

# Beginning of Law in Utah--When Fillmore Was Capital

**T**HE law makers of a country are always interesting because they represent the ideas that are embodied in the written rules for conduct which comprise the record of the state.

Utah today is not so young as she once was. The people who remember the state when there was nothing but erickets and sagebrush are growing fewer every week, almost, and those who know but little of anything of the trials through which Utah struggled to her station of today are growing more with the coming of every railroad train.

Of the first legislature which met in Utah there is now only a solitary representative left. He is Samuel W. Richards of 47 Fourth street, and he not only has the honor of being the last of the first legislative tree, but he also served in the first city council for years was first elected to both legislature and council, in the years when Utah and Salt Lake were shaping their destinies.

## PICTURES OF THE PAST.

The memory of Mr. Richards is still as clear as it once was, but it still brings pictures of many interesting things connected with early law making in Utah. One of these is that he traveled hundreds of miles to attend

session of the functions of church and state. He voiced his sentiments in this matter many times in public meetings, both religious and political. There was, sometimes, a combination of individuals in the offices, which could not be avoided, but the church and state were so completely organized on different lines that there was no effort whatever for Gov. Young to hand over a complete administrative state system to the governor sent here to succeed him. And this organization was perfected when Utah went its own sweet way with no word from outside forces. The first rule in Utah was that of the bishops. Bishops' courts furnished the first redress from wrong. The first bishop was Tarleton Lewis, and his ward was the entire State of Utah. This was in the summer of 1847.

It must be kept in mind that the Church itself did not come with the pioneers of 1847. They were an advance guard. In the fall of 1847 the general authorities went back to headquarters at Florence, and spent the winter there. At this frontier post they left a stake organization called provisionally "The Stake of Zion." Its president was John Smith, with Chas. C. Rich and John Young as his counselors, and Tarleton Lewis as the bishop.

## THE WARD SYSTEM.

In September, 1848, the general authorities came back. They brought the church organization with them from Winter Quarters, and the people spread out on the land, each ward under its bishop, and these bishops maintained

have persecuted the Mormons have been loyal with the flag smiling upon them. Mormons have been forced to speak their loyalty from burned homes, and devastated farms, and while famine and pestilence overtook them with an army marching to add further woe to

their already full portion.

## CONSTITUTIONAL CONVENTION.

The account of this first constitutional convention, which was held July 2, 1849, shows the spirit of the times, and the temper of the Church in its relations to the government. A petition was drawn up asking admission into the Union of states. This was before the civil war had established the principles of a strong central government, as against a confederation of states, and before the north had classed Utah with the south, and left her friendless to be a political scapegoat in the turmoil preceding the civil war.

The petition was specific. It said: "We the people, grateful to the Supreme Being for the blessings hitherto enjoyed, and feeling our dependence on Him for a continuation of these blessings, DO ORDAIN AND ESTABLISH A FREE AND INDEPENDENT GOVERNMENT TO BE KNOWN AS THE STATE OF DESERET." The petition was sent to Washington.

Pending a hearing on it a proclamation went forth from the twelve apostles, who had they desired could have kept all governmental functions within their own body, with the consent of the people. It called for an election on

March 12, 1849, to elect a governor, a chief justice, secretary, marshal, magistrates, etc., to serve "until this petition is granted."

The election was held, and the first civil officers of the people were chosen in regular manner, with Brigham Young advising all members of his Church to exercise free political

agency. They were Brigham Young, governor; Willard Richards, secretary of state; N. K. Whitney, state treasurer; Heber C. Kimball, chief justice; John Taylor and N. K. Whitney, associate justices; Daniel H. Wells, attorney general; Horace S. Eldredge, marshal; Albert Carrington, assessor and collector of taxes; Joseph L. Heywood, surveyor; and the bishops of the several wards magistrates. Here was the first separation of church and state, with the duplication of officials, which was natural because of the trust that called the same men to state positions and called them to religious duties. But the machinery of both institutions was separated, and the election of a different personnel to office was all that was necessary to completely sever the two functions. There was already justice outside of the bishop's courts, and taxes besides the Church funds.

## SACRED DOCUMENTS.

The first public demonstration was held under the auspices of these officers, on the second anniversary of the arrival of the pioneers. As soon as the people had gathered in the old bower on the Temple square the first general ceremony of the valley was performed. It was to present to governor Young, documents no less sacred than the Declaration of Independence and the Constitution of the United States. Richards and Balch, a young man of the Church, made the presentation speech. Erastus Snow read the Declaration of Independence to the people, and the first hurrahs to ring through the valley air were led by Brigham Young when the reading was completed. They were followed with the slogan "May it Live Forever."

