

at all, must be drawn by J. D. T. McAllister, Territorial Marshal, on vouchers to be approved by the Auditor of Public Accounts."

Being very desirous that no act of mine shall expose me to the merited and just censure of the Legislative Assembly, who are the representatives of the people, I appeal to your honor, and solicit your legal opinion on the subjects named herein for my future guidance and protection, and trust that you will favor me at as early a day as possible. Very Respectfully, Yours,

WM. CLAYTON,
Auditor of Public Accounts.
Salt Lake City, July 23d, 1870.

ATTORNEY GENERAL'S OFFICE,
Salt Lake City, July 27, 1870.

Hon. Wm. Clayton, Auditor of Public Accounts:—Sir: Your communication of the 23rd inst. is before me. You say that you have been applied to by Mr. T. Patrick, Esq., U. S. Marshal, for funds to pay the expenses of the District Court of this Territory, such as witnesses' fees, expenses of arresting and boarding prisoners, serving notices on jurors, etc., and say, this is the first time in the history of the Territory that the U. S. Marshal has asked for Territorial funds to disburse in payment of such expenses. You ask whether or not, under existing facts, you can be justified in complying with Marshal Patrick's request. You call my attention to sundry laws of the Legislature of Utah. To answer your inquiry it will be proper for me to examine the laws of the United States, in connection with the Statutes of Utah to which my attention has been called.

Congress, by an Act approved September 24, 1789, entitled "An Act to establish the Judicial Courts of the United States"—see Statutes at Large, vol. 1, page 87—after providing for the Supreme, Circuit and District Courts, and dividing the United States into circuits and districts, provided, in Section 27, "a Marshal shall be appointed in and for each district, whose duty it shall be to attend the District and Circuit Courts when sitting therein, and also the Supreme Court in the district in which that court shall sit, and to execute throughout the district all lawful precepts directed to him and issued under the authority of the United States. And, before he enters upon the duties of his office, he shall become bound, for the faithful performance of the same, before the Judge of the District Court of the United States, with two good and sufficient sureties, inhabitants and freeholders of such district, to be approved by the District Judge, in the sum of twenty thousand dollars, and shall take before said Judge the following oath. I—do solemnly swear that I will faithfully execute all lawful precepts directed to the Marshal of the District of—under the authority of the United States and true returns make, &c., &c."

Another Act of Congress, approved April 10th, 1806—see 2. Statutes at Large, page 372—in giving further rules concerning these bonds, says, "the bonds heretofore given or which may be hereafter given by the Marshal of any district for the faithful performance of the duties of his office, shall be filed and recorded in the office of the clerk of the District Court or Circuit Court sitting within the District for which such Marshal shall have been appointed, and copies thereof, certified by the Clerk under the seal of the said Court, shall be competent evidence in any court of justice."

By an Act of Congress, approved May 8th, 1792—see 2. Statutes at Large, page 277—provisions are made for defraying the expenses of the United States Courts, and the United States Marshal is made the disbursing officer. It is therein provided, after stating what expenses shall be paid and included in the Marshal's account, in which the expenses of the Territorial Courts when exercising their jurisdiction in cases not arising under the Constitution and laws of the United States are not included, and therefore excluded, and the same, having been examined and certified by the Court, or one of the judges of it in which the services shall have been rendered, shall be passed in the usual manner at and the amount thereof paid out of the Treasury of the United States.

By the Act of Congress, approved Feb. 26th, 1853, relating to fees of officers—see Statutes at Large, Vol. 10, page 158, sec. 3—it is made the duty of the Marshal, among other U. S. officers, to report semi-annually to the Secretary of the Interior, in whose office his accounts are to be examined. Sec. 10 of the act to establish a Terri-

torial government for Utah, approved Sept. 9, 1850, after providing for the Judicial power of the Territory, among which are a Supreme Court and District Courts, says: "Each of the said District Courts, shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States as is vested in the Circuit and District Courts of the United States." And by Sec. 10 of the same Act, found in Utah Statutes p. 27, it is enacted that there shall be a Marshal appointed who shall execute all processes issuing from the said Courts when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees, as the Marshal of the District Court for the present Territory of Oregon.

From the foregoing provisions of the United States laws, which contain all that have any bearing on the questions submitted to me by you that I have been able to find, I have no difficulty in holding that the Marshal of the United States is not required by any of them to file a bond with you and give any surety whatever to the Territory for the faithful disbursement of any funds with which he may be intrusted by you. When a law of the United States has provided the manner of the qualifying of the Marshal, and the giving of bonds with the place of recording and preserving them, and prescribing his duties as they have done as these provisions show, it is equal to saying that these are all, that more shall not be required and that less will not do. He is amenable to the power that appointed him and must account to the officers which their laws direct and none others. I do not intend by this to be understood that he may not be and cannot be made civilly liable for official delinquency to individuals.

With the provisions of the 8th sec. of the Organic Act, which says that no person holding commission or appointment under the United States, shall hold any office under the government of the Territory, I could not anticipate finding any law of this Territory making the United States Marshal its officer; but I will examine and see.

