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In this issue

Few institutions did more to stamp Utah's territorial history as unique than its legal system. The far-ranging jurisdiction of probate courts, the strange phenomenon of extra-legal bishop's courts, and the strident nature of legal rulings have been examined before. Less well analyzed, but of great significance, is the question of whether common law or statutory law prevailed. In an essay at once erudite and enlightening, our first author presents the essential evidence bearing on that issue and offers a convincing closing argument. In interesting juxtaposition, the second article focuses on Utah law a half-century into statehood as it applied to the parental rights of Utah polygamists. Among the many intriguing facets of that analysis are the generalizations relating to the evolution of judicial attitudes. They will remind the thoughtful reader again that the twists and turns of history ultimately make sense only when interpreted in context of the present.

The next two sections deal with life in the military. One takes a look at the soldiers of Camp Floyd in the 1850s; here the historical stereoscope is on gender—men dealing with the ennui of frontier duty within the structure of nineteenth-century male mores and institutions. The other presents a first-person account of a Utah national guardsman who recalls in charming storyteller fashion his World War II experiences in the Pacific.

Iosepa, a Polynesian colony founded in western Utah in 1889, is the subject of our final article. Something of an anomaly in the Utah colonizing experience, it has a story reminiscent of all colonizing experiences everywhere. That story projects those strivings of the human spirit for a better life—the aspirations, hopes, frustrations, and pathos—that have colored history from its earliest expression. The Utah microcosm, as always, is a worthy study in and of itself.
Supreme Court in Session. The point being made to the Court whether the Common Law was in force in this Territory or not, a law of the Legislature to the contrary. The Court rules that it was, which settles a point which has been a vexed question in our Courts since the organization of the Territory.

Hosea Stout, Esq.
February 8, 1855
Utah Territory

**How English common law** was “received” in the United States has always been a clouded issue. The orthodox view is that the colonists brought the common law with them to the New World and therefore English law obtained in this country from the beginning. But it is only a theory and in no way resolves the issue of what law was applicable in the territories acquired by the United States after independence. Certainly after 1776 English common law did not just mysteriously appear on newly acquired American soil by some magic of its own.

Although the men of the American Revolution debated whether the king’s law ought not be overthrown with the king, by 1784 eleven of the thirteen states had made some constitutional or statutory provision for adopting English statutes, English common law, or both. But once adopted, particular movements developed in the United States attempting to replace the unwritten law with statutory law. The Jeffersonian era was particularly fraught with a popular hatred of the common law,

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2Common law refers to the law that developed in the royal Norman courts of England (Courts of King’s Bench, Common Pleas, and Exchequer) after the eleventh century. It is often termed “unwritten law” because it was based upon the “custom of the realm” as determined by the court, rather than the product of legislation. It continues as judge-made law to this day in the United States and most Commonwealth countries.


"which became virulent among the more radical Jeffersonian Democrats, with every encouragement from Jefferson himself." During the Jacksonian era legal reform hit a crescendo when "progressivist" social ideas led the final struggle in the United States to replace common law with statutory law. Common law was denounced as being "unknown . . . sprung from the dark ages . . . with its origin in folly, barbarism and feudality . . . made up of feudal principles, warped, to be sure, according to the King's necessities." In the first half of the nineteenth-century American West there was a particular "lack of 'superstitious respect' for old laws and legal institu-

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Council House, southwest corner of Main Street and South Temple, was the site of early trials in Utah Territory. USHS collections.

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^Robert Rantoul, Jr., *Oration at Scituate, July 4, 1836*, in Miller, *The Legal Mind in America*, pp.222-27. (Rantoul was a Harvard-educated Boston lawyer, a Jeffersonian Democrat elected to Congress in 1851, and the most sophisticated and formidable opponent of the common law of the Jacksonian era.)
tions,"\(^7\) causing pioneer communities to decide whether to receive the English common law or "to find somewhere else a basis for legal development, and to work out upon the basis adopted a system of principles and rules adapted to America."\(^8\) For the most part, however, once U.S. territorial status was obtained, the first territorial legislative session typically adopted common law as the jurisprudence of the territory to maintain continuity with the Union and to immediately provide the new territory with a developed legal system.\(^9\)

But two territories never adopted common law as the basis of their jurisprudence. The territory of Orleans opted for French civil law; the territory of Utah for neither.

Hosea Stout’s diary entry, cited at the outset of this article, could have been made most anytime during Utah’s forty-five-year territorial period, for whether common law was in force in Utah Territory was a "vexed question" until the United States Supreme Court finally resolved the issue in 1890.

Many histories have been written of federal efforts to "Americanize" Utah’s Mormon culture politically, socially, and economically during the last half of the nineteenth century,\(^10\) but little heed has been paid to the attempts to "Americanize" it legally.\(^11\) It was no small matter. In the words of Utah’s governor to the territorial legislature in the spring of 1863, "either the laws and opinions of the community by which you are surrounded must become subordinate to your customs and opinions, or, on the other hand, you must yield to theirs. The conflict is irrepressible."\(^12\)

The account of common law’s role in that "irrepressible conflict" is a unique chapter in American legal history and one that remains largely untold.


\(^12\) Edward W. Tullidge, *The History of Salt Lake City and its Founders* (Salt Lake City, 1886), p. 296.
The valley of the Great Salt Lake was a possession of Mexico—a civil law jurisdiction—when the Mormons arrived in 1847. Although most of the early Mormon legal proclamations and ordinances were municipal in nature, the ones that dealt with property, water, and natural resources showed the Mormon proclivity to disregard American custom and English law. Streams, woods, timber, and minerals were regarded as community property; exclusive grants to control natural resources were given to church authorities for orderly regulation and apportionment to the general populace; permission had to be obtained from the church’s ecclesiastical high councils for the erection of mills, the fencing of land, and the cutting of wood in the “kanyons” and creek bottoms. And Mormon irrigation practices—not to mention Mormon marriage practices—abrogated common law doctrines.

In November 1847 five ecclesiastical wards were formed in the City of the Great Salt Lake and judicial functions passed to the bishops of these wards, as had been the custom in the church since 1834. No formal records of these early bishops’ courts proceedings were ever made, though Hosea Stout frequently noted in his diary representing litigants before these courts “in all manner of disputes.” Essentially, bishops administered “courts of arbitration,” paying no heed to procedural or substantive law. In criminal matters, the guilty party could expect justice to be meted out by a stint at the whipping post or the payment of fourfold restitution to the victim. For more serious offenses the sentence could include up to two years servitude to the highest bidder.

But with the creation of the State of Deseret in 1849 bishops were elected by acclamation as justices of the peace, having their precincts coincide with their respective ward boundaries. At the time no one anticipated the demand to be placed on these justices of the peace,

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13Bigamy was not a felony at common law; however, in 1604 Parliament enacted a statute providing that if any person, being married, shall afterwards marry again, the former husband or wife being alive, “such offense shall be a felony, and the person and persons so offending shall suffer death as in cases of felony.” 1 Jac. 1, c. 11.


caused by fifteen thousand argonauts passing through the valley of the Great Salt Lake during the summers of 1849 and 1850. As Hubert H. Bancroft observed:

Some of the emigrants arrived at Salt Lake City with no effects save their jaded cattle, their wagons, and a scant outfit, while others brought with them valuable merchandise, for which they hoped to find a market in the mining camps. When they made a division of their property, as frequently happened on arriving in the valley, difficulties soon arose among them, and the discontented parties applied for redress to the courts of Deseret.17

In 1849 courts of Deseret meant justice of the peace courts administered by Mormon bishops.

This veritable flood of emigrant cases in Salt Lake City in 1849 necessitated the creation in 1850 of two justice of the peace courts to handle only emigrant trials. Hosea Stout, Utah’s first lawyer, records litigating that year as many as three emigrant trials a day from early morning to late night, involving “a redress of grievances and division of property which is not very interesting to relate.”18 The most common suits were a division of property, followed by breach of contract, theft, assault and battery, violations of local ordinances, and cases concerning the sick and deceased.19

The clerk of these emigrant justice of the peace courts provides their most descriptive account. He was English and non-Mormon, having arrived in the Salt Lake Valley in 1849 with the U.S. Corps of Topographical Engineers. In a letter to his father he wrote:

The scenes that transpire are very characteristic of Americanism and would make you, accustomed to the form of an English Court of justice, smile at its oddity. We gather round a deal table, the Magistrate, for the weather is hot, with his coat off sits amongst Constables, Attorneys and prisoners, and for further convenience, rests his legs by sticking them on the table, kindly affording the throng of lookers on an opportunity of ascertaining the health of his soles. During the progress of the case, pretty much all are industriously engaged in whittling, grievously to the detriment of table and benches which they slice without the least compunction. The dresses of the semi armed emigrants are often picturesque while the easy colloquial manner in which business is transacted, makes a novel scene[.] But all this does not interfere

17Hubert H. Bancroft, History of Utah (San Francisco, 1890), p. 447.
19Brigham D. Madsen, Gold Rush Sojourners in Great Salt Lake City (Salt Lake City: University of Utah Press, 1983), pp. 77-79.
with the administration of justice in righteousness and the Magistrate is honest, clear headed and impartial.\textsuperscript{20}

The emigrant “decisions were remarkable for their fairness and impartiality,” wrote Capt. Howard Stansbury of the Corps of Topographical Engineers,\textsuperscript{21} and most emigrant journals also record an acceptance of these trials. But some travelers found Mormon justice to be “unfair and wholly un-American.”\textsuperscript{22}

Why they regarded it so was never stated by them but can be surmised from other contemporary and historical accounts. “The administration of justice” in the courts of Deseret, wrote Lt. John W. Gunnison of the Corps of Topographical Engineers, “is of the most simple kind, and based on equity and the merits of the question, without reference to precedents and technicalities, referring to the rules of the Mosaic Code and its manner of punishment, when applicable.”\textsuperscript{23} “Mormon judicial economy,” wrote Edward Tullidge, “was after the patterns of the New Testament rather than the patterns of Blackstone.”\textsuperscript{24} And Bancroft ascribed the judicial system of the Saints as being “founded on the doctrines of the Book of Mormon rather than on common law.”\textsuperscript{25}

THE TERRITORIAL LEGISLATURE AND THE COMMON LAW

The unexpected demand on the courts of Deseret in 1849 caused the General Assembly in January 1850 to organize the judiciary of the State of Deseret. While a three-judge Supreme Court had been created in the Constitution of Deseret, other courts had not, so the General Assembly created county courts and finally gave statutory sanction to the already existing justice of the peace courts. The ordinance provided the Supreme Court of Deseret with “appellant Jurisdiction in all cases of Law and Equity” and granted parties to lawsuits the right to trial by jury in both civil and criminal cases. Legislative directive to the courts for deciding cases was emphatic: “It shall be the duty of the court to . . . in no case suffer technicalities to frustrate the ends of justice.”\textsuperscript{26}


\textsuperscript{22}Madsen, \textit{A Forty-niner in Utah}, pp. 77-79 and 118.

\textsuperscript{23}John W. Gunnison, \textit{The Mormons} (Philadelphia, 1852), p. 130.

\textsuperscript{24}Edward W. Tullidge, \textit{Life of Brigham Young} (New York, 1876), pp. 199-200.

\textsuperscript{25}Bancroft, \textit{History of Utah}, p. 448.

\textsuperscript{26}Morgan, \textit{The State of Deseret} (Ordinances of the State of Deseret), Appendix B, pp. 134-35.
With the Compromise of 1850 Congress reduced the size of Deseret by half, organized it into the territory of Utah, created the territory of New Mexico, and inducted California into the Union as the thirty-first state. The General Assembly of Deseret dissolved itself on April 5, 1851, and with the appearance of federal officials in Salt Lake City in the summer of 1851 the visible State of Deseret passed into history. To the territorial Supreme Court were appointed three stateside lawyers.

Upon the convening of the Utah Territorial Legislative Assembly in September 1851, the first resolution provided that “the laws heretofore passed by the provisional government of the State of Deseret, and which do not conflict with the ‘Organic Act’ of said territory, be, and the same are hereby declared to be legal and in full force and virtue . . . .”27 Thereafter, the first few legislative acts dealt primarily with the judiciary. To the courts went the mandate:

The said courts may adopt all such rules as they may deem expedient, consistent with the law, the prime object of which shall be to carry out the purposes of the statutes, and to subserve the ends of justice, dispensing with all needless forms, and disregarding and abridging all technical pleadings with a view to the attainment of justice: all technical forms of actions and pleadings are hereby abolished.28

Demurrers for formal defects were abolished; courts were directed to disregard immaterial variances, errors, or defects; anyone approved by the parties and the court could serve as the judge; and anyone could act as counsel for another party. Attorneys were prohibited from using “any process of law” to collect their fees and were required to “present all the facts in the case . . . of which he is in possession” whether they were calculated to make a case against his client or not. Each county was permitted to elect “by mutual consent of the parties” a council of “twelve select men as referees” to decide cases in litigation. And rather than allow the courts to assume the authority to issue equitable writs, typical of American and English chancery courts, the legislature statutorily authorized writs of habeas corpus, attachment, capias, replevin, and ejectment.

But the crowning blow to common law came in 1854 when the legislature declared:

... no laws nor part of laws shall be read, argued, cited, or adopted in any court, during any trial, except those enacted by the Governor and

27Laws, Territory of Utah 388 (1855).
28Laws, Territory of Utah 121, Ch. I, 7 (1855).
Legislative Assembly of this Territory, and those passed by the Congress of the United States when applicable; and no report, decision, or doing of any court shall be read, argued, cited, or adopted as precedent in any other trial.\textsuperscript{29}

Known as the doctrine of \textit{stare decisis} (to stand by that which is decided), precedent is the recognized authority in common law for the disposition of future cases. To abolish it is to abolish the doctrine of the common law developed by the courts over hundreds of years. Thus, in the words of one non-Mormon attorney, this statute excluded “the common law and all other laws except those passed by Congress and the territorial legislature.”\textsuperscript{30} In the words of Hosea Stout on the issue of “whether the Common Law was in force in this Territory or not,” this statute was “a law of the legislature to the contrary.”

\textbf{THE TERRITORIAL JUDICIARY AND THE COMMON LAW}

The first territorial case to deal with the issue of whether common law was in force in the territory was heard before Judge Zerrubabel Snow, the only Utah Territorial Supreme Court justice at the time and one of the few Mormons ever appointed to that bench, in \textit{United States v. Howard Egan} (Oct. 1851). The case involves a defendant who admitted killing his wife’s seducer and is unquestionably the most publicized trial of the early Utah territorial period.\textsuperscript{31} At issue was whether the common law offense of homicide was applicable in the territory of Utah. Providently for Egan, Judge Snow followed the rationale that law must precede the offense and held Egan’s crime not punishable by law\textsuperscript{32} because “there was no Common Law offenses in this territory.”\textsuperscript{33}

Four years later, in either a minute entry or a case no longer extant, the Territorial Supreme Court, according to Hosea Stout, declared

\textsuperscript{29}Laws, Territory of Utah 260, Ch. LXIV, 1 (1855).
\textsuperscript{30}R. N. Baskin, \textit{Reminiscences of Early Utah} (Salt Lake City, 1914), p. 7. (Baskin came to Utah in 1862 and later became mayor of Salt Lake City and chief justice of the Utah Supreme Court.)
\textsuperscript{31}See \textit{Deseret News}, November 15, 1851, p. 3; and \textit{Journal of Discourses} (Liverpool, England, 1852), 1:95-103.
\textsuperscript{32}Because such little record of the Egan case remains, it is difficult to piece together all the legal nuances of the case. Murder was hardly condoned in Utah, but in the Egan case it was committed between the time the territory was formed and the legislature’s approval of a resolution adopting all prior ordinances of the State of Deseret (which included a strict criminal code, providing for the death penalty upon the conviction of premeditated murder), thus, no statutory law criminalizing murder was in effect. The common law crime of homicide would apply only if common law was in force.
\textsuperscript{33}Tullidge, \textit{History of Salt Lake City}, Appendix, p. 163.
the common law to be in force in Utah.\textsuperscript{34}

In 1856, in the first reported case in the \textit{Utah Reporter}, the issue of whether common law was in force in the territory was again before the Territorial Supreme Court. In \textit{People v. Green} the defendant had been indicted by a grand jury of Great Salt Lake County for the crime of assault with intent to murder. Green challenged the indictment on the basis that the grand jury had been selected pursuant to an 1853 Utah statute that provided for grand juries to be composed of “fifteen judicious men” in contravention of the common law rule that grand juries were composed of twenty-three men. The decision, written by Chief Justice W. W. Drummond, declared the common law “is most positively extended over the territory of Utah” by the fact that the territorial organic act extends the “Constitution and Laws of the United States” over the territory.

In what has to be regarded as one of the classic examples of the legal aspect of the “irrepressible conflict” is the diatribe written by Justice Drummond in this opinion:

\begin{quote}
To say that men unlearned in the science of the law are competent at all times, although ever so honest or blessed with ever so many heavenly gifts and blessings, to determine the technical legal bearing and proper construction of an act of their own making, or the law of Congress, is something that this Court cannot concede. The law must be construed by men learned in the Law, and not by virtue of any Priesthood, and
\end{quote}

\textsuperscript{34}\textit{Brooks, On The Mormon Frontier}, 2:550. Numerous Utah Territorial Supreme Court opinions have never been reported and records of those cases are apparently not extant. The earliest \textit{Utah Reporter} cases are 1856. The earliest volume of Utah Supreme Court Minute Books extant is vol. 3 beginning in the mid-1880s; the earliest volume of Register of Actions extant is vol. 3 beginning in 1859; and the earliest Record of Opinions extant is vol. E beginning in 1890, except that vol. A is in the Utah State Archives. Vol. A of the Record of Opinions includes, for the most part, opinions appealed from the District Court of Carson County (now Nevada) commencing with the 1861 term, some of which have been included in the appendix to vol. 3 of the \textit{Utah Reporter}. Why the early records are missing is an interesting question. Justice Drummond alleged in 1856 that the Mormons had broken into his office, stolen the local records, and burned them. Mormon accounts say they were just removed for safekeeping. (Safekeeping or not, they are still missing — but so are records after 1856.)
while we are willing to make due and proper allowance for the inexperience of the Utah Legislators, duty to the law of the land and particularly to the form of the American Judiciary requires us to say that the acts of the Legislature of this Territory in encroaching on the provisions of the Organic Act are unwarranted in law. They have no right, nor indeed can they increase or diminish the powers of the Federal courts of this Territory. They are fixed, to be altered only by a higher Legal Tribunal than this Court, or by the Congress of the United States; and it is noonday madness to contend that the legislature of Utah Territory is competent in power to overthrow that instrument, or add to, or take from its provisions.35

Utah variances from the Organic Act for the selection of jurors was subsequently upheld by the United States Supreme Court in Clinton v. Englebrecht.36

Subsequently, the Utah Territorial Supreme Court held that a writ of error, even though not provided for by statute, was allowable as "at common law";37 that a defendant has the right to rely upon as many different defenses as he may choose to put upon the record in accord with common law;38 that pleadings before a Justice of the Peace must contain "all material qualities of a common law pleading";39 and that interest could be awarded in a judgment as "at common law."40

In 1870 the Territorial Supreme Court, in its annual state of the judiciary message to the legislature, pleaded with the legislature to repeal the 1854 statute banning the citing of precedents in the courts of the territory of Utah.41

In First National Bank v. Kinner (1873) the Territorial Supreme Court heard the issue of whether England's statute of frauds was "in substance a part of Territorial Law," even though no territorial statute had adopted the 1677 statute. Finding that it was, the court discussed the application of common law in the territory:

The citizens of Utah have tacitly agreed upon maxims and principles of the Common Law suited to their conditions and consistent with the Constitution and Laws of the United States, and they only wait recognition by the courts to become the Common Law of the Territory. When so recognized, they are laws as certainly as if expressly adopted by the law-making power.42

35 1 Utah 11 at 15.
36 13 Wall. 434 (1872)
37 Reece v. Knott, 3 Utah 436 (1861).
38 Murphy v. Carter, 1 Utah 17 (1867).
39 In re Catherine Wiseman, 1 Utah 39 (date unknown).
40 Perry v. Taylor, 1 Utah 63 (1871).
41 Governor's Messages, 1851-1876, 155. (Message of acting Gov. S. A. Mann, January 11, 1870.)
42 1 Utah 100 at 107.
Two years later, in *Thomas v. The Union Pacific R.R. Co.* (1875), the common law issue was again before the court in a wrongful death action. The facts of *Thomas* indicate that Joseph Thomas, a minor son of the plaintiff, was a passenger on one of the defendant’s trains, and due to the negligence of the defendant and its servants the train collided and the son was instantly killed. The father brought an action in tort for damages. The court held that it was a settled doctrine of the common law that the death of a person caused by another does not give rise to a cause of action by anyone. In so holding, the court, citing Kent’s Commentaries and two Ohio cases, noted:

Although the Common Law has not been adopted in this Territory by any Statute, we entertain no doubt that it should be regarded as prevailing here so far as it is not incompatible with our situation and government, and that it is to be resorted to as furnishing to that extent the measure of personal rights and the rule of judicial decision.