Utah County--David Evans, William Miller, Levi W. Hancock.  
Sanpete County--James Shumway, Iron County--Elisha H. Groves, George Brimhall.  
Tooele County--John Rowberry.

## REMOVAL OF CAPITAL.

The first bit of legislation put through the new legislature legalized the laws passed by the provisional legislature of the State of Deseret. The second item was to transfer the capital of Utah from Salt Lake City to the Parvan valley, where the city of Fillmore was afterwards located, and named in honor of the American president who had signed the territorial bill.

## TRANSCONTINENTAL RAILROAD.

But the most significant thing about the legislature's work was its work for a railroad. Time was when Brigham Young was accused of trying to build up here an isolated state, and desiring to keep it out of from all the rest of the world. Like so many other charges that have fallen flat with time, it originated in malice. While it was being spread broadcast through the east, the pioneer legislature was drawing up a memorial praying that the national government would build a road westward.

## THE MEMORIAL.

The memorial says in part: "Your memorialists, the governor and the legislative assembly of the Territory of Utah respectfully pray your honorable body to provide for the establishment of a national central railroad from some eligible place on the Mississippi river to San Diego, San Francisco, Sacramento, or Astoria, or such other

## IMPORTANT ITEM IN FIRST ERA OF UTAH LEGISLATION.

**SAMUEL W. Richards** is now the only living member of the first legislative assembly of Utah. The first law in Utah was that of the bishops' courts. They were provided for in September, 1848, nineteen wards being established before a city was incorporated. Tarleton Lewis was the first bishop, and he served alone from the summer of 1847 until the organization of the wards in 1848.

The first organized society was the provisional "Stake of Zion" founded by the Church leaders when they returned to Winter Quarters in the fall of 1847. John Smith was the first stake president.

The first call for a state convention was issued in March, 1849, by Gov. Brigham Young, and the first election was held March 12, 1849.

At the first public demonstration in Utah, the Declaration of Independence and the Constitution were presented to Gov. Young, and the Declaration was read amidst outbursts of patriotic cheering and applause.

Salt Lake City was incorporated Jan. 9, 1851, by the legislature of the provisional state of Deseret, then petitioning for admission to the Union. The first city council was elected in April, 1851.

The first territorial legislature met in the fall of 1851, the members having been elected at a general election held Aug. 4, 1851.

The first legislation was to make Fillmore the state capital, and to petition Congress to build a Pacific railway.

session in Fillmore, sleeping one night out in the snow near Provo, and another night out on the desert beyond, while traveling with wagon and team to the then capital.

Another is that while sick with fever, he sat for Mayor Grant of Salt Lake, and together they drove to the office of Gov. Young, to ask that Mr. Richards be excused from serving on the Territorial legislature. He was too weak to enter the office to make the request, so Gov. Young came out to the car, he looked him over, and ordered him to go home and pack up his outfit for the south, for the governor was a man who was loath to accept an excuse for the fulfillment of a duty.

In diary of Mr. Richards, and other is preserved from the era of boyhood in law, furnish many episodes of an interesting phase of early Utah life.

It must be remembered that the settlement into Salt Lake valley was a road of tribulations such as people have had to pass in the history of America. Strong men were needed to keep emigrant trains in order and to serve in the religious organization. When strength was found, it was used to power for civic duties by the people, and set for duty by the religious organization. It was just as necessary on the pioneer trail to carry the powder dry for an Indian attack as it was to hold religious services on Sunday.

## FELLOWSHIP OF THE PLAINS.

The fellowship of the plains, then, is naturally a trust in certain people both spiritually and in the relationship of governmental functions. It was fostered through the life that had imposed upon them to be both judge and preacher, mayor and bishop. Whether or not there was any desire to combine the two organizations, and their power is entirely another question, but in those days of beginnings, citizens had duties to perform and the people had religious duties to execute. There were "not enough men to go round." Hence we find Brigham Young at the center of the religion and state of the state, but preaching on the Sabbath that there was not an absolute union of them and that he was merely performing the functions of the separate bodies, to fulfill an emergency. The Mormon priesthood differs from that of all other priesthoods, in that everybody has an office, and everybody is supposed to earn a living, by applying his services to his religion as he does to his social clubs, and their religious organizations.

