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HISTORY OF
UTAH STATE PRISON
1850-1952

A Thesis
Presented to
the Faculty of the Department of History
Brigham Young University
Provo, Utah

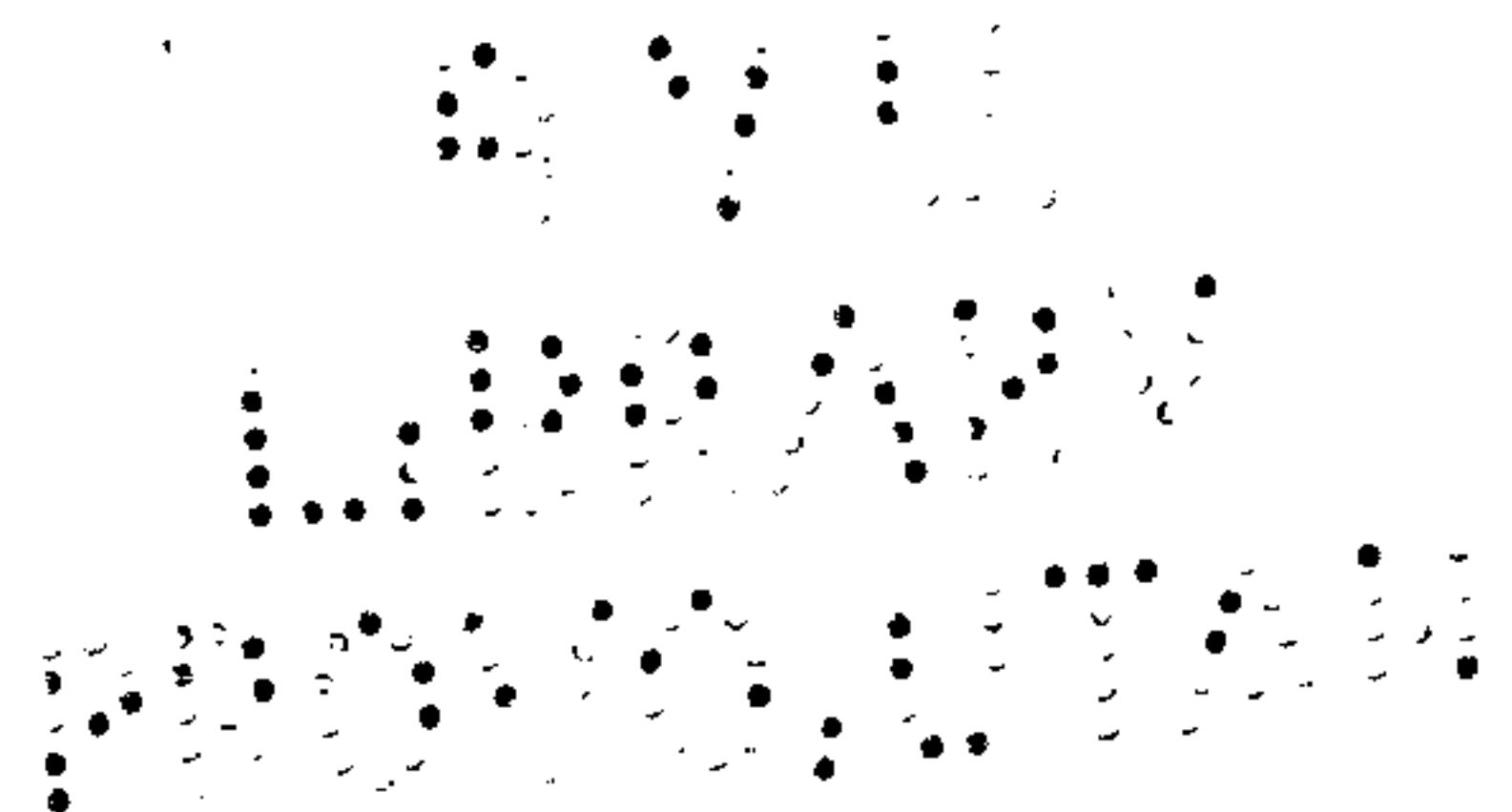
In Partial Fulfillment
of the Requirements for the Degree
Master of Science in History

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by

James B. Hill

June 1952



PREFACE

Down through the ages men with the insatiable desire to know and record truths of the past have been responsible for the many historical volumes that we enjoy today. Only lovers of history can fully appreciate the thoughts that arise in the mind of a student of history as he stands and gazes upon relics and ruins of the past.

In 1943 the writer first visited the old Sugarhouse Prison in Salt Lake City and was intrigued with the old buildings surrounded by high stone walls. Two years later he stood on a small hill east of the prison walls and beheld for the first time a potter's field where the unclaimed bodies of many dead criminals lay buried. As he walked among the crude headstones, many of which bore no identifying name, he was possessed with a great desire to know the history of the prison, its former employees, and the men who made its construction necessary.

The real purpose of this thesis is to present a general history of Utah State Prison in order that a record of that institution may be preserved. This phase of Utah history has long been neglected. It is hoped that a contribution has also been made to a better understanding of Utah's penal system.

In order to present the most comprehensive study of the subject, the writer explored a number of sources of

information. Among the methods employed were letter writing, personal interviews and library research. Through letter writing several interviews were arranged that resulted in obtaining much valuable information. Letters were written to the National Archives, to James V. Bennett, Director of Bureau of Prisons, and to Senator Arthur V. Watkins requesting their services in uncovering information on the history of the prison. They were most cooperative. Personal interviews, as a means of research, proved to be very successful. A list of the people interviewed is found in the Bibliography.

The card catalogs in the libraries visited by the writer contained very few references on Utah State Prison. Thus, a great deal of reading and searching through old diaries, newspapers, periodicals, and history books was necessary to find pertinent information.

The writer was successful in obtaining microfilm of several unpublished manuscripts containing much useful information on the subject from the libraries of the University of Utah and the University of California.

The writer gratefully extends his thanks to his Thesis Committee, Professors Brigham D. Madsen and Owen L. Barnett, for their encouragement, guidance and kind assistance. Thanks also goes to Professor R. B. Swensen and other members of the History Department for their part in developing the writer's interest in history.

Utah State Prison guards were cooperative in giving information. Especially interested in seeing a history of the

prison written was Mr. Ray Haueter, Identification Officer at Utah State Prison. Appreciation is kindly extended to him.

The writer wishes to extend a special thanks to A. Michael McGee who loaned him a personal copy of an unpublished manuscript with valuable information on the history of Utah State Prison since statehood.

The writer owes a special debt of gratitude to the members of the staff at Brigham Young University Library for their help and suggestions on research problems.

April 28, 1952
Brigham Young University

J.B.H.

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CHAPTER I

INTRODUCTION

The term prisons, as used in this thesis, refers to institutions built for the express purpose of housing offenders committed by due process of law.

The forerunners of modern prisons were the workhouses, which began to appear toward the last of the 16th century in Europe. The workhouses were used not to imprison felons but to incarcerate debtors, vagrants and paupers.

In the early part of the 18th century, jails and workhouses were used to confine indicted prisoners awaiting trial. These institutions could not be called prisons in the modern sense of the word, because the prisoners were only incarcerated there until executed, banished, or freed. The conditions in the jails and workhouses were very unsanitary. Inmates lived in indescribable filth and many died of diseases. Jailors served food to only those who could afford to pay; consequently many died of starvation. During this same period, corporal punishment, the galleys, and banishment began to become popular modes of punishment for prisoners. Prior to this time the death penalty was used indiscriminately for practically every offense.¹

¹"Prisons," Encyclopedia Americana, Vol. XXII, 1946 ed.

A few years before the American Revolutionary War the colonies began to build prisons because their jails were not considered safe enough to imprison dangerous criminals. In 1773 Connecticut used an old mine as a prison. Inmates were confined in the mine night and day and were chained while sleeping. The lack of sunshine, food and clothing resulted in the death of many inmates.

After the turn of the 19th century, various states began to restrict the use of the death penalty and corporal punishment. Prisons began to house more and more felons. With these changes the prisons naturally became overcrowded. Many prisons were poorly ventilated, ill equipped, and unsuitable for the humane treatment of prisoners. Reforms were badly needed in all of the states.