In 1895 the Territorial Supreme Court ruled that the common law writ of elegit was not in force in Utah on the basis that it was “unknown to American jurisprudence, except in a few states, and these were obsolete many years before the organization of this Territory.” In 1897 the court held that the “statute of uses was not a part of English Common Law, and has not been expressly adopted in this state,” but the “rule is a part of the common law this state” anyway because it is recognized in most of the United States.

One legal issue unique to the territory of Utah—and with significant common law implications—was the legality of the Mormon practice of plural marriage. In *The Late Corporation of the Church of Jesus Christ of Latter-Day Saints v. The United States* the United States Supreme Court declared that Congress did have the legislative authority to repeal the charter granted by the territorial legislature incorporating the LDS church but was then faced with the issue of whether the property of the church should escheat to the federal government under the common law doctrine of *cy pres*, or alternatively, if common law was not in force in the territory, would the property revert back to church members who had donated to a charitable corporation. The court held:

It is true, no formal declaration has been made by Congress or the Territorial Legislature as to what system of laws shall prevail there. But

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1 Utah 232 at 234. (This is the first case on point in which the opinion is supported with legal citations.)
2 Thompson v. Avery, 11 Utah 214 at 230.
it is apparent from the language of the Organic Act, which was passed September 9, 1850 (Stat. 453), that it was the intention of Congress that the system of common law and equity which generally prevails in this country should be operative in the Territory of Utah, except as it might be altered by legislation. In the 9th section of the Act it is declared that the Supreme and District Courts of the Territory "shall possess chancery as well as common law jurisdiction;" and the whole phraseology of the Act implies the same thing. The Territorial Legislature in like manner, in the first section of the Act regulating procedure, approved December 30, 1852, declared that all the courts of the Territory should have "law and equity jurisdiction in civil cases." In view of these significant provisions we infer that the general system of common law and equity, as it prevails in this country, is the basis of the laws of the Territory of Utah.46

Four months later the church abandoned its position on plural marriage, and five years later Utah was admitted to the Union as the forty-fifth state. In 1897, exactly fifty years after the Mormon pioneers first arrived in the Salt Lake Valley, the Utah State Legislature passed the first statute, to take effect January 1, 1898, to recognize common law:

The common law of England, so far as it is not repugnant to, or in conflict with the Constitution and laws of the United States, or the Constitution and laws of this state, shall be the rule of decision in all the courts of this state.47

JUDICIAL REVIEW

Given the holding by the United States Supreme Court on the issue of common law in the territory, one would assume that the matter would never again be adjudicated in Utah. It was. In the most perspicacious judicial decision on the subject, the Utah State Supreme Court in 1915 addressed the issue of whether common law had existed in the territory of Utah and, if it had, to what extent.

_Hatch v. Hatch_48 is a case that dealt with the antiquated common law doctrine of coverture, which denied a married woman the legal status to own property. The wife had died in November 1880 and the husband in December 1911. The administrator of her estate and the executor of his estate were both appointed in January 1912. Plaintiffs sought

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46 Utah 116, 148 P 1096 (1915).
47 65 Utah Revised Statutes 2488 (1898); presently cited as 68-3-1, Utah Code Annotated (1953).
48 136 U.S. 1 at 62.
a separate estate for the wife. Defendants claimed no cause of action existed because the English common law was in force in the territory during all times in question. The court embarked on a history of the territory of Utah, beginning with its possession by Mexico, and gave a well-reasoned analysis of prior territorial cases adopting common law, which it said were “confusing . . . dicta or left the matter in doubt.”

The court then quoted from early Colorado and New Mexico cases holding that the Mexican Cession was not subject to English common law prior to acquisition by the United States and that “. . . laws, usages, and municipal regulations in force at the time of the conquest or cession remain in force until changed by the new sovereign.”

In the end, the court held that while common law may have existed in the territory—because the United States Supreme Court said it did—the rigors and the harshness of English common law did not; and, rather than adopting English common law, the Organic Act only required the adoption of so much of it as was generally recognized in the United States and was applicable to the territory.

“A LABYRINTH OF ABOMINATIONS”—THE MORMON VIEW

In the preface to the monograph *The State of Deseret*, J. Cecil Alter states:

The *Ordinances of the State of Deseret* have been dismissed as uninteresting by historians too much concerned with violent color. A study of these statutes reveals the religious, social, economic and political philosophy of the Mormons as reflected in their legal thinking on the government of the social group and its officials.49

The sentiment can equally apply to the early territorial statutes. Yet, if the previously cited ordinances and statutes of Deseret and the early territory of Utah leave the Mormon position toward English common law in any doubt, pronouncements by church authorities do not.

Oft-quoted statements of nineteenth-century Mormon leaders on the subject of the law generally amount to nothing more than a stern denunciation of lawyers—which was no minor matter with them50—but their aversion to things legal went further. The most outspoken critic,

49 Morgan, *The State of Deseret*, p.6. (Alter was then the editor of *Utah Historical Quarterly.*)

50 “It was Brigham Young’s expressed wish to send lawyers “to China, to the East Indies, or to where they cannot get back, at least for five years.” *Journal of Discourses*, 3:239. (Hosea Stout was sent on a mission to China in 1852.)
of course, was Brigham Young, who had an opinion on most everything and was not timid in letting it be known. He delighted in putting down lawyers, had an arrogant confidence in his own untutored common sense, and thought the common law much too rigorous.

In 1851 an Illinois physician contemplating moving to Utah wrote to Brigham Young, asking him, among other things: "Have you adopted the common law of England as the law of the Territory, or have you a special code by which you are governed?" Young replied:

We have not adopted the common law of England, nor any other general law of old countries, any further than the extending over us the constitutional laws of the United States, by Congress, has produced that effect. We have a few Territorial laws, principally directory in their provisions and operation. And we have a common law which is written upon the tablets of the heart, and "printed on in most parts, whose executors are righteousness, and whose exacters are peace;" one of its golden precepts is "Do unto others as you would they should do unto you." This common law we seek to establish throughout the valleys of the mountains; and shall continue our exertions for its adoption as long as we shall continue to exist upon the earth, until all nations shall bow in humble acquiescence thereto, and the earth shall be redeemed from the thraldom that wicked and corrupt men have entangled her through their "entangling alliances," specious and unmeaning pretenses, servile and absurd acquiescence in the shims, caprices, and dictation of profound ignoramuses, who being entitled, through a little brief authority, to wear a cap or a feather, a surplice or a robe, a garter or a star, would be thought to be men of "legal learning," and would, if they could, fasten their peculiar dogmas upon all succeeding generations.\(^{51}\)

In his annual message to the territorial legislature in 1853 Governor Young declared that if the "legal mists and fog" of common law were removed from judges, "unrighteous decisions would seldom be given."\(^{52}\) Ten days after the Utah Territorial Supreme Court issued its first decision adopting common law in the territory, Brigham Young sternly lectured lawyers:

We love the Federal Government and the laws of Congress and there is nothing in those laws that in the least militates against us, not even to our excluding common law from this Territory. I can inform our lawyers who plead at the Bar here, that the Congress of the United States have passed laws giving us the privilege of excluding common law at our pleasure, and that too without any violation of the constitution, or general statutes.\(^{53}\)

\(^{51}\)Deseret Evening News, December 13, 1851, p. 2.
\(^{52}\)Governor's Messages, pp. 38-39.
\(^{53}\)Journal of Discourses, 2:182.
Jedediah M. Grant, a counselor to Brigham Young (as well as mayor of Salt Lake City), said of the law being administered by the federal judges:

Our laws have been set at naught and walked under foot, and in lieu thereof a constant effort has been made to rule in common law, English law, and law after law totally inapplicable.54

The most emphatic declaration against common law, however, came from the church’s First Presidency—in the same year the territorial legislature banned the citing of precedent. After admonishing church members to eschew litigation, courthouses, and lawyers, the official statement said:

That “common law” as it is commonly understood and practiced, is a labyrinth of abominations, and should be struck out of existence. That the Constitution and applicable laws of the United States, and laws passed by the Governor and Legislative Assembly of Utah Territory, are all the laws of force in Utah.55

Just what jurisprudence supplanted common law in early Mormon society is rarely mentioned in Mormon historiographies, but Brigham Young’s reply to the Illinois physician indicates they did indeed have a “common law” of their own.

**COMMON MOUNTAIN LAW**

Lt. John W. Gunnison of the Corps of Topographical Engineers, after living in the Salt Lake Valley during the winter of 1849-50, observed that “the church is the court for doctrinal error—for other offenses they have the statutes of Deseret, and what they call ‘Common Mountain Law’.”56

Though essentially an unknown term in LDS circles today, common mountain law was apparently prevalent enough in Deseret in 1849-50 for even Gunnison to know of it. Otherwise, except for the closing argument in the *Howard Egan* case noted above, the term is obscure. But the *Egan* case is an open window on the early Mormon attitude toward law in general and common law in particular.

54Ibid., 3:234.
55*Deseret Evening News*, September 21, 1854, p. 3.
Although it has to be admitted that specific arguments employed in courtrooms may not tell us much about the pattern of thinking in a particular period, the closing argument for the defense in *Egan* remains noteworthy. First, it was given by a church apostle, George A. Smith, who had been admitted to the bar solely for the purpose of defending this case. Second, because the philosophy expressed by Smith coincides with the views of the church’s First Presidency in opposition to common law, the statement undoubtedly represents the general position of the early church leaders on the subject. And third, the argument received an imprimatur from the church by its being printed in full in the *Deseret News*[^57], reprinted in pamphlet form by church authorities in England on two separate occasions[^58], and, was ultimately included in the church’s official organ for general conference talks, the *Journal of Discourses*.

In defending Egan against the charge of murdering his wife’s seducer, Smith began by explaining to the jury that all he wanted was “simple truth and justice” without resorting to “anything that may be technical.” He then proceeded into a historical analysis of the development of law:

> The laws of the twelve tables were formed for a people possessing the Greek refinements and Greek ideas, Greek notions of right and wrong; these laws were made according to a genius of liberty known among that ripened confederacy. They were brought to Rome, to a people entirely different in their genius, who placed different values upon different points, and had different view of right and wrong; they had to put them in force: and, let me ask you what was the result? Read the pages of history, and hundreds of mourning families will tell the sad tale! The truth is written with the blood of thousands, through taking the rules, laws, and regulations of an old and rotten confederacy, and applying them to a new and flourishing territory! I argue, then, that these laws, which may have force in old England, are totally inapplicable to plain mountain men.

Smith asked the jury whether the “genius,” the “spirit,” and the principals of “justice and right,” which abide with the “inhabitants of these mountains, are the same as those found among the nations of the Old World?”[^59] It was to beg the question. He directed their attention to the contrast between the value system of Old England and this new “flourishing territory”:

[^57]: *Deseret Evening News*, November 15, 1851.
[^59]: *Journal of Discourses*, 1:95.
In taking this point into consideration, I argue that in this territory it is a principle of *mountain common law*, that no man can seduce the wife of another without endangering his own life. I may be asked for books. Common Law is, in reality, unwritten law; and all the common law that has been written is the decision of courts; and every time some new decision comes up, it is written, which you may find stacked up in the Attorney General’s office, in Great Britain. This is continuing; fresh decisions are still being made, and new written authorities added, and precedent upon precedent established in the courts of the United States and Great Britain; and must we be judged by these ten thousand books? (Emphasis added.)

Smith’s inveighing against the corruptions of society and antiquated laws was central to the Mormon reason for the introduction of a new legal system. In Smith’s words, the principles espoused in this new territory were embraced in a new common law unique to the “inhabitants of these mountains.”

On the basis that no common law offenses (such as homicide) existed in the territory of Utah, Judge Snow’s instruction to the jury was: “If you . . . find the crime to have been committed . . . in the territory of Utah, the Defendant, for that reason, is entitled to a verdict of, not guilty.” The jury so found and Egan was acquitted.

Whether this case represents the triumph of mountain common law over English common law during the incipient stages of the territory of Utah, or whether it merely represents jury nullification of a criminal act because of the peculiarities of the case, is not for us to

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know. But it is evident from this case that sentiment existed at the highest levels of the early LDS church for the supplanting of English common law with another jurisprudence they called mountain common law.

THE COMMON LAW, THE SUPREME COURT, AND THE ORGANIC ACT

The United States Supreme Court case of Wheaton v. Peters (1834), written by Justice Joseph Story, held that "there can be no common law of the United States," that common law can only be made a part of the federal system by "legislative adoption," and that when a common law right is asserted the court "must look to the State" to determine whether that common law right has been adopted. This single case essentially refutes all the theories espoused by the Utah Territorial Supreme Court for the adoption of common law in the territory of Utah some years before those cases were decided. The Constitution and the laws of the United States do not mandate common law in the territories; and if common law can only be made a part of the federal system by "legislative adoption," it can only be made a part of a "federal territory" by the same means.

Rather, it is the United States Supreme Court's opinion in the Late Corporation case that causes problems, because it finds "legislative adoption"; but the language of the Organic Act is unclear, legislative history on the matter is confusing, and the holding is made without legal citation or reference to historical precedent.

First, contrary to the bald assertion by the United States Supreme Court, the Utah Territorial Legislature never intended to adopt common law. By incorporating the words "law and equity jurisdiction in civil cases" into its statute on courts, all the legislature did was use the language of the law to describe the subject matter jurisdiction of the court, not the jurisprudence to be applied therein. In the eighteenth century most of the states, and in the nineteenth century many of the states, replicated the English system of creating chancery courts to hear equity cases and law courts to hear actions at law. The term "jurisdiction," as used by the Utah legislature, meant the power for a single court to hear both law and equity cases and decide them by pronouncing judgment.

\[8\text{Pet. 591, 658 (1834).}\]

\[62\text{All of the original thirteen states, except Massachusetts and Pennsylvania, had separate law and equity courts. (Virginia retains the distinction still.)}\]

\[63\text{Federal courts function this way, taking "cognizance" of equity and law cases but applying the law of the jurisdiction in which the court resides.}\]
Second, while the phrase used in Section 9 of Utah’s Organic Act, that the “supreme and district courts of the territory shall possess chancery as well as common law jurisdiction,” is similar to the Utah statute, the language of the Organic Act has a legislative history, albeit one that the Supreme Court chose to ignore. The Northwest Ordinance granted judges a “common law jurisdiction” and guaranteed the inhabitants thereof “judicial proceedings according to the course of the common law.” The first three drafts of the ordinance contained the language “common law and chancery jurisdiction,” but for some inexplicable reason “chancery” was deleted from the final draft. Subsequent territorial organic acts were modeled after the Northwest Ordinance and retained the granting of courts “common law jurisdiction” but omitted any reference to “judicial proceedings according to the course of the common law.” Whether this meant the exclusion of chancery jurisdiction from the courts, and whether it meant the application of common law doctrine to judicial proceedings was of such a concern to the territorial legislature of Indiana that it twice petitioned Congress to clarify the matter. Congress responded by granting to Indiana and subsequent territorial courts “chancery as well as common law jurisdiction” but refused to specify whether common law was to be the jurisprudence of those courts.

Third, Congress specifically addressed the issue of whether common law was to be the jurisprudence of the Utah courts in the Poland Act of 1874. The seventh section of the bill originally provided that common law “be the rule of decision in all the courts” of the territory, but Congress deleted the section on the insistence of some senators who thought it might give the Mormon probate courts authority Congress did not want them to have.

Fourth, any intent by the Continental Congress of 1787 to institute common law in the new republic’s first territory was definitely lost by the Constitutional Congress for subsequent territories as late as 1850. Certainly New Mexico, which had an existing society following civil law at the time of its Organic Act, was not expected to adopt common law.

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64 There is no debate recorded in The Journals of the Continental Congress to give evidence as to the intent of the phrase or the reason for the deletion of the word “chancery” from the final draft. See XXVI Journals of the Continental Congress, 275.

65 Indiana’s petition asked Congress to clarify whether its courts had chancery jurisdiction and if common law was it the common law of “England, or France, or of the Territory over which the ordinance is the constitution.” Annals of Congress, 13th Cong., 3d sess., Col. 400-401 (1814).

66 3 Stat. 328, 654, 769 (1822).

67 2 Congressional Record, 4467, 5417 (1874).
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for Congress had never changed the jurisprudence of a civil law jurisdiction upon its becoming a territory.\textsuperscript{68} Incidentally, the legal debate over the Compromise of 1850 was not whether common law applied in the territories after the Organic Acts but whether the U.S. Constitution did before.\textsuperscript{69}

Finally, in \textit{Bent v. Thompson}, a New Mexico territorial probate case, decided the year after the \textit{Late Corporation} case, the U.S. Supreme Court cited as authority a New Mexico Territorial Supreme Court case holding that common law did not come to that territory until the territorial legislature so adopted it in 1876.\textsuperscript{70} New Mexico is of that same cession from which the territory of Utah was carved, was created by Congress simultaneously with the territory of Utah, and the two territories have virtually identical Organic Acts. So a finding that common law came to Utah via its Organic Act and to New Mexico via a territorial statute are inconsistent rulings one year apart by the U.S. Supreme Court.\textsuperscript{71}

\textbf{“THE LAWES OF GOD”}

It was not English law that initially ordered men’s lives and conduct in establishing legal and political institutions in religious societies in America. The Puritans of Massachusetts Bay said that they started from “the lawes of God” rather than the laws of Englishmen.\textsuperscript{72} And the Quakers said they lived by a law that dwelt in each individual and against

\textsuperscript{68}When the territories of Orleans and Florida were created, which had existing societies following civil law, references to “chancery” and “common law” were specifically omitted from their Organic Acts.

\textsuperscript{69}Daniel Webster repeatedly took the position that the Constitution did not apply to the territories unless extended there by law. John C. Calhoun and later on Stephen A. Douglas took the position that the Constitution was extended to the territories by virtue of their being a territory of the United States. In the debate over the Compromise of 1850, Sen. Henry Clay said: “I do not think there has been any subject which I have so much considered in relation to this matter as this very question; and I must confess that my opinion inclines to what I understand to be the opinion of the Senator from Massachusetts . . . .” \textit{Congressional Globe}, 31st Cong., 2d sess. 1145 (1850).

\textsuperscript{70}138 U.S. 114, 122, citing \textit{Browning v. Browning}, 3 NM 659 (1886).

\textsuperscript{71}The author has prepared a lengthy treatise following the evolution of the “common law jurisdiction” phrase, originally in the Northwest Territorial Organic Act, through all Organic Acts for United States territories, along with court references to the same and petitions to Congress. In short, all territories except Orleans and Utah either statutorily adopted common law or inherited it from their parent territory which had statutorily adopted it. Of the territories that made up the Mexican Cession, the Colorado Territorial Supreme Court held civil law was in the territory of Colorado until common law was adopted by the territorial legislature, \textit{Herr v. Johnson}, 18 P. 342, 343 (1888); the Arizona court held common law did not come into effect until adopted by the territorial legislature, \textit{Masury v. Bisbee Lumber Co.}, 68 P.2d 679, 687 (1937) citing \textit{Browning v. Browning}, 3 NM 659 (1886); the issue never arose in Nevada, which territory adopted common law in its first legislative session; and California, which escaped the territorial phase, adopted common law shortly prior to statehood, \textit{Norris v. Moody}, 24 P. 37 (1890).

which there could be no proper appeal to statute books, legislatures, or
law courts.\textsuperscript{73} Massachusetts Bay, Connecticut, New Haven, and to a lesser
extent New Jersey made declarations at an early stage establishing scrip-
ture as their substantive law,\textsuperscript{74} and though recent scholarship has put
scripture as a source of law in early New England in a diminished light,
there is no question that the “New England Puritans had striven to apply
the written laws of God to the building of Zion in the wilderness.”\textsuperscript{75}

Students of religion in America are struck by the fact that the ini-
tiators of new American religious movements subscribed to the idea of
the kingdom of God being established on the earth “to which this na-
tion, in its politics and economics, was required to conform.” It is re-
markable the extent to which the millenarian tendency, recognition of
the coming divine sovereign, and the belief in the ultimate establish-
ment of God’s kingdom on earth flourished in America. It became so
prevalent, that by the first half of the nineteenth century it was the
dominant idea in American Christian thought.\textsuperscript{76}

Never was this more true than in nineteenth-century Mormon the-
ology. Zion and the kingdom of God were two of the most salient sub-
jects of early Mormon discourses, and combined they represent, from
the beginning of the church in 1830 to the issuance of the Mormon
Manifesto in 1890, the most dominant theme in LDS general confer-
ence sermons.\textsuperscript{77} “The business of the Latter-day Saints is to bring forth
the Kingdom of God in the last days, morally, religiously and politi-
cally,”\textsuperscript{78} proclaimed one church leader after another. In the mold of
Jonathan Edwards, Mormon leaders maintained that not only was the
Second Coming imminent, but human instrumentalities would hasten
its advent. Latter-day Saints were repeatedly apprised of their sacred
duty to build Zion, a separate and holy community safe from the con-
taminating evils of the world. Church leaders stressed the establish-
ment of the kingdom in the last days, predicted submission of all nations to

\textsuperscript{73}Daniel Boorstin, “The Perils of Unwritten Law,” \textit{Hidden History: Exploring Our Unwritten Past},

\textsuperscript{74}Paul S. Reinsch, “The English Common Law in the Early American Colonies,” \textit{Select Essays in


\textsuperscript{76}H. Richard Niebuhr, \textit{The Kingdom of God in America} (New York: Willett, Clark & Co., 1937),

\textsuperscript{77}See Gordon Shepard and Gary Shepard, \textit{A Kingdom Transformed} (Salt Lake City: University of
Utah Press, 1984), which statistically analyzes the content of Mormon general conference addresses for
the most salient themes. By combining the topics “Zion” and “Kingdom of God” this concept repre-
sents the single most dominant theme for the period 1830-90.

