

In 1961 yet another military service, the United States Coast Guard, began operations in Nevada, with the establishment of its Lake Tahoe Station at Lake Forest, California. Since that time the station's personnel have provided a number of valuable services in both the California and Nevada portions of the lake: They conduct search and rescue missions, promote boating safety, assist local law enforcement agencies, and supply aids to navigation. More recently the coast guard has erected LORAN C (Long Range Aids to Navigation) stations at Searchlight (1976) and at Fallon (1977). These facilities transmit low-frequency signals to vessels and aircraft along the Pacific Coast and as far as 1,000 miles out to sea. The Fallon station is the Master Station of the West Coast chain of LORAN stations, of which the Searchlight installation is also a part.[47]

The wartime federalization of the National Guard throughout the United States meant that the guard had to be recreated everywhere following the war. In Nevada the rebirth came in 1946, when the army's National Guard Bureau authorized the forming of the 421st Anti-Aircraft Artillery Gun Battalion, the Forty-Seventh Army Band, and a Headquarters and Headquarters Detachment, as well as the 192d Fighter Squadron of the Air National Guard. The legislature's failure to appropriate the state's portion of the funds for the revived guard delayed federal recognition of these units until 1948. But with a highly favorable response to enlistment efforts, the Nevada guard grew rapidly, and there were soon batteries of the 421st in most of the cities of Nevada. Over the next few decades, other, smaller units contributed to the guard's growth throughout the state, and several new armories were established. The administrative structure of the state's Department of the Military, headed by the adjutant general, has expanded in proportion to the overall increase of army and air guard activity in Nevada.

At the present writing the principal tactical component of the Nevada Army National Guard is the First Battalion of the 221st Armor, whose various troops are almost entirely in Las Vegas. Throughout the rest of the state are signal, heavy-equipment maintenance, medical, ordnance, military police, and public-affairs units. Since 1957 the guard has maintained the Nevada

Military Academy for the training of potential officers and noncommissioned officers.

As in other states, the guard in Nevada has been called out repeatedly for public assistance efforts, including disaster relief, fire fighting, provision of emergency shelter for the homeless, and law-enforcement activities, such as the recapture of escaped prisoners and drug interdiction. Nevada's guard units have also participated in exercises in several other states as well as in foreign countries such as Korea and Honduras.

The Nevada Air National Guard now consists of the 192d Tactical Reconnaissance Squadron and (since 1958) the 152d Tactical Reconnaissance Group, both situated at Reno Cannon International Airport. During the Korean conflict, the 192d was called into "extended active duty" from March 1, 1951, until October 15, 1952, over which time it was stationed at Bergstrom Air Force Base, Texas, and later at George Air Force Base, California. Following the capture of the USS *Pueblo* by north Koreans, the 192d was called into active service and sent to Richards-Gebaur Air Force Base, Missouri, from January to June 1969.[48]

Despite increased federal control and financing of the National Guard nationwide, the guard here and elsewhere remains, in part at least, a state force. The reserve adjuncts of the various armed forces, however, are strictly under federal control. Since World War II, the army, navy, air force, and marine reserves have played an ever larger role in national defense planning and organization.

Reserve units appeared in Nevada immediately after the war. The navy's efforts began in 1946 in Reno with the creation of the Organized Naval Reserve Surface Division 12-49. Added soon thereafter were an officers' school, an intelligence division, and Construction Battalion Division 12-7. In 1948 the Naval Reserve Training Center, built on property leased from the University of Nevada, Reno, was completed. With the establishment of the Marine Corps Reserve Forty-ninth Special Infantry Company in 1952, the center was redesignated the U.S. Navy and Marine Corps Reserve Training Center. A coast guard reserve unit also used this facility from 1958 to 1966.

In 1972 the Naval and Marine Corps reserve center moved into new quarters on what was formerly Stead Air Force Base, again on land leased from the university. The new facility continues to serve units whose members are from northern Nevada and northeastern California.

Currently the Reno center includes medical, weapons, and construction battalion units, as well as shipboard support units for the vessels and naval facilities at Concord and San Diego, California.[49]

The history of naval reserve activity in Las Vegas parallels that of the Reno area. Beginning in 1951 with the formation of a surface training unit, it expanded to include a marine infantry detachment and cargo handling, medical, and construction battalion units. There are also units that support shore maintenance at San Diego and vessels anchored at Concord and San Diego.

Prior to 1974 Las Vegas naval reserve operations were housed at Cashman Field; since that time they have been located at the Armed Forces Reserve Center.

Army reserve operations also began in Reno and Las Vegas soon after the conclusion of World War II. Presently the Reno units are Section Three, 6253d U.S. Army Hospital, and Company C, 820th Engineer Battalion. Reno area reservists perform their duties at the Colonel James G. Scrugham U.S. Army Reserve Center. At Las Vegas the current units are the 257th Transportation Company, and Section Three, 6252d U.S. Army Hospital. Las Vegas area reservists conduct their operations at the Armed Forces Reserve Center. To date, there have been no air force reserve units in Nevada.

Army ROTC activities have expanded along with Nevada's university system. For the past few years the program at the University of Nevada, Reno, has produced about fifteen officers a year. In 1980 the newer campus at Las Vegas began a two-year program under the auspices of the Department of Military Science at the Reno campus. A full four-year course has been operative at the University of Nevada, Las Vegas, since 1982, when the school's military science department achieved "host status."[50] In several high schools in Reno, Las Vegas, and Carson City, Junior ROTC and Naval Junior ROTC programs have been instituted.

A rather more specialized form of military education came to Nevada in 1968 when the Sixth U.S. Army established its Command and General Staff School. Housed since the beginning at Nye Hall, University of Nevada, Reno, the school has, to date, prepared around 24,000 officers and warrant officers of the Army Reserve and National Guard of the Sixth Army area for higher command and staff responsibilities through two-to-five week summer courses.

Considering its age and population, Nevada has seen about as much peacetime military activity as the other states of the American Union, but few if any states have experienced less bloodshed as a result of military action. The Battle Born[51] state was never the scene of armed conflict in America's civil or international wars. Most of the fighting between Indians and soldiers in Nevada was confined to the decade of the 1860s.

Not all of the military's operations in Nevada have met the approval of the state's civilian inhabitants. Earlier, organized labor resented the use of troops against its members. In recent years, there have been complaints from residents of Dixie Valley concerning the noise of aircraft flying out of the Fallon Naval Air Station. Many Nevadans vigorously protested air force plans to establish the MX (Missile Experimental) system in the Great Basin.[52] In general, however, Nevadans, like other westerners, have customarily welcomed the armed forces because of the major role they have played in the exploration, pacification, settlement, education, and economic development of their region.[53]

NOTES

[1] Gloria Griffen Cline, *Exploring the Great Basin* (Norman: University of Oklahoma Press, 1963), 208-216. The most recent biography of Frémont is Ferol Egan, *Frémont: Explorer for a Restless Nation* (New York: Doubleday & Co., 1977).

[2] William H. Goetzmann, *Army Exploration of the American West, 1803-1863* (New Haven: Yale University Press, 1959), 101-108.

[3] *Ibid.*, 285-287; Michael J. Brodhead, "Edward Griffin Beckwith: Explorer of the Central Routes," in Forrest R. Blackburn *et al.*, eds., *Kansas and the West: Bicentennial Essays in Honor of Nyle H. Miller* (Topeka: Kansas State Historical Society, 1976), 37-39.

[4] *House Executive Document No. 1, 34th Cong., 1st Sess.* (1856), 156-168; W. Turrentine Jackson, *Wagon Roads West: A Study of Federal Road Surveys and Construction in the Trans-Mississippi West, 1846-1869* (Berkeley: University of California Press, 1952), 140-144.

[5] Goetzmann, *Army Exploration*, 387.

[6] *Ibid.*, 398-403; Jackson, *Wagon Roads West*, 150-155.

[7] The fullest account of the conflict is Ferol Egan, *Sand in a Whirlwind: The Paiute Indian War of 1860* (New York: Doubleday & Co., 1972).

[8] George Ruhlen, "Early Nevada Forts," *Nevada Historical Society Quarterly* 7 (Nos. 3-4, 1964): 35, 57.

[9] *Ibid.*, 13-23; Kathryn Totton, "The History of Fort Churchill," in Donald L. Hardesty, sr. ed., *Historical, Architectural, and Archaeological Studies of Fort Churchill, Nevada* (Carson City: Nevada Division of State Parks, 1978), 1-110.

[10] Technically, the designation *camp* refers to temporary post, and *fort* is supposed to refer to a more substantial and permanent installation. In actuality, however, the American army of the nineteenth century did not rigidly adhere to these distinctions. Many a camp was garrisoned for years, and several forts existed for a few weeks or days.

[11] Ruhlen, "Early Nevada Forts," 9, 10-11, 23-25, 45-46, 47, 55-58.