The Quakers in Pennsylvania took the lead in bringing about many changes in the operation of prisons in the United States. In 1787 they organized a society to help alleviate the sufferings of criminals incarcerated in public prisons. They influenced the Pennsylvania legislature to appropriate money to build a prison with individual cells to replace the old custom of housing inmates in common rooms. Thus, for the first time in America, prisoners were given private cells.¹

There were two primary purposes the Quakers hoped to accomplish in segregating convicts. They hoped to keep the prisoners separated so they would not influence or contaminate

¹Ibid.

one another. Secondly, they wanted the prisoners to be undisturbed so they could reflect upon their misdeeds and have sufficient time to repent and reform. Prisoners were confined to their cells for their entire term of imprisonment. Only chaplains and select prison officials could visit them. Permitted to read only the Bible, they lost all contact with the outside world. Work was prohibited because it was thought that it might divert the inmate's mind and prevent him from reflecting on the crimes he had committed. This penal system developed in Pennsylvania was soon adopted by other states.¹

In New York state in the first half of the 19th century another penal system developed. Prisoners were divided into three groups. They were classified according to the nature of the crimes they had committed. Prisoners deemed most incorrigible were placed in solitary confinement and not allowed to work. The second group, composed of less hardened criminals, was confined only three days a week. The third group, consisting of first offenders, was housed together and allowed to work every day. Officials soon learned that prisoners in solitary confinement, as well as those living together, presented serious problems. Those living alone and denied any contacts often went insane. Prisoners living together practiced sexual perversion and were often unmanageable, although many were curbed by the use of the whip. Faced with these problems, prison officials developed a new plan. Inmates were allowed to eat and work together during the day

¹Ibid.

but were locked in separate cells at night. Silence at all times was demanded of the inmates. This newly developed penal system was called the Auburn System.¹

The Pennsylvania plan, or the Auburn system, was being used by most of the prisons in the United States when a prison was first constructed in Utah Territory. The Mormon Church's unique system of ecclesiastical government had a great influence on the justice and penal practices of the prison. Early officials of the territorial prison were Mormons. They were naturally influenced by penal practices peculiar to their time but treated prisoners well. The penal system used in the territorial prison was a modified form of the Auburn system. Rehabilitation of the prisoner has been recognized as an important feature of a prison since the first one was built. Religious services and educational opportunities were introduced early in the prisons of Utah.

The contract system of hiring out prisoners was ruled illegal after 1888, but before that time it was successfully used as a rehabilitation program in Utah. In other prisons of the United States the contract system was abused. Prisoners were literally worked to death. Territorial prisoners of Utah worked also but received humane treatment, and from 1855 to 1878 not one criminal died in prison.

Utah's territorial prison of 1855 was located in the east section of the city, where Sugarhouse, Utah, stands today. When Utah became a state, the property became the site

¹Ibid.

of Utah State Prison. The institution was used successfully for over forty years but gradually became outmoded and overcrowded. A new prison site was purchased in the late thirties and a new prison was eventually built.

The new institution, costing approximately three and a half million dollars, is located about twenty-two miles south of Salt Lake City, on Highway 91. The prison proper, modern in every way, covers an area of twenty-four acres. The whole prison site consists of over a thousand acres. Thus, many changes have occurred in Utah's penal system since 1855. Today Utah State Prison is one of the finest state prisons in the United States.

Practically all of the repressive aspects of the 19th century prisons vanished in Utah with the completion of the new prison at the Point of the Mountain. Some people still contend, perhaps with justification, that penal institutions, because of their very nature, cannot hope to reform a great number of prisoners. That is so, it is contended, because one living for many years in a prison community can hardly be trained to live in a community composed of normal human beings.

In spite of the drabness of penal life, the majority of offenders do mend their ways and become useful law-abiding citizens. That is so because the men alter their make-up despite the prison.

CHAPTER II

JUSTICE IN EARLY UTAH

With the arrival of Mormon pioneers in the Salt Lake Valley in July, 1847, came the first real law and order to the Great Basin area. The first laws and the judicial bodies of the Mormons were very closely tied to their religious beliefs. Theo-democracy controlled nearly all aspects of living including punishment meted out for violations of doctrines and regulations of the church. The first handling of criminals was entirely a religious responsibility, often involving fines, restitution and corporal punishments. Governmental jails and prisons came very gradually. Many of the penal practices in the western part of the United States today can be linked to the innovations of these first people coming to Utah seeking a place of peace, where they could live in safety from the persecutions of their enemies and worship as they felt they should.¹

The history of Mormon laws and their enforcement goes back almost to the beginning of the organization of that church. In February 1831, about ten months after the organization of the church, Edward Partridge was called by

¹Rex Skidmore, "Penology in Early Utah," Utah Humanities Review, II, (Salt Lake City: 1948), 145.

revelation to be "ordained a Bishop unto the church." "To see to all things as it shall be appointed unto him in my laws in the day that I shall give them."¹ Again in February 1831, a revelation on church government was given, and therein was described how transgressors in the Church should be treated.

The revelation read:

And if any man or woman shall commit adultery, he or she shall be tried before two elders of the church, or more, and every word shall be established against him or her by two witnesses of the church, and not of the enemy; but if there are more than two witnesses it is better. But he or she shall be condemned by the mouth of two witnesses, and the elders shall lay the case before the church, and the church shall lift up their hands against him or her, that they may be dealt with according to the law of God.

And if it can be, it is necessary that the bishop is present also.²

It can be safely assumed that the men called to be Elders were, as a rule, intelligent, and discreet persons; they were men from among the people, acquainted with affairs of the people, and capable of seeing that justice was rendered.³ It would be impossible to say when trials before a body of Elders were superseded by other courts, but though changes did come about gradually in this matter as in others, it could be plainly seen that the Bishop's Court was to become a fixed institution in the church.⁴ Such trials as have been mentioned

¹Doctrine and Covenants, Section 41, verse 10.

²Doctrine and Covenants, Section 42, verses 80-82.

³Joseph B. Keeler, The Bishop's Court, (Provo: The Skelton Publishing Co., 1902), p. 3.

⁴Another court existed at that time also, namely, a Council of High Priests, which came into being as soon as there were High Priests. They held courts probably because there were few local Bishops. Their procedure was the same as the procedure used in the Bishop's court.

could be held either before the Bishop, or before the Elders, as circumstances might require. Indeed, at that early date, there were good and sufficient reasons why local tribunals were conducted only by the Elders. In the first place, there were no Bishop's wards organized, only branches of the church here and there presided over by Elders or Priests.¹ Secondly, the saints were scattered more or less widely, and all were inexperienced. Thirdly, at that time Elders were the highest officers in the church except those who had been ordained to the Apostleship. And fourthly, Bishop Partridge, whose duties were general, could not always be present to attend investigation of local difficulties.²

The proceedings in the Bishop's Court were never exactly uniform, but a general pattern seems to have been followed fairly closely. Complaints against crimes or wrong doings were usually made by more than one person. Then, a summons was issued the accused person, requesting his appearance before the Bishop's Court to answer to or stand trial on, certain charges brought against him. It was usual for the summons to contain the charge, in order to give the accused time to prepare for trial. When the trial came, the Bishop with his two counselors conducted the case. If one of the

¹A ward in the Church of Jesus Christ of Latter-Day Saints refers to an organization of people numbering from one hundred and fifty to fifteen hundred, presided over by a Bishop. A branch of the L.D.S. church refers to an organization of people usually less in number than a ward, presided over by a branch president.

²Keeler, op. cit., p. 21.

counselors was absent, or if he was an interested party, he was barred from acting, and the Bishop was free to choose a High Priest to sit with him and the other counselor for the occasion. When the parties were both present the trial began by opening with prayer. Then the case was opened; the defendant was charged as accused and could defend himself. He could do so in writing if he so desired. After both sides had been presented, witnesses for either side could be re-heard or cross-examined. The accused also had to have the testimony against him of at least two credible witnesses--members of the church. Records of the testimony were recorded and read, and after all evidence was heard, a decision was rendered, which was in writing, and a copy was given to the accused.¹

The decision of the Court against the accused was usually one of the following judgments:

1. That he make a public confession of sin committed.
2. That he make restitution for the wrong done.
3. That he perform some service in the future.
4. That he suffer a penalty for non-compliance with some former decision.
5. That he be cut off from the church.

In the event of excommunication, the Bishop's Court could sever from the Church only lay-members and those holding the Aaronic Priesthood. At such time the case ended. But if the accused held the Melchizedek Priesthood, the Bishop's

¹Ibid.

Court had only the authority to withdraw the hand of fellowship.¹ Such action was immediately reported to the High Council, and that body decided whether or not a person was to be severed from the church, on the findings of the Bishop's Court.