\textsuperscript{78}Journal of Discourses, 9:316.
its authority, warned that sacrifices would be required in introducing
the kingdom, and emphasized the kingdom’s temporal features rather
than its spiritual aspects.\textsuperscript{79}

This kingdom was to be separate from the world\textsuperscript{80} and bring to
fruition the living reality of God’s future rule. Consequently, its laws
were also to be separate from the world. As stated in the \textit{Millennial Star},
the kingdom of God was to have “no laws but God’s law . . . .”\textsuperscript{81} The
Council of Fifty, organized by Joseph Smith in 1844 for the purpose of
establishing the kingdom of God on earth, had as its formal name “The
Kingdom of God and His Laws . . . .”\textsuperscript{82} And herein lies the key to under­
standing Mormon antipathy towards common law.

The kingdom to be established by Christ’s millennial reign on earth
would not be expected to have any laws but God’s law. So why should
the State of Deseret? If Deseret was to usher in the kingdom of God,
then its laws too should usher in the laws of God. As a consequence,
common law was cast aside. That is not to say concepts of due process,
fairness, and justice were cast aside, only that centuries of court-im­
posed rules were not to be the fulcrum of this new jurisprudence.

Philosophically, Mormon leaders never regarded as valid declara­
tions of Sir Matthew Hale, Blackstone, and Lord Mansfield that “Chris­
tianity was part and parcel of the Common Law.” “Human law,” as de­
noted by John Locke and St. Thomas Aquinas, was not “divine law.”
Common law was something posited by man; God’s law was not. The
kingdom of God could have no less. Thus, the fact that the territory of
Utah never statutorily adopted common law was not because of the con­
flict common law imposed upon Mormon practices but because the
adoption of “human law” was not consistent with the idea of the “com­
ing Kingdom.”

\textbf{CONCLUSION}

“Language fails to properly characterize,” thundered Utah’s chief
justice in 1874, legislation that excludes “from Utah the authority of

\textsuperscript{79}Shepard and Shepard, \textit{A Kingdom Transformed}, p. 80.
\textsuperscript{80}Klaus J. Hansen, \textit{The Quest for Empire} (1967; reprint ed., Lincoln: University of Nebraska Press,
\textsuperscript{81}Quoted in ibid., p. 11.
\textsuperscript{82}Minutes of the Council of Fifty, 1880, Brigham Young University Library, Provo, Utah. See also
Robert G. Cleland and Juanita Brooks, \textit{A Mormon Chronicle: The Diary of John D. Lee, 1848-1876} (Salt Lake
Coke, Blackstone, Mansfield, Kent, Story and Marshall." It was a sentiment that pervaded the federal judiciary during the Utah territorial period.

Whether one accepts Frederick Jackson Turner's thesis that American frontier conditions greatly influenced the development of American law or the countervailing thesis that frontier legal continuity with England and American law far outweighs any evidence of substantial frontier legal innovation or change, the Utah legal experience was indeed unique. Attempts to establish a Christian commonwealth in a political rather than just a spiritual sense, after American independence, ran headlong into a federal government and judiciary that saw no virtue in establishing the world anew.

By 1897, however, with the practice of polygamy repudiated, the LDS church restored to legal status, its real property returned, statehood granted, and the concept of Zion converted into a metaphysical rather than political sense, the Utah legislature finally declared common law to be "the rule of decision in all courts of this state." Utah was being "Americanized" culturally, socially, and economically—as well as legally!

--Deseret News, October 14, 1874, p. 578.
Who Shall Raise the Children?
Vera Black and the Rights of Polygamous Utah Parents

BY KEN DRIGGS
THE UTAH SUPREME COURT in 1955 decided *In Re Black*¹ concerning the parental rights of Vera Black, a polygamous wife from the fundamentalist Mormon² community at Short Creek. In one of the harshest opinions in the court’s history, Justice George M. Worthen laid down a per se rule of law that polygamous parents had virtually no rights to their children. State child welfare authorities could strip polygamists of their children and adopt them out to more traditional homes in order “that children should not be subjected to its evil influence and environment.”³ The case brought panic in the fundamentalist Mormon community and stood as the law in Utah until 1986; however, it did not dissuade Vera Black and her eight children, all of whom are committed members of the Short Creek⁴ community today.

In the predawn hours of Sunday, July 26, 1953, a combined force of 120 Arizona peace officers, plus 100 invited reporters, crept across dusty unpaved roads on that isolated portion of the state north of the Grand Canyon, the Arizona Strip. Their objective was the tiny pioneer hamlet of Short Creek on the Utah-Arizona border. They brought arrest warrants for 36 men and 86 women plus pick-up orders for 263 children. Only 8 residents of the community were not sought by the state’s army.⁵

The single telephone line into Short Creek was snapped. Twenty-five police cars approached on the single road from the east, another fifteen from the west, all bouncing along with headlights out. Twenty-five additional cars carrying newspaper reporters, radio newsmen, and

¹*In Re Black*, 3 Utah 2d 315, 283 P.2d 887 (Utah 1955), United States Supreme Court certiorari denied, 350 U.S. 923, 76 S. Ct. 211, 100 L. Ed. 807 (1955). The author wishes to thank his parents Dr. Don F. and Dorothea Driggs for their support in this research; his typist Leigh Ann Greene for her patience; and especially Vera Black and her children for their candid interviews.

²Fundamentalist Mormons consider themselves to be part of the Church of Jesus Christ of Latter-day Saints, commonly called the Mormons. The LDS church, however, does not consider them members. Many fundamentalist Mormons have been excommunicated from the LDS church. There are several different unconnected groups of fundamentalist Mormons. All have their cultural and religious roots deep in the Mormon experience.

³*In Re Black*, 283 P.2d at 913.

⁴Short Creek is an isolated desert community sitting on the Utah-Arizona border about forty miles from St. George, Utah. It has been incorporated as Colorado City, Arizona, and Hildale, Utah. For purposes of this article the author will refer to the area by its historic name, Short Creek.

Short Creek, Arizona, residents awaiting instructions from police following July 26, 1953, raid on the polygamous colony. USHS collections.

Arizona National Guard field kitchen served food to Short Creek residents. USHS collections.
newsreel and television camera crews followed. One Associated Press reporter wrote that “It was like a military assault on an enemy position. There was the same mistaken orders, the jammed column on the road. . . . Cars got stuck in the mud, some went off the road, and others got lost, but finally in the darkness of a moon blacked out by an eclipse, all was ready.”

The rather unrealistic plan was that the fundamentalist Mormon community would be caught completely by surprise and could be nabbed in their polygamous beds. There were two officers for every home in the community. The raid was scheduled for the weekend celebration of Pioneer Day, a Latter-day Saint holiday recognizing the date in 1847 when Brigham Young and the first party of Mormons entered the Great Salt Lake Valley. However, Arizona authorities had coordinated the raid with Utah officials, and sympathetic law enforcement officers had tipped off the fundamentalists. Once alerted that something was coming but unaware of its magnitude, the fundamentalists had gathered for evening worship services under the direction of their prophet, Leroy S. Johnson, and were dressed in their Sunday best and packed to go.

Lookouts were posted around desert high points, including Berry Knoll about two miles from Short Creek. Young Daniel Barlow, years later the mayor of Colorado City, was one of those posted on the knoll. A dynamite warning signal was set off by his brother Joseph Barlow. There was no more surprise left. A few fled successfully to Utah but most gathered under the flagpole of the one-room schoolhouse where they sang “America” and Mormon hymns as the raiding party entered the town. The officers rounded up all the local citizens and confined them to an area around the school. Every home was searched, religious literature seized, and stragglers arrested. Men and women were separated and not allowed to talk to each other. A court was set up in the schoolhouse to begin processing the arrested. Superior Court Judges J. W. Faulkner and J. Smith Gibbons presided. An Arizona National Guard field kitchen provided food for the multitude.

Later in the day Arizona Gov. Howard Pyle went on the radio to announce the raid. He said the purpose was “to protect the lives and futures of 263 children.” He called the Short Creek religious community

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Footnotes:

2. Fundamentalist Mormon recollections of the raid come from the author’s interviews in May 1989 with the Hon. Dan Barlow, Samuel S. Barlow, Vera Black, and Orson Black.
“the foulest conspiracy you could imagine” which was “dedicated to the production of white slaves.” He described the 1935 Kingman polygamy trials and traced the history of the community to that date.\(^8\) Short Creek leader Johnson, on the other hand, denounced the raid as the “most cowardly act ever perpetrated in the United States” and called the police “storm troopers masquerading in highway patrol uniforms.” The afternoon edition of the *Deseret News* editorialized on “The Police Action at Short Creek,” praising Governor Pyle and republishing LDS church statements repudiating the fundamentalists.\(^9\) The next morning the *Arizona Republic* commented editorially on the “Cloak-Dagger Raid” which they thought was “carried out in an atmosphere that would have made Mack Sennett and his Keystone Kops green with envy.” The editorial rejected Pyle’s assertion of an insurrection— “Insurrection? . . . Well, if so, an insurrection with diapers and volleyballs!”—and worried about the effect of the police action on mothers and children.\(^10\)

Within a week of the raid the mothers and children were bused to Phoenix where they were first housed in the crowded Evans Rest Home, given food and clothing, and put on display for the press. Reporters described them as reserved, homesick, crying, restless, and afraid. In particular, they dreaded questions they expected from the courts. They were told they would remain in the dormitory setting for up to a month while being processed for more permanent foster homes.\(^11\)

The criminal aspects of the 1953 raid came to an end fairly quickly. From the beginning the cases were prosecuted by deputy state attorneys general Kent Blake and Paul La Prade. Within days of the raid extradition proceedings were begun on 30 individuals who had crossed the state line into Utah. At first the 5 men and 25 women resisted but finally waived further proceedings at Johnson’s urging. He cooperated with authorities and saw the courts as the place to resist.\(^12\) Two weeks later Superior Court Judge Gibbons of St. Johns, acting as committing magis-

\(^8\)The full text of Governor Pyle’s remarks can be found in “Pyle Condemns Short Creek ‘Plot’ As Insurrection,” *Arizona Republic*, July 27, 1953, p. 15, and U.S. Senate, Committee on the Judiciary, Subcommittee Hearings on Res. 62, Juvenile Delinquency (Plural Marriages), 84th Cong., 1955, pp. 13-16.


trate, denied a motion to dismiss the complaints against 107 defendants in the opening skirmish of the prosecutions. Serious plea negotiations apparently began after that. Blake and La Prade negotiated a comprehensive deal with fundamentalist defense counsel Aaron Kinney. On November 30, 1953, 26 male defendants entered guilty pleas to four misdemeanor counts of conspiracy each in Mohave County Superior Court at Kingman. As part of the deal charges were dismissed against 7 men and 62 women. La Prade told the court, “There is a lack of evidence against the seven men” and explained that the government felt the women were best handled through pending juvenile court proceedings over their children. For fundamentalists, getting the women out of the criminal proceedings so they could concentrate on regaining custody of their children was a critical element of the plea bargain.

On December 7, 1953, Judge Robert S. Tullar placed all 26 men on suspended one-year sentences. He read a lengthy statement with his sentence in which he said “I do not honestly believe that I can rehabilitate you gentlemen. You have an unshakable belief that it is the rest of the world that is out of step.” Judge Tullar made a point to recognize the LDS church for its role in advancing the prosecutions. He then asked the 26: “If the great leaders of the church which once embraced plural marriage—the church from which you sprang—now wholeheartedly and unconditionally repudiate the doctrine, does it ever occur to you that maybe, after all, it is you who are wrong?”

Arizona authorities held 164 allegedly dependent Short Creek children for an extended time. Juvenile hearings conducted by Superior Court Judges J. W. Faulkner and Lorna E. Lockwood during the two months following the raid placed the children in foster homes all around Arizona, often accompanied by their mothers and at great expense to the state. An attorney retained to represent the fundamentalist parents was allowed to participate in the hearings but, as Judge Faulkner made clear, “It is a matter of courtesy and not a matter of right for an attorney to be present in a juvenile hearing.” The attorney’s par-

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15. Judge Tullar’s complete remarks are published in *Subcommittee Hearings*, pp. 4-7.
ticipation was considerably limited. This restraint on counsel provided the basis for Superior Court Judge Henry S. Stevens to order that all children be restored to their families in March 1955. At that point 164 were still in custody. This brought an end to Arizona efforts to separate children from fundamentalist Mormon parents.16

In Arizona Governor Pyle threw the full resources of state government behind the raid, but in Utah Gov. J. Bracken Lee was less enthusiastic and limited his state’s involvement. The Utah side of the raid occurred at the same time as in Arizona. It involved fewer people, no criminal prosecutions, and less publicity; but it would eventually lead to the 1955 Utah Supreme Court decision of In Re Black, concerning the eight children of polygamous wife Vera Johnson Black and her husband Leonard Black. It would be one of the harshest, most controversial decisions in that court’s history.

In 1953 the Utah juvenile courts had original jurisdiction over all neglect, dependency, and delinquency matters of children under age eighteen. Once jurisdiction was acquired it could continue until the children were twenty-one. If a child was found by the court to be neglected, dependent, or delinquent it could summon the parents to a hearing “to inquire into the ability of such parents to support the child or contribute thereto, or into the fitness of such parents to continue in the custody and control of such child.”17

Available archival sources suggest extensive contacts between Arizona and Utah authorities as to possible dependency actions on Short

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17In 1953 Utah law defined neglected and dependent children at section 55-10-5 of the Utah Code:

The words “neglected child” include:
A child who is abandoned by his parent, guardian or custodian.
A child who lacks proper parental care by reason of the fault or habits of the parent, guardian or custodian.
A child whose parent guardian or custodian neglects or refuses to provide proper or necessary subsistence, education, medical or surgical care or other care necessary for his health, morals or well-being.
A child whose parent, guardian or custodian neglects or refuses to provide the special care made necessary by his mental condition.
A child who is found in a disreputable place or who associates with vagrant, vicious or immoral persons. A child who engages in an occupation or is in a situation dangerous to life or limb or injurious to the health or morals of himself or others.

The words “dependent child” include:
A child who is homeless or destitute or without proper support or care through no fault of his parent or guardian.
A child who lacks proper care by reason of the mental or physical condition of the parent, guardian or custodian.
A child whose custody is in question or dispute.
Creek children. Letters and memorandums indicate that the outcome of juvenile court hearings was determined before any evidence was heard. Washington County Juvenile Judge David F. Anderson, himself a Mormon, was involved in this planning. All communications were ex parte; counsel for the Blacks and other Fundamentalist Mormons was never informed.

In September 1953 the chief Arizona prosecutor wrote Judge Anderson "in strictest confidence," asking how he planned to dispose of Short Creek cases involving polygamous children. Judge Anderson responded that he would "take all possible steps to protect the children from growing up to be polygamists."

But in late October Judge Anderson began to have doubts about separating these children from their parents. In a letter to the director of the Utah Bureau of Services for Children he expressed his thoughts about how to respond:

These families are the extreme opposite of the ordinary family that is broken up by Juvenile Court order. It is plainly evident that there would be no hope of getting the cooperation or understanding of either the parents or the children in making a foster or adoptive home placement. Because the family ties are so strong, it looks to me as though it would be virtually impossible for most of these children to make a satisfactory adjustment in other homes. I am afraid that most of the children would become truants, run-aways or otherwise problem children in foster homes. Vigorous and continuous prosecution of the fathers of polygamy families seems to me to be the only practical way to cope with the problem. If all the law enforcement agencies made a real effort to prosecute and follow up these cases instead of letting them go for ten or fifteen years between criminal proceedings, I think that the practice of polygamy would eventually be stamped out. I can't escape the feeling that going ahead with these cases will do more harm than good to the children, and will amount to punishing the parents through their children.

Judge Anderson's doubts brought an immediate response from state officials in Salt Lake City. He was summoned to a November meeting in the Capitol with the governor, attorney general, and other offi-

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18 John Geyer, "State Takes Children from Plural Wife," *Daily Herald* (Provo), January 13, 1956, p. 1. In 1955 Judge Anderson would testify before a U.S. Senate Subcommittee: "I am a member of the Mormon Church. However, not an active member, and I have not been for many years." *Subcommittee Hearings*, p. 122.

19 Paul LaPrade, assistant Arizona attorney general, to Judge David Anderson, September 9, 1953, Utah State Archives, Salt Lake City.

20 Judge Anderson to LaPrade, September 11, 1953, Utah State Archives. Anderson copied John Farr Larson, director of the Utah Bureau of Services for Children and a key figure in the matter.

21 Judge Anderson to Larson, October 23, 1953, Utah State Archives.
Rights of Polygamous Parents

cials. The chairman of the Utah Public Welfare Commission wrote "We think that a trip to the Capitol is in order for you . . . at which time we shall pretty definitely have determined upon what we believe to be the proper course of action. We realize, of course, that the final decision lies with the court and that we have no right to dictate whether these cases shall be dismissed. We do, however, wish to give you our viewpoint in the matter." A memo recording the results of the meeting proposed a disposition in polygamous dependency cases exactly like the one that was entered in the Vera Black case. In order to retain custody of their children "the mother [must] refrain from teaching the children anti-social behavior such as to inculcate the idea the religious tenents of the organization are more binding than the law of the land." It was also agreed upon that two or three criminal prosecutions of polygamists should be undertaken each month.

A few days later Judge Anderson wrote the Arizona prosecutor assuring him that he was prepared to remove children from polygamous homes. But Anderson continued to worry about the cost to the state of seizing children and of publicity: "It is my desire to keep publicity concerning the cases to an absolute minimum. Publicity feeds the persecution complex of these people and might hamper our efforts to get their voluntary cooperation."

A March 19, 1954, amended petition filed by juvenile probation officer Jay R. Huntsman of St. George alleged that eight Black children, five boys and three girls, ranging in age from one to seventeen, were "dependent, neglected children contrary to the provisions of the statutes in three respects: that the parents provided inadequate clothing, food and medical care; that the parents taught the children that polygamous relationships were proper even though illegal; and that the parents actually lived in a polygamous marriage.

The juvenile court of the sixth district of Utah held a hearing on the Black children on March 20, 1954. Juvenile Judge David F. Ander-

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22H. C. Shoemaker, chairman of the Utah Public Welfare Commission, to Judge Anderson, October 29, 1953, Utah State Archives.
23Unsigned memo, November 9, 1953, Utah State Archives.
24Judge Anderson to LaPrade, November 15, 1953, with copies to Shoemaker and Larson, Utah State Archives.
25Judge Anderson to Shoemaker, December 9, 1953, Utah State Archives.
26Judge Anderson to Shoemaker, January 26, 1954, Utah State Archives.
27The Utah State Supreme Court has a file on the Blacks' petition for a writ of certiorari to the U.S. Supreme Court which contains 149 pages of the legal documents and the juvenile court trial transcript in this case. Hereinafter it will be referred to as Certiorari File. The amended petition is at pages 118-19.
son presided. The Blacks were represented by Salt Lake City attorney Horace J. Knowlton. Washington County Attorney V. Pershing Nelson prosecuted the case. Leonard Black, Vera Johnson Black, and their two oldest children, Orson who was two weeks shy of his eighteenth birthday and twelve-year-old Lillian, also testified. Other witnesses heard from in the 116-page trial transcript were a rancher and a writer of western novels, John Reed Lauritzen, and his wife Verda Lauritzen who was a Short Creek schoolteacher. The last two were not fundamentalist Mormons but were long-time residents of the community.

The children's forty-eight-year-old father was the first called to testify in juvenile court. He was first asked to describe his "three separate families." His "legal wife" was forty-seven-year-old Verna Colvin Black who bore him twelve children, eleven of whom were still living in 1954 and ranged in age from nine to twenty-five. They were married in 1925 or 1928, with a Utah marriage license, in the LDS Temple in St. George. Fundamentalist leader John Y. Barlow married Black and his plural wife Vera Johnson Black in 1934 or 1935 in either Hurricane, Utah, or Short Creek. That was "the same ceremony" administered in the St. George Temple. Vera's sister, Lorna Johnson Black, became his third wife some time later in another Short Creek ceremony performed by Barlow. Lorna had seven children, ages six months to twelve years. These were in addition to Vera's nine children, including a daughter who had died of pneumonia. Each wife and her children had a separate residence, two of which belonged to the United Effort Plan trust. Black said his parents were LDS but did not practice or strongly advocate plural marriage. Of his ten siblings, a brother and a sister practiced it as residents of Short Creek. Six of his daughters were married, at least five of them in plural marriages which Black was reluctant to concede. Verna was the mother of these six. Orson was his oldest son and none of the boys were married. None of his children had been to college, and most had only completed eighth grade in the Short Creek School.

