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**Territorial Case Files of the
U.S. District Courts of Utah
1870-1896**



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Records of District Courts of the United States

Record Group 21

TERRITORIAL CASE FILES OF
THE U.S. DISTRICT COURTS OF UTAH
1870-1896

On the 38 rolls of this microfilm publication are reproduced 14 cubic feet of records created by the U.S. territorial courts in Utah between 1870 and 1896. Those records are part of the holdings in the National Archives designated as Records of U.S. District Courts, Record Group (RG) 21, and are in the custody of the National Archives--Denver Branch.

BACKGROUND

The system of territorial government established by the Northwest Ordinance of 1787 was a model for later legislation of the same kind, including the act establishing the territorial government of Utah, passed September 9 1850 (9 Stat. 455). But the balance between federally appointed territorial governors and judges on the one hand and territorial legislatures on the other, which worked well enough for the rest of the U.S. territories, did not work in Utah. There the Mormon community had already established its own "State of Deseret" in 1849, and the federal attempt to graft its own authority onto the existing structure was a failure. The territorial government in Utah retained the character of its Mormon predecessor for some two decades, its members looking to Brigham Young for leadership. Federal appointees had to work within the existing polity because there was very little, short of a full-scale war, that Congress or the Executive in Washington could do to protect and support them.

After the Union victory in the Civil War and the coming of the transcontinental railroad to Salt Lake City, federal authority began to assert itself, nowhere more emphatically than in the courts. Crusading federal Judge James B. McKean, appointed in 1870, attacked the "probate" courts for usurping judicial powers properly belonging to the federal courts in the territory. These local probate courts had been recognized along with the federal courts by the 1850 establishment law, and the territorial legislature had, by an act passed on February 4, 1852, given them the same powers as the federal courts, reducing the latter to judging the few cases that locals were willing to take before them. McKean managed to change this situation somewhat, succeeding in convening grand

juries to investigate persons suspected of plural marriage and obtaining hundreds of indictments and convictions for adultery and bigamy. Some of these cases reached the Supreme Court, which promptly threw them out on grounds that the federal judges in Utah had no authority to try such cases.

Congress took the hint and also its first real step toward righting the balance of authority in Utah in 1874 by passing the Poland Laws (18 Stat. 255), which officially returned the probate courts to their original status as administrators of wills and estates. In addition, the offices of territorial marshal and attorney general, which had overlapped similar federal offices, were abolished. On March 22, 1882, Congress took an even more decisive step: the Edmunds-Tucker Act (22 Stat. 30) made polygamy a crime punishable by fine or imprisonment. It also disqualified persons who believed in or practiced polygamy from holding public office or participating in jury duty. The passage of this act sent many prominent Mormons into hiding and intimidated the rest of the community. Between 1888 and 1893 more than 1,000 verdicts in cases of unlawful cohabitation were secured. Undoubtedly federal court actions played a significant role in the church's decision in 1890 to end its approval of plural marriage. This action signaled the beginning of the accommodation of the church to the national system. After five unsuccessful attempts by the territorial government, Utah was finally granted statehood on January 4, 1896 (28 Stat. 111).

Records Description

The records reproduced in this microfilm publication are those described in entries 1 and 2 of the Preliminary Inventory of Records of the United States District Court of Utah. The records originated in the U.S. district courts at Salt Lake City, Ogden, Provo, and Beaver, seats of the four U.S. judicial districts that existed in the territorial period. When Utah became a state in 1896, these territorial courts were dissolved, and their records were transferred to the new U.S. district court for Utah and to the circuit court (10th circuit) in Salt Lake City. At both courts, the cases were rearranged alphabetically by the initial letter of the defendant's last name, renumbered, and bound into volumes. These volumes were unbound

for the purpose of microfilming their contents, but the order of arrangement was preserved. The cases transferred to the U.S. district court are filmed first, followed by the cases transferred to the U.S. circuit court. An alphabetical index of the names of defendants and plaintiffs is reproduced on the first roll of this publication. The index lists the individual's name, the case file number, and the microfilm roll number.

Most of the 2,593 case files transferred to the U.S. district court concern crimes of cohabitation, usually polygamy. Each file generally contains a printed complaint form, a warrant for the arrest of the defendant, and subpoenas ordering the defendant's wives to appear as witnesses. A case file may also include orders of the court, a transcript of the testimony, a memorandum of court costs and disbursements, sureties' bond, and a notice of appeal, if applicable. Few judgments are given.