The Bishop's Court served as a judiciary for the Mormons when coming across the plains to Utah. They were well organized to deal with law breakers or sinners among their own ranks. Before they were driven out of Nauvoo, Illinois, local law and order had been maintained by an organization of policemen, all of whom were Mormons. This organization numbered as high as five hundred men at one time, and had the duty of guarding Brigham Young's house, the arsenal, and other church buildings when danger from the mobs threatened in the days following the martyrdom of Joseph Smith in 1844. The policemen were disorganized after the Mormons were driven from Nauvoo, but many of them were later organized into police forces to serve in the various camps traveling to Utah. Upon reaching Salt Lake City a large number of these former policemen again saw duty in the keeping of law and order.²

In Winter Quarters, Iowa, the Mormons were well organized, and the job of maintaining law and order was

¹The L.D.S. have two Priesthoods in their church. The Melchizedek Priesthood is distinguished from the Aaronic Priesthood in that it has authority over the spiritual ordinances of the church. The Aaronic Priesthood, or the lesser priesthood administers in the temporal things of the church, under the direction of the Melchizedek Priesthood.

²Hosea Stout's Diary, Manuscript in B.Y.U. Library, Vol. 1-2, pp. 8-9.

delegated to several of the former members of the Nauvoo police force. Offenses were committed and many were tried before the Elders, but some of the offenders guilty of certain crimes were punished without a trial, if the evidence was strong enough. On one occasion the police took offenders and severely lashed them, and were strongly sanctioned in their actions by Brigham Young. Hosea Stout had been one of the policemen in Nauvoo, and was also a leader of police maintaining law and order at Winter Quarters, Iowa. On one occasion he was in charge of administering whippings to three young men at Winter Quarters for the crime of adultery. The victims were first given a lecture on the law they had broken, then their backs were bared and they were whipped separately. Each man received about twenty-five lashes and was released. Blood often flowed from men's backs after such lashings had been administered.¹ Without doubt these whippings had their good merits and served as warnings to help keep other would-be-offenders on the straight and narrow path.

In 1846, and 1847, the Mormons had another practice of dealing with law breakers in their midst. Undesirable people in their camps who were guilty of theft or adultery were often whipped and required to leave camp and never come back. They were warned that more severe punishment would befall them if they were ever foolish enough to return.²

There were many non-Mormons married to Mormons

¹Ibid., Vol. 1-2, p. 381.

²Ibid., Vol. 3-5, p. 224.

traveling in their companies to Utah Territory. From all appearances, whippings and ostracisms occurring among the Mormons traveling to the Great Basin Area were administered mostly to the non-Mormons, because they were not affected by being excommunicated or disfellowshipped.

The government first established in Salt Lake Valley was that of a stake organization presided over by a stake presidency and a high council.¹ John Smith, the uncle of the Prophet Joseph Smith, was selected to be president, with Charles C. Rich and John Young as his counselors. Three other officials were to act under the stake authorities: Charles C. Rich, chief military commander; John Vancott, marshal; and Alber Carrington, clerk and historian. According to the statement of one of the pioneers, this government was adopted in accordance with the Mormon law of common consent. He said:

The high council, a local ecclesiastical court, consisting of twelve members, presided over by the president of the stake and his two counselors, fifteen in all besides the clerk, assumed provisional municipal powers by the common consent of the community. This was the first government established by the Mormons within the confines of the Great Basin to establish and maintain law and order.²

The duties of the officials were numerous and varied. Besides being leaders of the religious organization, they served as a court of justice. They had to fulfill many duties that make for the establishing of a frontier community, such

¹Whenever a sufficient number of L.D.S. have gathered in one locality, a stake is usually organized. A stake may vary in membership from 1000 to 10,000, though there is no set number.

²Milton R. Hunter, Brigham Young the Colonizer, (Salt Lake City: The Deseret News Press., 1940), p. 118.

as, granting of licenses to establish sawmills, control of the mountain streams, the granting of building permits and supervision of labor, as well as the assignment of farming lands.¹

There were evidently few cases of law breaking during the first year in Salt Lake Valley (1847-1848) which had to be handled by the officials. At this time there were no jails, so offenders were punished by other methods. The general penalty for stealing was for the offender to promise to do better and to "make proper confessions and restore fourfold."²

In 1849 William Bird was tried before the Bishop's Court for stealing a pair of boots from an emigrant. Bird was found guilty and condemned to pay the emigrant fourfold the cost of the boots. In addition to this, he was made to pay the officers bringing him to court for their troubles, and fined fifty dollars, which was to be applied towards the upkeep of the roads in the territory.³

One of the early settlers in Salt Lake Valley, John Nebeker, found that there were no laws (only ecclesiastical laws) in the area. Since there were no jails in which to sentence prisoners for wrong doings, various other methods of punishments were instituted. Whippings were in order in these early days, and a whipping post was set up. John Nebeker had the job of prosecuting criminals before the High Council, and

¹Ibid., p. 119.

²John Nebeker, "Early Justice in Utah," Utah Historical Quarterly, (Salt Lake City: July, 1930), p. 88.

³Stout, op. cit., Vol. 3-5, p. 314.

in his writings he gives an account, which indicates the penal philosophy and practice of early Utah law enforcement relative to a stealing case:

The case was for stealing; the judgment was a \$10.00 fine or ten lashes. The article stolen was a lariat, and he was caught at it. I volunteered myself to help him pay the fine but he would not, so he was whipped. The Bell-Post--a pole on which a public bell was hung to call the people together--was the place designated. I proceeded to tie him, but he refused to be tied; said it was not in the decision. C. C. Rich was appointed by the Council to see that the whipping was carried out in the spirit and meaning of the judgment. I appealed to him whether he should be tied or not. Rich decided that as the decision did not mention it and the man didn't want to be tied, it was his right to choose for himself inasmuch as he would stand to be whipped. He said he would stand up to it. He was then told to strip. He refused to on the ground that it was not in the decision. But his refusal would not count. He stripped and the lashes were administered in the presence of the public. The penalty for stealing in cases generally, in cases when people would promise to do better, was to make proper confessions and restore four-fold, if the person upon whom the theft was committed required it.¹

In the Great Basin Area by 1849 the population had greatly increased, and Brigham Young reorganized the then existing stake by dividing it into nineteen ecclesiastical wards. There were now more Bishops, and the people were more centralized than they were when the Bishop's Courts were first established in 1831. With the division of the stake into nineteen wards, control was transferred from the stake officials to the Bishops on January 6, 1849. It was a complete fusion of church and state, but it seemed to meet with the hearty approval of the people. It worked because practically all inhabitants of the area belonged to the Mormon church. It was felt that

¹Nebeker, op. cit., pp. 88-89.

if there were no Gentiles¹ and no other government, there would be no need of civil law.²

In August, 1849, Captain Howard Stansbury, of the United States Topographical engineers, arrived in Utah for the purpose of exploring parts of the Great Basin and making a survey of the lakes in Utah. Captain Stansbury and his men spent the winter of 1849-1850 in Salt Lake City among the Mormons. Stansbury writes that the Mormon communities were peaceful, cheerful, harmonious, and that contentment and prosperity pervaded the settlements around Salt Lake City. Stansbury and Lt. John W. Gunnison, one of his party, each made studies of Mormon social life and published their findings. Each of them testified that the government of the Mormons, theo-democracy, administered justice equitably. In speaking of the courts of the State of Deseret, Gunnison said that "there was every appearance of impartiality and strict justice done to all parties." In the words of Stansbury:

The jurisdiction of the State of Deseret had been extended over and was vigorously enforced upon all who came within its borders, and justice was equitably administered alike to "saints" and "gentiles"--as they term all who are not of their persuasion. . . . Their courts were constantly appealed to by companies of passing emigrants, who, having fallen out by the way, could not agree upon the division of their property. The decisions were remarkable for fairness and impartiality, and if not submitted to were sternly enforced by the whole power of the community.³

¹The name Gentile as used by the Mormons applied to any non-member of the L.D.S. church.

²Hunter, op. cit., p. 120.

³Howard Stansbury, Valley of Great Salt Lake of Utah, (Philadelphia: Lippencott, Grambo & Co., 1852), p. 130.

For the first year and a half in the Great Basin, the Saints had no other form of government than their ecclesiastical organization. This organization proved very satisfactory because most of the people in the Great Basin were of the same religion. For several years after settling in Salt Lake Valley the Mormons enjoyed peace and quiet as only a politically persecuted people would. They were happy away from their enemies. The feeling of peace and happiness, the absence of violence and lawlessness, and the security felt by the Mormons during this time is forcefully revealed in a letter from Parley P. Pratt to his brother, Orson, who was on a mission to England.

