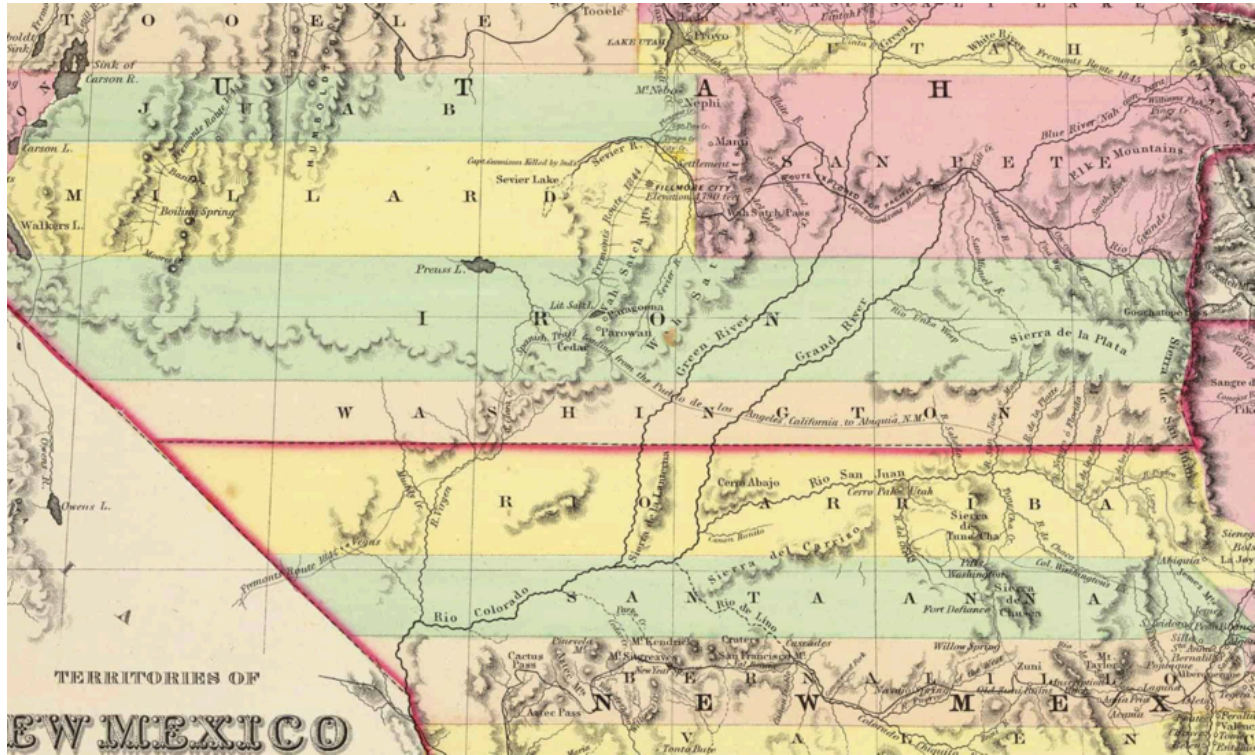


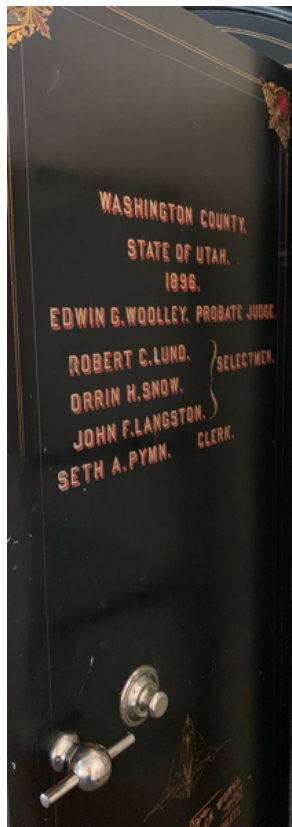
The Pioneer Courthouse Governing and Civilizing during the Territorial Period

Richard Kohler



Washington County's Transformations

during Utah's Territorial Period



its
County
Court
House

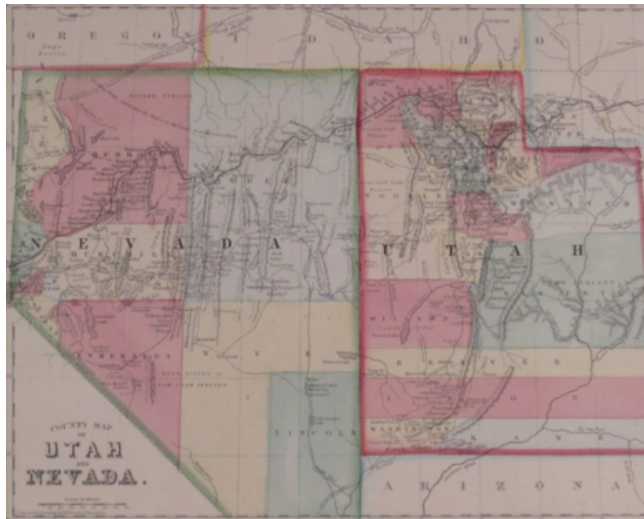
and
the Politics of
Leadership
on the
Edge of Civilization