Fundamentalist Mormons in Short Creek recall that Knowlton was himself a polygamist but not affiliated with any of the priesthood groups. They say he was in Short Creek the weekend of the raid but avoided arrest.

Leonard Black's testimony is found at pages 3-50 of the Certiorari File; Vera Black at pages 50-79; Orson Black at pages 79-89; Lillian Black at pages 91-92; John Reed Lauritzen at pages 95-106; and Verda Lauritzen at pages 107-15. Some of the trial testimony is also published in the opinion. In Re Black, 283 P.2d at 888-90, 896-99.

The Short Creek fundamentalists attempt a modern version of the old Mormon United Order. The legal entity they created to hold title to their real properties is called the United Effort Plan or United Effort Trust.
Since the 1953 raid he had visited Verna in Mesa where she and her children were being held by the state of Arizona. They visited "as man and wife," but he had not done so with his other two wives because of the pending charges. He declined to make any pledges about his future plans in that regard. Black did pledge to teach his children not to "willfully break the laws of the land" but said "I believe the Lord would prepare the way unless the law was out of reason."

The living quarters he described were cramped, two to four rooms per household, without running water or indoor "sanitary facilities." Vera's home consisted of a "lumber house" with "a kitchen, back room and two bedrooms." Boys and girls slept in separate rooms. In milder weather most slept outdoors in hammocks or moved their beds under the trees. The house was heated by a wood and coal stove.

When pressed by questions from the bench, Black would not promise to do more than "suggest" in the future that his children obey the state's laws on marriage, but only "until they are old enough to understand for themselves, and then the free choice is theirs."

Vera was questioned closely on how she would counsel her children to marry. She insisted it would be up to each child to use their own "free agency" and that she would not counsel them. When asked about Orson who was nearing adulthood she noted that he had no girlfriends his mother knew of. "He will have to get one before he get two," she replied dryly in answer to a question from Nelson. Judge Anderson pressed Mrs. Black for a promise not to live or advocate plural marriage after the expiration of her husband's Arizona suspended sentence in January 1953 but she would not make any pledges. Her answers to repeated questions were consistent: "... I am sure that I wouldn't want to sign any statement or anything like that that I would promise for the rest of my life"; "I don't feel to make any promises, if that is what it means, [because] I can't fully promise that I would never live with him again"; "I wouldn't want to make any more promises beyond promises we have already made. I don't know how I could do that it is too far ahead"; and "I don't wish to make any promises or concessions." In a moment of real candor Mrs. Black observed that dissolving her plural marriage would be personally very difficult: "It would be pretty hard thing to do to give anybody up after you have lived with him as long as I have. ... I couldn't live without him."

Orson was the next witness called after his parents. He testified that while he understood his parents' relationship "to some extent" he had never discussed it with them, nor had he discussed the general
topic of plural marriage with anyone in his family. He said he attended church meetings about two-thirds of the time when he was in Short Creek and had recently been ordained an elder in the faith's lay priesthood. Church meetings were sometimes held in the local schoolhouse or in individual members' homes. *Truth* magazine and the *Doctrine and Covenants* were available in his home but he denied being instructed from them. Although he insisted he had not yet considered his own situation on plural marriage he admitted he had absorbed that and other fundamentalist beliefs from his religious community. He believed in respecting civil law but qualified his position: "Well, it depends on whether the law of God is higher than the law of the land." He was taught this attitude in his home and community. He had no "young lady friend" and had not discussed plural marriage with any girls his own age.

Twelve-year-old Lillian Black, the third child born of the marriage, was called to testify briefly. Only Judge Anderson questioned her. The girl testified that she had known her parents participated in a plural marriage but that she did not know if it was right or wrong. When asked if she would become a plural wife herself or thought it would be wrong to do so she said, "I don't know what I'll do. I haven't made up my mind." She knew some of her half-sisters were plural wives but had no opinion as to the morality of that either. She did not know until the 1953 raid that it was, as Judge Anderson phrased it, "a crime for a man to have more than one wife," and did not understand why it should be.

John Reed Lauritzen considered all of his Short Creek neighbors to be upstanding citizens: "I would say that I have never known, and I have been around a great deal, a more industrious people, a more honest, a more reliable people in every way I can think of where I would judge a character for integrity and decency." He considered Leonard Black especially honest and industrious. When asked if he thought Black's polygamy was moral Lauritzen replied, "I would say that he is as moral a character as I know, that is in the way of decency and clean mindedness." At one point Lauritzen interrupted Nelson's cross examination to state his opinion: "I think there is room in our United States for an experiment such as Short Creek. I believe that they might perform a public service by continuing on with that and developing a way

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*From 1935 until 1955 fundamentalists published a monthly magazine called *Truth*. Most of the time it was edited by Joseph White Musser or his son Guy Musser. *Truth* contained sermons, Mormon historical documents, and commentary advocating fundamentalist teachings.*
of life that is a little different from ours. We experiment with plants, we experiment with diseases, why shouldn’t we experiment with social interrelations.”

Verda Lauritzen said she had taught first, second, and third graders in the Short Creek School since 1931, sixteen years. She described all the children of the community as neat and clean, having a higher than average attendance record, healthy, well behaved, and of above average intelligence. Most parents were very active in the local PTA. She believed most of the recent children were the products of plural families. Mrs. Lauritzen had taught the five oldest Black youngsters and recalled them as “well-behaved children” who performed “well above standard.” Excluding the plural marriage issue she also considered the adults of Short Creek to be highly moral and especially attentive parents: “They take complete responsibility. Their children are their life.” She had a strong opinion that the Black children would suffer much greater harm if they were removed from their parents by the state of Utah than if they were left in their polygamous environment.

On May 11, 1954, the trial court issued 19 findings of fact established in the hearing. Finding 12 held “that Leonard and Vera Johnson Black and the majority of the adult residents of Short Creek are and have been members of an organized religious group. That the members of this religious group entertain a religious belief in substance and effect that there is a law of God requiring men to take and live with more than one wife and that failure to do so constitutes a breach of religious duties.” Finding 14 held that the parents did not counsel their children to abide by Utah law on the matter and that their own marriage and religious associations “encouraged their children to become polygamists when they become of marriageable age.” The judge found at 17 “that the home of Leonard and Vera Johnson Black at Short Creek, Utah, is an immoral environment for the rearing of said children,” and, at 19 “that both the public welfare and the welfare of the children requires that the right of custody and control over said children be taken from their parents.”

Judge Anderson concluded that the children were neglected under section 55-10-6 of the Utah Code. He found that the parents “should be deprived of the right of custody and control of said children” and awarded “custody and control” of the children to the Utah State Department of Public Welfare for them to be placed in foster homes. He authorized the department to leave the children with their parents under a list of six conditions that required that they renounce
their religious beliefs and that they submit monthly sworn statements that they were abiding by those conditions.\textsuperscript{32}

The parents refused to accept the required conditions, setting the stage for a review by the Utah State Supreme Court. With the Blacks’ refusal to accept the required conditions the children were removed to a foster home in Orem. Knowlton went to the district court with a writ of habeas corpus and secured their release back to their parents. The Utah Supreme Court later reversed that decision and authorized the state to again place the children in foster care but no steps were taken in that direction right away.\textsuperscript{33}

Knowlton and Robert J. Schrum appealed, raising five points: (1) that the trial court’s probation requirements of the parents as to religion violated the Utah Constitution as well as the First and Fourteenth Amendments of the United States Constitution; (2) that the trial court’s termination of the Blacks’ parental rights was done without due process of law; (3) that section 55-10-35 of the Utah Code had been applied in such a way as to violate the due process clause; (4) that the statutory definition of neglected children at section 55-10-6 of the Utah Code was unconstitutionally vague; and (5) that the critical findings of fact by the trial court were not supported by the record.

There were five justices on the Utah Supreme Court in 1955: Chief Justice Roger I. McDonough, Justices George M. Worthen, Lester A. Wade, J. Allan Crockett, and F. Henri Henriod. Four were LDS: Wade, Henriod, Worthen, and Crockett. Chief Justice McDonough was Catholic. Justice Wade did not participate in the decision. Worthen, who wrote the caustic main opinion, was born to LDS English convert parents in St. George, Utah, forty miles from Short Creek. He was married in the St. George Temple in 1910. One historian deemed his background the “most Mormon” of the court.\textsuperscript{34}

On May 16, 1955, the Utah Supreme Court issued a unanimous decision finding against the Blacks on all points. Justice Worthen wrote a blistering twenty-five-page opinion worthy of the fiercest antipolygamy decisions of the Utah Territorial Supreme Court in the 1880s. Worthen found that the fundamentalist Mormons had created a system that trapped their children in sexual immorality and that it was “inexcusable for these parents to hide behind this religious cover.” He relied on

\textsuperscript{32}Certiorari File, pp. 120-23.

\textsuperscript{33}Black v. Anderson, 277 P.2d 975 (Utah 1954).

*Reynolds v. United States, Davis v. Beason, and State v. Barlow¹⁵⁵* to dispose of any claims the Blacks had for protection under the religious freedom language of the First Amendment.

Worthen’s opinion suggests that a public example had to be made of the Blacks in order to discourage other polygamists and to defend the reputation of the state so that the rest of the nation did not refer “to us as a people high in religious adherence but low in moral and law observance.” He wrote that “The Juvenile Court was too lenient on these parents” and laid down a per se rule of law that it could never be in the best interests of a child to remain with polygamous parents: “The practice of polygamy, unlawful cohabitation and adultery are sufficiently reprehensible, without the innocent lives of children being seared by their evil influence. There can be no compromise with evil.”

The central finding of the decision was that religiously based plural marriage as practiced by Leonard Black and his three wives was both immoral and, without the protection of the First Amendment, clearly illegal. Worthen wrote: “It would be highly desirable if these children could have the care of their natural mother, but it would be more desirable that they be brought up as law-abiding citizens in righteous homes. The price is too great to require these children to continue under the same influences that they have been exposed to.”³⁶

Justice Henriod concurred in the outcome of the case with his own half-page opinion but refused to find polygamy morally wrong: “It is questionable whether it was morally or legally wrong in Utah Territory in the 19th century, and I like to think, at least, that my great-grandfather was not only a law-abiding citizen, but was not immoral according to the mores of his time.” While he recognized the Blacks engaged in a practice that was a felony under Utah law, he found, “these particular litigants may be erstwhile honest, God-fearing souls, so devout in their belief in a religion” that it was wrong to label them immoral.³⁷

Knowlton told reporters he did not expect the decision to be stayed pending further appeal and that his clients might be deprived of their children again at any time. Everyone recognized the importance of the matter as a test case.³⁸ In September 1955 Knowlton and Frank E. Flynn of Phoenix petitioned the United States Supreme Court for cer-

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³⁶Worthen’s opinion is in *In Re Black*, 283 P.2d at 888-913.
³⁷Justice Henriod’s opinion is in *In Re Black*, 283 P.2d at 914.
³⁸“U.S. Plea Seen in Polygamy Case,” *Deseret News and Telegram*, May 18, 1955, p. 2B.
tiorari on behalf of the Blacks. Their petition did not claim that plural marriage was not a violation of Utah law. "We are here concerned," the petition argued, "not with the right to practice polygamy but with the right to a religious belief that plural marriages are sanctioned by the law of God and with the right of those having such belief to teach the same." On December 12, 1955, the United States Supreme Court denied certiorari without an opinion. The Utah Supreme Court had, in effect, been affirmed.

The Utah Public Welfare Commission quickly developed a policy for dealing with the Black youngsters and "all such instance of polygamous families." It would allow the children to remain with their mother if the parents would agree to three conditions: (1) to abide by all marriage and sex laws, (2) to teach their children to abide by laws prohibiting plural marriage, and (3) to file a court affidavit monthly affirming that they strictly carried out the first two conditions. A child welfare official, John Farr Larson, said if parents did not comply with these rules "then, in the interest of the children, we believe the youngsters should be removed from the parents and placed in foster homes."

With the United States Supreme Court decision in In Re Black the state began to move. More negotiations with the Blacks tried to secure their signatures on a written pledge to renounce their religious beliefs. Finally the Bureau of Services for Children wrote the couple setting January 10, 1956, as their final opportunity to sign or again lose their eight children. On that date Lamar Andrus, a child welfare consultant hired by the State Welfare Commission, Washington County Sheriff Roy Renouf, juvenile court probation officer Jay Huntsman, and social worker Ethel Smith presented themselves at the Blacks' modest two-story cinderblock home in Hildale. They were met by over two dozen neighbors gathered in support of the Blacks, including a group of local men lining the path to the home. Fundamentalist Louis Barlow told them, "we don't stand here in defiance of the law but only in protest of a law which we think is wrong." Mrs. Black and her husband then appeared, still refusing to sign the oath. The mother insisted that if her children were to be taken she should be allowed to accompany them to a foster home. Utah authorities again refused her request. She then read a prepared statement:

I will gladly sign an oath to support the constitution of the United States and obey all laws of the state of Utah which conform to the spirit and letter of that great document.

I have never been arrested for misconduct of any kind, neither has any member of my family been brought before any criminal or juvenile court except in defense of our religion.

Why should I be required to sign an unconstitutional loyalty pledge or any other oath in order to keep the children I have born honorably, unless all mothers in our state be required to sign an oath.

The situation remained tense and the state officials concluded that they could not secure the children without carrying them from the house. A temporary retreat seemed in order given their pledge not to use force. They did talk out loud about holding the Blacks in contempt of court and prosecuting their Short Creek neighbors for interfering with an official but nothing ever came of it.

The state officials returned Thursday, January 12. The Blacks were late for the noon meeting, having just returned from Salt Lake City and an unsuccessful personal appeal to Governor Lee. More negotiations failed to break the impasse. The state took seven of the eight Black children, first to a state hospital in Provo where still more negotiations and a press conference took place and then on to a foster home in Orem. Four-year-old Vaughn Black, sick with whooping cough, had been left
with his mother for the moment. Utah officials told reporters that they would hold all the children until age twenty-one. Mrs. Black told reporters she would fight “through the courts to regain my children” but that “I just couldn’t sign that document—it was against my conscience and my religion. God help me to regain my children.”

About this time Utah’s six juvenile court judges met in the State Capitol to map out a coordinated approach to similar cases they expected to see in the future. They decided against a single “hard and fast policy” in favor of considering each case on its individual merits. After the meeting Utah Attorney General E. R. Callister called modern plural marriage a problem “which is of far greater magnitude than was first suspected” and said “it is analogous to prostitution.” State Welfare Commission Chairman H. C. Shoemaker, who had played a central role in the Black case, lashed out at what he called “soft-hearted and soft-headed thinking” by those who opposed the state’s actions. “Polygamists are breaking the law, and the state must not throw up its hands in the face of growing lawlessness,” he said. The juvenile judges heard an estimate of 5,000 persons living in plural families in Utah at the time.

Utah’s participation in the raid and efforts to break up the Black family were not universally popular in the state. Juanita Brooks, a prominent Mormon historian from St. George and an acquaintance of the Blacks, publicly protested the action and called it “the most wicked thing that has been done in our state since the Mountain Meadows Massacre.” When the Deseret News editorialized in support of the action she wrote them, saying, “this is deeply wrong. It cannot be carried out to its logical conclusion, at least not in America.”

The seven Black children in state custody were finally restored to their mother in mid-June 1956. When Mrs. Black was made aware that the state was about to initiate adoption proceedings that would break

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43 "Judge Agenda to Include Cult Children," Salt Lake Tribune, January 24, 1956, p. 32, and "Judges Decide Procedure on Custody of Cult Tots," Salt Lake Tribune, January 26, 1956, p. 12. Upon hearing the statement that polygamy was analogous to prostitution one Salt Lake City letter writer suggested "that if the gentleman who knows so much about prostitution were to approach a polygamist with that object in mind he would quickly discover his mistake." George W. Scott, "Letters to the Editor: Should Voters Decide Polygamy Issue?" Deseret News, February 2, 1956, p. 14A.

up the siblings and place them in permanent homes away from their natural parents, a final round of intense negotiations began. On June 11, 1956, Knowlton petitioned Juvenile Court Judge Durham Morris of Cedar City for a rehearing. Both parents appeared to testify that they had not lived together as man and wife since the 1953 Short Creek raid. Mrs. Black reportedly testified, "I still believe in the law of polygamy. It is my religious belief, but I will teach the children to obey the laws of the state and will discourage my children from entering into polygamous marriages as long as the state has laws against it." Her husband made a similar statement. When asked by the court if she would be glad to have her children back she said, "Oh, of course I would," then burst into tears. A recess was required while she regained her composure. The couple were cross-examined by Washington County Attorney Pershing Nelson. Several Utah child welfare officials participated in the open hearing along with Lawrence Stubbs, described as an observer representing Short Creek residents.

Two days later the children were returned to their mother in an emotional, highly publicized reunion in Provo at the Utah County Welfare Office. Twenty-year-old Orson Black planned to remain in Provo to complete training as an airplane pilot, but the other six returned to Short Creek that day. Mrs. Black told a press conference that she felt "compromised" and "I still feel like I haven't had justice." She explained her new willingness to sign the pledge as having been extorted from her by the state's decision to adopt her children in other homes. "I don't like to go back on some of the things I believe, but my children are my first responsibility," she told the assembled newspaper, radio, and television reporters. Mrs. Black's change of position no doubt was motivated by a real fear that she would permanently lose her children if she did not relent. She probably also hoped that once she regained them the state would ignore her return to the fundamentalist fold. The Black family went directly from the Provo hearing to Short Creek and continued to live just as they had before the 1953 raid. No further actions were taken against the parents or children.

In 1977 Leonard Black died at age seventy-one, a respected figure...
in the fundamentalist community. His wives and children all continue to live in the Short Creek area, firmly committed to Mormon fundamentalism. Vera Black is a slight, attractive, outspoken woman now working as a teacher’s aide in the public schools of Colorado City, Arizona. She and her children recall the 1953 raid and efforts to separate them afterwards with tears and a great deal of emotion but surprisingly little bitterness.

*In Re Black* is considered a novelty in law school textbooks and is often discussed in family and constitutional law courses. The Utah Supreme Court, reflecting increased public tolerance of fundamentalist Mormons, is no longer so convinced of the correctness of *In Re Black*. In 1987 the court declined to apply the rule of *In Re Black* in a child custody case involving a dissolved polygamous family, in effect leaving children with a mother who had entered a new polygamous family. In 1988 the court heard an adoption case involving a Hildale, Utah, polygamous family that sought a complete reappraisal of *In Re Black* but which remains undecided at this writing. Most legal scholars see the Black decision as a judicial antique likely to be changed by the Utah courts. Judicial attitudes towards religious and cultural minorities have become much more tolerant than they were in the rigid 1950s.

No doubt Vera Black will live out her life comfortable with her decision to hold to her religious convictions.

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48 Author’s interviews with Vera Black and six of the children in Colorado City, May 1989.


Camp Floyd, January 1859, looking west toward camp commander's quarters (center building), J. H. Simpson expedition photograph in National Archives.

Home Hungry Hearts

BY AUDREY M. GODFREY

There was nothing unique about the soldiers' lives at Camp Floyd in Utah Territory. Granted, the hostility between the men and the local populace made initial contact strained, but with time genuine friendships between individuals blossomed. The isolation of the post failed to add any new dimension to interpersonal relationships. Many empty miles surrounded other forts of the period, and life at one post resembled that of another. The soldiers inhabiting Camp Floyd matched those of many other military reservations of the time—a mixture of mostly young American and foreign-born laborers, farmers, and adventurers. Few women resided at Camp Floyd, a fact little different from other western military establishments. This very ordinariness of the post provides an excellent opportunity to study the soldiers and how they adapted to frontier army life as they patrolled the West.

The men chose conventional methods to fashion a community in which to live. They employed time-honored institutions and assumed

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As a general rule the army refused to enlist married men and discouraged the soldiers from marrying by making life difficult for them. See Patricia Y. Stallard, Glittering Misery: Dependents of the Indian Fighting Army (San Rafael, Calif.: Presidio Press, 1978), p. 53. General Order No. 140, issued in 1861, stated the number of married enlisted men would be governed by the need for laundresses in the various companies. Fort Crittenden Records, National Archives, Washington, D.C., microfilm copy, Merrill Library Special Collections, Utah State University, Logan, Utah.
acceptable gender roles consistent with their period of history. The close ties that blossomed with their fellows resembled bonds of kinship with which they were accustomed. This study discusses the role of men in the middle of the nineteenth century. It shows how societal and family patterns influenced the development of friendships and institutions at Camp Floyd.