I have now resided almost a year in this lonesome retreat, where civilized man has not made his home for the past thousand years, and where the ripening harvest has not been enjoyed for ages, until this present season. During this period, the sound of war, the rise and fall of empires, the revolutions of states and kingdoms--the news of any kind has scarcely reached my ears. . . . All is quiet--stillness. No elections, no police reports, no murders, no wars in our little world. How quiet, how still, how peaceful, how happy, how lonesome, how free from excitement we live. The legislation of our high council, the decision of some judge or court of the church, a meeting, a dance, a visit, an exploring tour . . . is all that break up the monotony of our busy and peaceful life. Our old firelocks have not been rubbed up, or our swords unsheathed because of any alarm. No policeman or watchman of any kind have been on duty to guard us from external or internal danger. The drum has beat, to be sure, but it was to remind us that war had once been known among the nations, than to arouse us to tread the martial and measured step of those who muster for the war, or march to the battlefield. Oh, what a life we live! It is the dream of the poet actually fulfilled in real life.¹

This atmosphere of peace and quiet, and absence of lawlessness in the Salt Lake Valley was soon interrupted by

¹Journal History, September 5, 1848.

emigrants passing through the Great Basin area. Many of them came to Utah as a result of the great gold rush to California in 1849, and with this migration came a great increase in crime in the area. Trials were handled before Bishop's Courts or High Council Courts. If the findings of the Bishop's Court were unsatisfactory to the parties involved in the case, protests could be made, and the case taken from the Bishop's Court to the High Council Court. This practice was not often followed however, since the costs of the court already charged would just be added to the cost of the higher court. A final appeal could be made to the President of the Church, Brigham Young, who would administer justice in a patriarchial manner. President Young was not always satisfied with the rulings of the Bishop's Court, and on one occasion is supposed to have referred to them as not being able to decide a case between two old women, let alone two men.¹

After traveling across the plains to Salt Lake Valley in companies together, many of the emigrants had grievances of various kinds against each other. These grievances, such as fights, stealings, acts of negligence and etc., that could not be settled satisfactorily among themselves were handled before Bishop's Courts and High Council Courts when they arrived in Salt Lake City. Quite a common cause for court action among the California bound emigrants was that of the failure of

¹This statement, supposedly made by Brigham Young, was evidently made in a jesting manner, because he was the type of man that would not have permitted a man in the Bishopric to hold Bishop's Courts if he was not competent to do so.

certain emigrant companies to fulfill their promises of taking individuals to the California gold fields for specified sums of money. Many of these individuals settled in and around Salt Lake City, perhaps due to many rumors that the gold was becoming scarce in the gold fields of California.

Emigrants passing through Salt Lake Valley committed many criminal offenses against the Mormons and were brought to trial for their deeds. Perhaps the most antagonizing crime they committed against the residents of Salt Lake Valley was that of trespassing. The emigrants brought their cattle across the plains and upon reaching Salt Lake Valley pitched tents, or lived in their wagons, and turned their cattle loose to graze. Many times their cattle grazed upon the crops of the Mormons causing irreparable losses to them. Consequently, these inconsiderate offenders were arrested and made to pay heavy fines. Their trials were before Bishop's Courts, and the emigrants complained vociferously over the fines, but the treatment they received was no more than the treatment customary in the West at that time.

Many of the emigrants going to the California gold fields reached Salt Lake City late in the fall of the year and, fearful of encountering heavy snows on their way to the Pacific coast, spent the winter in Salt Lake City 1849-1850. Apparently many of these California bound emigrants wintering in Salt Lake City married Mormons and joined the Church. By becoming members of the Mormon faith, these "winter saints" gained much respect and were often allowed to purchase large

amounts of food and equipment on credit. When the snows began melting in the early spring, a number of these emigrants who had joined the "saints" slipped away on their journey to California. Besides owing large debts they also stole many things from the Salt Lake Valley residents before they left. The victims of these outrages often went in pursuit of the emigrants and brought them back to trial before the Bishop's Courts in Salt Lake City. Needless to say, the Mormons became a little more wary of over-night converts to the church among the emigrants.¹

Two German emigrants on their way to California in 1850 stopped in Salt Lake City in the fall to spend the winter before going on to California in the spring. In a short time they were married and joined the Mormon church. They set up a butcher's shop together and were soon doing a good business among their new found friends. A few weeks after they went into business they were caught in the act of stealing an oxen to supply meat for their shop. Both were tried before the Bishop's Court and found guilty of stealing one oxen and attempting to steal another. They were fined \$100.00 each and had to pay the cost of the court. In addition to the fine and costs of the court, they had to pay the owner for the oxen.²

Emigrants passing through Salt Lake Valley were not responsible for all the crimes that reached the Bishop's

¹Stout, op. cit., Vol. 3-5, pp. 382-392.

²Ibid., p. 375.

Courts during this period. The Mormons were also guilty of wronging each other. In 1849 the High Council tried P. Sessions, a Mormon, for the crime of overcharging on the price of corn. He made quite a large profit from selling the corn to emigrants passing through Salt Lake City, and the high prices may have influenced the emigrants in turning loose their cattle to graze at random on the Mormon's crops. Perhaps they reasoned that the fine for trespassing could be no greater than the price they had to pay for corn to feed their cattle. Sessions was found guilty of overcharging and was required to make restitution to all whom he had cheated.¹

In August 1849 an interesting event occurred revealing a type of justice rendered by the Mormons towards undesirables in their midst. The incident was recorded in the diary of Hosea Stout, who was then an attorney in Salt Lake City.

The council today appointed a committee to notify a Mr. Pomroy to pack up his goods and leave here as "he found us in peace to leave us in peace." This was because he was said to be one who had assisted to drive us from Missouri. He demanded a hearing which was granted. Some five or six of our people came forward and testified that they knew Mr. Pomroy in Missouri during the time of Mormon difficulties and that he was a warm friend to Mormons. He even had to send off his family and property to keep them from mob violence such was the antipathy against him because he took such active part in Mormon's favor. He was honorably acquitted.²

The above incident reveals two important things about Mormon justice at that time. It reveals first that the

¹Ibid., p. 313.

²Ibid., p. 372.

requiring of undesirables to leave a community was evidently an acceptable requirement at that time. It also reveals that the Mormons were willing to give all a fair hearing before passing sentence.

In June of 1850 an interesting trial took place before the High Council in Salt Lake City. The charges were against several Mormons who had in some way gone contrary to the set standards of trading with Indians, as prescribed by a committee set up by the legislature for this purpose. The men were found guilty, whereupon they were whipped and released.¹

The provisional state government that had been formed in 1849 was well organized with the Executive, Legislative, and Judicial functionaries. They worked harmoniously under the constitution that was adopted, and all the exterior evidences of a government strictly temporal existed, but it was so closely blended with the religious administration of the Church that it was hard to separate one from the other. This form of government proved satisfactory as long as most of the people were of the same religious faith, but during 1849-1850 many non-Mormons came into the Great Basin area. Brigham Young and the other leaders of the Mormons now realized that this ecclesiastical government would have to be changed. The problem then was to form a government that would prove satisfactory to both the non-Mormons and themselves, so that it

¹Ibid., p. 345.

would be acknowledged and recognized by the government of the United States.¹

On September 9, 1850, the Territory of Utah was created, but it was another year before the territorial government was fully put into effect. During this year of waiting to put the territorial government into effect, the laws of the State of Deseret continued to operate. One of the very first acts of the legislature of the Territory of Utah was to legalize and make binding and in full force all the laws of the State of Deseret.²

The drawing up of a criminal code for the State of Deseret had begun in 1850, but due to many differences of opinion and much debate, the code was not put into effect until January 1, 1851. Three days later, on January 4, the first indictment ever submitted to a jury in the State of Deseret took place. The first case tried was for a larceny charge against a Mr. Henry Shenk and his accessory, Phillip George. Both men were found guilty, and each sentenced to two years at hard labor, with a ball and chain about their ankles. Along with the sentences came the privilege of redeeming themselves. They could go free if they could pay the sum of \$200.00 each. The men were later found guilty on another larceny charge and received additional sentences,

¹Leland H. Creer, Utah and the Nation, (Seattle: University of Washington Press, 1929), p. 66.

²Orson F. Whitney, Popular History of Utah, (Salt Lake City: The Deseret News Press, 1916), p. 25.

which raised their total sentences to five years at hard labor with ball and chain on their ankles.¹

A convict who was given the privilege of redeeming himself for a certain sum of money could do so, or he could be purchased by another party. The prisoner then served out his term under the direction of the person who purchased him. Just when this practice started or ended is not certain. The practice was still being used, however, as late as 1856, which was two years after the Utah Penitentiary was completed. Hosea Stout, who served in Salt Lake City as an attorney and policeman, recorded in his diary a transaction of the sale of a prisoner in July, 1856. In the words of Stout:

This morning I sold William Maykin, the State Prisoner to Colonel T. C. Willey for the term of one year for the sum of 100 dollars he being to all expense and trouble and at his own risk paying 50 dollars in advance for him.²

After January 1851 court trials were usually held in Fort Utah, which evidently had prison facilities because prisoners to be tried were confined there while awaiting trial.³ In early 1851 a special term of the county court was held in Fort Utah, which lasted twelve days. The sum total of the rendition of sentences were: thirty-three years and six months at hard labor with ball and chain, and two hundred and forty dollars fine in favor of the state, and ten dollars fine in favor of a plaintiff.⁴

¹Stout, op. cit., Vol. 3-5, p. 379.