[12] *Ibid.*, 9-10; Robert W. Frazer, *Forts of the West: Military Forts and Presidios and Posts Commonly Called Forts West of the Mississippi River to 1898* (Norman: University of Oklahoma Press, 1965), 90-92.

[13] William F. McConnell, "Nevada's Lost Civil War Post," *Periodical: Journal of the Council on America's Military Past* 13 (December 1985): 40-46.

[14] Frazer, *Forts of the West*, 94; Ruhlen, "Early Nevada Forts," 28-51; Francis Paul Prucha, *A Guide to the Military Posts of the United States, 1789-1895* (Madison: State Historical Society of Wisconsin, 1964), 102-103.

[15] Frazer, *Forts of the West*, 93; Ruhlen, "Early Nevada Forts," 36-43; Prucha, *Guide to the Military Posts*, 88.

[16] Frazer, *Forts of the West*, 93-94; Ruhlen, "Early Nevada Forts," 44-45; Prucha, *Guide to the Military Posts*, 88.

[17] Frazer, *Forts of the West*, 94-95; Ruhlen, "Early Nevada Forts," 53-55; Prucha, *Guide to the Military Posts*, 117.

[18] Frazer, *Forts of the West*, 92-93; Ruhlen, "Early Nevada Forts," 29-35; Prucha, *Guide to the Military Posts*, 77.

[19] Ruhlen, "Early Nevada Forts," 11.

[20] *Ibid.*, 25.

[21] *Ibid.*, 25, 26, 51.

[22] Francis B. Heitman, *Historical Register and Dictionary of the United States Army, from Its Organization, September 29, 1789, to March 2, 1903*, 2 vols. (Washington, D.C.: Government Printing Office, 1903), II, 405, 427, 430, 431.

[23] Sarah Winnemucca Hopkins, *Life Among the Piutes: Their Wrongs and Claims* (Bishop, Ca: Chalfant Press, 1969; reprint of 1883 edition), 92-93.

[24] Richard A. Bartlett, *Great Surveys of the American West* (Norman: University of Oklahoma Press, 1962), Chs. 17, 18; William E. Goetzmann, *Exploration and Empire: The Explorer and the Scientist in the Winning of the American West* (New York: Alfred A. Knopf, 1966), Ch. 13.

[25] Richard E. Lingenfelter, *Death Valley and the Amargosa: A Land of Illusion* (Berkeley: University of California Press, 1986), 90-91.

[26] See, for example, *Report of the Chief Signal Officer of the Army, 1881-1882*, 165, 187, 547-548, 634-635.

[27] U.S. Sutro Tunnel Commission, *Report of the Commissioners and Evidence Taken by the Committee on Mines and Mining of the House of Representatives of the United States, in Regard to the Sutro Tunnel, together with the Arguments and Report of the Committee, Recommending a Loan by the Government in Aid of the Construction of Said Work* (Washington, D.C.: M'Gill & Witherow, 1872), 11-32.

[28] *Laws of the Territory of Nevada, Passed at the First Regular Session of the Legislative Assembly* (San Francisco: Wm. Martin Gillespie, 1862), Ch. XXXIX, 106-125; *Statutes of the State of Nevada Passed at the First Session of the Legislature, 1864-5* (Carson City: John Church, 1865), Ch. LXVII, 188-209.

[29] For details on these and other units, see Joseph Wickenden, "History of the Nevada Militia, 1862-1912," Compiled under Direction of Brigadier General Jay H. White, Adjutant General, 1941. Microfilm copy of unpublished manuscript, University of Nevada-Reno Library.

[30] Jay H. White, "Brief History Nevada National Guard, 1912-1941," in Adjutant General of the State of Nevada, *Report*, 1944-1946, 28.

[31] Guy Louis Rocha, " 'Big Bill' Haywood and Humboldt County: The Making of a Revolutionary," *Humboldt Historian* 8 (Spring/Summer, 1985): 18-20.

[32] White, "Brief History," 28-29.

[33] The participation of Nevada soldiers in the Spanish-American War and its aftermath is fully told in Phillip I. Earl, "Sagebrush Volunteers: Nevadans in the Spanish-American War and the Philippine Insurrection, 1898-1900" (master's thesis, University of Nevada-Reno, 1975).

[34] David C. Henley, "Chronological History of the Nevada National Guard," unpublished manuscript, April 15, 1989, Nevada Historical Society.

[35] White, "Brief History," 29-31.

[36] James G. Scrugham, ed., *Nevada: A Narrative of the Conquest of a Frontier Land*, 3 vols. (Chicago: American Historical Society, 1935), II, 445-446; "Hawthorne and the Naval Ammunition Depot," *Nevada Highways and Parks* 14 (May-August, 1954), 12-15; "U.S. Army Armament, Munitions, and Chemical Command Installation Hawthorne Army Ammunition Plant, RCS ANNCCA-1059, 20 September 1987" (unpublished report, Hawthorne Army Ammunition Plant), 3.

[37] Russell Elliott, *History of Nevada*, 2d ed., rev. (Lincoln: University of Nebraska Press, 1987), 297-298.

[38] James W. Hulse, *The University of Nevada: A Centennial History* (Reno: University of Nevada Press, 1974), 126-127.

[39] Adjutant General of the State of Nevada, *Report*, 1940-1942, 25-26.

[40] "Aviation" (unpublished paper for the Revised Nevada State Historic Preservation Plan, Nevada State Division of Historic Preservation and Archeaology, Carson City, 1987), 10-12, 18.

[41] *Stead Air Force Base: Home of the 3635th Combat Crew Training Wing (Survival)* (Baton Rouge: Army and Navy Publishing Co., 1955?), 5; *Guide to Stead Air Force Base and Northwestern Nevada* (Lubbock, Texas: Marquam and Co., 1960?), 3.

[42] "Aviation," 11, 12; *Fallon Eagle Standard*, August 21, 1980.

[43] *Nellis: Pride, Purpose, Professionalism: Partners in Progress with Southern Nevada* (San Diego: American Publishers, Inc., 1984), 18; *Nellis: The Heart of Tactical Air Command* (San Diego: American Publishers, Inc., 1987), 20-21.

[44] *Nellis: Pride, Purpose, Professionalism*, 19-20; *Nellis: The Heart of Tactical Air Command*, 21.

[45] *Nellis: Pride, Purpose, Professionalism*, 19; *Nellis: The Hearth of Tactical Air Command*, 21.

[46] "U.S. Army Armament, Munitions, and Chemical Command Installation Hawthorne Army Ammunition Plant," 3.

[47] *Lahontan Valley News* (Fallon, Nevada), June 29, 1977; David C. Henleyt, "My Turn" (column), *Ibid.*, November 6, 1985; BMCS Ernie Midgett, personal communication, April 27, 1989.

[48] Charles Joseph Gross, *Prelude to Total Force: The Air National Guard, 1943-1969* (Washington, D.C.: Office of Air Force History, 1985), 180, 192.

[49] Annual command histories, Naval and Marine Corps Reserve Center, Reno, 1959-1983.

[50] LTC Sheldon C. Wintermute, personal communication, May 12, 1989.

[51] This term does not refer to actual hostilities within Nevada, but to Nevada's admission to statehood during the Civil War.

[52] Francis X. Hartigan, ed., *MX in Nevada: A Humanistic Perspective* (Reno: Nevada Humanities Committee, 1980).

[53] For a discussion of the impact of military and defense related expenditures in the state, see Joseph A. Fry, "The History of Defense Spending in Nevada: Preview of the MX?" *ibid.*, 37-43.

PROJECT INNOVATE: EDUCATIONAL TELEVISION IN NEVADA

BARBARA CLOUD AND IRA G. KIMBALL

WHEN RADIO BROADCASTING MADE ITS DEBUT in the early 1920s, educators were among the first to recognize its potential. The possibility of reaching thousands of prospective students, instead of merely tens or hundreds, attracted universities and colleges to the medium. The first educational institution officially licensed to operate a radio station, Latter-day Saints' University of Salt Lake City, Utah, received its license in 1921, and by the mid-1920s more than two hundred educational radio stations were on the air.[1]

Soon, however, educational institutions found they were unable to finance the new technologies that were being developed, they could not afford to maintain the program schedules, and they could not hire the necessary staff to compete with the commercial operators. Enthusiasm waned, and commercial interests proceeded to dominate the airwaves.