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Designing and Building the Courthouse



Political Boundaries



County Court Duties

John D. Lee
James. D. McCullough
William Snow
John M. Macfarlane
Edwin G. Woolley
Francis L. Daggett
Martin Slack
Edwin G. Woolley

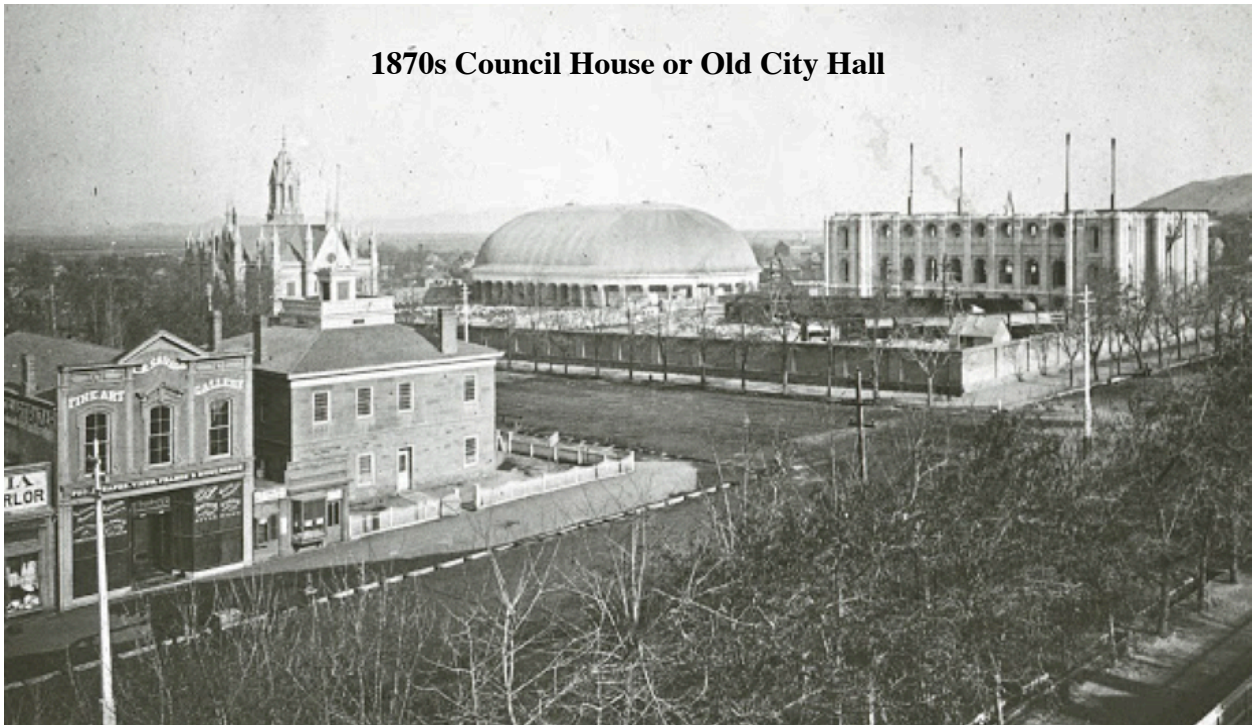
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1850s Council House