²Ibid.

³Stansbury, op. cit., p. 148.

⁴Stout, op. cit., p. 385.

A very interesting thing to observe about early Utah justice was the attitude of the people in the Territory towards punishment of persons guilty of adultery or sex crimes. It has been pointed out that persons guilty of adultery in the camps of the Mormons coming to the Great Basin area were often whipped or expelled from the camps. This same practice was continued in Salt Lake Valley after the Mormons settled there. In April 1852 a man named Harvey Morse, who was known to be guilty of the attempted rape of two little girls under the age of six, was severely lashed for his crime. Sentence had been passed upon Morse by a Bishop's Court. The whipping was carried out by several policemen in Salt Lake City.¹ Prior to this event, however, two other adultery cases had resulted in setting quite a precedence as to how those guilty of the crime should be punished in Utah Territory. In March 1851 a Mr. Hambleton shot and killed a Mr. Vaughan just outside the front door of a church, after Sunday services had ended, for allegedly having seduced his wife. A court of inquiry was called to investigate the case. A court of inquiry was then held, and Hambleton was acquitted by the court and by the voice of the people present. A few months later a man named James M. Monroe was also shot and killed for seducing the wife of Howard Egan, who had been to California seeking his fortune in the gold mines. When Egan returned from California, he found that his wife had given birth to a child, and that Monroe was its father. Monroe claimed that his affair with

¹Ibid.

Egan's wife had been only with her consent. Egan was defended in court that followed by George A. Smith. Attorney Smith, who upheld Egan for what he had done, said that it was the duty of the nearest of kin to a female who was seduced to take the life of the seducer. The jury deliberated only fifteen minutes and returned with a verdict of "not guilty," whereupon Egan was freed.¹

Hosea Stout, an attorney in Salt Lake City at that time, and also a Mormon, did not seem to think that the statements by George A. Smith relative to dealing with men guilty of adultery were quite right. He attended the trials of Hambleton and Egan and had this to say after Egan's trial ended:

This is likely to be a precedent [sic] for anyone who has his sister, or daughter seduced to take the law into his own hands and slay the seducer and I expect it will go still further, but of that at that time.²

The surprising thing about these two cases was that none of the guilt for adultery was blamed upon either of the women involved. If the women in either case had been raped rather than seduced, the action of the court in freeing both men would have been more understandable in the light of present day justice, even though murder had been committed. According to Judge Snow, a district judge at that time, the killing of Monroe by Egan for the seducing of the latter's wife was in accordance with the established principles of justice known in

¹Ibid., pp. 411-419.

²Ibid., p. 419.

these mountains. If Egan had failed to avenge the deed, it would have damned him in the eyes of everyone in his community.

Before 1852 there had been little need for rulings about condemned criminals, but with the increasing population of non-Mormons entering Salt Lake Valley crime increased. The nature of the crimes committed were also becoming more malicious. In view of these circumstances, the Legislative Assembly passed an act relative to punishing criminals convicted and sentenced to death in Utah Territory. This act was quite unique and perhaps one of the most interesting of its kind ever passed by a territorial government of the United States. The act reads as follows:

When any person shall be convicted of any crime, the punishment of which is death according to the provisions of the act, and sentenced to die, said person shall suffer death by being shot, hung, or beheaded, as the court may direct, or the person so condemned shall have his option as to the manner of his execution.¹

Not many months after passage of the act relative to condemned criminals two Indians were condemned to die for murdering two young brothers in Utah county. It appears that Allen Weeks, a farmer, living in Cedar Valley, Utah county, sent his two sons, William F. and Warren D. Weeks, up the canyon for a load of poles with an ox team. On August 25, 1854, a small band of Ute Indians numbering about ten or twelve, who had separated themselves from their regular tribe, camped near Cedar Valley. They swore among themselves that

¹Ibid., Vol. 6, p. 235.

they would not make peace with the Whites until they had revenged certain wrongs they had received from them in Juab county in 1853. These Indians killed the Weeks brothers. They had had no personal quarrel with the brothers but after waiting a year for recompense from the white men and receiving none, killed the first Whites they saw. The Indians lay in wait at the mouth of a canyon to which inhabitants of Cedar Valley had been accustomed to going for wood and poles. When the Weeks brothers came along with their ox team, they were slain, their bodies mutilated and scalped by the Indians. When the boys did not return home that night, a searching party was organized and their mutilated bodies were found as the Indians had left them. Some friendly Indians witnessed the horrible crime, and fearing revenge from the Whites, captured two Indians mostly responsible for the murders and turned them over to the legal authorities.

The two Indians, Longhair and Antelope, were tried before a jury August 31, 1854, and with the testimony of eye witnesses against them, they confessed to their murderous deed. They were then sentenced to hang. In the court the Indians had been given two defense attorneys, A. W. Babbit, and Hosea Stout, but with evidence so positive against the Indians, the attorneys had nothing on which to hang even a pretended plea of defense. On September 15, 1854, the two were taken and hanged in the presence of a small company of spectators, two miles below the Jordan river bridge on the west bank of the river. The place of execution was never

publicly announced, at the request of the Territorial Marshal, but upon seeing the condemned Indians being escorted by a company of U. S. troops under the command of Colonel Steptoe, a small group of people followed and witnessed the first execution ever held in Utah Territory.¹

The first execution of a white man in Utah Territory did not occur until 1859. It seems that Thomas H. Ferguson, a young shoemaker from the east, had come to Utah Territory with the purpose of establishing himself in the trade of shoemaking. On September 17, 1859, Ferguson shot and killed his boss, Alex Carpenter, in an argument over wages due him. Ferguson was apparently drunk at the time of the murder, and pleaded "not guilty" to the charges of first degree murder in the trial held on September 23, 1859. The jury found him guilty as charged, and he was sentenced to be hanged on October 28, 1859, between the hours of twelve and one P.M.

On October 28, 1859, Ferguson was taken outside Salt Lake City wall, to a bench northeast of the city near where the city cemetery lay, and hanged. Before he was executed, he made quite a lengthy speech to the crowd gathered for the execution. In his speech he mentioned very little about the killing of Carpenter and never did confess his guilt to the crime. He was quite bitter in his statements about Judge Sinclair, who had sentenced him to hang, and made the charge

¹Ibid.

that the Judge was drunk when the sentence was pronounced.¹ He reflected that he had been treated well by everyone in Utah and only blamed the governor for not commuting his sentence to life imprisonment.²

In order to get a more complete picture of early Utah justice and incidents related to it, it is necessary to realize the attitude of the people of the Territory towards attorneys and the territorial courts of justice.

In 1850 the Mormons were in Utah Territory in an overwhelming majority and controlled practically every political office. The relatively few non-Mormons of the Territory seemed resigned to the fairness of this practice as long as justice, peace and honest government prevailed. The non-Mormons did not like the polygamy practice, and if they resorted to prostitution, the Mormons would not tolerate it; but with these few exceptions, there was complete peace among Mormons and non-Mormons prior to the territorial form of government.

With the advent of territorial government there was a loss of much self government in Utah. In 1850 the State of Deseret had petitioned the U.S. Congress to become a territory or a state, and on September 9, 1850, the Organic act was passed creating the Territory of Utah. The leaders of the

¹This charge could have been accurate, because Hosea Stout's diary also states that Judge Sinclair was a drunkard. (p. 408).

²Charles L. Walker's Diary, Manuscript in B.Y.U. Library, p. 111.

people realized that with a territorial form of government they would lose certain rights of self-government, and on September 11, 1850, they petitioned to remain as they were until ready for statehood. This petition, however, was made too late, and the territorial form of government became effective and was to remain in effect for forty-six years.

The Organic act created the Territory of Utah to supersede the State of Deseret. The judicial power was invested in a Supreme Court, District Courts, Probate Courts and Justices of the Peace. The higher offices were filled by appointment from Washington and the minor ones were filled in accordance with Territorial law. Many outsiders who had never been west of the Mississippi now received governmental jobs in Utah. Men receiving these appointments to Utah Territory were as a rule very unfamiliar and often unfriendly with the customs and traditions of the Mormons, who constituted most of the population.