Interest in educational broadcasting revived with the introduction of television, which, by providing not only sound but image, offered greatly increased educational potential. Allocation by the Federal Communications Commission of 242 UHF and VHF channels for educational television (ETV) in 1952, achieved only after intensive lobbying, fueled activity as educators marshalled their resources to take advantage of this new opportunity.[2] By 1953 the Joint Committee on Educational Television found that only ten states were not engaged in some kind of ETV activity; sparsely settled Nevada was one of those states. A decade later the Silver State was still without ETV, now one of only three, but changing demographics, educational structure, and politics had raised the status of educational television on the priority lists of local educators.[3]

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Operations Manager, Jim Horky (seated) shows color film camera operation to (L to R) Ron L. McIntyre, Coordinator, Community TV; Al Ribas, Chief Engineer; and Dr. Clifford Lawrence, Superintendent of Instruction, Clark County School District, 1969. (Photo from *RCA Broadcast News*)

Educational broadcasting made eminent sense for a state like Nevada, whose population, except in the metropolitan areas of Las Vegas and Reno, was small and widely scattered. Australia and Canada, with similar demographic patterns, had put broadcasting to good use to educate children living in their respective outbacks, and, although Nevada's expanse was not as vast as those countries', there were still a number of residents living in remote areas difficult to serve by traditional educational means. In addition, some school districts had too few students to warrant more than basic educational opportunities, and ETV presented the possibility of curricular enhancement.

When ETV first surfaced as an appealing addition to educational programs, Nevada's school system was highly fragmented. The state had 35 high-school

and 173 elementary-school districts and the prospect of getting them together to support an ETV system was as remote as the most distant schoolhouse. However, in 1956 Nevada's schools were reorganized and consolidated into seventeen countywide school districts, a number more manageable for purposes of possible cooperation.

Consolidation also provided a stronger financial base for curricular development, but it could not shrink Nevada's far-flung boundaries. It is thus a paradox that, although remote areas might benefit most from ETV, the impetus came not from communities in the perimeter, locales presumably hungering for better education and cultural enlightenment, but from the principal population center, Las Vegas. Serious attention to ETV began there with the hiring in 1961 of Leland B. Newcomer as superintendent of the Clark County School District. Newcomer was brought to Las Vegas in the wake of the statewide school consolidation, which in Clark County supplanted fourteen separate school districts with one entity. Newcomer's mission was to overcome political jealousies resulting from the old geographic ties and to bring cohesion to the enormous new district.[4]

In order to show that greater educational benefits could be realized in the single, large district than under the inadequate budget structures of the previous small districts, Newcomer sought to implement a number of innovations, one of which was educational television. Educational television could provide new resources for the rural schools as well as for those in the city, and, an asset from the administrative point of view, it could also contribute to centralized control and standardization in a school district that, at nearly eight thousand square miles, was larger than six states of the nation.

Establishing a television system was not as easy as hiring new teachers or building new schools. Television was an expensive proposition even in its relatively early years, and by the time Newcomer began the planning for ETV in Nevada, the opportunity for Ford Foundation support had passed. The foundation had been instrumental in the 1950s in the establishment of many ETV stations, giving some $300 million to educational stations; but by the early 1960s it considered its ETV seed work done and turned its attention to other projects.[5]

However, in 1962 the federal government moved to fill the gap. Passage of the Educational Television Facilities Act authorized the appropriation of $32 million over a five-year period, with no more than $1 million to be awarded to any one state. Newcomer and his staff recognized Nevada as a prime candidate for a grant: The state was "deprived" because it had no ETV, and neither of the two VHF television channels allocated by the Federal Communications Commission (FCC) for educational television, one in Reno and one in Las Vegas, was in use. Activation of both channels would meet the act's objectives of serving most or all of the state.[6]

Furthermore, ETV's proponents argued, much of Nevada was by then lit-

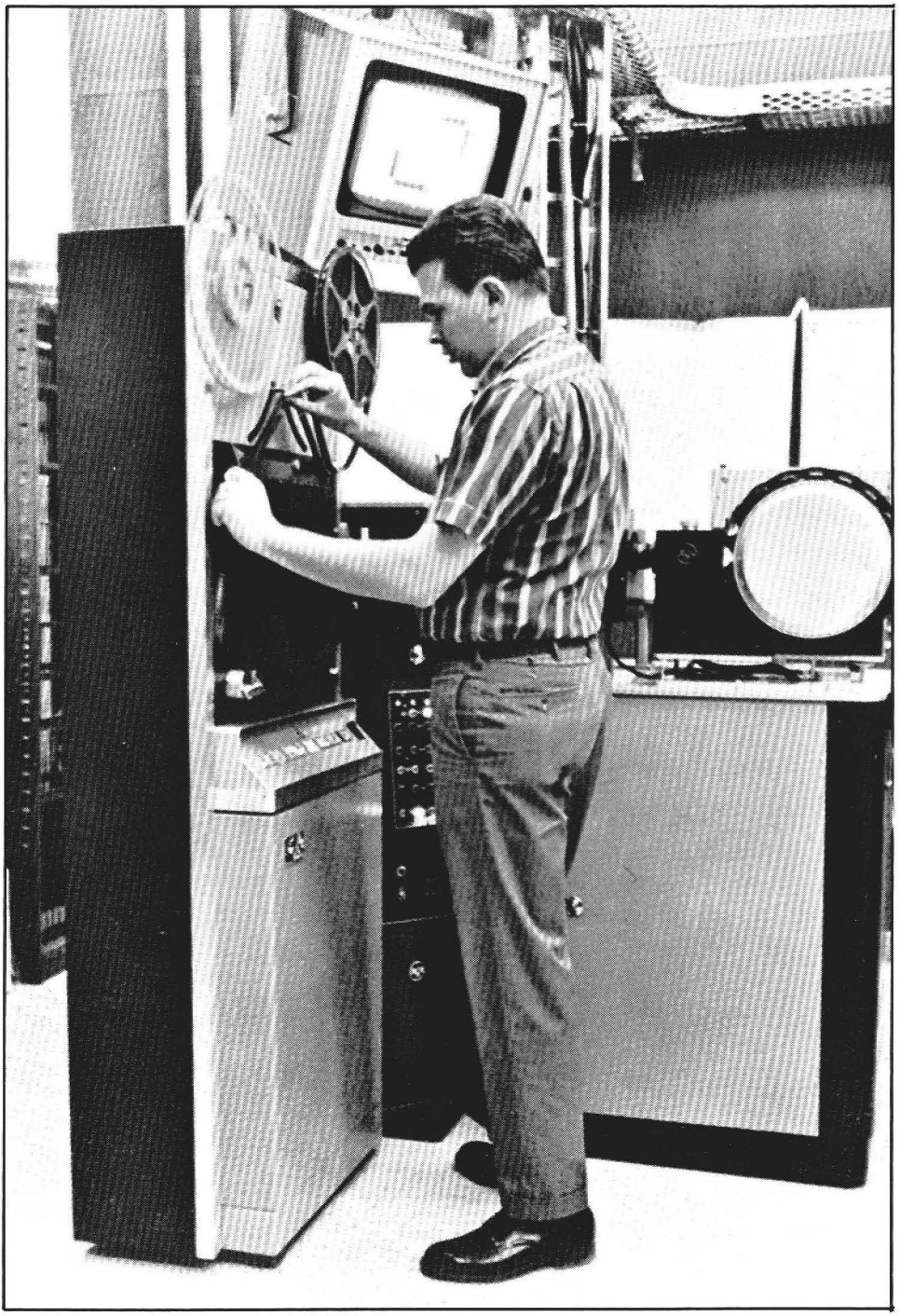
tle more than a cultural desert. The glory days of mining that once drew extraordinary cultural enterprises even to tent camps were now grist for historians. Except for casino-related entertainment, there was little music, dance, or theater available to Nevadans. Nor had they access to the nature and travel information typically found on ETV. Southern Nevada finally had its own university, but it was young and undeveloped. Only five commercial television stations served the state, and most homes relied on community antenna or cable television systems. The strongest radio station in the state was a 5,000-watt station in Reno, and many of Nevada's communities had no radio service at all. Clearly, Nevada was fertile ground for the act's cultural intent as well.[7]

An ETV system for Nevada seemed the answer to all kinds of educational problems: the lack of a broad curriculum in small schools, as well as the need for adult education in rural areas, for the provision of enhanced learning opportunities for exceptional students, and for assistance to students who are ill or for other reasons in need of special help.

Although initial enthusiasm came primarily from Las Vegas, the potential benefit extended well beyond Clark County's boundaries, and Newcomer's staff was quick to recognize selling points with promise for convincing remote parts of the state that they should welcome ETV. Clark County School District was eager to involve the other districts because it perceived that development of a statewide system was the answer to the problem of how to pay for the enterprise. Although federal money was available to build facilities, operating funds would have to be provided from within the state. If statewide support for the program could be developed, no single entity would have to bear the cost alone.