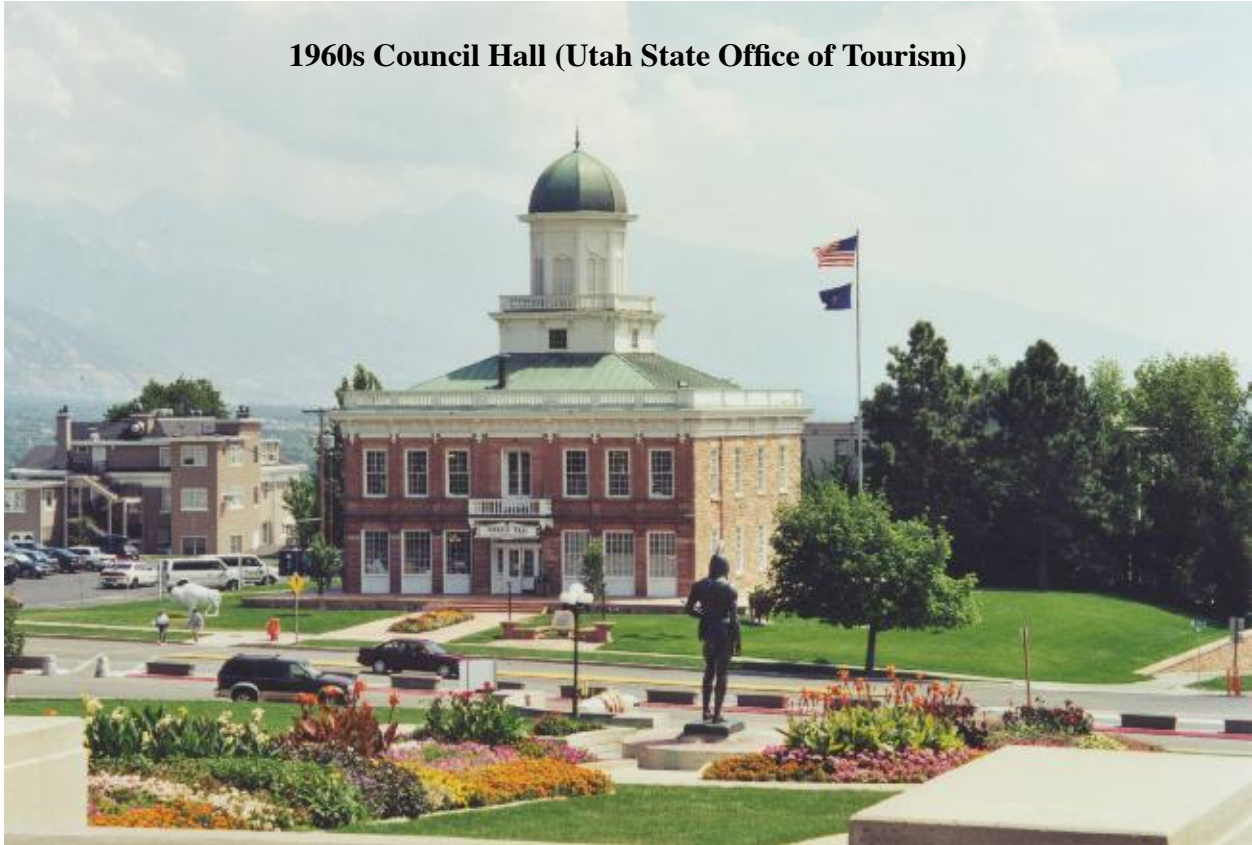
The *State of Deseret* was admitted to the Union in 1850. The *Council House* located on the southwest corner of South Temple and Main Street became the seat of government in Great Salt Lake City, Utah Territory. The *State of Deseret* applied for statehood on two more occasions to the United States government. The *Council House's* size, shape and cupola were precedents for the design of the Washington County's Courthouse, by William Harrison Folsom, who served as church architect from 1860. Folsom was in a partnership with Miles Romney of St. George.