The Mormons had suffered much at the hands of disreputable lawyers, and unjust judges before leaving Ohio, Missouri, and Illinois, and had a widespread distrust of them. In February 1852 an act was passed by the Legislative Assembly for the regulation of attorneys, and in the act it emphasized the disrepute surrounding men in this profession. The act further mentioned that no legal training or experience was needed to prosecute or defend a case. The only thing required was that they be of good moral character. Indecent or

abusive language was punishable by fine or disbarment.¹ The attorneys were required to present all the facts in a case, regardless of how it might affect the status of his client, so that the true nature of the case might be presented before the court. If the attorney failed to present all facts in the case and it could be proven that he was withholding information, he was subject to fine.²

The leaders of the Mormon Church felt that going to court to settle differences between church members in good standing was not needful. They encouraged members to settle difficulties through the Bishop's Court or the High Council Courts. Brigham Young not only advised the Mormons not to take their differences to the courts, but he said that they should never go there except as a witness or unless they were compelled. During the early days of Utah Territory it was almost impossible for one of the members of the Church to study or practice law. George A. Smith, in a sermon on January 3, 1858, had this to say about the study of law by Mormons:

Now, from the early history of this church, almost every Elder, or member that has undertaken to study or practise law was in a very short time on the high road to apostasy and destruction; and every member of this church, who has undertaken to practise law as a profession, has gone neck-and-heels to the Devil.³

¹Andrew Love Neff, History of Utah 1847 to 1869, (Salt Lake City: The Deseret News Press, 1940), p. 194.

²Ibid.

³Ibid., p. 198.

Governor Young often boasted of the achievement of the Legislative and Executive branches of the territorial government, but he referred to the territorial courts with pride only when they were inactive. The technical points of the law that often freed guilty criminals through the skill of a smart lawyer greatly annoyed him, and he attacked the practices of the lawyers of the courts, especially for their use of litigation. If a man committed a crime, Governor Young believed that all the facts should be presented in the case and justice rendered according to the severity of the crime. It is plain to see from Governor Young's attitude towards courts and criminals why non-Mormons preferred the territorial courts to the ecclesiastical courts of the Mormons. They were often able to get lighter sentences or even gain freedom in territorial courts even when guilty, through the litigation of smart lawyers.

The early Federal judges to Utah Territory got off to bad starts, and soon practically ostracized themselves from the people. The main event causing the first friction between the people of the Territory and the Federal judges occurred at a special conference of the Mormon Church in September 1851. Brigham Young, in a sermon to the people attending conference, mentioned the wrongs committed against the Mormons that were allowed to go unpunished by the United States, prior to their coming to Utah. Judge Brocchus, evidently interpreting the talk as being unpatriotic, asked Brigham Young for the opportunity to address the conference attenders. The Judge was

granted the privilege of speaking and proceeded at length to pose as a defender of the United States. He also made remarks to the women present to the effect that those living in polygamy were unvirtuous. Following Brocchus's speech Brigham Young took issue with him over statements he had made. The incident had its repercussions in that the Mormons never did like Judge Brocchus. He was never molested by them but socially ostracized until he left the Territory. New judges came after Brocchus left, but with few exceptions they hated Brigham Young and the Mormons and sought in many ways to discredit them in Washington.

In 1856 Judge Drummond sought to belittle the judicial set-up in Utah. He complained of the Probate Courts having too much power and said he would refuse to recognize their findings in cases that he did not regard as strictly in their jurisdiction.¹ Drummond also spoke openly against the Mormon leaders and the practice of polygamy. Polygamy had been attacked before by others, but when it was discovered that the Judge had left a wife and family in Illinois, and the woman with him posing as his wife was a common prostitute, he was soon despised by everyone in the territory.²

¹After the unceremonious departure of Judge Brocchus and his associates in the fall of 1851, it was necessary for the Legislative Assembly to grant more powers to the probate courts because there were no Federal judges in the territory to hold District courts, and such was the power Judge Drummond disliked.

²Orson F. Whitney, History of Utah, (Salt Lake City: George Q. Cannon & Sons Co. Publishers, 1892), Vol. I, p. 578.

In 1856 the whole Territory of Utah was disturbed over the actions of the judges of the various courts. Judge Stiles was excommunicated from the Mormon church for adultery. Judge Drummond was still seeking to belittle the Mormons and their leaders, and Judge Snow partially sided with him in his views. Justice in general suffered in face of the bickering between jurors, lawyers and judges. In a church service in February, 1856, Brigham Young decried this poor state of affairs. His remarks on this subject were recorded in the diary of Samuel W. Richards as follows:

. . . Dr. Hovey preached and was followed by Prest. B. Young, who was very severe in his remarks upon the proceedings in court (District Court) during the past week--the conduct of the lawyers--the folly of jurors etc. etc., I never heard him speak upon such matters when he appeared so stirred up and righteously indignant in his feelings. He made Judge Z. Snow most conspicuous before the meeting, and cursed such men most severely, in relation to themselves, their wives, and their children, and their substances. And all the saints said, amen. . . .

Judge Drummond left Utah territory in March 1857 and wrote his letter of resignation to U.S. Attorney General Black. The letter reveals the nature of the charges against Brigham Young and the Mormons and is exemplary of rumors and falsehoods that started coming out of Utah territory after the date of the first Federal appointees' arrival in Utah Territory. In part, the letter read as follows:

. . . that after Moroni Green had been convicted in the District Court before my colleagues, Judge Kinney, of an assault with intent to commit murder, and afterwards on appeal to the Supreme Court, the judgment being affirmed and the said Green being sentenced to the

¹Samuel W. Richard's Diary, Manuscript in B.Y.U. Library, pp. 109-110.

penitentiary; also, that the said Governor Young pardoned a man by the name of Baker, who had been tried and sentenced to ten years imprisonment in the penitentiary, for the murder of a dumb boy by the name of White House, the proof showing one of the most aggravated cases of murder that I ever knew being tried; and to insult the Court and Government officers, this man Young took this pardoned criminal with him, in proper person to church on the next Sabbath after his conviction; Baker, in the meantime, having received a full pardon from Governor Brigham Young. These two men were Mormons. On the other hand, I charge the Mormons, and Governor Young in particular, with imprisoning five or six young men from Missouri, and Iowa, who are now in the penitentiary of Utah, without these men having violated any criminal law in America. But they were anti-Mormons--poor, uneducated young men enroute for California; but because they emigrated from Illinois, Iowa, or Missouri, and passed by Great Salt Lake City, they were indicted by a Probate Court, and most brutally and inhumanly dealt with, in addition to being summarily incarcerated in the saintly prison of the Territory of Utah. I also charge Governor Young with constantly interfering with the Federal Courts, directing the grand jury whom to indict and whom to not; and after the judges charge the grand juries as to their duties, that this man Young invariably has some member of the grand jury advised in advance as to his will in relation to their labors, and his charge thus given is the only charge known, obeyed, or received by all the grand juries of the Federal Courts of Utah Territory. . . .¹

Drummond was very bitter in his denunciation of the Mormons and their leaders in his letter to Washington. He also recommended other changes. Perhaps the most interesting change he recommended was that a non-Mormon governor with military aid be sent to Utah Territory.

An answer to the charges made by Judge Drummond was made in an official communication from Curtis E. Bolton, Esq., deputy clerk of the United States Supreme Court of Utah. The charges were proven false, but before the official

¹Whitney, op. cit., p. 581.

communication was received in Washington much damage was done.¹ The contents of Bolton's communication reveals the true state of affairs in Utah at that time, and refutes Drummond's charge that there was much injustice in the courts of Utah Territory due to the interference of the Mormons and their leaders. The letter, in part, reads as follows:

. . . Again in the decision of the Supreme Court in the case of Moroni Green, the which decision was written by Judge Drummond himself, I find the following words: "That as the case, for which Green was convicted, seems to have been an aggravated one, this court does remit the costs of the prosecution, both in this court and in the court below," Green was provoked to draw a pistol in self-defense, but did not point it at anyone. He was a lad of 18 years old. Much feeling was excited in his favor, and he was finally pardoned by the Governor, upon a petition signed by the judges and officers of the United States Courts, the honorable secretary of state, and many of the influential citizens of Great Salt Lake City.

Again: in relation to the "incarceration of five or six young men from Missouri and Iowa, who are now, March 30, 1857, in the penitentiary of Utah, without those men having violated any criminal law in America," etc. This statement is utterly false.

I presume he alludes to the incarceration, on the 22nd January, 1856, of three men, and on the 29th of January, 1856, of one more; if so these are the circumstances:

There were quite a number of persons came here as teamsters in Gilbert and Gerush's train of goods, arriving here in December, 1853, after winter had set in. They arrived here very destitute; and at that season of the year there is nothing a laboring man can get to do. Some of these men entered the store of S. M. Blair & Co., at various times in the night, and stole provisions, groceries, etc. Some six or eight were indicted for burglary and larceny. Three plead guilty, and a fourth was proven guilty; and the four were sentenced to the penitentiary for the shortest time the statute allowed for the crime; and just as soon as the spring of 1856

¹Drummond's letter apparently greatly influenced Buchanan's sending of an army to Utah in 1857. It also seems to have influenced Senator Douglas's political speech of June 12, 1857, when he spoke out against the Mormon people.

opened, and a Company was preparing to start for California, upon a petition setting forth mitigating circumstances, the governor pardoned them, and they went on their way to California. It was a matter well understood here at the time, that these men were incarcerated more particularly to keep them from committing further crime during the winter.