According to the National Association of Educational Broadcasters the licensee of an average ETV station could expect to spend $370,000 a year for operating expenses. Typically, 54 percent of that amount came from direct budget support—money appropriated by universities, school systems, state legislatures, etcetera—and the remainder from gifts, grants, and other sources. This meant an average appropriation of about $200,000.[8]

A state appropriation or a pooling of funds from school districts across the state would spread the cost and make the project more palatable to taxpayers. Newcomer's staff, and in particular, William (Bill) Cramer, who was hired in 1965 as coordinator of instructional media services, set about to persuade Nevadans that educational television was worth the investment. Cramer travelled the state, meeting with cultural organizations and political leaders as well as educators, to advocate ETV.[9] He appeared to be achieving considerable success, especially in the outlying areas, but back at his home base, the Clark County School District, teachers remained unconvinced, and both administrators and teachers in Clark's northern counterpart, the Washoe County School District, had reservations about the proposal.



Bill Spencer, studio engineer, loads film on TP-66 projector, 1969. (Photo from *RCA Broadcast News*)

Newcomer and ETV supporters within the school-district administration were reluctant to impose educational television on their staff; they wanted teachers to ask for ETV. But teachers wanted money for salary increases, textbooks, and basic educational supplies and perceived ETV as an expensive, unnecessary frill. Washoe County shared these concerns but, as will be seen later, was even more exercised by the question of who would control programming and the system generally. The grassroots support Newcomer sought was not forthcoming.[10]

Nevertheless, Newcomer continued to push the concept and gained the backing of the Clark County School Board, which identified itself with a larger constituency, the voters and taxpayers of southern Nevada who would also benefit from educational television by means of the activation of Channel 10.

On December 16, 1965, the Clark County School Board heard a report outlining possible levels of financial commitment; amounts ranged from about a million dollars down to less than fifty thousand. One suggestion called for little more than the installation of videotape recorders in all the elementary schools in the county, but such a token gesture was not seriously considered. Newcomer and the board generally agreed that the system should include not only the VHF station—Channel 10—but also four Instructional Television Fixed Service (ITFS) channels, a kind of closed circuit broadcasting that used the upper reaches of the ultra-high frequency part of the spectrum and required special antennas in order for the schools to receive the signal. The main questions to be resolved were whether Channel 10 should be readied for color from the beginning, a costly avenue but probably more economical in the longer term, and how many television sets should be purchased for the schools.[11]

As the board pondered the alternatives, a major concern centered on whether the Clark County School District could afford to be the sole supporter of ETV if educators out in the state were not successful in developing the widespread system that Newcomer's staff was trying to create. Channel 10 could be the keystone station in a statewide system, transmitting to rural areas of Nevada via translators, but was the district willing to develop ETV alone if the rest of the state declined to participate?

The board decided that bringing ETV to southern Nevada was important enough to take the risk, and on Feburary 24, 1966, it authorized the school-district staff to proceed with the application for federal funding from the Department of Health, Education, and Welfare and for FCC licensing. At the same time, the board agreed to deposit $789,021, obtained through a general school-facilities bond issue, as matching funds for the facilities grant.[12]

The commitment made, the school district then sought concrete evidence of state support. On paper the prospects were favorable. Prominent elected officials, civic leaders, and school officials all over Nevada wrote letters of support for inclusion in the application to Health, Education, and Wel-

fare. Cramer wrote the statewide proposal that became known as Project INNOVATE (Initiate the Nevada Network and Vigorously Advance Television Education), and he continued to woo state leaders.

To develop interest in video instruction, rural schools were provided with videorecorders—then called teletrainer units— and videotapes on a rotational basis, with the objective of familiarizing teachers with the possibilities of video in the classroom and whetting their appetites for more extensive televised fare.[13] Proponents also managed to establish an alliance of Nevada's seventeen school districts in order to submit a single state application under the Elementary and Secondary Education Act for federal seed money for planning. All school districts in the state agreed to forego individual entitlement in favor of the entire state allocation going to the Clark County School District.[14]

In April 1966 the United States Office of Education approved a $302,911 planning grant that provided money for the hiring of permanent ETV staff.[15] The district hired Harold R. Hickman, from Utah, as a consultant to the project, and Hickman and Cramer began working on legislation to present to the Nevada legislature the following winter.[16]

But not all was well in ETV ranks; the project was starting to unravel from the inside. Early in 1966, Clark County's principal ETV advocate, Superintendent Newcomer, resigned to accept an out-of-state position. The departure of the superintendent weakened the local administrative commitment. Newcomer's successor, James I. Mason, had little of Newcomer's enthusiasm for ETV, but he inherited a school board that was determined to bring it to southern Nevada.[17]

Then, in August, the district replaced Cramer as INNOVATE leader, complaining that he was too casual about school-district procedures (Cramer argues otherwise, claiming he was caught up in internal politics). The project was turned over to Hickman.[18]

Hickman moved quickly and enthusiastically into his new role, putting great emphasis on developing support among southern Nevadans. He launched a media campaign, held meetings with members of the community, and stressed the benefits that INNOVATE would bring not only to students, but also to viewers in the community. At the same time, activity within the district and state was stepped up with the introduction of two newsletters, one to keep school-district administrators apprised of progress, the other to promote INNOVATE to educators throughout the state.[19]

The initial push for Project INNOVATE had emphasized a statewide system, but as planning proceeded in southern Nevada, clear priorities developed. The first was to provide for public television—Channel 10—a cultural service to the entire community. Board member Helen Cannon, a substantial influence in the board's acceptance of ETV, emphasized this commitment. "Public television was the point to the community. All board members were

supportive—there were no arguments—only financial debates—how to pay for it. We had realized the impact [public] television is to a community."[20]

The board's second objective, which gradually took a back seat to public television, was instructional broadcasting, the ITFS system. Certainly public television itself had strong instructional capabilities, but its use in the classroom was not as effective as a dedicated instructional TV system.

The third priority was a statewide system, a concept that grew not so much from altruistic motives, although some such undoubtedly existed, as from the desire to spread the cost of establishing and operating a public broadcasting station. Although Cramer had expended considerable effort in cultivating educators throughout the state—"I probably met every superintendent of all seventeen school districts in the state and visited each superintendent in his office and talked with him about educational television," he later recalled[21]—Hickman soon became convinced that the Clark County School District "never had any intention of a statewide system."[22] While it is too strong to say the district had no interest in the Nevada-wide system, there is no question that the commitment was weak.

Nevertheless, on instruction from his superiors, Hickman proceeded with the prospectus of a statewide system, and examples of legislation from other states were gathered with a view to designing the enabling legislation for ETV to present to the 1967 Nevada State Legislature.[23] But Hickman was as new to Nevada politics as he was to INNOVATE. Any political clout the project may have possessed had disappeared with Newcomer's departure from the state. As superintendent, Newcomer had developed a close personal friendship with Lieutenant Governor Paul Laxalt, while at the same time being at odds with Governor Grant Sawyer over school funding.[24] Newcomer had backed Laxalt in his challenge to Sawyer and undoubtedly was influential in the development of the candidate's strong education platform, which called for Nevada to become the nation's "Lighthouse of Education." Educational television was a natural extension of the platform, one that would emphasize Laxalt's commitment to the rural schools as well as to enhancing educational opportunities in the state's two major centers.

Charles B. Watts, former director of Media Services for the Clark County School District, recalls having Laxalt's tacit support of ETV as long as Newcomer was superintendent, but Newcomer left in January of the gubernatorial election year, and, although Cramer met with Laxalt to discuss support for ETV, the future governor appeared to have little real interest in the plans. Later, during the 1967 legislative session, Laxalt wrote to Hickman in terms suggesting that, while aware of the proposal, he had no recollection of any discussions about ETV.[25] Without overt support from Laxalt, and with only lukewarm backing from the Clark County School District, which did not formally lobby the legislature, Project INNOVATE's legislative prospects were clearly on shaky ground.

The political naïveté of Hickman and his staff further hurt INNOVATE's chances. Although they sought to lay the necessary groundwork by meeting with educators from throughout the state, they failed to appreciate the extent of the north-south rivalry. Their clue surfaced in the form of resistance from Reno area educators. Northern Nevada, financially and politically conservative, received ETV programming via cable from KQED in San Francisco, and educators, including Washoe County's Superintendent of Schools Marvin Piccolo, did not believe it would be necessary to activate Channel 5 as part of the project. Certainly, Piccolo was unwilling to allow Law Vegas to control programming that might influence the curriculum content in Reno schools. Nor did northern Nevada buy the argument of cultural and educational advantages for rural areas.[26]

By the time the legislature convened, the southern Nevada backers of INNOVATE realized that they could not expect funding for ETV from the 1967 session. Newly elected Governor Laxalt was encouraging legislators to "hold the line" on expenditures, and simply sorting out basic school funding was likely to occupy the legislators.[27] Instead, it was decided to seek enabling legislation that would establish a committee which, over the following two years, would develop a budget and other plans, paving the way for approval of the state system by the 1969 legislature. The commission would also be available to disseminate grants and development funds and was to serve to reassure doubtful school districts of the value of the program.[28]

The Nevada legislature into which the ETV legislation was introduced had been reapportioned prior to its meeting in the winter of 1967. Rural areas had lost ground, while Washoe and especially Clark counties had gained representation. Political experts predicted that the bitterness created by reapportionment would lead to a sharp north-south political division, and that little could be expected from the session.[29] The experts were both wrong and right. The fifty-fourth legislature was not a do-nothing session; instead it was the highest taxing and biggest spending session in Nevada history and—at ninety days—the second longest up to that time, as well.