1870s Council House or Old City Hall

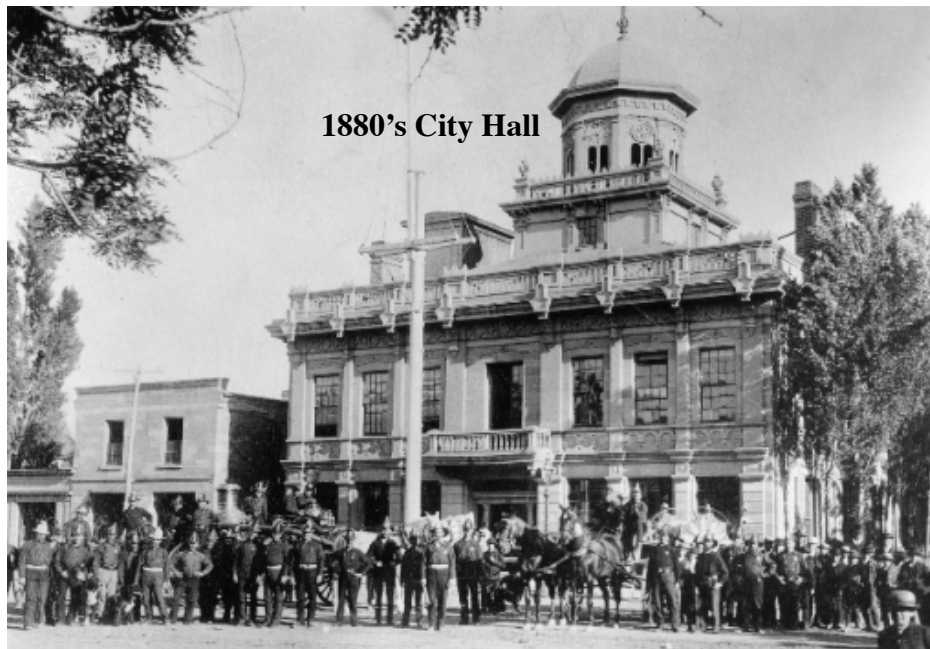


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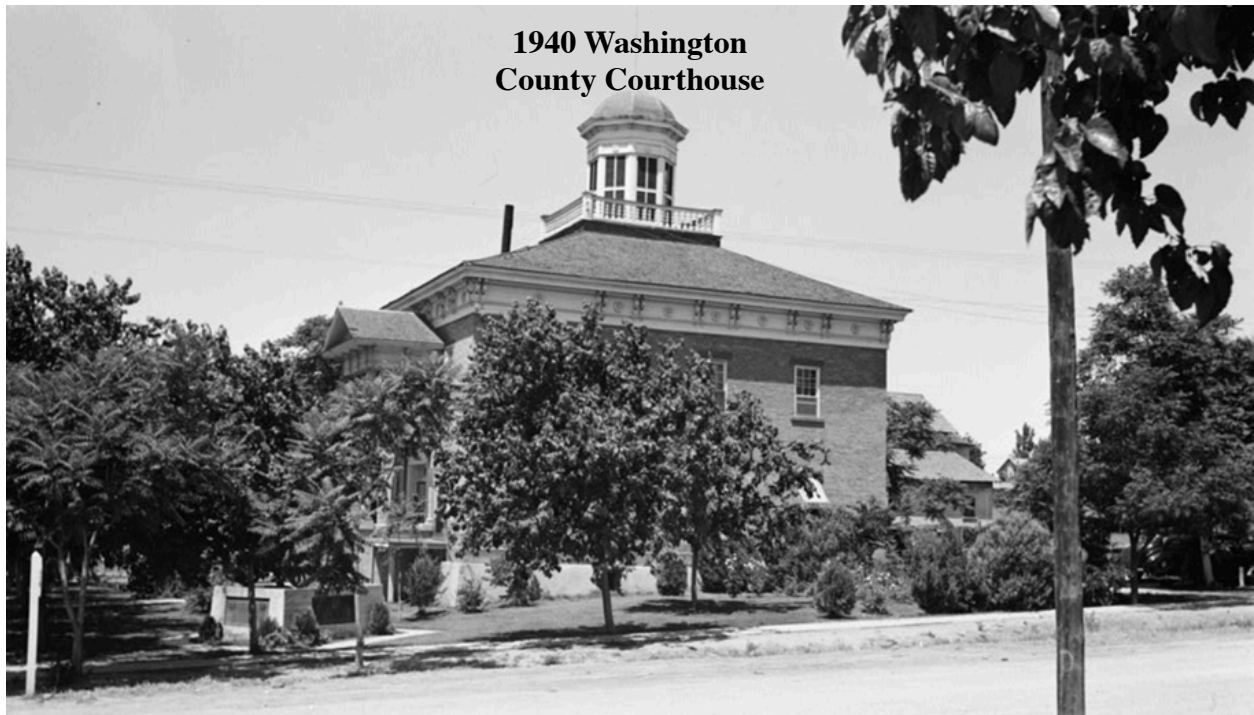
1960s Council Hall (Utah State Office of Tourism)



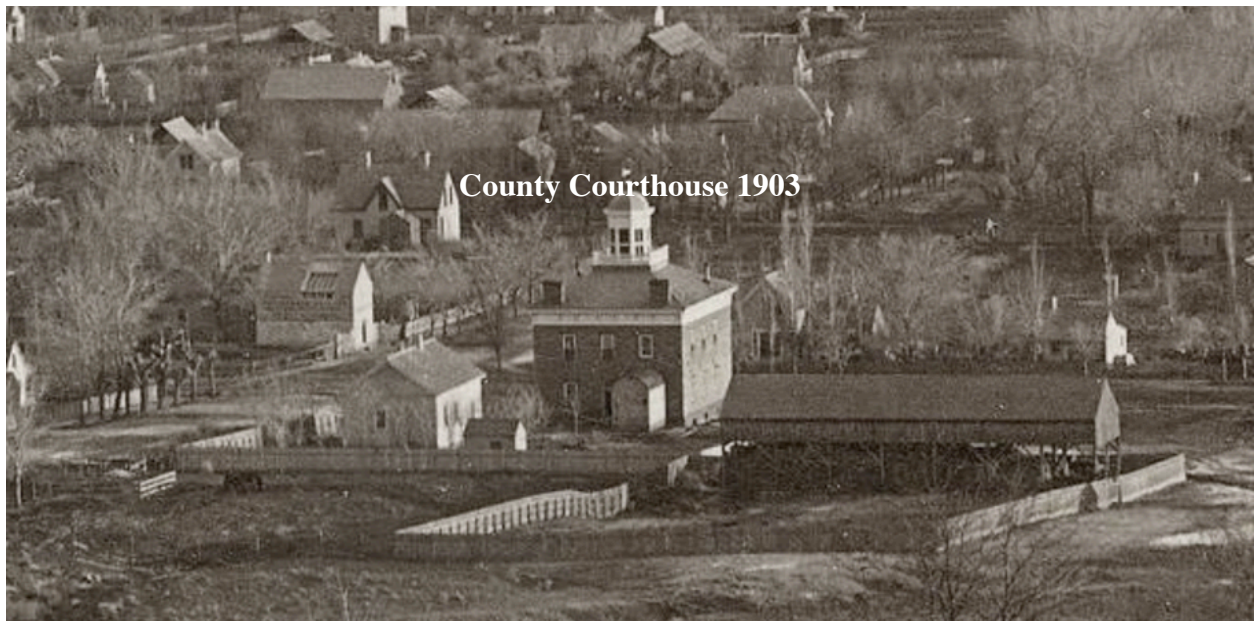
Salt Lake's *Old City Hall (Council House)* had become too small and was replaced by a new building located on the southeast corner of First South and State Street in 1866. The architect for the new *City Hall* was William Harrison Folsom. To make way for a new federal courthouse, this building was moved to capitol hill in 1961 and restored for use as the Utah State Office of Tourism. From that time it was known as *Council Hall*.