Since that time there have been four persons sentenced to the penitentiary, one for forgery and three for petty larceny, for terms of sixty and thirty days, to wit; one on the 19th November, 1856, for larceny, thirty days; two on the 24th November, 1856, for aggravated larceny, sixty days; and one on the 26th January, 1857, for forgery, thirty days. So that on the 30th March, 1857 (the date of W. W. Drummond's letter), there was not a white prisoner in the Utah Penitentiary; nor had been for several days previous, nor is there at this present writing.

Three Indians in prison at this time were those convicted for having taken part in Captain Gunnison and parties massacre.¹

After Drummond left Utah Territory, it was hoped that men of higher characters would then be appointed, but the new judges were little better than the others before them. Two of the most undesirable judges during the period following Drummond's resignation were Sinclair and Cradlebough. Sinclair was a man that was often seen drunk and commanded but little respect from the people of the Territory. Cradlebough was an enemy of the Mormons and strongly suspected them guilty of the Mountain Meadow Massacre affair that occurred in September, 1857. He, along with Sinclair, exercised powers beyond proper jurisdiction and soon a judiciary and executive controversy developed in the Territory. Cradlebough requested the presence of several companies of Johnson's army while holding court in Provo, and was supplied with them. Governor Cummings visited Provo at this time and saw no need for the army there

¹Whitney, op. cit., pp. 583-584.

and requested that the troops be removed. The Governor's request was ignored, whereupon he wrote Washington officials about the affair. U.S. Attorney General Black wrote the judges requesting them to stay strictly within their own official spheres. The incident of the letter greatly helped reduce the power of the judges in their attempts to subject the Mormons to further indignities.¹

With the leaders of the Mormon church requesting their members to stay out of territorial courts with their grievances, and at the same time condemning court practices, it is easy to see why friction developed between Mormons and non-Mormons during this period. For example, if trouble developed between a Mormon and a non-Mormon, the Mormon would want the case settled before a Bishop's Court. On the other hand, the non-Mormon naturally preferred the territorial court. In the end the territorial courts won out, but in difficulties among themselves the Mormons continued using the Bishop's Courts.

The early federally appointed judges presiding over the district courts in Utah Territory were rarely men of high and noble character. They were largely responsible for the distrust of Utah's self-governing ability by the United States Government. By misrepresenting affairs in Utah to Washington, they contributed in part to the delay of statehood for Utah until 1896.

¹Neff, op. cit., pp. 697-698.

CHAPTER III

PRISON SITES AND PRISONS

There was no real need for a penitentiary in the Great Basin area during the first few years after Mormons settled there. The population increased rapidly after gold was discovered in California, bringing much lawlessness into the area. By 1850 a penitentiary was needed in the Territory.

The same act of Congress providing for the organization of a Territory of Utah on September 9, 1850, also carried an appropriation for the erection of public buildings, including a territorial prison. But for some reason no further mention was made by the U. S. Congress relative to the construction of the prison in succeeding messages to the Territorial Government in Utah during the next year.¹

Evidently the United States Congress felt that the Territory, due to its infancy and remote location, did not need a penitentiary at this time, but the Legislature of the Territory felt differently. It had been promised an appropriation for a prison and had no intention of letting the matter drop as was indicated by a message to the Senate and House of Representatives of the United States in the first annual

¹Noble Warrum, Utah Since Statehood, Historical and Biographical, (Salt Lake City: S.J. Clark Publishing Co, 1919), Vol. I, p. 194.

session held in the Territory of Utah, September 22, 1851, at Salt Lake City.

To the Honorable, the Senate and House of Representatives of the United States, in Congress Assembled.

Your Memorialists, the Legislative Assembly of the Territory of Utah, would respectfully suggest to your honorable body, the necessity of a suitable building for a Territorial prison in this Territory.

In doing this, we would respectfully suggest to your honorable body, though our locality is quite remote from the exercise of Judicial authority in other states or territories, still we are not beyond the pale of frequent and multiplied crimes and offenses, which demand the retribution of imprisonment. The expense of building a safe prison, sufficiently large to meet the liabilities of convicted criminals in this Territory is greater than a distant observer might readily apprehend.

This more than ordinary expense arises both from the extraordinary cost of labor and materials, and also from the multiplication of criminals thrown into the Territory by a transient and wayfaring population, as well as our own. The early erection of a substantial prison it is believed would not only tend to prevent crime, but also to reform the offenders and put them in the way of self support. The infancy of the Territory renders the erection of such a prison, at present, without the aid of Congress, too great a work for the finances of your memorialists.

Your Memorialists therefore respectfully pray your honorable body, to appropriate the sum of sixty thousand dollars for the speedy erection of a Territorial Prison for Utah Territory; and your Memorialists, as in duty bound will pray.¹

On March 3, 1853, the United States Congress approved an appropriation for the building of a penitentiary in the Utah Territory. First, a suitable site was to be purchased and a prison was to be built to care for any and all needs of convicts within the Utah Territory. Instead of Congress

¹Acts, Resolutions and Memorials, passed by the first Annual and Special Sessions of the Legislature of the Territory of Utah, Begun and held on the 22nd Day of September, A.D. 1851, (Great Salt Lake City: Brigham H. Young, Printer, 1852), p. 219.

appropriating sixty thousand dollars for a good penitentiary as was requested by the Legislative Assembly, it granted only twenty thousand dollars for the entire cost of purchasing a piece of property and constructing a penitentiary.¹

Mr. A. W. Babbitt, Secretary of the Treasury for Utah Territory, was intrusted with the task of locating a piece of land suitable for the building of a penitentiary. Many places were considered, but apparently no desirable place within the Salt Lake City area could be purchased for the location of a prison. Seven months after authority was given A. W. Babbitt to select a prison site, a place was finally chosen. The site selected was located in what was then known as the Big Field Survey, ten acre plot, Block 27, Lot 10-11, Great Salt Lake County.

The survey was made under the provisional laws of the State of Deseret, and by its surveyor the property was duly recorded. The boundaries of the site designated were not at this time defined, and as late as 1878 were still not defined.² However, the land possessed was that portion of Lots 10-11 in Block 27, that lay north and east of an irrigating canal crossing that area.³ The canal was never enclosed within the

¹A. P. Rockwood, A Report with Extracts from the Congressional Acts of the United States Congress, The Legislative Journal and Laws of the Territory of Utah and a Concise History of Utah Penitentiary, Its Inmates and Officers, From the Year 1855 to 1878. Compiled for and by the Request of Mr. H.H. Bancroft, Salt Lake City, Jan. 4, 1878., p. 3.

²In this original purchase only ten acres were obtained, but later one hundred and eighty were added.

³Rockwood, op. cit., p. 2.

walls of the prison, as required by law to make the claim valid under the then existing local laws, but no legal action contesting this point was ever instituted. The site selected for building the first penitentiary for the Utah Territory happened to be located on government land. Since there were no squatters or other valid claims to the site, there was no necessity for purchasing the property.

After obtaining a prison site, the agent, Mr. Babbitt, advertised for sealed bids for the erection of the penitentiary. He, of course, furnished the plan for the building and specifications as to construction. In due time a number of proposals came in to Mr. Babbitt, but each proposal was for a larger amount than the United States Congress had appropriated; consequently none were accepted. Two building companies, Little & Young, and Rockwood & Kelton, submitted proposals which seemed to be good to Mr. Babbitt, but they still were too high so their bids were also not accepted.¹

Seeing that no one was willing to contract such a building with the existing specifications for the sum of twenty thousand dollars, Mr. Babbitt wrote the Secretary of the Interior, Robert Cleveland, of his problem and gave him details of what had taken place. Secretary Cleveland then instructed Mr. Babbitt to advertise again for bids, but to omit mentioning the number of cells, or the size of the penitentiary to be built. The builders were advised to submit their bids to Mr. Babbitt stating how many cells they would

¹Ibid.

construct and the size of prison house they would build, and other specifications with which they would comply. One would gather from this that regardless of the fact that twenty thousand dollars was not enough to build a good prison, a prison of some kind was to be built anyway.¹

Messrs. Little & Young, also Rockwood & Kelton, again submitted their proposals for building a penitentiary, and Mr. Babbitt was of the opinion that the bid submitted by Little & Young was the better. He wrote again to the Secretary of the Interior submitting the bids of Rockwood & Kelton and Little & Young. Secretary Cleveland then instructed Mr. Babbitt to accept the bid of Rockwood & Kelton. By this time Rockwood & Kelton were tired of the dawdling of Mr. Babbitt and the Secretary of the Interior and politely declined the offer. The contract was then awarded to Little & Young, who accordingly filed the same acceptably, and in due time it was received by Mr. Babbitt.²

At last the construction of the territorial prison got under way. A house for the warden was built on the site along with a prison house, workshop, and an outer court.³ The walls of the outer court were built of adobe, twelve feet high, and four feet thick. The walls, enclosing about seven acres, were

¹Ibid., p. 3.