Today Mormons exercising their political franchise have been compared to a Catholic cardinal, exercising the function of holding political office. The Mormon would look all right to the Catholic member, but inside, the Mormon does not fare so well for the Roman church official has the bills for his robes paid for him, and he ceased to think of his livelihood when he made his way after graduation from the theological seminary. His personal life is no longer an affair for worry. The Mormon has to mingle with his fellow men in business to sustain his family. The gentle Wilford Woodruff could never have been a Mormon.

Today Brigham Young knew the hand of the laborer. President Richards has his farm. With a sacrifice of time to his Church already made, he became a zero as a citizen, on an active religious duties, looks down on him that perhaps it does him more harm than good.

## SEPARATE AND DISTINCT.

The law was early established by the people of Brigham Young that there was to be no combination or confu-

law and order while society was forming along more general lines. Great Salt Lake City existed in name, but not as a corporation until after the federal government had created the Territory of Utah, several years later.

The beginning of permanent government came with the establishment of Church headquarters in 1848. The first move was to divide the city in nineteen wards, which was accomplished Jan. 1, 1849, the series running west from the southeast corner, five wards, then east five wards to the Tenth, then west again to the Fifteenth, then east again to the Eighteenth, the Nineteenth, which was the last of the original wards on the extreme northwest of the city. Nevel K. Whitney was the presiding bishop over the whole. The list of these bishops recalls some well known Utah names. They were beginning with the First ward: Peter McCue, John Lowrey, Christopher Williams, Benjamin Brown, Thomas Winters, William Hickenloper, William G. Perkins, Addison Everett, Seth Taft, David Pettigrew, John Lytle, Benjamin Covey, Edward Hunter, John Murdoch, Sen. Nathaniel V. Jones, Shadrach Roundy, J. L. Heywood, N. K. Whitney, who was also presiding bishop, and James Hendricks. In the case of Bishop Winters of the Fifth ward, his appointment came later, the ward being unorganized for some time. The precedent for this rule of the bishops was in the temporary organization of the Pilgrim fathers, who maintained order by just such a system until laws could be made. This rule in Utah was not displaced until 1851, when Great Salt Lake City was founded. These bishops collected the first revenue, built the first roads, started the first public works, and administered the first justice.

## FIRST STATE GOVERNMENT.

The first state government was founded as a result of the wise policy of Brigham Young. He wanted his Church separated from the government, and the agency of his people kept free from government, as he wanted it kept free from religion. He maintained his power by making his moves along lines that were the concentrated necessities of the community, and had he been hasty for personal power, he could easily have continued the rule of Church and state combined.

But as early as March, 1849, just six months after the Church headquarters had been established, and before any outside immigration had come in to start any conflict for leadership, a call was issued for a constitutional convention, to which delegates were to be chosen by the people, independent of their church leadership. The men who founded Mormonism were Americans. The Puritan stock was prominent among the pioneers. They were not ignorant of the blood that had been spilled that the American government might be born in freedom, and it was not their intention to found here anything different from any free American state, born in the traditions that were as strong with them as with other native Americans.

They were loyal to their country. The American flag was run up in Utah when it was not yet American country. The Declaration of Independence was read here at the first public demonstration, and the first community needwork was the making of a huge American flag for the first mass meeting. Yet they had to say they were loyal while the government listened to lies about them, and sent armies to investigate falsehoods, knowing that the government was just and would right its own wrongs on the receipt of more information. Men who

## A LEAF FROM AN OLD ALBUM.



THE HANDCART MISSIONARIES OF '55

only needs a glance at these faces to tell that they are those of a group of stalwarts. This rare old picture, which is now in the possession of Susa Y. Gates, was taken in England in 1855, when the men composing the group were filling missions in Great Britain. The occasion of their coming together was a notable one in Mormon history, being no less than the meeting at which was first discussed the plan for despatching emigrants from the Missouri river to the Salt Lake valley by handcart trains. The epoch-making events following are too well known to need recounting. They have been vividly recalled in the past few months by the reunion of the handcart veterans which took place in this city.

So far as known, only three men out of the above group of 18 survive today, they are Capt. William H. Kimball of Coalville, James A. Little of Mexico, and Daniel D. McArthur of St. George. All are advanced in age, and Messrs Kimball and McArthur are in feeble health.

The names of those in the picture are, reading from left to right:

Top Row--Edmund Ellsworth, Jos. A. Young, William H. Kimball, George D. Grant, James Ferguson, James A. Little, Philmon Merrill.