This series also includes case files involving robbing the mails, illegal voting, violations of liquor and tobacco tariff laws, possession of counterfeit coins, and embezzlement.

The 95 case files transferred to the U.S. circuit court primarily concern trespassing, both on private and public land; illegal fencing; illegal cutting; and land disputes over preemptions and homesteads. Other subjects include unlawful cohabitation, violations of postal laws, defrauding the federal government of tax revenue, and, infrequently, counterfeiting.

Each case file usually contains a complaint stating plaintiff's cause of action, an answer by the defendant, and summons. Occasionally included are subpoenas, demurrers, findings of fact, records of disbursements, and judgement and execution.

RELATED RECORDS

The National Archives--Denver Branch also holds 670 cubic feet of court records created after Utah became a state in 1896. Included are civil, criminal, and bankruptcy cases for the period 1896 through 1958. The branch also holds docket books, indexes, and related bound volumes created between 1880 and 1948. More recent records of the U.S. district courts for Utah are held by the Denver Federal Records Center.

The branch also holds U.S. district court records for the territories and states of Colorado, New Mexico, and Wyoming, as well as the pertinent records from Record Group 276, Records of the U.S. Courts of Appeals.

The National Archives in Washington, DC, has related material in Record Group 267, Records of the Supreme Court of the United States; Record Group 118, Records of U.S. Attorneys and Marshals; and Record Group 60, General Records of the Department of Justice.

Related material also exists at the U.S. district court, Salt Lake City; the Utah State Historical Society; and the Utah State Archives.

Eileen Bolger wrote these introductory remarks. Chloe MacDonald and Pat Serra compiled the index and prepared the records for microfilming. The editor was Kathleen S. Quigley.

UTAH
TERRITORIAL JUDGES

<u>Judges</u>	<u>Date of Commission</u>
Joseph Buffington	Sept. 28, 1850
Perry E. Brocchus	Sept. 28, 1850
Zerubbabel Snow	Sept. 28, 1850
Lamuel G. Brandebury	Mar. 12, 1851
Samuel Stokeley	June 7, 1852
Lazarus H. Read	Aug. 31, 1852
Leonidas Shaver	Aug. 31, 1852
George Edmonds, Jr.	Aug. 4, 1853
John F. Kinney	Aug. 24, 1853
John W. H. Underwood	Oct. 3, 1853
	Jan. 3, 1857
George P. Stiles	Aug. 1, 1854
William W. Drummond	Sept. 12, 1854
Emery D. Potter	July 6, 1857
Charles E. Sinclair	Aug. 25, 1857
Delana R. Eckles	July 13, 1857
John Cradlebaugh	June 4, 1858
John F. Kenney	June 27, 1860
Robert P. Flenniken	May 11, 1860
Edward Randolph Hardin	May 11, 1860
Henry R. Crosbie	Aug. 1, 1860
Thomas J. Drake	Feb. 3, 1862
	Feb. 16, 1866
Charles Burlingame Waite	Feb. 3, 1862
John Titus	May 6, 1863
Solomon P. McCurdy	Apr. 21, 1864
Enos D. Hoge	Apr. 21, 1864
Charles C. Wilson	July 25, 1868
Obed F. Strickland	Apr. 15, 1869
Cyrus M. Hawley	Apr. 19, 1869
James Bedell McKean	June 17, 1870
	June 2, 1874
David P. Lowe	Mar. 19, 1875
Alexander White	Sept. 11, 1875
John M. Coghlan	Mar. 28, 1876
Michael Shaeffer	Apr. 20, 1876
Phillip H. Emerson	Mar. 10, 1873
	Mar. 16, 1877
	May 10, 1881
Jacob S. Boreman	Mar. 20, 1873
	Oct. 30, 1877
	July 7, 1885
John A. Hunter	July 1, 1879
Stephen P. Twiss	Dec. 14, 1880
Charles Shuster Zane	July 5, 1884
	July 1, 1890

JudgesDate of Commission

Samuel A. Merritt	Jan. 17, 1884
Orlando Woolworth Powers	Apr. 20, 1885
Henry P. Henderson	Aug. 2, 1886
Elliot Sanford	July 20, 1888
John W. Judd	July 19, 1888
Thomas J. Anderson	Feb. 11, 1889
John W. Blackburn	Oct. 11, 1889
James A. Miner	Aug. 2, 1890
George W. Bartch	Jan. 13, 1893
Harvey W. Smith	May 8, 1893
Samuel A. Merrit	Jan. 17, 1894
William Henry King	July 2, 1894
Henry H. Rolapp	Nov. 30, 1895

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