The idea of family affects any settlement by man. First, there must be a dwelling of some kind to return to whether it be a cave, a lean-to, or something of more sophisticated construction. At Camp Floyd repeated references by soldiers as they built the many barracks and utility buildings denote pride in the city they raised to house themselves. In their correspondence they used such terms as “our village,” “quite a town,” and “little city” to describe the fruits of their labors.²

The cooperative effort required to assemble the buildings of the post harks back to remembered occasions of house and barn raisings where men displayed their skills as builders and showed their strength in putting up walls and raising beams. Nineteenth-century males were used to banding together for cooperative efforts, especially those men who grew up on farms where neighbors or extended family assisted each other in order to harvest crops and fabricate necessary outbuildings.³

They were also taught as youths that males were characterized by their strength.⁴ During this era mastery of feelings showed strength of character, and the importance of this quality dominated the father’s upbringing of his sons. Only in the most private circumstances was emotional release practiced. In public a man handled his feelings through cursing or drinking.⁵ The Camp Floyd soldier closely resembled this accepted role for the men of his time. His private letters home, his journal notes, and his creative expressions were filled with his longings and homesickness. But his public acts were characterized by drinking, gambling, and carousing.

Court-martial records cite several instances of such behavior. A drunken private, Michael Callahan, drew a butcher knife and threatened a laundress with abusive language. Sgt. Hugh Goodwin rose from

²John Wolcott Phelps Diary, September 9, 1858, typescript in Utah State Historical Society Library, Salt Lake City. FitzJohn Porter Papers, September 16, 1858, Manuscript Collection, Library of Congress, Washington, D.C.
⁴Ibid., p. 90.
⁵Ibid., pp. 91, 93.
his seat in the theater and loudly questioned another soldier as to the whereabouts of a friend, causing a disturbance in the hall. A member of the Second Dragoons band galloped his horse along the footpaths of the civilian community, entered a saloon while still mounted, and shouted at the provost marshal who tried to arrest him that it was none of his business what he did in town.

As disorderly as some could be at times, the seeds of civilization grew in the community. Studies that proclaim women as the carriers of culture to the West fail to recognize the efforts of the frontier soldier. Military reservations abounded in opportunities for enrichment and recreation. Theaters, lectures, circuses, vaudeville, and reading and educational groups instituted by the soldiers themselves existed in some form at every post during this era.

Some explain women's leadership in this endeavor as being an attempt to "check male inspired disorder." But this reasoning can be applied to the cultural efforts of men also. In his study of the antebellum years of American history, Page Smith found that "the disintegrative character of American life disposed the individual American to join anything and everything to escape from an often devastating feeling of isolation." At Camp Floyd, as at other posts, these feelings were exacerbated by the physical isolation of the men. Like civilian males, the soldiers sought to bring order to their lives through brotherhoods and organizations of various kinds.

Fraternal associations thrived at Camp Floyd. The Temperance Society inducted 30-40 candidates a week after its inception until it reached a membership of approximately 250-300 men. Every Sunday evening overflow crowds listened to lectures on the evils of drink in the "swanky building" the society erected. This infatuation with lectures mirrored a similar tendency observed among civilian Americans of the period. The irony of the movement's success in a community known for its excessive drinking indicates the extremity of the men's craving for brotherhood.

6Crittenden Records, General Order No. 45, May 29, 1861; General Order No. 19, February 27, 1859; General Order No. 40, May 16, 1861.
10Smith, The Nation Comes of Age, p. 903.
The Rocky Mountain Lodge of Free and Accepted Masons established at the post in the spring of 1859 also provided a means of close association for the men. Forty members participated in rites in which both officers and enlisted members were numbered. This lodge was the first Masonic organization formed in Utah.\footnote{Smith, "Masonic Education."}

A visitor to America during this era noted “the fondness of German immigrants for fraternal organizations.” He conjectured that the freedoms encountered by the men in their new environment caused them to join political parties first and after finding them deficient in fraternal opportunities turned to organizations such as the Masons and Odd Fellows.\footnote{Smith, The Nation Comes of Age, p. 901.} This observation holds true for the German soldiers at Camp Floyd. However, these men chose to establish their own brotherhood along cultural lines. They formed Germania, a group that devoted itself chiefly to performances of musical farce and opera in the German language. They built a social hall that could house one hundred fifty people and invited their audiences through free tickets distributed by members. They brought remembrances of home by posting the German flag and importing what was purported to be a drop curtain that had once hung in the Royal Theatre in Hanover, Germany.\footnote{Thelps Diary, September 7, 1859.}

The American soldiers also banded together in cultural endeavors. They followed the example of theatrical companies that performed throughout the western territories in troupes often designated as “families.”\footnote{Lillian Schlissel, Byrd Gibbons, and Elizabeth Hampsten, Far from Home: Families of the Westward Journey (New York: Schocken Books, 1989), p. 85.} In the fall of 1858 Sgt. R. C. White formed the Military Dramatic Association which built a small theater of pine board and canvas. At first White drew his players from the camp populace. Then he conceived the idea of recruiting actresses from the Mormon Social Hall in Salt Lake City. Among them was Mercy Westwood Tuckett who also belonged to a theater group organized by her brother Phillip. They formed the nucleus of a small, cohesive company, many of them related. White and other soldier participants became part of this “family.” In fact, White eventually married Tuckett after she left her husband when the post was disbanded.\footnote{Trma Watson Hance and Irene Warr, comps., Johnston, Connor, and the Mormons: An Outline of Military History in Northern Utah (n.p., 1962), p. 20. George D. Pyper, The Romance of an Old Playhouse (Salt Lake City: Seagull Press, 1928), pp. 61-67.}

Another aspect of the male American character prior to the Civil
War was the "classic . . . fear of being alone" noted by an English traveler in America. He observed the nation's males were "gregarious as schoolboys" and that "everything is done in crowds."  

Certainly the frontier soldier had provided for him a ready-made crowd. The stability of military organization and personnel who enlisted for five years and often reenlisted caused many of the men to look on their company as home and family. Members of a company lived twelve to a room that measured roughly twenty-by-twenty feet. This group drilled together, ate together, competed in sports together. They also planted a company garden and each took his turn with his comrades in tending it. The members pooled their money in a company fund from which extra cooking equipment, food, and other items were purchased. When a man found himself in dire straits financially the company often came to his aid through this fund.

Still, the enforced separation from blood family sometimes caused an increased psychological dependence revealed in letters home. Even Gen. Albert Sidney Johnston, commander of the Department of Utah quartered at Camp Floyd, whose family remained at home, displayed this vulnerability. He wrote many letters to his wife, Eliza, and three children in which he kept them abreast of affairs in Utah and shared camp gossip and his problems in building and maintaining the department. He complained of the dearth of interesting things to do. In February 1861 a daughter read from his missive to her, "the history of the day is the history of the year." He filled his correspondence with fatherly admonition and expressions of endearment. He cautioned his son against starting his own children's schooling too early and encouraged the young man to work hard at his profession.

Johnston's adjutant, FitzJohn Porter, also worried about the well-being of his family, particularly his wife, Hattie, who was shortly to be confined. In April 1858 he recorded in his journal, "I long for a letter from her—feel anxious." The following day he wrote, "I hope for good news from home—and the safety of my wife." Two days later he received word of the birth of a son and the satisfactory condition of his spouse. A subsequent letter expressed his hopes that, unlike the cold weather at

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Camp Floyd, Hattie was enjoying a spring day “surrounded with flowers—and covered with sunshine...”

Lt. Jesse Gove handled his loneliness and longings for home (while still at Camp Scott near Fort Bridger) by adopting Sgt. Patrick Maroney’s family to guide and nurture. Possibly selfishness motivated him to have Maroney transferred to his outfit so Mrs. Maroney could cook for him. But Gove seemed to have had genuine feelings of affection for the little family. He doted on young Johnny Maroney and charted his development in letters to Mrs. Gove. He also praised Mrs. Maroney’s domestic abilities and indicated his good fortune in obtaining her services, which Mrs. Gove would inherit upon her arrival in Utah territory.

Capt. Albert Tracy substituted a stray dog as an object for his parental attention. On the way to Utah he acquired the animal which he named Shakes. His diary entries repeatedly chronicled the dog’s antics, often vindicating its follies as a father would those of a cherished child. On March 21 Shakes “whips” a Mormon dog. A week later Shakes “runs the gauntlet” during “firings.” Tracy proudly reported the bullets skipping around the animal and its return to his tent wagging its tail “as though to say it was a matter of very little concern to a dog of his game qualities.” In April he observed Shakes pursuing a rabbit, “bounding magnificently over the brush.”

Though the nineteenth-century man considered wife and family as necessary to happiness and to perpetuating the values he embraced, he nevertheless was used to what John Mack Faragher called “the Separate Worlds of Men and Women.” Men worked together on farms. Their recreation largely excluded women. Politics tied the community of men together, despite their differences. In the professions little association existed between the two sexes. In many churches men and women entered the meetinghouse separately and sat apart. As lonely as life seemed at times to the frontier soldier, he was accustomed to the sole association of men. Thus, in this sense, the presence of few women on the post duplicated his past environment.

19Porter Papers, letters dated April 10, 1860, April 11, 1860, May 1, 1860.
21“The Utah War Journal of Captain Albert Tracy, 1858-1860,” Utah Historical Quarterly 13 (1945); March 21, 1859, March 31, 1859, April 5, 1959.
23Faragher, p. 159.
Still, moments came when the soldier craved female companionship, and he found willing substitutes for wives and girlfriends among the camp followers. Prostitutes populated the perimeters of the camp, setting up shop in the saloons and so-called hog-ranches of the burgeoning community of gamblers and camp followers known as Frog-town. Here the soldier could lose himself in the arms of a willing female companion or at the tables where card games such as faro and monte were played. Some lonely married men forgot their vows in this environment in an attempt to overcome their isolation.

When Lieutenant Bennett attended the theater he met an actress, Miss Whitlock, and forgot his wife, Rebecca, back in New York. After a time Whitlock moved to California with her family, but Bennett was so enamoured of her he sent money for her return. In the meantime orders came for him to transfer to Fort Laramie. The actress followed him and they were “married.” Word of this reached Rebecca who immediately posted a letter to the Camp Floyd commander asking for her husband’s whereabouts. By now Bennett had become an embarrassment to the army by overstepping established bounds of propriety. As a result the commander discharged him and issued a statement calling his conduct disgraceful.24

Others took a more honorable approach. In spite of a reluctance by many local people to socialize with the troops, Sgt. John Rozsa became friends with a Mormon girl, Patience Loader, while on a two-month furlough spent in the town of Lehi some twenty miles from the post. They married in December 1858. Two days later his leave expired, and John returned to Camp Floyd with the intention of finding living quarters for his new bride. He did so, but when he requested a pass to go for Patience his commanding officer refused, saying he understood Mormon girls would not marry soldiers. Rozsa sent a friend to fetch Patience and, in the meantime, sought the advise of John Carson, Mormon bishop of nearby Fairfield. Carson counseled him to remarry at the post to satisfy the commander. John and Patience did so and lived happily together until he died several years later from wounds he received in the Civil War.25


25Patience Loader Archer, Autobiography, pp. 104, 104a, Special Collections, Lee Library, Brigham Young University, Provo, Utah.
Mormon families tried to keep their daughters from such marriages. An early mother from Fairfield remembered, “Time and time again [the local families] refused large sums of money . . . for permission to escort their daughters to the theater, this was always refused.”\textsuperscript{26} An article in the \textit{Deseret News Weekly} in 1859 warned the young women, “Girls, beware of transient young men.”\textsuperscript{27} But, like Patience and John, local girls and young soldiers fell in love and married. After the post disbanded many of these men remained in Utah and became solid citizens.

In her study of women on the frontier Glenda Riley reasoned that women re-created well known social institutions and patterns of behavior to “cushion their adjustment” in order to make the isolated areas they moved into “more amenable” places to live.\textsuperscript{28} The soldiers of Camp Floyd took this same approach. Though separated long distances from the places of their upbringing and the teachings of their youth, they formed societies and friendships compatible with that influence. They handled the stresses of their displacement by guarding their private emotions and finding release in either rowdiness or more cultured social activities. They bonded with the men of their company or in fraternal organizations. They married or formed liaisons with the few women around the post. Though they lived in a rustic, military environment their lives resembled the ordinariness of their former existence. Through traditional perceptions of the male role familiar learned patterns of behavior brought order to their lives as they adjusted them to meet the demands of the military frontier.

\textsuperscript{26}Memories of Elvira Egbert Carson, p. 7, Special Collections, Lee Library.
\textsuperscript{27}Deseret News Weekly, September 21, 1859.
\textsuperscript{28}Glenda Riley, \textit{The Female Frontier: A Comparative View of Women on the Prairie and the Plains} (Lawrence: University of Kansas Press, 1988), p. 73.
Wayne Weidman, left, and Jack Matesen, right, wore World War I helmets during training at Fort Lewis, Washington, in 1942. All photographs are courtesy of the author.

With MacArthur in the Philippines

BY JACK C. MATESEN

Jack C. “Butch” Matesen was a member of Battery A, 222d Field Artillery, of the Utah National Guard from Box Elder County called up in March 1941. The unit left expecting to be gone a year on active duty but ended up spending four and a half years before being mustered out.

Mr. Matesen is retired and lives in Ely, Nevada.
at Fort Douglas on October 1, 1945. Most of their service took place in the South Pacific. Matesen's account, published in a two-part series in the *Box Elder News* (Brigham City), August 30 and September 6, 1986, recalls with good humor the experience of leaving home, training, the outbreak of war, and duty in the South Pacific.

The jukebox was playing “Goodbye Dear, I’ll Be Home in a Year” the morning we reported to the armory on east Forest Street. It was March 3, 1941, and A Battery, along with other outfits of the 40th Infantry Division, was reporting for a year’s active duty, compliments of Uncle Sam. Under the direction of our commanding officer John W. Horsley and our “Top Kick” Ray Korth, we prepared to entrain for Camp San Luis Obispo, California.

On the night of March 13 or 14 a farewell military ball was held, and the next day we kissed our loved ones (and a few of our buddies’ loved ones) goodbye and headed for San Luis where we joined the rest of the division.

During the summer of 1941 we received training in all the military sciences. We had nine months of our year behind us when on Sunday morning, December 7, we learned that Pearl Harbor had been attacked by the Japanese.

Orders from the Sixth Army HQ were quick in coming, and by evening we were on our way south to Escondido where we were immediately put on round-the-clock guard duty, protecting some of southern California’s water and power facilities.

Later, during the early months of 1942, we were assigned to coastal defense at Oceanside; then the first part of June 1942 the entire 40th Division was transferred to Fort Lewis, Washington.

As each mile-long segment of our 15,000-troop convoy would reach the city limits a police escort would be waiting to whisk us through town, or to a large open area where gasoline tankers were waiting with hoses to gas several vehicles at a time. At night we slept on the ground in pup tent cities erected in city parks, ball parks, or pastures.

When we reach Fort Lewis near Tacoma it was “rags to riches.” Fort Lewis was regular Army with brick barracks, tiled latrines and showers, and, best of all, nice bunks with sheets and mattresses. After roughing it for more than a year we were beside ourselves with these luxuries. Alas, it was not to be for long!

The war in North Africa was raging and the U.S. was putting men and equipment into the fray. The first part of July, the 222d was ordered to Yakima, Washington, for desert warfare training. We learned what the name “Desert Rats” meant; we lived in dugouts in the sand dunes, which were often shared with rattlesnakes, scorpions and kangaroo rats. Sand was in our ears, in our eyes, and in our rations.

In August, with the desert training behind us, we returned to Fort
Parade retreat, Camp San Luis Obispo, California, 1941, with Battery A in foreground and Ralph "Whitey" Olsen carrying the Battery A guidon.

Battery A howitzers in firing position, Jolon, California, training grounds. Sgt. Venoy Christofferson, arm raised in foreground, was later a district judge in Box Elder and Cache counties.
Lewis where the Army began issuing us new equipment. The scuttlebutt was that we were heading out for North Africa. It was a logical conclusion, except to the Army. One night in September they loaded us on a troop train with all the shades drawn over the windows and took us to the embarkation camp for San Francisco.

We got fresh shots for most of the diseases known to man, received new mess kits and shelter halves, and were instructed that henceforth our outgoing mail would be censored.

One foggy night, toward the end of September, we traveled by train to the wharves of San Francisco. We marched quietly, single file, onto a large troop ship silhouetted against the sky. Where are the crowds and the cheering? each one of us wondered.

During the night we settled into cramped quarters below deck and for the first time in our lives became aware of the subtle (and not so subtle) roll and pitch of a seagoing vessel. We were a quiet and subdued lot throughout that night, each one contemplating the unknown destination and perhaps some life-threatening experiences.

It wasn’t long until some of the guys began turning green and exhibiting flulike symptoms. By the second day the incessant roll and pitch of the ship caused some of the guys to be afraid they would die. On the third day out they were afraid they wouldn’t.

We decided we weren’t headed for North Africa. About the fifth day out we steamed into a harbor near Honolulu. We were billeted temporarily at Schofield Barracks which still bore the bullet holes and bomb fragment scars from the Japanese attack. It was an eerie feeling sleeping in the barracks where many of our U.S. men had been killed.

After a few days we were shipped over to the Island of Kauai where we took up artillery positions to discourage Japanese landings from the sea. We worked hard with pick, shovel, and wheelbarrow, fashioning gun pits in the volcanic parent material of the island.

After a few months our original bunch of guys had dwindled. A number of our men had been sent back to the States as cadre for new outfits that were being formed and trained, and new men were sent to replace them.

In addition to thinning us out in this manner, they took Headquarters Battery and C Battery of our battalion and exchanged it with a Headquarters Battery and C Battery from Rochester, N.Y.

In December 1943 we shipped out on the Matsonia, the ex-flagship of the Matson lines converted to a troop ship. One set of staterooms that formerly accommodated a couple had been transformed by four-high canvas slings to sleep 44 GI’s. There was only room to sleep flat on one’s back.

A couple of days out from Oahu, our ship acquired two U.S. destroyers and a subchaser. We were glad to have them on the one hand, but on the other we realized from their presence that we were getting nearer to where the action was. We spent Christmas day aboard the Matsonia.

The afternoon of December 31 we could see land in the distance and occasional fighter planes flying overhead. We chugged nearer to the island.
Ready for Saturday morning inspection in six-man, wooden-frame tents, San Luis Obispo, 1941.


Above: Battery A after a night bivouac on the way to Fort Lewis. In foreground are Fred Madsen, Ray Korth, Claud Stacy, and Pete Buist of Brigham City. Left: Don Valentine, Norm Jensen, and Grant Simper of Brigham City and Butch Matesen of Bear River City, 1942, Fort Lewis, Washington.
It began to rain, night fell black and ominous, and we disembarked in a soaking rain on New Year’s Eve.

We spent a miserable night in pup tents and awoke January 1, 1944, on the shell-torn island of Guadalcanal. The stench and carnage still was evident from the heroic battle of our forces who had moved on to other battles. Our division was assigned to dig in and hold the island and our infantry battalions had the assignment to mop up enemy stragglers that retreated into the jungle.

We spent four months on Guadalcanal and suffered our first two serious Battery A casualties. Our camp was set up in a grove of coconut trees, and one of the replacement fellows got hit on the head by a falling coconut. He suffered a severe concussion and was taken to the field hospital. We did not see him again.

A second casualty resulted when a seven-foot iguana ran through our camp and Private Desantis put on the pole-climbers and went after it. While he and the big lizard were scuffling around at the top of the tree, his climbers slipped and he slid to the ground, leaving bits of his skin and flesh on the tree all the way down. (He captured the lizard.)

A large runway was constructed on the island by the Seabees, and a group of the highly touted B-29 bombers came in and began flying missions. One night Lynn Holmgren of Bear River City dropped into camp. He was with the B-29 group. It was good to see someone from home.

On another occasion a group of medical technicians from Bushnell Hospital dropped in to see us. They had recently arrived from Brigham City and filled us in on the latest happenings back home. Such contacts made us very homesick for our old friends and surroundings.

The army contracted to have our food shipped in from Australia. We had lamb’s tongue for meat nearly every day for the four months we were on Guadalcanal. The situation was so bad that many were clamoring for good ol’ Spam and dehydrated eggs.

During our stay at Guadalcanal we were assigned a new battery commander. He was a real “hell for leather” character who soon had us going on hikes through the jungle, including slimy swamps up to our necks, crossing streams on ropes, sleeping in hammocks—like Tarzan. He became known throughout the battalion as “Jungle Jim.”

From Guadalcanal we shipped to New Britain Island. The Marines had made the initial landing; we took over to secure the area for an ammunition depot and communications center. While there, more of our original battery members were sent back to the States as cadre for new outfits.

We had not seen a white woman since we left Hawaii and there was a lot of joking about the army putting saltpeter in our coffee to suppress our sexual inclinations. One fellow claimed they put so much in his coffee that he wrote a letter to his wife and began it “Dear Friend.”

Bob Hope, Dorothy Lamour, and troupe flew in and put on a show. They were the first women we had seen in over a year. There was much drooling, rolling of eyes, whistling, etc.
Toward the end of December 1944 we knew something big was brewing. News broadcasts reported the U.S. planes were bombing and strafing targets on Luzon.