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St. George's first public building was called the St. George Hall. Its cornerstones were laid in April of 1862. It was located at the southwest corner of Main Street and 100 North Street (now St. George Boulevard). Construction of the *Washington County Courthouse* began in 1866 and wasn't completed until 1876. A one-quarter of one percent tax funded its construction. Miles Romney, with William Harrison Folsom, was appointed architect/builder. There are many similarities between its design and that of the *Council House (Old City Hall)* and *Council Hall (New City Hall)* which Folsom had designed and was completed in 1866. Folsom's cupola for the Council Hall is very similar to that designed for the *Courthouse*.



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When Washington County was first organized it stretched from the Sierra Nevada in *California* to the continental divide bordering *Nebraska Territory*, by 1861 *Nevada Territory* on the west and *Colorado Territory* on the east reduced the width of *Utah Territory* substantially. Washington County occupied the full width of *Utah Territory*. On the County's southern border, *Rio Arriba County* in New Mexico became *Rio Arriba County* in Arizona.

Washington County's boundary was redefined in January of 1862 and the Territorial legislature approved an act incorporating the City of St. George and made it the County seat replacing Washington City. The original plat contained 25 blocks and was surveyed by Israel Ivins.

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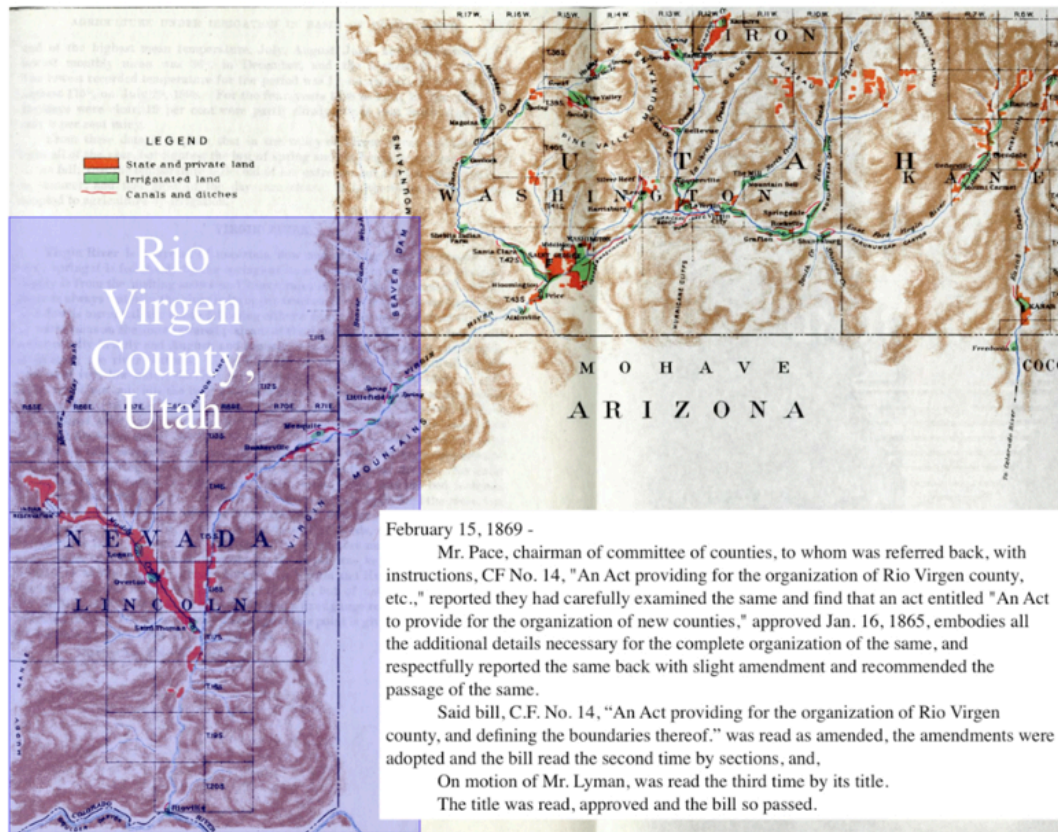