Second Row--Edmund Bunker, Chauncey Webb, Franklin D. Richards, Daniel Spencer, Capt. Dan Jones, Edward Martin.

Third Row--James Bond, Spicer Crandall, W. C. Dunbar, James Ross and Daniel D. McArthur.

Edmund Ellsworth married Elizabeth, the oldest daughter of President Brigham Young. For a time he assisted in the management of his

father-in-law's business. He built the first hotel in the Springs, and settled finally in Idaho. Joseph A. Young, son of President Brigham Young, was the well known railroad pioneer and lumberman. He was the first superintendent of the Utah Central railway. He was the father of Maj. Richard W. Young.

Wm. H. Kimball, now of Coalville, is well known in Utah history as a pony express rider, Indian fighter, and typical pioneer. He has lived in Sumner county for many years. Mr. Kimball furnishes the "News" with a thrilling narration of the experiences of the members of the group on their return from the British mission.

George D. Grant was one of the Prophet Joseph Smith's body guard. He was a brother of Jedediah M. Grant and was a fearless and faithful defender of the people during the Indian troubles and the Echo canyon war.

James Ferguson was the locally famed editor of the Mountaineer, writer and actor. He was one of the most brilliant of the pioneer figures of those days. He was the father of Mrs. David Keith, Mrs. Kate Burton, James X. Ferguson, Barlow Ferguson and Ferg Ferguson.

James A. Little is a nephew of President Brigham Young and a brother of Feramorz Little. He is a writer of no mean ability, and assisted largely in the preparation of the "Compendium." His little history of Jacob Hamlin, the Indian interpreter, is a model of conciseness and clearness. He moved to Mexico where his large family now resides.

Philmon Merrill was a colonel, and was in the Crooked river battle at which David Patton was slain. Col. Merrill was shot through the body but was healed through the administration of the elders. He spent the latter part of his life in Utah, traveling through the settlements and relating his experiences to the young people.

Edward Bunker moved to the south in early Utah days, and founded the little city of Bunkerville.

Chauncey Webb was well known here. He was the father of Ann Eliza Webb and a leading citizen of Utah.

Franklin D. Richards, the well known apostle, was presiding over the British mission at the time the above picture was taken. His death occurred in Utah, Dec. 9, 1899.

Daniel Spencer, whose classic and striking face stands out prominently in the center of the picture, was one of the strong figures in those days. He was president of the Salt Lake stake when he died. He left a large family, among his children being Claudius Y., John D., Mark, Henry W., Samuel G. and Josephine Spencer. He died in 1868.

Capt. Dan Jones is renowned for having opened up a large part of the Wales mission. He died many years ago.

Edward Martin was one of the pioneer photographers of the state and had a gallery between First and Second South streets. He was a well known member of the local militia for many years.

"Jimnie" Bond was a printer in the Deseret News in pioneer days and died in the early sixties.

Spicer Crandall moved to Springville, and established a flouring business, as well as leaving behind him a representative family. This picture is the only one ever taken of this patriarch.

After the ceremony had been completed religious congratulations over the success of the efforts to plant the seed here in the mountain tops were offered by Phineas Richards, who spoke on behalf of the 24 aged sires of the Church, and it was explained in the Frontier Guardian, a paper published at Kansasville, Iowa, that the celebration would have been held on the Fourth of July, instead of on the 24th, except for the fact that the crops were not yet ready, and the people were still almost famished with hunger. The principal feature of the celebration was a harvest feast, which came at noon following the parade and the speech making.

## FIRST FORMAL LAWS.

It was in 1851 formal laws made their appearance in Utah. The charter of Salt Lake City was granted by the Deseret legislature on Jan. 9, 1851, and immediately afterwards city officers were appointed by Gov. Young to serve until the first election. This occurred in April, and put the following men into office as the first officials to serve Salt Lake City as an incorporated body: Mayor, Jedediah M. Grant; aldermen, Nathaniel Felt, William Snow, J. P. Harmon, N. V. Jones; councilmen, Lewis Robinson, Robert Pierce, Zera Pulsipher, Wm. G. Perkins, Jeter Clinton, Enoch Reese, Harrison Burges, Samuel W. Richards and Vincent Shurtliff. All of them but Mr. Richards are now dead.