We loaded all our outfit on landing ship transports and took to the open sea. More vessels and warships joined us and a large armada slipped into harbor at the Admiralty Islands.

We knew for sure that this was it. The area bristled with huge aircraft carriers, battleships, cruisers, and other assorted ships. They let us go ashore for an afternoon and gave us two rations of warm beer.

The next morning this armada began putting out to sea. Later there were ships as far as one could see in every direction. It wasn’t too difficult to figure out we were on our way to retake the Philippines for General MacArthur.

Two Zeroes made a pass at our convoy but they didn’t last long. Withering antiaircraft fire brought them down. One of them crashed ten yards from the side of our LST; we could see the pilot in the cockpit, wearing his flying helmet and goggles and a scarlet-red stained shirt. Though he represented the dreaded enemy, I couldn’t help but feel a twinge of pity as the wreckage of his plane disappeared in the wake of our LST.

Shortly before dawn on the morning of January 9, 1945, our LST slowed to a snail’s pace, along with the rest of the convoy. We could feel the reverberations from the battleship’s 16-inch guns, as they crept along in formation, relentlessly pounding the shore.

Then a signal went out from the flagship, all firing ceased, and the battleships began returning out to sea.

At first light we could see the infantry descending the nets and loading into landing craft. After the infantry had landed, our LST began going into shore. Our howitzer and Caterpillar tractors were waterproofed and waiting ready to chug out of the LST when the big doors on the front of the boat opened.

Our motor section had rigged six feet of air intake and exhaust hoses on each Caterpillar, which stuck up in the air. It was a weird sight when I looked back and saw Fred Madsen’s head and shoulders along with the two hoses above the seawater, driving a submerged “Cat” and howitzer toward shore.

By noon four divisions of troops had landed. Word flashed to the world that MacArthur’s forces had returned to the Philippines, landing on Luzon and driving south toward Clark Field and Manila.

The beach area was devastated from the Navy bombardment. Trunks of topless palm trees stood like groves of telephone poles.

A cemetery, with concrete sepulchers above the ground, had been a victim of the barrage, and bodies in various degrees of decomposition hung from the sepulchers and languished on the ground in the heat of the midday sun. They were only the first of many bodies we would see and smell during the next few days.

Our 40th Division was assigned to the right end of the forces driving
toward Manila, and two other divisions were with us. We took up positions near Clark Field while our infantry units followed the enemy forces back into the hills and mountains.

We were soon called upon to provide artillery support. We continued about three months on this mission, with two men wounded seriously by shell fragments. We heard later that they pulled through.

It was a very scary experience to be on the receiving end of artillery or tank fire. (Lord, if you'll let me get through this, I'll____.)

Finally we were relieved. We rested and relaxed a few days, then shoved off and landed on the Island of Panay in the Philippines, where Filipino underground forces helped us secure Panay.

Then we loaded up and hit the Island of Negros. Here we met some stiff resistance and settled in for some major battles. A suicide platoon attacked our position on two different occasions, breaking through our perimeter and hitting two men with gunfire. All of the Japanese platoon was killed by morning.

One dark night in the rain, Sgt. Farrel Hatch was on guard in our gun pit. He stood up to stretch and straighten out his poncho, when in a flash of lightning there was a Japanese soldier eyeballing him face-to-face. Luckily, Sgt. Hatch beat him to the draw and polished him off with a burst of gunfire. He acquired the nickname of "Quick Draw" for the rest of the war.

Our battalion received a fire mission call one night and we all scrambled out to the gunpits. It was our procedure that the first men to get there would load the projectile on the loading tray and ram it home into the tube of the howitzer. As the rest of the crew arrived they would tie the proper powder bags, put them into the powder chamber, and at the same time the number one man would turn in the primer and we would be ready to fire.

This particular time we all arrived at the gun pit about the same time. The procedure went as usual; the only problem was no one had loaded a projectile. The command "fire" was received and a new experience in the annals of artillery warfare came about. There was a brilliant flash of fire that spewed across the sky and landscape. Then little bits of burning powder bags came falling back to earth in little curlicue spirals.

"What the hell was that?" we heard someone say after a long silence.

Then we all laughed and felt good. We knew our Section One would make the Artillery Hall of Fame, if indeed there was such a place.

At the end of the Negros Island campaign we returned to Ilo Ilo for rest and recuperation during July 1945. A week or two later the first A-bomb was dropped on Japan, and we knew the end was near.

When the war ended we could hardly believe it. We had pretty well dismissed thoughts of home from our minds. Now they were all welling up again. Family, wives, sweethearts, beds with mattresses and sheets, china plates—all these and more filled our minds again.

We had been overseas three years and had the points to go home right away, and some got their sailing orders. The last two members of Battery A,
Arch Laver and I, were mustered out at Fort Douglas on October 1, 1945. Our discharge records list six World War II medals, one with four battle stars. In addition, the bronze star for exceptional bravery was awarded to two of our original members.

Not a bad record for a bunch of guys from the country!

Dorothy Lamour and Bob Hope entertained the troops, including the author, on New Britain Island.

Above: Sgts. Duke Johnson, Whitey Olsen, and Farrel Hatch of Brigham City at San Luis Obispo. Hatch later shot an infiltrator on Negros Island and became known as "Quick Draw."

Right: Cpls. Butch Matesen and Ralph Olsen in World War I helmets.
Life at Iosepa,
Utah’s Polynesian Colony

BY TRACEY E. PANEK

Alice Alapa led a life typical of the Polynesians who populated the Tooele County colony of Iosepa. After joining the Latter-day Saint church in Samoa, Alice immigrated to Utah with LDS missionaries returning to the United States. Alice was the sole member of her Catholic family to convert to Mormonism. In Utah she hoped to make a fresh start by gathering with other converts and performing temple work. She attended school in Provo and in 1900 followed the church’s admonition to Polynesian immigrants to move to Iosepa.

At Iosepa Alice met and married George Alapa who was living at the colony with his family. He played the violin in the community or-

Ms. Panek, a graduate of the University of California, Berkeley, now lives in Concord, California.
chestra and sang in vocal groups. The Alapas had five children before returning to the Islands in 1916. The year before, the church had announced plans to build a temple in Hawaii and advised the colonists to return to their homelands.¹

For the Polynesians who lived at the colony, Iosepa began as a struggle to survive. They battled isolation, severe weather, economic depression, and a high mortality rate. By diligence, and with the help of church leaders who took a paternal interest in the Polynesians, the colonists succeeded in establishing a thriving community.

LDS missionaries first traveled to the South Pacific in 1844 and, in time, converted Hawaiians, Samoans, and other Polynesians. Many converts desired to migrate to Utah to join in the gathering of Zion, flee persecution, and partake of temple ordinances. Hawaii, however, forbade its citizens from emigrating, and so an alternative gathering place was established for LDS converts in Laie, Oahu.

Around 1875 Hawaii relaxed its emigration laws, and Polynesian converts began migrating to Utah, settling near Warm Springs (Beck’s Hot Springs) in northwest Salt Lake City. By 1889 about seventy-five Polynesians, the majority of them Hawaiian, had gathered there.²

Linguistic and cultural barriers made assimilation difficult for the Polynesians. Racial prejudice directed toward the immigrants contributed to tension between the Polynesians and the larger Salt Lake community. Employment also proved problematic. The Polynesians labored in difficult and undesirable jobs and often endured unemployment part of each year. In addition, a case of leprosy among the group heightened the notoriety of the immigrants.³

Faced with such problems, the First Presidency of the LDS church resolved that a separate community would preserve the Polynesian culture, permit the immigrants to be self-sufficient by raising crops and livestock, and establish a permanent gathering place for future South Pacific immigrants. Thus, on May 16, 1889, the First Presidency appointed a committee to organize the colonization of the Polynesians.

Harvey H. Cluff, William W. Cluff, and Frederick A. Mitchell, former missionaries to Hawaii, formed the committee assigned to select a

¹Interview of Vermine K. Haws, granddaughter of Alice and George Alapa, in Tooele Transcript, February 28, 1969.
²Andrew A. Jenson, “Iosepa Colony, Tooele County, Utah,” manuscript, LDS Church Library-Archives, Salt Lake City, Utah.
³Edwin Kamauoha, son of Iosepa colonists, comments on the problem of prejudice in the Salt Lake Tribune, June 9, 1986; Deseret Evening News, February 19, 1891. For reference to leprosy see Harvey H. Cluff Diary, microfilm copy in Brigham Young University Library, Provo, Utah.
site for the colony. The Polynesians approved the plan enthusiastically and appointed Hawaiians J. W. Kaulainamoku, George Kamakaniau, and Napela to the committee. The committee inspected properties in Tooele, Utah, Weber, and Cache counties. Acting on its recommendation, the First Presidency purchased the ranch of John T. Rich in Skull Valley, Tooele County.4

Located thirty miles from the nearest town of Grantsville, the ranch stretched over 1,920 acres. The tract included a large spring and irrigation rights to five streams running from the eastern mountains. The First Presidency’s purchase of 129 horses and 335 head of cattle from John Rich provided livestock for the new colony. A large barn, blacksmith shop, cattle sheds, and granaries stood at the ready. An abundance of cedar and quaking aspen satisfied fuel and fencing needs.5

In compliance with the Morrill and Edmunds-Tucker acts (which limited the church’s ownership of property to $50,000), the church incorporated the ranch and assigned its ownership to a private company. William Cluff, Harvey Cluff, Frederick Mitchell, John T. Caine, Albert W. Davis, Henry P. Richards, and J. W. Kaulainamoku all bought stock in the Iosepa Agricultural and Stock Company (IASC). IASC stockholders elected a board of directors to pursue agriculture and stock raising at the ranch. They elected Harvey Cluff as president and ranch manager. In addition, the First Presidency called Harvey Cluff to preside over the colony in ecclesiastical matters.6

In late summer 1889 the Polynesians prepared to occupy the ranch. After a celebration at the Warm Springs wardhouse, a group of fifty Polynesians left by wagon for their new home,7 reaching the ranch on August 28, 1889. In honor of Joseph Fielding Smith, a counselor in the First Presidency and a former missionary to Hawaii, the settlers named the colony Iosepa, the Hawaiian word for Joseph.

Iosepa soon took shape. The settlers drew lots for land which they purchased from the IASC. In September the IASC purchased a sawmill five miles east of town. Lumber from the mill enabled the colonists to build their own homes or pay for them in installments. By November the press noted:

4Cluff Diary, p. 27.
5Ibid., pp. 28-30.
6Articles of Incorporation of the Iosepa Agricultural and Stock Company, Tooele County Courthouse, Tooele, Utah.
7List of pioneers found in Cluff Diary, p. 32.
A public square, containing eleven acres, has been laid out in the center of town, and is destined to be fenced this fall and planted out to trees. The four center streets, eight rods wide, extended from the outer limits of the town on the four sides of the square, intersecting the eight rod streets encircling the square. It is designed to plant a row of trees in the center of each of these broad streets, forming avenues, extending from the center of town to the outskirts. All the other streets are four rods wide and the blocks twenty-two rods square, divided into four lots, this making each lot a corner lot.\(^8\)

The colonists worked diligently, constructing four-room cottages and beautifying the community. A few buildings constructed by a previous ranch owner provided cramped, temporary housing. By 1901 graded sidewalks and shade trees lined the streets, and almost all of the colonists lived in their own homes. A reporter described Iosepa in 1915: “Under the existing circumstances each has a home in the village, most of them very attractive; and a large garden plot with flowers, vegetables and fruit.”\(^9\)

The colonists also worked on community projects, completing a combined school and meetinghouse their first winter at the colony. The Tooele County School Board built a new school at Iosepa sometime after 1900, and in 1908 the colony opened a new meetinghouse.\(^10\)

Over time the Polynesians adapted to a new climate, a new language, and new foods. Adjusting to Skull Valley winters proved especially challenging. In January 1890 snow and icy gales forced everyone indoors. Crowded quarters led to an outbreak of influenza. Inclement weather persisted, killing five to ten cattle a day. The situation became so severe that President Cluff, afflicted with influenza himself, left his bed to assist the only other man able to feed the cattle.\(^11\)

After the first trying winter the Polynesians learned to ice skate and sleigh ride. Indoors, they studied farming methods in preparation for spring, took up quilting, or headed for the gymnasium in the basement of colonist John Broad’s home. By 1906 coal had replaced cedar in heating homes, and kerosene lit the best lamps in town.

With the exception of older colonists, all of the Polynesians learned English. Sheep herders in Skull Valley taught them to square dance. The Islanders even played the banjo, fiddle, and mandolin, adding an American flavor to their music.

\(^8\)\textit{Utah Enquirer}, November 1, 1889.
\(^10\)\textit{Deseret Evening News}, September 1, 1908.
\(^11\)Cluff Diary, p. 39.
The colonists also adopted new foods and found substitutes for special Island dishes. With practice they learned to grow and harvest crops foreign to the Islands. Meals traditionally wrapped in Hawaiian ti leaves were covered in corn husks and cooked in underground pits. Instead of using tropical taro root, the Polynesians made poi (a thick liquid used like bread) from a stiff paste of fermented flour and water. In addition, they learned to bake cakes, pies, and puddings and grew adept at salting and preserving meat for the winter. In Kanaka Lake (or lake of the Hawaiians), a 1,500-by-250 foot reservoir, the Polynesians grew a seaweed substitute. Carp bred in the lake and nearby ponds replaced their diet of tropical fish.

Harvey Cluff, William King, and Thomas Waddoups assisted the Polynesians in adapting to colony life. For Harvey Cluff, the colony's first president, managing Iosepa came as a natural culmination of events. He had served as a missionary in Hawaii in the 1870s and later as president of that mission. In 1888 he spent a six-month term at the Utah Territorial Penitentiary for polygamy. Eight months after his release the First Presidency called him as a member of the colonization committee, and he moved to Iosepa as the colony president one year later.

At Iosepa Cluff endured the loss of his son and battled a myriad of health problems. On December 18, 1894, for example, he suffered a serious accident. The ring of the neck yoke broke on Cluff's light rig six miles north of Grantsville. Instantly, the rig unhitched, pitching him to the ground. He lay on the road four hours before wood haulers found
him. Despite ill health, Cluff's maturity and experience with the Hawaiians contributed to the development of the new colony. In 1890 the First Presidency released William King as president of the Hawaiian Mission and called him to replace Cluff as the ecclesiastical head of Iosepa. King also assumed the duties of IASC manager. When King died unexpectedly in February 1892, Cluff returned to the colony until Thomas A. Waddoups replaced him in 1901.

Born in Bountiful, Utah, in 1875, Waddoups served a mission in Hawaii in 1897. He learned the Hawaiian language and later acted as an interpreter. The bubonic plague broke out in Honolulu in 1900, ending public gatherings, and for three months Waddoups painted, fenced, and built a baptismal font.

At the end of 1900 Waddoups returned home and accepted the First Presidency's calling as Iosepa's new president. Along with Myra, his wife of two weeks, Waddoups moved to Iosepa to relieve an ill Harvey Cluff. His youthful energy inspired new life at the colony and assisted the Polynesians in modernizing Iosepa. Waddoups presided over the colony and managed the IASC until Iosepa's close.

Under the supervision of the manager and First Presidency the colony functioned cooperatively. Residents raised crops, tended the stock, or performed other jobs, receiving credit for work completed. With this credit they obtained food, clothing and other items. Sometimes after 1901 the IASC issued scrip in denominations of five cents to a dollar to eliminate the bookkeeping of the credit system. Thereafter, the IASC employed all those willing at about $30 per month. The IASC later abandoned scrip in favor of standard currency.

Occasionally, disorder interrupted work on the ranch. In 1900 the colonists demanded a raise in pay. Financial troubles led the IASC to respond with graded wages at a reduced scale. Consequently, the Polynesians refused to work, forcing the IASC to hire outside help. As conditions improved after 1901 striking ceased. During Waddoups's term less severe problems interrupted ranch activities. His brother, Justice of

Footnotes:
14 Thomas A. Waddoups, "The Iosepa Colony and the Iosepa Agriculture and Stock Company," p. 2, paper documenting a December 1956 interview, Brigham Young University Library; Jenson, "Iosepa Colony."
the Peace William Waddoups, arrested one Hawaiian for disturbing the peace and fined the man five dollars. When the man could not pay, the justice himself footed the bill.\textsuperscript{16}

Money-making ventures at Iosepa varied. The colonists raised wheat, oats, barley, corn, potatoes, squash, and various fruits. Feed was sold to livestock owners, and surplus crops were sold on the market. The colony also boarded sheep and cattle at the ranch, caring for the animals during the winter. Additionally, the IASC purchased and fattened cattle, hogs, and lambs, reselling them at a profit. Around 1904 the ISAC opened a general store, ending the need to travel to nearby communities for supplies. Goods for the store, purchased in Salt Lake City at wholesale prices, were sold at a profit at Iosepa.

From 1889 to 1892 the church purchased 800 additional acres of land near Iosepa, and the colonists increased the area under cultivation from 200 acres to over 400. Yet the colony failed to show a profit until the early 1900s. Like other communities, Iosepa suffered financially from the depression of the 1890s. In 1892 sheep herders boarding their flocks at Iosepa delayed paying the IASC for several years. Financial pressure made it difficult for the IASC to pay property taxes. By 1897 the colony was seriously considering renting the farm to Samuel Woolley of Grantsville who would, in turn, hire the Polynesians.\textsuperscript{17} With the church’s help, the colonists faced these difficulties and eventually became self-sufficient. President Waddoups successfully built up Iosepa’s hay, grain, and corn production. In 1904 the \textit{Deseret Evening News} reported:

\begin{quote}
The year certainly has been a prosperous one with the colony. 1,000 tons of hay is stacked in numerous stacks in the yards. Two hundred and fifty beeves are being fed and there are besides several hundred stock cattle on the range. Eighty beeves are being especially fattened for the Christmas market on grain. Five thousand two hundred bushels of wheat and barley fill the bins; eight hundred bushels of potatoes are on hand for local consumption and to supply sheepmen who appreciate so close a market and fifty tons of squash. Six hundred bushels of corn will provide ample feed for the hogs. Besides this, plenty of the finest fruits of all kinds was raised for local consumption.\textsuperscript{18}
\end{quote}

\textsuperscript{16}Harrison, “Land of the Free.”


\textsuperscript{18}Deseret Evening News, November 26, 1904.
In 1910 the colonists increased the area under cultivation to nearly 1,000 acres and grossed a healthy profit. Sales from farm products totaled a lucrative $20,000 in 1914, three years before Iosepa’s close.¹⁹

News reports of the colony tried to impress outsiders with stories of a Polynesian utopia. In 1903 the Deseret News noted:

Led by their faith from their homes in the balmy islands of the Pacific, where work is an experimental incident, [the Polynesians] have accustomed themselves to the rigors of Utah winters and the “dry heat” of Utah summers and go out each day to work upon the farm with cheer and thankfulness.²⁰

Such reports were inaccurate. The Polynesians sometimes left their duties on the ranch to pursue more personal goals. In 1893 a miner visiting Iosepa enticed the Polynesians to dig for gold in the Skull Valley hills. Colonists borrowed money for wagons and mining equipment and worked throughout the spring to obtain five wagonloads of ore. Eagerly they hauled the ore to Salt Lake City only to find that it was worthless.²¹

In addition to working on the ranch, youngsters spent their time on education. The president typically hired a Grantsville resident or an acquaintance as Iosepa’s instructor. Teachers lived with the president’s family and taught the students in English. Children studied mathematics, science, history, and other subjects. Older children spent the academic year attending high school in Grantsville or Salt Lake City.

The seventy-five-mile journey to Salt Lake City took up to two days by wagon. To maximize efficiency, colonists traveling to Salt Lake City frequently stopped first at the flour mill ten miles east of Grantsville to drop off grain. From there they traveled to a small cave on the north end of the Oquirrh mountains and rested overnight before moving on to Salt Lake. The colonists spent the next day shopping and attending the temple, picking up the flour on their return home.²² Around 1906 the Western Pacific Railroad built a station at Timpie, fifteen miles from Iosepa. Colonists used the train for lengthy travels and utilized its services to haul items such as coal and livestock.

Leisure time at Iosepa often meant picnics and horseback rides. Favorite activities included foot and obstacle races, marbles, boxing, and wrestling. In the summer the colonists headed for Kanaka Lake to swim

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²⁰Deseret Evening News, December 19, 1903.
and fish for carp. Skilled fishermen approached the carp from behind, gently stroking its side before catching it by the gills.