One of the first resolutions adopted by the City of St. George was to “*adopt the practice prevailing in the north relative to obtaining titles to land, that is to have their surveys plotted and recorded.*” Elder Orson Pratt spoke on the right of Congress to admit a State on application, according to the Constitution, but he believed that, “if refused admission into the Union, (that State) had the right to declare themselves independent. Elder Pratt prophesied that ... the action of the United States in relation to the admission of Deseret, would be for the prosperity of the Kingdom of God.” At the conclusion of the Civil war, in April of 1866, Kane County was created. Divided from Washington County by “*a line running through the largest mineral spring at the mouth of the Rio Virgen kanyon.*” Grafton was selected as the County seat.

The Pioneer Courthouse

Governing and Civilizing during the Territorial Period

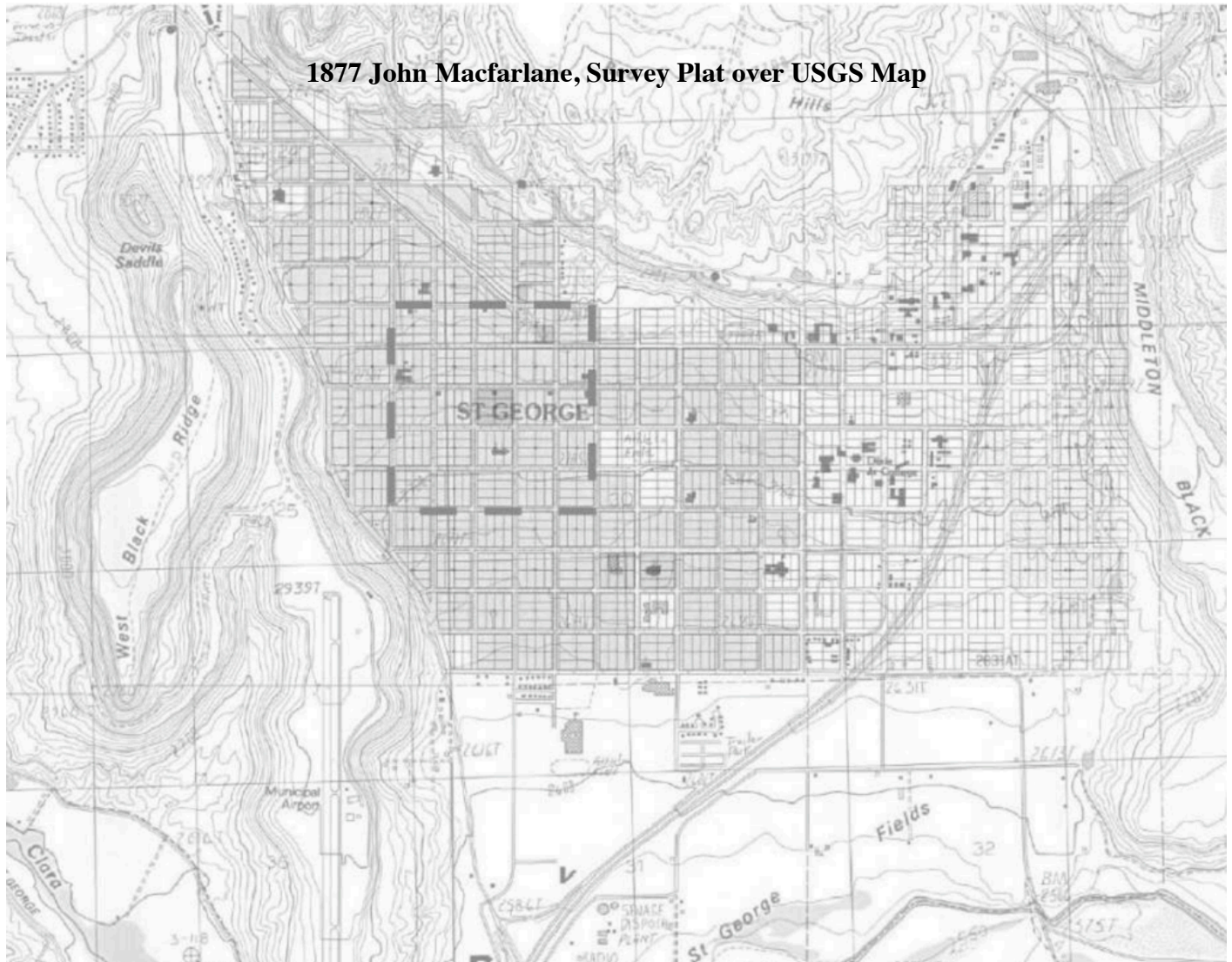
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The boundaries of the Territories of Utah were very much in flux in 1869 and 1870. Mormons had settled the Little Muddy river valley believing that it was in Utah and the Territorial legislature created *Rio Virgin County* in 1869. At the same time, the Territory of Arizona created *Pah-ute County*. When the dust settled, the valley was located in Nevada Territory, and the taxes needed to be paid in gold, not in kind as was the tradition in Utah Territory.