By the Act of Utah, entitled "An Act in relation to Marshals and Attorneys," approved March 3, 1852—See Utah laws, p. 33—it is provided that a marshal shall be elected by the joint vote of both houses of the Legislative Assembly, whose term of office shall be, &c., &c. He shall, before entering upon the duties of his office, take an oath of office and file bonds, with sureties in the penal sum of not exceeding twenty thousand dollars, conditioned for the faithful discharge of his duties, which bond and securities are to be approved by the Secretary of the Territory and filed in his office.

The Act of Jan. 19th, 1866, by you referred to—See Utah Laws, p. 227, Sec. 1,—requires the Territorial Marshal to file his bond at your office and to your acceptance. Sec. 5 of the act before referred to, relating to the Territorial Marshal, see Utah Laws, p. 38, requires him to execute all orders or processes of the Supreme Court or District Courts in all cases arising under the laws of the Territory, and such other duties as the Executive may direct, or may be required by law pertaining to the duties of his office. The Act, referred to by you, relating to the appropriation for Court expenses, is evidently in accordance with past usage, and was intended by the Legislative Assembly to be drawn and expended by the Territorial Marshal, he being an officer amenable to the Territorial Government, but even he could not draw the money except on vouchers approved at your office.

I must, therefore, say by the Territorial Marshal as I said by the United States Marshal, that what the law requires of him he must do, neither more nor less is necessary, and the same applies to yourself.

You must draw orders as the law directs, and in favor of the one who is authorized by law to receive them, and to none others. This will leave the consequences to the Territorial Government, from whom you received your election, and which passed the law. It will also leave the United States Marshal to refer the matter to the Government of the United States, from whom he received his authority as U. S. Marshal.

Yours truly,
Z SNOW.

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Gross Assets, Dec. 31, 1870, nearly 45 Millions.
Increase in Net Assets, for the 7 1/4 Millions.
year.

MUTUAL LIFE INSURANCE COMPANY OF NEW YORK.

144 and 146 Broadway,
For its Twenty-Eighth Fiscal Year,
Being for the year ending Dec. 31, 1870.

Richard Goodhind

Offices:—Opposite Salt Lake House,
Agent for Utah Territory.

Net Assets, January 1, 1870.....\$35,211,583 71

RECEIPTS:

Premiums and Policy Fees.....	\$12,169,717 34
INTEREST:	
On Bonds and Mortgages.....	1,983,398 38
Stocks and Trust Companies.....	886,344 57
Premium on Gold and Rents.....	108,029 73
	\$2,477,772 68
Total Cash Receipts.....	14,647,490 02

\$49,559,073 73

DISBURSEMENTS:

Claims by Death.....	\$1,982,724 62
Matured Endowments.....	27,500 00
	\$2,010,224 62

Paid to Policyholders—Additions to Death Claims and Matured Endowments and Post Mortem Dividends.....	\$292,846 64
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Cash Dividends in Reduction of Premiums and Annuities.....	2,564,896 87
Surrendered Policies.....	1,256,111 80
	\$4,113,855 37

Commission to Agents.....	\$284,609 15
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Paid Agents for Purchase of Future Commissions.....	440,456 87
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Taxes, Law Expenses and Office Expenses.....	224,997 39
Salaries.....	224,845 72

Advertising, Printing and Stationary, Exchange and P-stage.....	182,271 69
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Physicians' and Medical Examiners' Fees.....	45,304 66
	\$1,352,575 48

Total Cash Disbursements.....\$7,476,656 47

Net Assets December 31, 1870.....\$42,382,417 56

INVESTED AS FOLLOWS:

Cash on hand in Bank and Trust Companies, at interest.....	\$2,608,910 74
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Bonds and Mortgages on Real Estate.....	33,909,421 62
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United States Stocks—cost.....	4,203,108 75
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New York Stocks—cost.....	570,000 00
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Real Estate.....	945,883 07
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Balances due by Agents in the course of transmission.....	55,593 38
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Actual Cash Investments.....	42,382,417 56
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Add:	
Interest accrued, but not due.....	\$324,542 00

Interest due and unpaid.....	41,322 15
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Premiums due, but not yet reported—chiefly for December.....	812,676 80
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Deferred—Quarterly and Semi-Annual Premiums.....	1,119,573 77
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Market value of Stocks in excess of cost.....	428,621 00
	\$2,226,738 22

I have carefully examined the foregoing statement, and find the same correct.

ISAAC F. LLOYD, Auditor,
New York, Jan. 18, 1871.

INSURANCE STATEMENTS:

Number of policies issued and restored during the year.....	11,463
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Amount insured thereby.....	\$33,458,217 00
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In force at the end of the year.....	71,271
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policies, insuring.....	222,423,254 00
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The foregoing is a statement taken from the Actuarial Records.

SHEPPARD HOMANS, Actuary.

The Board of Trustees have authorized a Dividend for the year of 1870 of two millions of dollars, CASH, which amount may be subsequently increased.

These Dividends will be paid to policyholders as they may elect, in cash or in the purchase of additional insurance, as soon as the equitable portion of each can be determined.

THE MUTUAL

Life Insurance Co. of New York,
FREDERICK S. WINSTON.....President.
144 and 146 Broadway, Corner of Liberty St.

RICHARD GOODHIND,
Salt Lake City,
Agent for Utah Territory.

Mr. GOODHIND will visit Ogden and Corinne monthly, to receive applications.

EFFICIENT AGENTS WANTED.