Legislators eventually approved a record state budget of $143.6 million, $8 million higher than Laxalt's recommendation. It increased the state sales tax from 2 cents to 3 cents and raised gambling taxes by 20 percent, the first increases in these taxes in a dozen years. The budget included a record educational appropriation: $64.9 million for the public schools and $23.5 for the university system, or nearly 62 percent of the total amount allocated for state services.[30]

The session was also confronted with a number of social issues: the right of eighteen-year-olds to vote, abortion, desegregation, and a move to limit the tenure of a governor to two terms. Clearly, educational television had none of the emotional moment of these issues.

Still, the enabling legislation was innocuously wending its way through the

session when rather suddenly it became lodged in the experts' other forecast for the session, the north-south split. Given the expectation that geography would play a major role, the rivalry was relatively benign until the closing days of the session. Clark County legislators, who had been expected to throw their new-found weight around the capital, found themselves instead often arrayed against—and outvoted by—a coalition of northern interests as fears of southern domination permeated the northern ranks.

The debate over the University of Nevada Medical School brought the simmering conflict into the open. The medical school was the focus of debate in the final few weeks of the session, heightening north-south sensitivities just before legislators were asked to approve the ETV enabling legislation. The university's Board of Regents had agreed to locate the proposed medical school in Reno in connection with the multimillion dollar expansion of the Washoe Medical Center, and presented the legislature with a measure calling for a feasibility study; it was understood that approval of the study was, in effect, approval of the medical school and its Reno location. Clark County legislators, concerned about going home with less than they would have liked and appearing to have failed to look after their constituents' interests, raised arguments against the proposal.

On Monday, April 3, Senator Archie Pozzi, Republican from Carson City, left his sickbed to participate in a Senate Finance Committee vote that approved the study four to three, a vote that split on north-south lines.[31] The next day, in the full Senate, reported the *Nevada State Journal*, the "university, with backing of Washoe and small county lawmakers, rolled over the objections of Clark County senators," and the Senate authorized the study twelve to eight. Added the *Journal*, "The battle over the medical school had been one of the fiercest in the legislature."[32]

Clark County senators raised financial objections that even northerners admitted might be valid—the claim that the medical school would eventually cost the state millions—but the school's proponents clung to the pledged support of billionaire Howard Hughes and the possibility of federal funding.

It was in this acrimonious atmosphere that the ETV legislation from Clark County began to surface. While the medical school debate raged in the legislature and in the press, newspapers also gave some attention to the ETV question. Washoe's Superintendent Piccolo accused Clark County of wanting to control educational materials shown to Washoe students. Piccolo claimed that, if Las Vegans had their way, all programming would be handled in the south, with Clark County using a microwave link to relay material from Channel 10 to the rest of the state. He said that Washoe County wanted to do its own production and programming, noted that his teachers knew little about the medium and that the project was moving ahead without enough planning and lead time, and criticised the Clark County School District for inefficient use of its first planning grant. Piccolo did endorse the idea of a statewide

commission, however.[33]

Hickman quickly issued a statement that sought to reassure Reno residents: "Clark County does not want and will not have local control of educational materials to be shown in Washoe County." At the same time, Hickman could not resist a dig at the northerners for their lack of financial support for a statewide system, commenting, "Washoe is not putting up one dime . . . and Clark has already put up $1.5 million for equipment."[34]

The day before adjournment, the ETV enabling legislation, Senate Bill 306, came up for vote on the floor of the Nevada State Senate. Its passage required eleven votes; when the vote was called, the ETV bill was defeated nine to eight, on north-south lines. Senator James Slattery, a Reno Republican, led the opposition, charging that the proposed ETV commission would eventually cost the state millions of dollars, echoing Clark County legislators' claim about the medical school. This produced a heated exchange as to who was the biggest spender of the session, as Slattery, Sparks Senator William Farr, also a Republican, and Senate Finance Chairman Floyd Lamb, a Las Vegas Democrat, traded recriminations over various appropriations.[35]

Although the Clark County delegation had not exactly crusaded for ETV, Lamb decided not to accept this defeat on top of the medical school debacle and moved to rescind the vote. Northern Senators complained about this parliamentary ploy, but Lamb, pointing out that the enabling legislation had included no money, won the move to rescind, and this time the Senate, on a sixteen-to-four vote, approved the ETV commission. The bill was sent to the Assembly, which approved it unanimously; Assemblyman Norman Glaser, Democrat from Halleck, disclosed that this decision could lead to "one of the real breakthroughs we've been trying to make in education."[36]

The *Reno Evening Gazette* reported that the new commission would "help set policies and coordinate programming for the state's first educational television station, now beginning preliminary operation in Las Vegas."[37] Insofar as this meant northerners "controlling" programming in southern Nevada, this would be as welcome to the Clark County School District as the original concept had been to Washoe's Piccolo, but the story served mainly to show how little interest journalists had taken in the project.

Nevertheless, Project INNOVATE gained its enabling legislation; although lacking even a modest budget for the commission, it seemed a hollow victory. Still, southern Nevadans pledged to work toward state funding in the next legislature.

From the point of view of the Clark County School District, the legislative defeat was a nuisance but not a disaster. While the statewide enabling legislation had been drifting through the legislature, the district received a $365,610 construction grant to proceed with Channel 10. Southern Nevadans would achieve their primary objective: On March 25, 1968, KLVX-TV, Channel 10, began broadcasting in the Las Vegas area.[38] Six months later a four-

channel ITFS system began providing televised lessons in mathematics, music, history, and French. The school board had fulfilled its commitment to the community of Las Vegas, and while the question of continued financing persisted—as it does even today—Las Vegans were enjoying "Mr. Rogers' Neighborhood" and Julia Child as "The French Chef."

Among a few diehard enthusiasts, the notion persisted of a statewide system that would bring education, retraining, and culture to the isolated corners of the state. The enabling legislation had provided for an ETV commission; its members, appointed by Governor Laxalt, were Donald Potter, director of audio-visual communication at the University of Nevada, Reno; John Gamble, associate state superintendent of public instruction; Donald Brown, Las Vegas bank executive; Dr. William O'Brien, Reno anaesthesiologist; and Lou Venturacci, Churchill County rancher.[39] The act provided for an additional eight members, but they were not to be selected until the groundwork was established by the governor's initial appointees. Gamble was elected chairman at the commission's first meeting, in June 1967, at which the agenda also included a proposal to build a pioneering $25 million instructional network that would broadcast videotapes upon request from educational institutions as well as from the general public. The system was to be financed through private donations, augmented by an appropriation from the 1969 legislature.[40]

The commission sought to establish a legislative committee that would recommend a statewide ETV program to be funded by state resources, as well as by grants from private industry and foundations. The members agreed to lobby the legislature directly, instead of turning the task over to someone else. "I don't want to have someone else, whom I don't know, represent this Commission before the Legislature," said Dr. O'Brien. "I have seen too many [an individual] get up before the Legislature and speak his views, misrepresenting the group he is supposed to represent."[41]

The commission's efforts were ineffective. It failed in 1969, and in the succeeding four legislative sessions over the next decade it was never able to persuade the legislature to fund a statewide ETV system. The commission was finally abolished in 1977 when Governor Michael O'Callaghan's administration targeted it as one of several state boards and commissions whose continued existence could not be justified. Circulation of videotapes to rural school systems and some experimental efforts were the extent of the commission's achievement.

It was with some sense of déjà vu that INNOVATE proponents learned of Senate Concurrent Resolution no. 24, introduced to the 1983 legislature. The resolution called for a state report to the 1985 session that would examine ways in which a statewide television system could be established. It was no coincidence that this interest was reawakened at a time when Channel 10 was in financial difficulty. After a brief flirtation with the possibility of selling

Channel 10, an idea roundly attacked by the *Las Vegas Sun*, the Clark County School District had decided to continue its support of the station.[42] Why not look again to the state for at least partial support?

The 1983 effort, however, met with the same fate as had the 1967 attempt to form a statewide system. The 144-page "Study of Public Broadcasting in Nevada" that reached the 1985 legislature differed from its predecessor only in terminology: Over the fifteen years "ETV" had evolved into "public television," and the 1967 phrase, "Nevada is one of only three states not having ETV," became "The time has come in Nevada for the state to stand up and be counted among the supporters of public broadcasting."[43]

In terms of support for a statewide system, however, the language was unchanged. The answer was still no.