## WORK OF LEGISLATURE.

The legislature proper of the Territory of Utah, began their sessions in the fall of 1851. The law creating the Territory of Utah was passed by Congress on the 9th of September, 1850. It was six months later when the news reached Utah, officially, and the first unofficial news came by way of Los Angeles, where it had drifted over the Santa Fe trail in a season when deep snows cut off the Fort Bridger route.

## THE LAST OF DESERET.

In March, 1851, the last Deseret state legislature met. It dissolved the provisional state of Deseret, drew up resolutions welcoming the construction which was styled "the legacy of our fathers" over the country, and pledged the officials to do all in their power to help their successors under the territorial government.

Sept. 22, the first territorial legislature was called to order. It remained in session until March 6, 1852, and its members were chosen at a regular election held on Aug. 4, 1851.

The members were as follows: Of the council, which was the upper house--from Great Salt Lake county--Willard Richards (president), Heber C. Kimball, Daniel H. Wells, Orson Spencer, Ezra T. Benson, Orson Pratt, Jedediah M. Grant and Edward Hunter.

Davis County--John S. Fullmer.

Weber County--Loren Farr, Charles R. Dana.

Utah County--Alexander Williams, Aaron Johnson.

Sanpete County--Isaac Morley.

Iron County--George A. Smith.

## THE HOUSE PERSONNEL.

The house of representatives was composed of younger men, but they have all since gone the way of the earth, but many of them left records that make their names well known even today. They were: Great Salt Lake county--W.W. Phelps, speaker, Daniel Spencer, A. P. Rockwood, Nathaniel H. Felt, David Fullmer, E. D. Woolley, Phineas Richards, Joseph Young, Henry C. Sherwood, Wilford Woodruff, Benjamin F. Johnson, Hosea Stout, Willard Snow, and John Brown.

Davis County--Andrew J. Lamercaux.

Weber County--David B. Dille, James Brown, James G. Browning.

point on or near the Pacific coast as the wisdom of your honorable body may dictate.

"Your memorialists respectfully state that the immense emigration to and from the Pacific requires the immediate attention, guardian care, and fostering assistance of the greatest and most liberal government on the face of the earth. Your memorialists are of the opinion that not less than 5,000 American citizens have perished over the various routes within the last three years, for the want of proper means of transportation. That an eligible route can be obtained your memorialists have no doubt, being extensively acquainted with the country. The road herein proposed would be a perpetual chain of iron hand which would effectively hold together our glorious Union with an imperishable identity of mutual interest; thereby consolidating our relations with foreign powers to times of peace, and our defense from foreign invasion, by the speedy transmission of troops and supplies in times of war." This memorial was followed on Jan. 31, 1854, with a monster demonstration in favor of a Pacific railroad.

## INDIAN WARS.

Fillmore enjoyed only a brief period as state capital for Utah. The legislature met there for its fifth session on Dec. 10, 1855, and this was the first and last session held there. Adjournment was taken immediately at a few sessions after that to Salt Lake City, the legal form being completed with by calling to order there. There was a reason. Pauvan valley was filled with Pauvan Indians, and when Chief Walker went on the war path in 1853, they were not slow to follow. William Hutton was killed at Fillmore, Sept. 13, 1853, while there were frequent skirmishes along the route that led down to the state capital. This led to the abandonment of the site as a capital, and the holding of the sessions in Salt Lake City.

Of the work of the legislature from 1855 on this paper has no concern as the beginnings were over, and there was nothing to do but go on with the making of laws until stretched out an end to territorial things in an era so recent as to be within the memory of nearly all residents of Salt Lake.

## EARLY SESSION INCIDENTS.

There is, however, one item of still further interest. The old files of the Deseret Evening News are the authority for many incidents of the early sessions. There is a complaint that only candles are available for lights, and complaint that there are no suitable seats in the council house. The old Salt Lake Council house, by the way, stood on the site of the present Deseret News building. It was erected by the Church when there was no other co-operative method of securing public buildings. It was meant for a Church building, and loaned to the legislature. Official acknowledgment of Church ownership was made in resolutions passed by the legislature of the provisional State of Deseret, and the building was ordered turned over to the Church, upon the organization of the territory.

## A PICTURE IN CONTRAST.

If the young men of the Church today feel that an era of turmoil is theirs, they should look into the controversies of early Utah that started the moment "carpetbaggers" came in to seek to despoil that which they found here, and they will find these turn of events going on incessantly past the generation that founded the laws in Utah, all of whom but Samuel W. Richards have now gone to their peaceful rest where false charges are not made to stir bitterness and strife.