Entertaining at other communities, the Polynesians earned a reputation as talented musicians and singers. One especially gifted family, the Halemanus, brought fame to the colony. W. K. Halemanu, his wife Ellen, and son James had moved to Iosepa from Salt Lake City in 1889. At Iosepa W. K. assisted as a Sunday School superintendent while James worked as a counselor in the Young Men’s Mutual Improvement Association. The Halemanus composed songs about love and their faith, performing at colony celebrations. James Halemanu sang in Iosepa choral groups and directed the choir at special events.23 Halemanu children born at Iosepa also demonstrated an adeptness in music. Daughter Pua sang at luaus. The Halemanu sons performed in a vocal trio and with Iosepa’s orchestra, the Hawaiian Troubadours. Around 1912 the Halemanus composed the music for Richard Walton Tully’s play about Hawaii, *The Bird of Paradise*. Twenty years later the play became a popular motion picture.24

Although geographically isolated the Polynesians met some outside people. Travelers rested overnight in a room the Cluffs reserved

23Jenson, “Iosepa Colony.”
for their use. Sheep herders wintering on the range patronized the general store. Gosiute Indians from the Skull Valley Reservation south of Iosepa joined the colonists in luaus and sleigh rides, and on July 24 the colonists celebrated Pioneer Day with residents of Grantsville. Outside visitors came to celebrate with the colonists on August 28, the anniversary of Iosepa’s founding. Indians, the LDS First Presidency, and former missionaries to Hawaii gathered for “Hawaiian Pioneer Day” festivities. A feast of poi and steamed pork followed baseball games that matched the colonists against their visitors. The evening showcased Polynesian music and traditional Island dances.

Times of celebration sharply contrasted with periods of illness at the colony. A pall descended on the community when Polynesian leader J. W. Kaulainamoku became gravely ill. With the Hawaiian government’s permission, Kaulainamoku had immigrated to Utah in 1875. In Salt Lake City he settled at Warm Springs and worked on the Temple Block learning carpentry. Kaulainamoku was the first Hawaiian sent on a mission from Salt Lake City in 1888. He served for one year in New Zealand. On his return, he helped select the Iosepa site and in 1889 moved to the colony. He represented the colonists’ interests as a Polynesian stockholder in the IASC. He also assisted as one of Iosepa’s Sunday School superintendents. In 1899 he died and was buried at the Iosepa cemetery. 25

In 1896 three colonists contracted leprosy. When neighboring communities learned of the disease, they petitioned Tooele County for a quarantine. The county court appointed Cluff, Grantsville resident Samuel Woolley, and Dr. F. M. Davis of Tooele to investigate. After examining all of the colonists the committee reported only three cases of leprosy. 26 The colony built a one-story frame house one mile from town to hospitalize the victims. Although isolated, the afflicted received faithful care. A flag hoisted on a pole alerted the colonists when something was needed. A doctor claiming to have a cure for leprosy treated the victims in 1899. Anticipating relief, the First Presidency recommended that Cluff pay the doctor for any medicine needed. The treatment proved ineffective, however, and by 1901 all the patients had died. Although two or three other cases of leprosy later developed, those victims required no isolation. 27

25 Jenson, “Iosepa Colony.”
Iosepa residents also suffered from other diseases. Influenza, for example, severely afflicted the colony. In 1913 two boys attending school in Grantsville carried smallpox to Iosepa when they returned home, and the resultant epidemic killed three colonists. Although Myra Waddoups spent hours nursing the sick, pneumonia and diphtheria claimed the lives of many others. From 1907 to 1916 Iosepa lost twenty-nine colonists. A total of almost fifty members had died at the colony by the time it closed.28

Outmigration also affected the size of the colony. In 1894 the Hawaiian government offered to pay the fare to the Islands of those willing to leave Utah. Several colonists accepted. During Waddoups’s presidency several others returned to Hawaii. The Polynesians immigrating to Iosepa, however, outnumbered those returning to the Islands.29

Other colonists left Iosepa but remained in Utah. In 1901 the Deseret News reported, “The Iosepa colony comprises about eighty Hawaiian Saints, nearly twenty of whom, however, are at present residing in Salt Lake City.” Gold and silver mining in the areas surrounding Iosepa attracted younger men from the colony in the late 1890s and early 1900s. Typically, Polynesians who left the colony later returned.30

Despite losses to illness and outmigration, improved conditions, a steady birthrate, and new immigrants slowly increased the size of the colony. Acclimation of the Polynesians, along with improvements in transportation and communications, had significantly reduced deaths from disease by 1910. Twenty years after its 1889 settlement of fifty individuals, Iosepa’s population had nearly tripled.

In 1890 Joseph F. Smith blessed the first baby born at Iosepa. From 1907 to 1916 the colonists blessed an additional forty-eight new babies. On one memorable night James Halemanu hurriedly traveled to Grantsville for a doctor when President Cluff’s wife Emily went into early labor. Aided by Polynesian midwives she gave birth to a son three hours later. Another man then met the doctor en route to Iosepa and sent him home. The doctor nevertheless charged $20 for traveling only ten miles and rendering no service.31

Immigration to Iosepa from Hawaii, Tahiti, Samoa, and New

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29Deseret Evening News, December 22, 1894.
Zealand continued throughout the community’s existence. In 1908 the *Deseret News* described Hawaiian Pioneer Day: “The crowd was a most cosmopolitan one, comprising 100 Hawaiians, 27 American Indians, 13 Samoans, 6 Maoris, 1 Portugese, 5 half caste Portugese, 3 families of Scotchmen, several families of English . . . .” By 1914 an estimated 150 Hawaiians, Samoans, Tahitians, Portugese, and “South Sea Whites” lived at the colony. The population of Iosepa at its peak in 1916 totalled 228 residents.\(^32\)

The colonists generally assimilated in harmony. In one incident, however, Hawaiian Moke Oliva shot a hole through another colonist’s hat. The repentant Oliva surrendered at Tooele. The sheriff later released him, however, because the victim refused to press charges. Despite minor conflicts, a common faith and shared struggles at the colony compensated for differences in language and culture.\(^33\)

Under Waddoups’s direction Iosepa was modernized. Sometime after 1901 the colony installed long-distance telephone service and opened a post office. During Cluff’s presidency colonists had obtained drinking water from the same irrigation ditches that watered the farms and gardens. Myra Waddoups contracted typhoid shortly after her arrival at the colony. Consequently, the First Presidency recommended the construction of a new water system. For $260,000 the colony completed a pressurized irrigation system in 1908, one of the first in Utah. Concrete troughs caught the water in the mountains east of town and channeled mountain and spring water into an aqueduct connected to


\(^{33}\) *Deseret Evening News*, August 8, 1897.
concrete water pipes that distributed the water to each yard. Diligence by the colonists eventually paid off. In 1915 the state inspector of farm town sanitation awarded Iosepa the highest honors in cleanliness of streets, yards, and homes. Hawaiian John Broad received a $50 prize for the most commendable property.

From its inception Iosepa demonstrated the church’s interest in assembling its flock in Zion. The church originally established the colony as a permanent gathering place for the Islanders, and later Wilford Woodruff dedicated it for that purpose. Polynesians immigrating to Utah after 1889 followed the church’s admonition to move to Iosepa and with few exceptions generally gave up any intention of returning to the Islands.

In time, however, the church’s gathering policy changed and interest in Iosepa declined. In 1915 the church announced plans to build a temple in Hawaii, the first outside the continental United States. As a result, many colonists decided to participate in building the temple, to collect genealogical records required for temple ordinances, and to return to their homelands.

Signaling a change in church administration and policy, President Joseph F. Smith advised those reluctant to leave Iosepa to return to the Islands. He warned the Polynesians that he would soon die and the next president might not care for them as he had. To assist the colonists the church agreed to pay the transportation costs of those who could not afford it.

A majority of the Polynesians returned to the Islands, while a handful of colonists moved to Salt Lake City or found jobs as miners. By summer 1917 the colony lay empty. Waddoups was forced to hire outsiders to assist him in the harvest. Later that year the church sold the abandoned ranch to the Deseret Live Stock Company.

The Iosepa colony began as a struggle to survive. Colonists battled isolation, severe weather, financial difficulties, leprosy, and a high mortality rate. Church and colony leaders, however, tended to the Polynesians with fatherlike devotion.

As former missionaries to Hawaii, First Presidency members Joseph F. Smith and George Q. Cannon took a personal interest in the
colonists. Cannon had served as one of the ten first missionaries to Hawaii in 1850. Smith had served in Hawaii from 1854 to 1858. They supervised Iosepa’s economic affairs, rescued the colonists from renting out the farm, financed ranch improvements, provided medicine for those with leprosy, and offered return fares to the Islands. As church president, Joseph F. Smith visited Iosepa regularly. On Hawaiian Pioneer Day he joined the festivities and on occasion blessed the Polynesian children.

Leaders at the colony also developed a paternal interest in the Polynesians. Justice Waddoups paid the fine of one Hawaiian charged with disturbing the peace. Myra Waddoups nursed the ill. When influenza afflicted the colony President Cluff left his bed to feed the cattle. In 1890 three men left Iosepa for Salt Lake City and Cluff pined:

> If [any] man was imbued with a spirit of philanthropy and ministerial love [for] the Hawaiian people, I believe I was. I [have] nursed them and clothed them [given] them parental attention exceeding what I was able to give my own family.\(^{39}\)

With diligence and the aid of their administrators the colonists ultimately succeeded in creating a thriving community. Despite the foreign environment they adapted to the new climate and foods and mastered English and western cooking styles. The population quadrupled in size. Homes, trees, and community buildings lined the streets, and a modern water system irrigated the gardens. Over time the colonists gained renown as talented musicians and singers and won an award as Utah’s cleanest farm town. By 1910 the area under cultivation had increased to over 1,000 acres and business had become profitable. Iosepa had undoubtedly fulfilled its purpose as a successful gathering place for LDS immigrants from the South Pacific.

\(^{39}\)Cluff Diary, p. 43.
Great Basin Kingdom Revisited is a result of a symposium held at Utah State University in 1987 to commemorate the thirtieth anniversary of the publication of Leonard J. Arrington’s Great Basin Kingdom: An Economic History of the Latter-day Saints. Sponsors of the symposium were the Charles Redd Center for Western Studies and the Mountain West Center for Regional Studies. They asked a number of recognized humanities and social science scholars involved in researching, writing, and teaching about the Great Basin region to review Arrington’s work critically and its impact on them and their fields. From this pool of papers eight are published in this volume. The authors include: Richard Etulain, professor of history, University of New Mexico; Stan Albrecht, professor of sociology and academic vice-president, Brigham Young University; Mark Leone, professor of anthropology, University of Maryland; Jonathan Hughes, professor of economics, Northwestern University; Lowell “Ben” Bennion, professor of geography, Humboldt State University; Donald Worster, professor of history, University of Kansas; and Charles S. Peterson, professor emeritus, Utah State University. For the most part these essays break from the long and sometimes weary debates among Mormon and non-Mormon history scholars about “New Mormon History,” fathered by Arrington and his Great Basin Kingdom.

Donald Worster, in the lead essay, examines Great Basin Kingdom from an environmental studies perspective. He argues that Arrington presents a significant historical twist to the nineteenth-century Mormon collective spirit brought west and enhanced as they conquered the arid environment of the Great Basin. This collectivist spirit intensified with the adoption of irrigation, embraced by the Mormons with the same energy that most championed their new religion. Successful for a time in economically building and defending their society through the control and monopoly of water and other natural resources, Mormons eventually capitulated to the West’s economic system. However, the West facing the same arid environment abandoned its cherished laissez-faire capitalism for a more centrally directed and financed development of water resources. Worster concludes that Arrington “called his people back to the memory that they had once stood forth and opposed . . . [and] recalled for them what their own native religious tradition had once been and told them of a past set of values they had forgotten” (p. 38).

In the final article Charles Peterson commends Arrington for breaking new ground in the writing of good Mormon history. But in so doing Ar-
rington embraced the "exceptionalist schools" of history, a view held by fron­tier historian Frederick Jackson Turner. Over time, however, this school has isolated both historians' followers, "leaving them outside mainstream studies . . ." (p. 132-133). Pe­terson argues that followers of the "New Mormon History" school have isolated themselves from the fast-flow­ing main channel of western historiog­raphy. The result is that Mormon his­torians and Mormon history lack the recognition, credibility, and accep­tance of other western historians. Mor­mon historiography for too long has "sight[ed] down the narrow gallery of internal examination" (p. 151). In his final analysis, Peterson calls for a broadening of Mormon studies rather than the continuation of the narrow focus and introspection of Mormon history frequently restricted to Utah. Peterson urges Mormon historians to follow the example of Leonard Ar­rington and Great Basin Kingdom and break out of the established stream.

Great Basin Kingdom Revisited has caused this reviewer to blow off the dust and again read Great Basin King­dom. I recommend both volumes to the serious student of Mormon as well as western history.

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Mark Hofmann. An infamous name. A name the people of Utah will not easily forget. As terrible as were the premeditated bombing murders of Steven Christensen and Kathy Sheets, some devout Mormons still believe Hofmann's greatest sin was his ingenious forging of several documents that brought into question some of the most important claims of Mormon history. Hofmann's salaman­der letter, money digging letter, An­thon transcript, and Joseph Smith III blessing, among others, played a catalytic role in a revisionist history movement that closely scrutinized the genesis of Mormonism and in a cred­i­ble, studied manner began to rede­fine Joseph Smith and some of the founding events of the Church of Jesus Christ of Latter-day Saints.

More than six years after the mur­ders of October 15, 1985, Hofmann's name still occasionally appears in the news, in part because of the public fascination over his dark but daring career. His deeds have been well doc­umented by authors, and his notoriety will live on through at least six books, the fifth of which is the subject of this review. As the title indicates, The Judg­ment of Experts focuses on only one of Hofmann's forgeries, the Oath of a Freeman, alleged to be the first docu­ment printed in colonial America. While not associated with Mormon history, the Oaths (Hofmann made two of them) figured significantly in the two deaths by bombing. Had ei­ther of the Oaths been purchased for large sums of money as Hofmann had expected, he would have escaped the financial pressures that led to the fab­rication of the McLellan collection fic­tion, the attempted cover-up of which led directly to the murders. Yes, it is still a very complicated story.

Unlike the first four books on Hof-
mann, each written by one or two authors intent on chronicling his entire life, *The Judgment of Experts* consists of a collection of essays, letters, interviews, reports, and related documents pertaining to investigations of the Oath of a Freeman. In addition, the book contains a chronology of events from March 13, 1985, to May 1987, a glossary of technical terms, and a lengthy but useful introduction. Also informative are the extensive background section and copies of original documents assembled in eight appendices by Salt Lake City homicide investigator Kenneth C. Farnsworth, Jr.

In all, thirteen investigators and document experts contributed to the book. Much of the material consists of reports on various examinations of the Oaths, each employing different methods of testing and analysis. Some were written before the documents were exposed as forgeries, while others were written after the fact and benefit from the clarity of hindsight. Eventually, highly technical tests, described in detail in the book, showed both Oaths to be forgeries, albeit brilliant ones.

Equally interesting are the earliest tests which were inconclusive and led Hofmann to believe the sale of one or both Oaths would end his financial crisis and allow him to continue his career as a professional forger. The examinations undertaken by the Library of Congress (LC) and the American Antiquarian Society (AAS), both of which considered buying an Oath, are particularly illuminating. James Gilreath, an American specialist for the library, describes the library’s review of March/April 1985 as “an ambiguous first impression and an elusive finish.” Gilreath was initially skeptical, noting that the Oath’s paper was whiter and the type darker than the LC’s Bay Psalm Book, the most comparable historic document. Still, these bothersome anomalies could be explained away and were offset by other evidence that suggested authenticity. “Bite marks” on the back of the paper showed it had been reprinted rather than photographically copied. Nothing suspicious appeared under ultraviolet light. Applying textual and material tests, a team of LC experts next examined the document in minute detail. They looked at the corrosive effects of iron gall ink, the well-formed printed letters, the haloing of the ink, the abnormal hyphenation of words, the possibility that letters were “cut and pasted” from another old document, and the correctness of seventeenth-century spelling, punctuation, syllabification, and word usage.

Although Gilreath admits to having had a “divided mind,” the library wrote a letter to Justin Schiller, Hofmann’s agent/co-owner of the Oath, indicating that the examiners “could find nothing wrong with the Oath.” Schiller and Hofmann were undoubtedly pleased by this report and assumed a high-priced sale was imminent. But, as Gilreath suggests, Hofmann was lucky in bringing the Oath through the initial investigations without serious challenge. Several reviewers thought that the Oath’s overlapping ascending and descending letters in the same line of print was clear proof of forgery. However, because Stephen Daye, the publisher of the original 1638/39 Oaths, was a locksmith rather than a skillful printer, his other period documents showed similar errors. As Gilreath summarizes in retrospect, “In effect, Hofmann’s mistake made the Oath look even more credible.”

Gilreath also debunks the popular notion that the LC agreed to buy the Oath for $1.5 million. The library
never agreed to that sum. Moreover, negotiations were to be resumed only after the broadside’s ownership and provenance were revealed. These were never provided and all negotiations ceased after June 14, 1985. Marcus A. McCorison’s essay describes similar transactions conducted between Schiller-Wapner Galleries and the American Antiquarian Society. Like the LC, AAS demanded evidence of ownership, provenance, and tests. AAS’s examiners found some possible difficulties but offered $250,000 for the Oath, expecting eventually to pay up to $750,000. The conditions and low offer were unacceptable to the sellers, however, and the Oath was returned September 11, 1985.

During his interviews with the Salt Lake County attorneys, Hofmann was asked what effect a sale of one of the Oaths might have had. He responded, “It would have released me from it (‘the financial hole’). Hence, . . . the bombings would not have taken place.” With this perspective, the value of _The Judgment of Experts_ is twofold. First, it clarifies many of the heretofore unknown details regarding attempts to test and market the two Oaths, creating in the process a context for the events of October 15, 1985. Second, the book thoroughly describes the methods and findings of the many examinations and tests conducted to determine the Oath’s authenticity. Appropriately, the essays in _Judgment_ reflect both the early fatal confusion and the sadly too-late certainty that characterize the playing out of the Oath of a Freeman story between its “discovery” in March 1985 and its detection as a forgery a year and two deaths later.

Allen Roberts
Salt Lake City

_Promise to the Land: Essays on Rural Women._ By Jean M. Jensen. (Albuquerque: University of New Mexico Press, 1991. xxii + 319 pp. $27.50.)

In _Promise to the Land_ Joan Jensen has once again succeeded in broadening our knowledge of farm women and adding to the field of women’s history. The purpose of these sixteen essays, of which eight have been published previously, is to tell the story of rural women and how despite living within a patriarchal structure, with a few exceptions, they exercised a degree of control over their lives and in some instances exerted influence. The amount of control and influence, however, diminished as the twentieth-century forces of modernity began to be felt on the family farm. Still, Jensen demonstrates that rural women were an integral part of the agricultural economic unit.

The essays, “Rise Up Like Wheat: Plantation Women in Maryland” and “Butter-Making and Economic Development in Mid-Atlantic America, 1750-1850,” to name two, provide ample evidence that women’s work contributed to the farm’s income. In the case of the Maryland plantation, nineteenth-century slave women, under the supervision of the plantation’s mistress, toiled to maintain a self-sufficient farm and add to the plantation’s income through the sale of agricultural goods, such as butter. The essay on butter-making in the
Philadelphia hinterland examines the contribution of farm women in marketing their product and increasing the family's earnings.

Both these essays and others throughout the book suggest that rural women played a large part in agricultural development and when historians recount the history of agricultural economic development women should be placed at the center of that history. The reason scholars have failed to include farm women in their analyses might be attributed to another of Jensen's themes: that the personal is political. Thus the mobility of rural women in the personal realm was dictated by the dominant political system: in other words, a patriarchal structure that determined laws regarding property ownership later shaped a farm policy that diminished the family farm, placing women at a further disadvantage. Farm women were often invisible participants.

Yet, Jensen's essays speak of women's efforts to make the best place they could for themselves and their families or to resist, as the Seneca women did in the eighteenth and nineteenth centuries. The format of the book allows the reader a personal look into the lives of rural women. After an excellent introduction, packed with bibliographical references, Jensen divides her work into five parts. The first is "Autobiography and Biography" in which she recounts her experiences on a farm as well as the experiences of her grandmother Tillie and the Lithuanian farm woman Rozalija. The second part is entitled "Oral History, Iconography, and Material Culture." For these pieces, Jensen utilizes nontraditional but increasingly popular research methodologies, such as material culture study of the Salinas Monument. The third segment is "Rural Development" in which Jensen studies rural women from historical documents that were written from a perspective other than to record their lives. For example, information on slave women in Maryland came from the diary of the mistress of the plantation, who recorded work schedules without discussing any personal aspects of the slaves' lives. For the fourth area, "Rural Social Reform," Jensen reviews agencies that existed for rural women. In the final part, "Rural History," she considers the field of rural history and discusses contemporary events.

The separation of these essays into five parts, each with an introduction, provides the reader with a sound framework. The strongest section, however, is rural development; while the others contain excellent introductions, they do not demonstrate the same breadth and depth. Further, for those who have kept abreast of Jensen's work from the beginning, the book might be disappointing because half of the essays have already been published, although without the benefit of the framework furnished here. Finally, while she addresses the significant impact that industrialization, single-crop farming, and the concentration of capital had on the family farm, she does not discuss other important twentieth-century events, such as the reclamation movement. But these are only minor criticisms, for Promise to the Land succeeds in its goal of securing for rural women a central place in the history of agricultural development.