NOTES

[1] Donald N. Wood and Donald G. Wylie, *Educational Telecommunications* (California: Wadsworth Publishing Company, Inc., 1977) 17; Christopher H. Sterling and John M. Kittross, *Stay Tuned, A Concise History of American Broadcasting* (California: Wadsworth Publishing Company, Inc., 1978) 70.

[2] Sterling, *Stay Tuned*, 268; Wood and Wylie, *Educational Telecommunications*, 31-32; Federal Communications Commission, Sixth Report and Order, April 14, 1952.

[3] The Joint Committee on Educational Television was organized Oct. 16, 1950, at the home of Federal Communications Commissioner Frieda Hennock, who is given credit for persuading the FCC to set aside frequencies for ETV. Wood and Wylie, *Educational Telecommunications*, 42-46.

[4] Harvey N. Dondero, *History of the Clark County School District*, (1986), chapter 12, n.p. Unpublished manuscript, Clark County School District Archives.

[5] Wood and Wylie, *Educational Telecommunication*, 39-41.

[6] United States Department of Health Education and Welfare, *The Educational Television Facilities Act of 1962: An Explanation of Public Law 87-447* (Washington, D.C.: U.S. Government Printing Office, OE-34028, 1963).

[7] Application File, TS, HEW Form OE-4152, Exhibit No. Four "D," Section III, Page 5.

[8] Nevada Instructional Television Network, *Project INNOVATE: Initiate the Nevada Network Operation and Vigorously Advance Televised Education* (Las Vegas: Clark County School District, n.d.) 1-14.

[9] Charles B. Watts, former Director of Clark County School District, Media Services, telephone interview, 3 May 1986; William (Bill) Cramer, personal interview, 3 October 1986.

[10] Watts interview.

[11] Prospectus for Educational Television for Clark County, 22-23.

[12] Clark County School District Board of Trustees minutes, 24 February 1966.

[13] Cramer interview.

[14] Newcomer memorandum to Board of Trustees, 25 January 1966.

[15] *Project INNOVATE*, 10-11.

[16] *NETV*, October 1966, 1.

[17] Transcript, Clark County School District administrative cabinet meeting, 9 July 1966; James I. Mason to David A. Sands, 13 April 1967, Channel 10 Archives.

[18] Cramer primarily blamed professional jealousy for his removal. Cramer interview.

[19] *NETV*, November 1966; *Transmitter*, 2 November 1966.

[20] Helen Cannon, personal interview, 23 May 1986.

[21] Cramer interview.

[22] Harold R. Hickman, telephone interview, 19 July 1986.

[23] Watts interview.

[24] Ibid.

[25] Ibid. Paul B. Laxalt to Hickman, 15 March 1967.

[26] *NETV*, I:5; Hickman interview.

[27] *Las Vegas Review Journal*, 16 January 1967.
[28] "State ETV Commission Proposed to Legislature," *NETV*, February 1967, 6.
[29] *Las Vegas Review Journal*, 16 April 1967.
[30] *Nevada State Journal*, 13 April 1967.
[31] Ibid., 4 April 1967.
[32] Ibid., 5 April 1967.
[33] *Reno Evening Gazette*, 1 April 1967; *Las Vegas Review Journal*, 3 April 1967.
[34] *Las Vegas Review Journal*, 4 April 1967.
[35] Ibid., 14 April 1967.
[36] *Reno Evening Gazette*, 15 April 1967.
[37] Ibid.
[38] *Las Vegas Review Journal*, 21 March 1968; *Las Vegas Sun*, 24 March 1968. The call letters, KLVX, were taken from an inactive Navy ship. The "K" represented a station west of the Mississippi in accordance with FCC rules, "LV" stood for Las Vegas, and "X" was the Roman numeral for 10. John Hill, station manager, personal interview 17 November 1982.
[39] *Las Vegas Review Journal*, 18 May 1967.
[40] Ibid., 8 June, 9 June, 1967.
[41] *Reno Evening Gazette*, 29 June 1967.
[42] *Las Vegas Sun*, 24 October 1982.
[43] Nevada Legislative Counsel Bureau, "Study of Public Broadcasting in Nevada," Bulletin No. 85-2, [May] 1984, 25.

BOOK REVIEWS

The Twentieth-Century West: Historical Interpretations. Edited by Gerald D. Nash and Richard W. Etulain. (Albuquerque: University of New Mexico Press, 1989. 454 pages, notes, bibliography, index.)

THIS IMPORTANT VOLUME ATTEMPTS TO CHRONICLE and interpret the history of the West's first century since the closing of the frontier. Fifteen of the American West's leading scholars have joined forces to explore the major developments and issues since that watershed event was reported in the Census of 1890. This rich anthology explores such important topics as demographic trends, women, minorities, the environment, economic growth, urbanization, politics, and cultural life. Each essay contributes substantially to our knowledge of the modern West, providing important critical analyses of existing scholarship, and identifying important areas for future research. Further, the contributors frequently draw upon their current research efforts to advance important new information and interpretative insights. The value of the thirteen essays is greatly enhanced by the editors' own contributions which occur in the form of a prologue by Richard Etulain and an epilogue by Gerald Nash. The rich bibliographical material provided alone makes the book invaluable. To say that this is an important landmark publication in the field of Western History is indeed an understatement.

The past century has produced a West far different from that which obtained in 1890. While the theme of continuity is correctly pursued in some of the essays, most of the contributors emphasize substantial, even pervasive, change as the controlling factor in the twentieth-century West. Whereas the nineteenth-century West existed as an economic and political colony to the dominant East, a second-class citizen it is no longer. By the second half of the twentieth century, the West emerged as the vanguard of economic, technological, political and cultural innovation in the United States. Carl Abbott adeptly describes the emergence of the nation's most urbanized region, while Walter Nugent provides an analysis of the continued growth of the diversity of peoples and cultures in the West as isolated rural communities gave way to the heterogenous—and predominantly metropolitan—society of today. Richard Romo and Donald Parman share important and often-overlooked interpretations about the pivotal—and rapidly changing—roles of minorities in the West, while Karen Anderson presents a convincing case for the need to study and reinterpret the role of Western women within the context of the forces of modernism. Howard Lamar argues convincingly about the unique-

ness of the American West by contrasting the modes of response of the southern plains, the Dakotas and western Canada to the travail of the drought which produced the Dust Bowl of the 1930s.

Although each of the authors is careful to demonstrate the manner in which national and international events impinged upon Western history, Donald Pisani and William Robbins, especially, show this relationship in their analyses of the growth of the all-important irrigation districts and the boom and bust cycles which have dominated the timber industry of the Northwest. Similarly, John Opie writes convincingly of the "extraordinary role of the federal government," in his analysis of environmental policies. Readers will also benefit from the contributions of Fred Erisman and H. Wayne Morgan whose thoughtful essays place the impressive corpus of Western literature and art within a meaningful regional and national context.

The political history of the twentieth-century West aptly reflects the symbiotic relationship between the West and the rest of the nation. William Rowley demonstrates that the ebb and flow of political reform and conservatism during the first half of the twentieth century, on one hand, reflected broader national trends, but also provided innovations which other sections sought to emulate. Relying heavily upon quantitative methodologies, Paul Kleppner demonstrates how the once "radical" West grew increasingly conservative during the century; in sharp contrast to other regions, he concludes, this trend has followed ideology more than party and is a reflection of the increased economic diversity and maturation of the region. From the early days of settlement through the Great Depression the West "accepted—indeed encouraged—the federal government's role in funding regional development projects." The intrusion of the Federal Government in the guise of the New Deal was warmly received in most of the West as a pragmatic solution to the ravages of the Great Depression. However, the economic boom set-off by World War II produced a more stable and robust western economy, and consequently political attitudes moved to the right, placing "a premium on individualist solutions" to major socio-economic problems. The radicalism of the western Populists of the 1890s inexorably gave way to the neo-conservatism of the Reagan Restoration of the 1980s.

The American West described in this impressive volume is a region of vast diversity, caught-up in seemingly perpetual change. It is a land characterized by startling conflicts and contrasts. Dominated by eastern economic interests during the nineteenth century, it now possesses a strong, diversified economic base which has led the United States into its post-industrial, high-technology future. More heavily urbanized than any other section of the United States, it is also more racially and culturally diversified. Not too many decades ago the student of the American West could turn with ease to the grand interpretations of Frederick Jackson Turner and Walter Prescott Webb to explain the significance of the West. No longer. If anything, this invaluable

volume conclusively demonstrates that the West defies easy generalization. As co-editor Gerald Nash observes: ". . . the image of the twentieth-century West differs from its nineteenth-century predecessor. It represents an urban, multicultural society, a diversified economy, a limited environment, a non-descriptive political outlook, and a dynamic pathbreaking trendsetter in American culture."