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There was a great deal of optimism concerning future population upon the completion of the St. George temple in 1877. County surveyor John M. Macfarlane prepared a greatly expanded plat map for the city. It was still substantially vacant at the time the I-15 freeway was completed in 1973.

In 1878, Macfarlane was elected Probate Judge for Washington County. In that year the population growth of Silver Reef was astounding. Concerns that the gentiles would out vote the Mormons led to a reconfiguration of the County boundaries. In 1882 the boundary between Kane and Washington Counties was moved east to its present location, and Kanab was designated as its County seat replacing Toquerville. By that time, the increase in the Mormon population of Washington County was probably unnecessary, because the Silver Reef's mining operations were beginning to be uncompetitive, and its population was rapidly diminishing.

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With the creation of Utah Territory in 1850, federal law gave county probate courts authority over the estates of deceased persons and over the guardianship of minors and the incompetent.

The Federal Government established district courts with Federally appointed judges to adjudicate civil, criminal and chancery matters.

At odds with Federal authority, the Second Territorial Legislature established control by expanding the jurisdiction of county probate courts to include civil and criminal cases, thus granting them parallel jurisdiction with district courts. (Laws of Utah, Chapter 42, 1852).

In 1869, the Territorial Legislature further expanded the county probate courts' authority by designating the courts as vehicles through which town site lands could be conveyed to private ownership (Laws of Utah, Chapter 7, 1869).

Probate Courts adjudicated claims and issued deeds of conveyance.

In 1874, Washington checked the expanded power of Utah's county probate courts with the Poland Act, which revoked the probate court's jurisdiction over criminal cases and also over all civil cases except divorce.

In 1887, the Edmunds-Tucker Act revoked jurisdiction over divorces, and with statehood probate courts were abolished altogether. The Fifth District Court assumed jurisdiction previously held by the Washington County Probate Court.

From 1856, when the county government of Washington County was officially organized, the Washington County Probate Court handled civil and criminal cases in addition to the estate and guardianship matters traditionally handled by probate courts.

Civil cases included divorce, naturalization, debt collection and such things as mortgage foreclosures and disputes over ownership of animals.

Criminal cases heard by the Washington County Probate Court included murder, rape, larceny, robbery, and contempt of court.

In 1872 the Probate Court began holding special sessions to adjudicate land claims in Washington County's cities and towns.

In 1874, the Probate Court ceased to handle criminal or civil cases with the exception of divorces.

It ceased handling divorce cases in 1887.

The Territorial Legislature initially appointed probate court judges, and the Governor issued their commissions. In practice, probate judges were often also Mormon ecclesiastical leaders.

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John D. Lee, Washington County's first probate judge, was a Mormon Church leader and also a former member of the Council of Fifty, Salt Lake City's pioneer governing body.

When the Poland Act was passed (1874), probate judges became publicly elected officials, and the Edmunds-Tucker Act (1887) provided that probate judges should be appointed by the President of the United States.

Territorial probate courts consisted of a probate judge and a clerk. The courts met quarterly in March, June, September and December.

From 1856 to 1865, the Washington County Probate Court met at the Judge's home or at the school in Washington.

Beginning in 1865 the Court convened in St. George, the newly created Washington County seat.

Up until 1880, when the clerk became an elected official, the Probate Judge appointed his own clerk.

As originally established, the probate judge and clerk also presided over the County Court, which later became the County Commission.

John D. Lee 1856 to 1858 Territory of Utah
Council of Fifty GSLC
Appointed by Territorial Legislature
Jurisdiction Civil and Criminal Cases

James. D. McCullough 1859 to 1870
Appointed by Territorial Legislature
Jurisdiction Civil and Criminal Cases
died in 1873 in Panaca, Nevada

William Snow 1870 to 1878
Appointed by Territorial Legislature
Jurisdiction Civil, Criminal and Land Conveyance
beginning 1872 Adjudication of Land Claims
contains deeds conveying land from the General Land Office to William Snow,
Probate Judge, in trust for the inhabitants of Saint George.
brother of Erastus Snow, first Territorial laws 1855-56 in Fillmore, Utah
bishop of Pine Valley Ward (1867 to death in 1879)
Elected in 1874
same year of United Order preaching
Jurisdiction only Divorce and Probate of Wills