DOROTHY ZEISLER-VRALSTED
University of Wisconsin
La Crosse

This anthology/picture book is a testament to the 1980s fascination with western water issues. The rise of environmental awareness intersected with doubts about the efficacy or prudence of multipurpose water projects from Alaska to Arizona and from Omaha to Oakland. A generation that had witnessed the prosperity and problems attendant to postwar western growth concluded that the costs outweighed the contributions of hydroelectric power, irrigation and municipal water storage, flood protection, and recreation. Hence the focus of the previously published pieces collected by the Nevada Humanities Committee (an affiliate of the National Endowment for the Humanities) and released as part of the "Water in the West Project."

Had this volume appeared four or five years ago its audience and utility might be more apparent. The editors drew upon abridged readings from historians Patricia Nelson Limerick, Donald Worster, and Roderick Nash, essayists Wallace Stegner and John McPhee, the team of political scientists Helen M. Ingram and Lawrence A. Scaff, and the Laguna Pueblo novelist Leslie Marmon Silko. The selections ask questions primarily about water use in California's Central Valley and the Colorado River Basin, even though the volume declared its mission to "represent . . . a wide range of interests and concerns from agricultural practices in western Kansas to water rights on the Paiute Reservation at Pyramid Lake in Nevada."

For readers conversant with the scholarship of the contributors, the strengths and weaknesses of the western water debate are quite familiar. Americans brought their humid-climate experiences across the "dry line" (the 100th meridian) and engaged the landscape and themselves in a heroic (or foolish) struggle for mastery. The selections speak as much to the need for further scholarship as they do the opinions of their authors at the moment of creation. The photographs, meanwhile, do not enhance the text as would a larger folio format (although they remind the reader of how few pictures grace the pages of most treatments of western water).

General interest audiences would be well advised to pursue the complete texts of Limerick, Worster, et al., after initial exposure to A River Too Far. The "new western" history dialogue has sparked much interest in regional scholarship, and from the earlier works of the contributors come ideas for monographs on water agencies, districts, policies, court cases, and a host of other concerns (including the perspectives of minorities and women on the use of western water, something surprisingly not addressed in the selection coauthored by Silko). One day the intended audience for this volume will indeed have the creative synthesis and pictorial representation that the editors proposed. The works abridged herein provide a challenging introduction to the algebraic equation of the West's most precious natural resource.

MICHAEL WELSH
University of Northern Colorado
Greeley

Here is another wonderful book from the University of Nevada Oral History Program, this one about the U.S. Forest Service from the perspective of a forest ranger. Archie Murchie grew up in North Dakota, near the Canadian border. His father was a homesteader from Canada who turned to the drayage business after being injured on the farm. The narrator tells how he worked with his brothers on the farm as a ten-year-old boy after his father's injury, learning to work to keep the farm going. When his father gave up farming, he hired himself out at age fourteen to a stonemason where he learned many skills useful to a professional forester.

Archie knew he wanted to be a forest ranger when he was twelve years old, he says. He loved working out-of-doors and being in contact with the earth, free from the restraints of walls and overseers. When he learned about the Forest Service, forest rangers were given assignments and left to do the job. His education was typical for the time until he finished high school in 1926. He knew preparation was the key to becoming a forester, so he enrolled at the Agriculture College of North Dakota for two years’ training in forestry. He transferred to the University of Montana Forestry School to study range management because the Forest Service hired students from that school. For a summer job in 1929 he worked for the Kootenai National Forest on trail location. Before returning to school, he was also lookout and fire fighter.

Graduating into a depressed economy in 1931, Murchie had difficulty finding work, but his performance as a part-time forester recommended him well. He worked in Region One (the Northwest) before transferring to Region Four (the Intermountain), where he served most of his career.

Readers will enjoy the feeling of being with Murchie in the Forest Service. Anecdotes and firsthand accounts of the free life seem like recounting a long-lost time of innocence, almost a dream. Murchie’s stories rank with those of the Lone Ranger as a defender of right. But the reality of fitting into a time some of us still remember, such as the winter of 1948-49 and encounters with growing public sentiment about the environment, catches us as readers with our attention distracted.

Editorial work on books using oral history is crucial to our acceptance of the “written word.” In The Free Life of a Ranger, editors have removed interviewers questions and kept transcriber additions to help readers enjoy more of Murchie’s personality. This is particularly true with the occasional insert (laughter) so we know that Murchie is offering us an irony or some other expression that would be lost if only the written word remained. Editors run the risk of distorting or worse, reversing the narrator’s meaning, but in this book they have joined with the interviewer in a commendable effort to capture the man in his time and place. They have also included an impressive array of photos that document Murchie and his free life as a ranger. My favorite is the frontispiece of Murchie in 1990.

Jay M. Haymond
Utah State Historical Society
The era of train robberies occupies a significant place in U.S. and western history. Some very colorful and desperate characters emerge throughout this period and reappear in other settings and contexts. Patterson has spent considerable time and effort to provide stories—both factual and fanciful—of this era and its players. The Pinkertons, railroad engineers and employees, law enforcement officials, legislators, and the media all become a part of the story as documentation and identification of train robbers and robberies is presented in alphabetical order.

This is not a book to read from A through Z but rather to follow the thread of each listing going forward and back as names and places pique interest and curiosity. The author has included numerous pictures that provide names, faces, and places to what could have easily remained vague references and distant events. The encyclopedic format allows a means of order for all of the characters and locations. There is, of necessity, a certain amount of repetition, but the author has judiciously added some details and withheld others (to be included later) to keep the moving entries interesting and readable.

Butch Cassidy, Bill "Old Bill" Miner, Kid Thompson, and many others all have faces and context in this book. Some are placed in connection with each other through their shared vocations. Through the alphabetic sequence can be traced railroad lines and escape routes, small towns, and watering stops. While the events and places are factual, many locations no longer exist or are not recognizable as current urban centers and suburbs. Now, however, for a moment, their past is relived.

The unknowns as well as the mysteries are as interesting as the documented histories. Where along Utah's Bear River is the exact location of the $105,000 stolen by George Tipton, Gene Wright, and Oscar Witherell near Colorado Springs in 1881? Could Hiram Bebee, who died at the Utah State Prison in 1955, really have been Harry Longabaugh, the Sundance Kid? What really happened to Kid Curry (Harvey Logan), the most famous of the western train robbers? What happened to a pair of shoes made from the skin of "Big Nose" George Parrott after his hanging in Rawlings, Wyoming?

_The Train Robbery Era_ brings to life this colorful period of the criminal entrepreneur—not to be glamorized or martyrized, but as history. The pictures of captured and/or dead robbers testify to the deadly game these men were playing. The lives and monies lost by the railroad and the public underscore the seriousness of the events documented in Patterson's book. The notion of a "Gentleman Bandit" or a noble "Robin Hood" is put to rest firmly here as the crimes are delineated and criminals of the train robbery era meet their fates. With the publication of this book the ledgers are opened, revealing the tremendous social, economic, and personal losses associated with this phenomenon.

L. KAY GILLESPIE
Weber State University

A Society to Match the Scenery is the first publication sponsored by the recently established Center of the American West at the University of Colorado at Boulder. The book is essentially a proceedings of two symposia held at the University of Colorado in October 1988 and March 1990. The subtitle’s emphasis on “personal visions” is appropriate as the volume is composed of some forty-five, mostly brief items from thirty-five different contributors. The editors have cast a wide net, and the contributors include politicians, public administrators, lawyers, journalists, academics from several disciplines, poets, essayists, and a photographer; females and males; Anglos, Hispanics, Native Americans, one Black, one Asian-American.

When a book announces itself as being about the American West it is always a good idea to ask which West, since the region is so vast and diverse as to defy comprehensive treatment. A hint of the answer to this question may be found in the name of the sponsoring agency. It calls itself the Center of the American West, not a center for the West or for western studies. The West as it is envisioned in this volume is primarily a slice of country with Colorado at its center and including Montana, Wyoming, the Dakotas, western Nebraska and Kansas, and New Mexico, with a slight westward bulge to take in the Canyons—lands region of Utah and the Navajo country of Arizona. Otherwise, Utah, Arizona, Nevada, Idaho, and Oregon are only incidentally part of the West, and California and Washington hardly belong at all.

As is often the case with published conference proceedings, the quality of contributions is uneven, with some substantial discussions and others that appear to have been included primarily because of the author’s position. Among the more interesting articles are Patricia Nelson Limerick’s “Progress or Decline? Judging the History of Western Expansion,” which restates the view developed at greater length in her Legacy of Conquest that “in many ways Western American history is the story of a group of people going to hell in a handbasket, but over and over again.” Edwin H. Marston argues that the West’s extractive economy has also produced an “extractive culture” characterized by an emphasis on family ties, religious fundamentalism, and a lack of interest in education or the world outside the region. Camille Guerin-Gonzalez in a Marcusian argument, “Freedom Comes from People, Not Place,” and Sally K. Fairfax in an iconoclastic essay, “The Lands, Natural Resources, and Economy of the West,” both call into question whether the West is a distinctive region at all. In an entirely different mode, Terry Tempest Williams contributes three of her characteristic essays in nature mysticism. My own favorite is William Kittredge’s personal essay about his family’s ranch in the Warner Valley of southeastern Oregon, the almost attainment and then destruction of a western dream. Wallace Stegner’s “A Geography of Hope” is one of the few contributions to attempt a broad overview of the entire American West. But despite its title, it is far from hopeful. “Why,” he asks, “should we expect
a desert to blossom?" Stegner concludes by using the disaster of the Kaibab deer herd in the 1920s as a metaphor for what faces the West if we fail to accept the limits imposed by aridity and a fragile ecology. Limits is the dominant theme of the volume: limited water, the limits of an extractive economy, the limits of the much used and often abused public lands, the plight of rural communities, and the limits on the growth of the cities (spreading, as Stegner puts it, "like impetigo") if the good life is to be attained or preserved. However, the book offers no consensus about the future of the region, let alone a blueprint for creating "a society to match the scenery."

EDWARD A. GEARY
Brigham Young University


In his sixty-five-year chronicle of Mendon, pioneer settler Isaac Sorensen left his fellow townspeople and their descendants a unique history of a Mormon village. Thus the reader today can learn of scarlet fever and diphtheria epidemics that took their toll, the sale of city land in 1891 to finance a new city hall, the completion of the sugar factory west of Providence in 1901 that local farmers believed would bring them prosperity.

This firsthand account is enriched by detailed footnotes that identify persons and generally expand the historical perspective. In addition, several appendices add significant information about the town and its residents, e.g., a forty-page chronology of events affecting Mendon, a twenty-eight-page bibliography, etc.

Dozens of historic photographs complement the text and add important information about the town.

History of Tooele County, Vol. II. By ORRIN P. MILLER et al. (Tooele, Ut.: Tooele Transcript Bulletin, 1990. viii + 680 pp. $30.00.)

In 1961 the Daughters of Utah Pioneers published History of Tooele County, one of the last volumes in a statewide effort by the DUP to write histories of Utah’s counties. Three decades later the Tooele County Historical Society under the late Orrin P. Miller has produced a companion vol-
volume that covers both nineteenth- and twentieth-century topics. A full-sized book with 700 double column pages, this is a substantial history that is well illustrated with photographs.

The twenty-two chapters cover topics ranging from natural history and prehistory to industry, agriculture, military installations, ghost towns, trails, and historic buildings. The chapters consist of topical articles, most of them written by Miller and other Tooele County residents, though relevant articles by other historians, including Brigham D. Madsen, Eugene Campbell, and Allan Kent Powell, have been included. The last four chapters, about a third of the book, focus on individuals under the general chapter headings of profiles, biographies, interviews, and stories. Anyone interested in the Tooele County area or county histories in general will want to examine this book.

*I Am Looking to the North for My Life*: Sitting Bull, 1876-1881. By JOSEPH MANIZIONE. (Salt Lake City: University of Utah Press, 1991. x + 172 pp. $17.50.)

Following Custer's defeat on the Little Big Horn River, the Sioux faced the dilemma of either surrendering to a life on the reservation or surviving on the depleted buffalo herds while dodging U.S. military forces. Many elected to bow to the wishes of the Great Father in Washington, but some, most notably those associated with Sitting Bull, refused the proffered hand and fled to Canada where they remained for five years.

The interim before Sitting Bull returned to the United States is the focus of this book. Using American and Canadian archival materials and newspaper accounts from both sides of the border, the author discusses the ruminations of all three governments—Canadian, American, and Sioux—in deciding the fate of the defeated and impoverished Indians. Some voices were sympathetic to the Sioux, the most important of which was James Walsh of the Northwest Mounted Police. He assumed a hard-line approach by insisting the U.S. forces stay away from the Native Americans while demanding that Sitting Bull maintain a neutral posture on either side of the boundary. Eventually, the machinations of politicians won out, the no-aid stance of the Canadian government starved the Sioux into submission, and the "hostiles" returned to the United States and reservation life. Sitting Bull's dream of freedom had evaporated.

The Cherokees: A Population History. By RUSSELL THORNTON. (Lincoln: University of Nebraska Press, 1990. xvi + 237 pp. Cloth, $35.00; paper, $11.95.)

This is the first book-length study of the demographics of a Native American group from the protohistorical period to the late twentieth century. Disease, warfare, genocide, miscegenation, removal and relocation, and the destruction of traditional lifeways took a terrible toll on the Cherokee population. They demonstrated a remarkable ability to adapt to change, however, and survive today as the largest self-identified Indian group in the U.S.

In tracing the diverse Cherokee populations Thornton faced many challenges, including the perplexing issues of where they originated, when they first occupied traditional lands in the Southeast, and who actually are
the Cherokees today. (More than 230,000 Americans identified themselves as Cherokees on 1980 U.S. Census forms that allowed racial/ethnic self-identification.)

The Cherokees breaks new ground and will serve as a model for anyone researching the demographic history of other Native American groups.


The great frontiersman and explorer Jedediah Strong Smith ran afoul of Mexican officials in southern California in 1826. Arriving in a foreign country, he aroused suspicion, first, that he was an American spy and, second, that he was trapping without a license. Smith presented himself as an innocent victim of circumstance, and historians have generally accepted his version of events.

Documents that eluded such zealous researchers as Smith’s biographer Dale L. Morgan were uncovered in Mexico’s national archives during 1984-85. They clarify events from the viewpoints of both American trappers and Mexican officials and show that Smith was devious in his dealings with Mexican authorities.


Although much has been published about the popular kachina dolls of the Hopi Indians, this book merits the attention of collectors and others enchanted by these works of art. In addition to describing the historical development of this art form, Teiwes also explains the role of the Katsina spirit in Hopi religion and that of the kachina doll or carved representation of a Katsina in the ritual and economic life of the Hopi people.

This book is unique in carrying Hopi carving traditions and changes up to the late twentieth century. Included are profiles of twenty-seven contemporary carvers, among them Alvin James Makya and Cecil Calnimptewa who have national reputations. Twenty-four color plates provide dramatic evidence of the modern Hopi carvers’ skill, while numerous black-and-white illustrations show historic Hopi carvings, modern Hopi life, and individual carvers at work. The text is a pleasure to read.

Custer’s Last Campaign: Mitch Boyer and the Little Big Horn Reconstructed. By JOHN S. GRAY. (Lincoln: University of Nebraska Press, 1991. xviii + 446 pp. $35.00.)

Using all the known primary accounts of the battle (especially the undervalued testimony of experienced scouts such as Mitch Boyer) and combining topographic research with time-motion analysis, Gray has produced what Robert M. Utley calls “the most important book ever written about the Battle of the Little Big Horn.” It reconstructs the entire sequence of events. One
thing the book and its ingenious and resourceful author cannot claim to have solved, though, is how to end the flow of books about Custer.


This is the first work to chronicle the life of a common German soldier who survived the frantic days after the Normandy invasion in June 1944, capture by American troops, and internment in POW camps in France and the U.S.

Powell, a Utah State Historical Society staffer who previously authored *Splinters of a Nation: German Prisoners of War in Utah* (1989) brings a unique background of research on German POWs to Horner's story, which Powell encouraged him to complete and allow to be published. Horner, who died in 1990, lives on in this lasting memorial to an ordinary soldier's life and the universal aspects of war.


This is a reprint of the 1968 edition with only minor emendations, Carter explains in a preface written in 1990. His original work, he notes, "had to contend with the mythmakers who were not content with a hero as ordinary as the actual historical person but who wished to worship him as a superman who never failed and who could do no wrong . . . the new myth-makers . . . regard Carson as an inhuman monster who starved, beat, and killed untold numbers of Navajo Indians and enslaved those who survived." Carter stands by his original portrayal of Kit, asserting that "the record is clear that Carson was more sympathetic to the Indians in later life . . . and that he was never an Indian hater as were so many people in his time."


Sonnichsen's classic account of the legendary Judge Roy Bean was originally published in 1943 and has been in print almost continuously since then. Time has not diminished the appeal of Bean, the author believes, because despite the judge's seedy appearance and offbeat legal decisions he was "shrewd, resourceful, and amusing. . . . he confound[ed] the establishment and we enjoy watching him do it."


This is an excellent study of a fascinating subregion of the West, the Big Bend country of west Texas that lies along the Rio Grande river from El Paso to Laredo—a section of which contains Big Bend National Park. The area's landscape is geologically puzzling. Its history is a blend of Mexican, Native American, frontier army, and Euro-American themes.
Campaigning with King: Charles King, Chronicler of the Old Army. Edited by Paul L. Hedren. (Lincoln: University of Nebraska Press, 1991. xxix + 187 pp. $25.00.)

The amazing Charles King (1844-1933) spent seventy of his years with the military and was decorated for fighting in five wars. Known for his chronicles of the frontier army, he also wrote dozens of novels and was sometimes called the American Kipling.

This book derives from a manuscript written by Don Russell, co-founder of the Chicago Corral of Westerners and its parent organization Westerners International. Russell interviewed King and corresponded with him during the old soldier’s last years. In 1980 Russell, nearing the end of his own life, gave his King manuscript to Paul Hedren who shaped it into its final form.


After New Mexico became a territory in 1850 Protestant missionaries went there in increasing numbers. Their first concern was to minister to the few Anglo-American soldiers and civilians in the area. Later, the desire to convert the New Mexicans became their driving motivation.

The Presbyterians succeeded in integrating Spanish-speaking congregations into their institutional structure, but the essential ethnocentrism of all the Protestant groups prevented their understanding the real needs of the Hispanic peoples and also led to their underestimating the importance of Catholicism to the life of small, isolated villages.


This is a reprint of a classic historical mystery—the search to flesh out the shadowy, almost forgotten figure of Louis Tikas, a union organizer killed in the Colorado coal fields in 1914. The author merges oral history, written records, and elements of his personal odyssey to bring “unbelievable power to the tale,” according to the American Historical Review.


Moody was eight years old in 1906 when his family moved from New Hampshire to a Colorado ranch. Through his eyes readers experience the pleasures and difficulties of early twentieth-century ranch life. Auctions and roundups, picnics, irrigation wars, and violent storms provide authentic color to a book that marked Moody’s literary debut in 1950. He has written extensively since for young people and adults.

Reprinted as a paperback edition in 1990, this book presents the impressions of Hervey Johnson a young Quaker from Ohio during his three-year assignment with the eleventh Regiment of Ohio Volunteer Cavalry in the Idaho Territory and other military telegraph stations in Indian country during 1863-66. The impressions represent the understanding of an enlisted soldier that is rare in western American history.


The Anschutz Collection of western American art encompasses 160 years and ranges from a portrait of Cherokee leader Jesse Bushyhead by Charles Bird King (1828) to Sioux artist Fritz Scholder's *An American Portrait* (1979). Between these are works by Blumenschein, O'Keeffe, Russell, Remington, Moran, Fechin, Parrish, Catlin, and several dozen others. The color reproductions are excellent, and each is accompanied by a biography of the artist.

*West West West* presents familiar visual images of the West and may evoke nostalgia in some readers. That is not a flaw. The collection is superb, but the West it represents is limited: Santa Fe and Taos, the high plains, Yosemite, cowboys, and Indians. It is a West devoid of its cities and of its major contemporary art center—Los Angeles.


*Fools Crow* provides a fascinating glimpse into the views of a Sioux holy man whose life story spans 1890 to 1975. The book has three major themes—the autobiography of an important tribal figure, the ceremonies and teachings of Sioux religion, and the conflicts waged between tradition and modernization, between religious and secular ideas, and between red and white.

Written in the same genre as *Black Elk Speaks* by John G. Neihardt and *Cheyenne Memories* by John Stands in Timber, *Fools Crow* is a dramatic testimony of Native American values and views. Information about the sacred pipe, sun dance, sweat lodge, vision quest, and yuwipi ceremony is interspersed with personal history and application of these powerful rites. Unlike the book of the same name by James Welsh, this work is not fiction but religion and history seen through the eyes of a fast disappearing generation.
STATEMENT OF OWNERSHIP, MANAGEMENT, AND CIRCULATION

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