Richard O. Davies
University of Nevada, Reno

The Far West and the Great Plains in Transition, 1859-1900. By Rodman Paul. (New York: Harper and Row Publishers, 1988. 381 pp., introduction, illustrations, index.)

THE LATE RODMAN PAUL UNDERTOOK AN AMBITIOUS PROJECT in preparing a history of the area west of the 98th parallel for the period from 1859 to 1900. The undertaking is daunting not only because the region constitutes more than one-half the area of the United States and encompasses staggering topographical and climatic diversity, but also because of the West's ethnic complexity and the era's rapidity of economic and technological change. Aided by Martin Ridge, who completed editorial preparations following the author's death, Paul has produced a solid overview and synthesis in three hundred tightly-written pages.

This volume is the third of four projected studies of the West in the New American Nation Series. Paul completes the examination of the nineteenth century begun by Francis S. Philbrick and Ray Allen Billington, and Earl Pomeroy is at work on a history of the twentieth-century West. Clearly, if not necessarily excitingly written, logically organized, and thoroughly researched, *The Far West and the Great Plains in Transition* exhibits characteristics commonly associated with this distinguished series.

Unsurprisingly, given Paul's previous scholarly work, he convincingly posits mining booms as the principal catalyst for the region's dynamic growth. In so doing, he is especially adept at explaining mining technology and the transformation from individual prospectors and entrepreneurs to corporate domination. Casting aside cowboy and Indian stereotypes, Paul concentrates primarily on cattle and sheep ranching, dry land farming, and western city building and focuses secondarily on lumbering, the legal profession, fishing, petroleum production, and the role of the federal government. He supplements this perceptive economic analysis with a keen appreciation for and attention to the West's ethnic and cultural diversity. Native Americans, His-

pano-Americans, Chinese, and Mormons are treated sensitively and insightfully.

While exhibiting these many strengths of coverage and interpretation, this work has shortcomings. The heavy reliance upon statistical data and numerous biographical sketches periodically disrupts the narrative and conveys more the tone of a reference work than a monograph. In contrast to the treatment of ethnic minorities, western women go largely unnoticed. Finally, although Paul chose not to employ the concept of frontiers, he provides no alternative organizational theme. In the prologue he suggests that the book might have been entitled "Men in Motion," and in the conclusion he characterizes westerners as "optimistic expansionists" and cites the "ruthless pursuit of private gain" as the "driving force behind most western enterprises." Unfortunately, none of these concepts is rigorously applied throughout the book; and none provides the thematic coherence achieved by Emory M. Thomas, John A. Garraty, or Eric Foner in other New American Nation Series volumes analyzing portions of this same time frame from different geographic or topical perspectives.

Joseph A. Fry
University of Nevada, Las Vegas

Hoover Dam: An American Adventure. By Joseph E. Stevens. (Norman and London: University of Oklahoma Press, 1988. 326 pp. preface, illustrations, notes, bibliography, index.)

THE BIBLIOGRAPHY OF SERIOUS NEVADA HISTORY WRITING has, until recently, emphasized northern and western Nevada topics. Yet, since the 1960s, an increasing majority of the state's population has resided in Clark County. This imbalance of treatment, however, has been rectified somewhat in recent years by the publication of such important and excellent books as John M. Findlay's *People of Chance, Gambling in American Society from Jamestown to Las Vegas,* Eugene P. Moehring's *Resort City in the Sunbelt, Las Vegas, 1930-1970,* A. Costandina Titus's *Bombs in the Backyard,* and now, Joseph E. Stevens's *Hoover Dam: An American Adventure.* This is Stevens's first book, and, because of its interest and narrative power, it is a remarkable achievement. The text certainly reinforces the idea that the construction of Hoover Dam was a central event in Nevada history; one which was indispensable to the future growth of the Las Vegas area.

The story is comprehensively told. Through his exhaustive research, Stevens has gathered a great body of valuable information unavailable anywhere else. The book recounts, among other matters, the reasons for the

dam's construction in Black (not Boulder) Canyon, the formation of Six Companies, Inc. (the consortium which built the dam), the engineering problems which had to be solved before the dam could be built, the establishment of Boulder City and its institutions and social milieu, working conditions and labor relations, and so forth. Because of the author's writing ability, complex scientific and engineering problems are made quite comprehensible to the reader. Still, perhaps the book's greatest asset is its emphasis on people, its humanity. This works both for people at the top, in its vivid evocations of the leadership of Six Companies, Inc., and at the bottom, in its stirring renditions of the worker experience at the dam site.

But Stevens has a more ambitious aim in writing this book than merely retelling a story. This reviewer believes that the author's great narrative skill gives the book its peculiar edge and power, but also, by becoming an end in itself, leads to some major pitfalls. What Stevens aims to do, is to go beyond mere history writing, and come up (in his words) with a "drama," an "epic," in short to recount "a great American adventure." In his view, Hoover Dam was an *achievement* of individuals: of visionaries, of entrepreneurs, of engineers, and of workers. The dam's construction was "a collective national triumph, a stunning example of what private industry, government, and labor working together could accomplish for the betterment of all." (p. 244) The example of Hoover Dam, Stevens preaches, makes one feel "that the future is limitless, that no obstacle is insurmountable, that we have in our grasp the power to achieve anything if we can but summon the will." (pp. 266-67) The book thus celebrates the triumph of American ingenuity and technology over a recalcitrant environment. The problem is that Stevens discusses everything in positive terms. He admires the corporate vision, exemplified by leaders such as Warren A. Bechtel and Henry J. Kaiser, which led to the formation of Six Companies, Inc., and to the dam's construction. No robberbarons here. He does not entirely approve of the treatment of the workers by the Company, and he notes how the builders of Boulder City forgot to plan for either a public school or library, but, as Stevens states in his conclusion, "in the clear desert light of Black Canyon, guilt about the deeds of the past and doubt about the future shrivel." (p. 267) This pretty much sums up the author's intentions. Apparently, in view of the blinding accomplishment of Hoover Dam, the reader is asked to suspend all historical judgments.

As befits a romance, the book is exceptionally well written. Considering the author's sentiment for his subject, the language is never cloying, and the style is clean and powerful. Stevens uses vivid visual images, and strong verbs and adjectives. Although the work is enormously detailed, its parts cohere perfectly into a larger unity. It has superb photographs, helpful map work, and demonstrates meticulous research. On its own terms, the book works almost perfectly. But the reader who does not share Stevens's view that environmental conquest *per se* advances civilization, and who is dis-

turbed by his refusal to deal with issues and consequences negative to the achievement will find the effort less well rounded and less significant historiographically than it should have been. It is a wonderful first book on an exceptionally important subject, but the needs of writing an epic are not the same as those of writing good history.

Jerome E. Edwards
University of Nevada, Reno

Opportunity and Challenge: The Story of the BLM. By James Muhn and Hanson R. Stuart. (Washington: Government Printing Office, 1988. 303 pp., preface, illustrations, index.)

THE BUREAU OF LAND MANAGEMENT (BLM) IS ONE FEDERAL AGENCY known by few outside the West. However, in Nevada, for example, BLM is well known since it controls most of the land, nearly all the state's minerals and thousands of forest acres. James Muhn and Hanson Stuart in *Opportunity and Challenge*, provide the reader with a concise historical overview of BLM. Their main argument is that since its inception in 1946, the BLM has struggled but succeeded in bringing order to the use of America's public lands. Even though such a position is understandable for an in-house production, the book is worthy of attention for bringing together information regarding the multitude of Bureau programs.

The book is organized into five chapters. The first is a review of land policy from the Confederation government through 1946. The remainder of the book interprets the post-World War II period with each chapter covering roughly a decade. Each of the Bureau's programs becomes a sub-heading within the chapter. While this approach makes it easy to trace the evolution of specific programs, it tends to decrease the needed synthesis. To add human interest interviews and other anecdotes from the past and present, Bureau personnel are interspersed as highlighted blocks; though interesting, the presentation breaks the continuity. Unfortunately, the book becomes something of a great man/great organizational history. In the chapter on the 1980s the authors come too close to the present to be objective, reflecting that many of the key actors were still in office at the time the book was written.

Another important oversight was the lack of citations; an attempt was made to rectify this with a "further readings" section at the end of each chapter. This reviewer suspects the book was well researched, but there is no concrete evidence. The other factor that makes the volume difficult for the general

reader to comprehend is the extensive use of acronyms. The authors must have sensed this as they included a glossary of acronyms as Appendix 1.

While this review may sound harsh, it is not intended to be. The volume has a number of strengths and this author recommends that the book be purchased and read. First, it is a good summary of America's public land policy from the beginning to the formation of BLM. Second, the appendix of acronyms is complete and may prove to be useful to many. Likewise, the second appendix is also useful as an outline history of America's public land administration. This volume will no doubt be useful to students of the public domain as well as individuals with an interest in the formation of the BLM.