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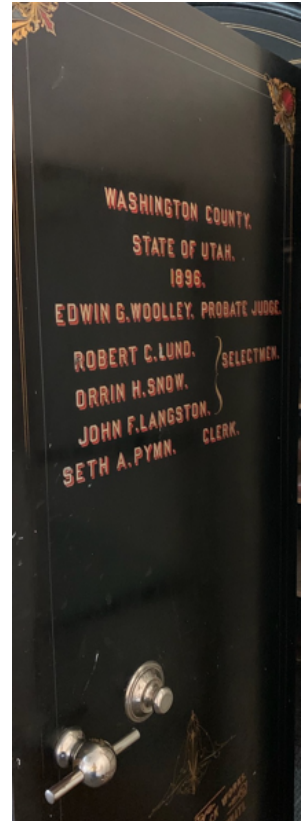
John M. Macfarlane 1878 to 1883
Elected
Jurisdiction only Divorce and Probate of Wills
Boundary change with Kane County 1882
born in Stirling, Scotland
surveyor, builder, school teacher, a founder of Dixie Academy in 1888
first Toquerville postmaster 1859
invited by Erastus Snow to move from Cedar City to St. George and start a choir
author of *Far, Far Away on Judea's Plains* hymn
involved in Mountain Meadows Massacre

Edwin G. Woolley 1883 to 1888
Elected
Jurisdiction only Divorce and Probate of Wills
Edmunds-Tucker 1887 appointed by U.S. President Grover Cleveland (D)
Jurisdiction only Probate of Wills
partner in Woolley, Lund and Judd mercantile

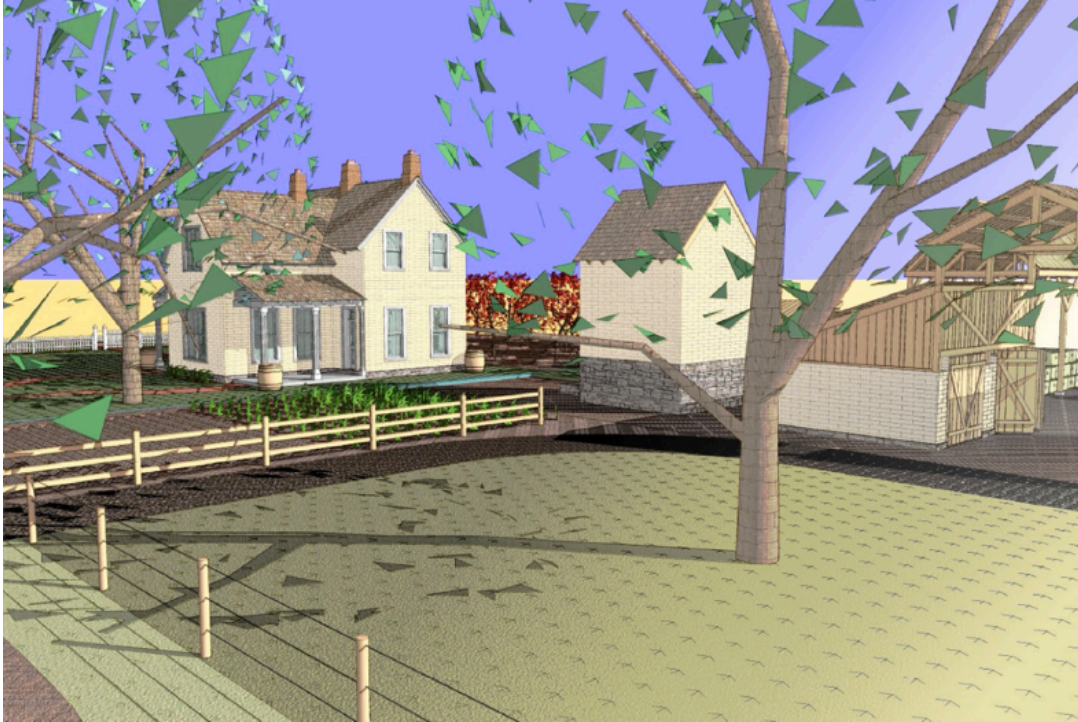
Francis L. Daggett 1888 to 1892
Appointed by U.S. President Benjamin Harrison (R), Grover Cleveland (D)
Jurisdiction only Probate of Wills
Shebits petition with Anthony Ivins, mayor SG, Robert Lund, selectman, Martin
Slack, selectman, Seth Pymm, county clerk, George Brooks,
sheriff 1890
ask governor thomas to raise mil levy in 1891

Martin Slack 1892 to 1894
Appointed by U.S. President Benjamin Harrison (R)
Jurisdiction only Probate of Wills
school teacher, land commissioner, county clerk, probate judge,
legislator
kane county clerk and notary public in 1874
lived in toquerville
resigned in 1894

Edwin G. Woolley 1894 to 1896 Statehood
Appointed by U.S. President Grover Cleveland (D)
Jurisdiction only Probate of Wills



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Land and water ownership records maintained by Washington County proved to be essential in preventing land grabs, land speculation (*manipulation*), water claim jumping and even mining claim jumping. Probate judges whether appointed by the Territorial legislature or elected by popular vote or appointed by U. S. presidents played a crucial role in adjudication of land and water disputes.