Steven Mehls
Lafayette, Colorado

Cactus Thorn, A Novella by Mary Austin. Foreward and Afterword by Melody Graulich. (Reno and Las Vegas: University of Nevada Press, 1988. 122 pp., notes.)

FEW READERS SERIOUSLY INTERESTED IN WESTERN AMERICAN literature can have missed Mary Austin's 1903 book, *The Land of Little Rain,* a classic of its genre, inspired by Austin's years in eastern California around the turn of the century. Feminists are familiar with her *A Woman of Genius* as an early self-affirming novel and with *Earth Horizon,* her distinctive autobiography. *Cactus Thorn,* in print at last more than sixty years after its composition, grows from her lasting dedication to the desert that gave her inspiration and the feminism that informed her life.

The story is familiar: a strong woman "as arresting in her quality as the thin bright cactus flower" takes on a man not worthy of her. She helps him think, she saves his life, she loves him—he leaves.

Like most of Austin's woman characters, Dulcie Adelaide Kennedy is a young woman quite capable both of living essentially alone in the remote settlements of the desert and of understanding and caring about the movements for social reform that shape the life of Grant Arliss. She is curious, independent, open. Arliss comes to the desert for rest and rejuvenation: he finds both, drawing strength from both the land and the woman he finds there. A political man and easterner whose high ideals attract Dulcie Adelaide both intellectually and emotionally, Arliss easily leaves her behind for his political career in the east and for a rich and influential woman. As Melody Graulich points out in her helpful afterword, he fails to grasp the feminist dictum that "the personal *is* political."

For Dulcie Adelaide, the worst of most of the world is that it is false, "made up," not natural. For her, personal relationships fail when one is not "real" to the other. When she finally realizes that she has been used by Arliss in "the eternal war—the war between men and women," she takes violent vengence that seems to subvert the character Austin has carefully developed for most of the work. The made-up melodrama of its hurried conclusion mars the fine reality of the desert scenes, the staunch honesty of Dulcie herself.

Cactus Thorn, like its protagonist, thrives in the desert, wilts in the city. In the desert, Dulcie develops, the reader believes her; in the city, she's only a woman scorned. Still, the novella and its afterword—a fine exposition of Austin's feminist ideas—are a valuable addition to the Western Literature series of the University of Nevada Press.

Anne Howard
University of Nevada, Reno

Frontier's End: The Life and Literature of Harvey Fergusson. By Robert F. Gish. (Lincoln & London: University of Nebraska Press, 1988. 363 pp., preface, illustrations, appendix, notes, index.)

THIS LITERARY BIOGRAPHY BY ROBERT F. GISH, respected scholar of western literature at the University of Northern Iowa, is a cogent, timely illumination of a much undervalued author. The subject of this book is Harvey Fergusson (1890-1971), a long-time resident of California, who compulsively turned to his native New Mexico for subject matter and settings. Prominent among the themes which Gish attributes to Fergusson is the frontier as explicated by Frederick Jackson Turner, whose concepts are integral to Fergusson's thought. Gish also shows that Fergusson was an immediate heir to frontier Albuquerque through his maternal grandfather, Fritz Huning, and his father, H.B. Fergusson. Although his grandfather, a pioneer merchant, built a flamboyant mansion called Castle Huning, he died nearly penniless. Fergusson's father, a lawyer and representative from New Mexico to Congress, committed suicide when his political fortunes waned.

These family reversals and the technological transmutations of modern civilization attracted Fergusson to another of his major themes, mutability, as Gish convincingly demonstrates. Among lesser themes which Gish clarifies are the conflict between male and female and the propriety of a liberated and impulsive sexuality. Married twice for only brief periods, Fergusson claimed to have had intercourse with some eighty women. Perhaps predictably for one who came to maturity at the onset of the Freudian era, Fergusson shared

the distaste of his long-time literary mentor, H.L. Mecken, for the puritanical and genteel.

Gish devotes the bulk of his pages to a careful, persuasive analysis of Fergusson's writings. Although he does not offer a detailed account of Fergusson's daily life, he demonstrates that Fergusson's books are without exception to be considered autobiographical. Accordingly, Gish delineates numerous parallels between the characters of Fergusson's novels on the one hand and Fergusson and his real-life forebears and acquaintances on the other. Of Ramon Delcasar, the protagonist of *Blood of the Conquerors* (1921), Gish asserts, "Surely the character found most prominently in Delcasar is Fergusson himself" (129). In *Wolf Song* (1927), Sam Lash is torn between the free life of the mountain man and the estate-dowered love of Lola Salazar, a reflection, Gish writes, of Fergusson's profound ambivalence toward his two wives. Gish identifies the colorful denizens of the Taos artistic community whom the protagonist of *Footloose McGarnigal* (1930) encounters with such actual acquaintances of Fergusson's as Mabel Dodge Luhan, Witter Bynner, and Mary Austin.

This is a well-documented book, having ample, easily accessible notes and a useful index. It is expressive, even eloquent, in style and wide-ranging in concept. Without question, it is a major contribution to Fergusson scholarship.

Levi S. Peterson
Weber State College

NEW RESOURCE MATERIALS

Nevada Historical Society

Clarence F. Burton Papers

Elizabeth A. Burton of Washington, D.C., recently donated papers of her father, Clarence Franklin Burton, to the Nevada Historical Society. A lawyer by training and a banker by profession, Clarence Burton (1885-1965) was best known in Nevada as George Wingfield's very capable office manager in the early years of Goldfield. When Wingfield moved his headquarters to Reno in 1910, Burton moved also, and it was in that city in 1917 that he married Lucille Golden, the daughter of Frank Golden, a prominent banker and owner of Reno's Golden Hotel. Subsequently, the Burtons took up residence in

Clarence Franklin Burton, 1907, in his office in Goldfield. *(Nevada Historical Society)*

the nation's capital, where Clarence became associated with the City Bank of Washington and eventually rose to be its president.

The Burton material received by the Society consists chiefly of newspaper clippings, Burton and Golden family genealogical data, and a considerable number of photographs. Among the photographs, many of which are views of family members and scenes in Reno, northwestern Nevada and the Sierra, are ones contained in two volumes of snapshots taken about 1907-1908. Included in the albums are a number of unique views of Goldfield, Columbia and other central Nevada mining towns at the height of their prosperity.

We thank Elizabeth Burton for returning to Nevada a collection which helps to record and commemorate her father's significant activities during one of the state's most colorful periods.

Skookum Times

In the spring of 1908, a rich silver discovery just west of Austin, Nevada, led to a rush of prospectors and the creation of the tent camps of Skookum and Gweenah. The excitement, which attracted several hundred people, lasted just six months, but was strong enough to pull a newspaperman into it. Lester Haworth, publisher of the *Manhattan Mail*, started up the *Skookum Times* to promote the fledgling district and its two towns. When the boom faded that fall, most of the district's inhabitants moved on and Mr. Haworth folded his newspaper, which apparently had been printed on his press at Manhattan.

Like many other papers from ephemeral Nevada mining camps, the *Skookum Times* left no copies for posterity. At least this was what everyone believed until one issue, for May 23, 1908, was located in the possession of George Kilmer of Las Vegas. Mr. Kilmer has generously allowed this issue to be copied for the Nevada newspaper microfilming project, and researchers can now view it on microfilm at the Nevada Historical Society, the Nevada State Library, the Nevada State Museum and Historical Society in Las Vegas, and the libraries of the University of Nevada, Reno, and University of Nevada, Las Vegas. The "discovery" of Skookum's newspaper will be of interest to those who have wanted more information on the camp, and to all those who are fascinated by turn-of-the-century Nevada mining camp journalism.

Eric Moody
Manuscript Curator

University of Nevada, Reno
Special Collections Department

The Special Collections Department has acquired four photograph collections documenting diverse aspects of Nevada's history. *Open Lands: A Photographic Survey of the Relationship between Economic Development and Land in the Truckee Meadows* is a series of sixteen images by photographer Stephen Davis investigating the "evolution and fate of the open land remaining in the valley." Galen Delongchamps, son of Nevada architect Frederick J. Delongchamps, donated photos belonging to his father, which include an album recording an automobile trip from Reno through Yosemite National Park in 1914 and an album of buildings designed by Delongchamps up to 1920. Sixty postcards depict scenes from Reno, Virginia City, Ely, Winnemucca, Tonopah, Goldfield, and Carson City, and a series of photographs by "Cip" Cipriano, donated by Karen and Roger Gash chronicles the process of drilling for oil at the Taylor Federal No. 1 well in Nye County.

Kathryn Totton
Library Assistant IV

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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, 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.