²Ibid.

³Writers' Program, Utah, Utah, a Guide to the State, Compiled by Workers of the Writers' Program of the W.P.A., for the State of Utah. Sponsored by Utah State Institute of Fine Arts. New York: Hastings House, 1941, p. 266.

built upon a foundation of rock laid in lime mortar. On top of the wall was a walk made of lumber, with wooden hand railings on each side. There were four watch towers at each corner of the walls. The workshop and prison house were made of the same materials as the walls, with the exception of the cells located under the prison house. There were sixteen cells made of iron bars placed in excavated holes. The cell doors were made of plank, covered with sheet iron. Needless to say, these cells were poorly ventilated and undesirable even to prisoners of those days. The warden's house was the only comfortable place within the enclosures of this first prison constructed in the Utah Territory.¹

Late in the year of 1854 the prison was completed, and in January, 1855, Mr. Babbitt reported it to the Legislative Assembly as ready to be delivered to a proper officer of the Territorial Government of Utah.²

The twenty thousand dollars originally planned to be spent for the construction of the entire prison property was depleted before the prison structure was completed, and an additional twelve thousand was appropriated. The Legislative Assembly appealed for fifteen thousand dollars and had received only twelve, and this brought the total appropriation for the prison to thirty-two thousand dollars.³

¹Ibid.

²Rockwood, op. cit., p. 3.

³Acts, Resolutions and Memorials, passed at the Annual Sessions of the Legislative Assembly of the Territory of Utah. (Joseph Cain, Public Printer, Great Salt Lake City, Ut., 1855), p. 417.

In December, 1855, the Legislative Assembly and Governor Brigham H. Young met at Fillmore City in the fifth annual session. One of the main topics for discussion was the need for twelve thousand dollars to complete the Territorial prison in Salt Lake City. They felt that the thirty-two thousand dollars already expended for erection of the prison had been honestly and wisely used by the superintendent of the project. It was felt that the walls and outer buildings connected with the walls needed to be rebuilt out of better material than adobe.¹ This additional money requested by the Legislative Assembly to complete the prison was never granted by the U. S. Congress.

In 1857 the workshop in the inner court was burned down, and to make matters worse, a portion of the prison house was blown down in a rain storm in 1858. Other parts of the prison were also damaged in the storm, and this along with the ill treatment of prison property by the prisoners had the structure in a very dilapidated condition by 1860.² Many prisoners, both United States and Territorial, escaped from time to time from the penitentiary due to a lack of proper prison facilities.³

¹Acts, Resolutions and Memorials to Congress, passed at the Annual Sessions of the Legislative Assembly of the Territory of Utah. (George Hales, Public Printer, Great Salt Lake City, Ut., 1855), 1.

²Rockwood, op. cit., p. 7.

³Ibid., p. 8.

With the coming of the U.S. Army to Utah Territory in 1858, the Territorial Government did not receive any financial aid from the U.S. Congress to repair the penitentiary. Nor is there any record of an application for an appropriation again before 1862. An adequate penitentiary was needed as never before because of increased crime, but the prison was in a very dilapidated condition.¹ The old prison seemed destined to remain in this condition since the United States Government would not appropriate money to repair it, and the Territorial Government did not have the finances.

In 1863 the Territorial Legislature finally appropriated five thousand dollars from the Territorial Treasury for the purpose of repairing the Utah penitentiary. One thousand dollars went to pay the full salary of the warden for that year, and part was spent to rebuild the workshop that had burned in 1857. The remainder of the money was used in repairs on the walls and prison house.²

Up to the year 1864 there had been seventy-five prisoners admitted or committed to the prison of which only seventeen served out their sentences. Many had escaped due to lax prison guards and inadequate prison facilities. Many of the prisoners who were supposed to have been in the Utah Penitentiary prowled the streets of Salt Lake City stealing and committing other depredations.³

¹Hosea Stout's Diary, Manuscript in B.Y.U. Library, Vol. 6-8, p. 532.

²Rockwood, op. cit., p. 14.

³Ibid., p. 13.

The officer in charge at the prison was censured, but he was exonerated to a great extent due to the dilapidated prison condition. In 1864 the Legislative Assembly in Utah Territory sent an ironic but sad plea to the House of Representatives in Washington, D.C., relative to appropriations for the penitentiary in Utah.

That whereas, owing to an extensive and variety of complicated circumstances (many of which are unavoidable) we find the Penitentiary in its present condition to be almost totally unfit for the purposes for which it is designed; first, from its dilapidated condition in general; 2nd, the decay of its walls, the unsafe and unhealthy conditions of the cells, the deficiency of suitable locks and fastenings, lights, and sentinels, etc. etc. which for the lack of means, has not yet been sufficiently provided for, thereby characterizing this prison in distinction from all other prisons in the world.

The means heretofore appropriated have proved to be greatly insufficient for the completion of the building according to its very economical design, and the means thus appropriated having long since been exhausted, is justly a subject of complaint. It endangers the security of the prisoners, and increases the expense of the guard.¹

The U.S. Government did nothing to help the Territorial Government make the prison safe for prisoners, and during the period of time from 1864 to 1871, the prison remained in poor condition. The sleeping cells built underground proved very unhealthy, especially in the warm season of the year. With no money appropriated by the United States Government for the upkeep of United States convicts and with very little money from the Territory, there were not sufficient funds to pay a night guard, consequently prisoners escaped that otherwise could have been secured.² Despite this, the Territorial Legislature

¹Ibid., p. 11.

²Ibid., p. 28.

tried with little success to devise means for providing more wholesome sleeping quarters. In January, 1867, in the sixteenth annual session of the Legislative Assembly, an appeal for twenty thousand dollars to repair the old penitentiary was made.¹

The Legislative Assembly by 1870 had seemingly exhausted efforts to obtain funds to repair the old prison and planned the construction of a new territorial prison. Discussions included plans for a new penitentiary site on one of the islands of Great Salt Lake. An island in the middle of Salt Lake was thought to be an ideal location for a prison. Surrounded by water, it would be hard to escape from the prison. The salt industry and rock quarries offered excellent facilities for convict labor and, properly developed, would have greatly aided in the upkeep and support of the convicts.² This idea of a penitentiary on one of the islands in Great Salt Lake was not new since Church Island, located in Great Salt Lake, had been used before for keeping at least one prisoner there. One night in 1862 a grave digger, Jean Baptiste, was caught robbing a grave in Salt Lake City. His sentence was very unusual. He was branded and shackled and put on Church Island as a solitary prisoner. He later disappeared from the Island and was never heard from again. Many

¹Acts, Resolutions and Memorials to Congress, passed at the Annual Sessions of the Legislative Assembly of the Territory of Utah. (Great Salt Lake City: James A. Thompson, Public Printer, 1867), p. 37.

²Rockwood, op. cit., p. 38.

people wondered what had happened to Jean Baptiste, but the mystery remained hidden for many years. A number of years later a skeleton was exhumed by the mouth of a stream flowing off Church Island, and it still had a fetter and a link of chain on it. It was decided that this was the remains of Jean Baptiste, the grave robber. He had met his death by drowning. Whether he had committed suicide by drowning himself in his loneliness, or whether he attempted to escape from the island and was accidentally drowned was never known.¹

From 1855, when the prison was delivered to the Legislature for the keeping of convicts, to 1871, the Territorial Government of Utah maintained the penitentiary for the purpose of keeping its prisoners. United States convicts were also kept at the penitentiary. The prison was referred to as Utah Penitentiary during that period. With the coming of 1871, the Congress of the United States passed an act, the provisions of which were to turn the penitentiaries that were the property of the United States over to the United States Marshals in the territories where said penitentiaries were located.²

In 1871 Albert P. Rockwood was the Territorial Warden of Utah Penitentiary and in compliance with the act of Congress passed in January of the year, he turned over the penitentiary to United States Marshal Patrick. Utah Penitentiary was then located upon the foothills of southeast Salt Lake City and had been jointly erected by Utah Territory and

¹Writers' Program, op. cit., p. 484.

²Rockwood, op. cit., p. 67.

the United States. It was held to be jointly owned, but most of the appropriations for building the prison had come from the United States, with the exceptions of a workshop, some repairs, and salaries which had been paid from the Territorial Treasury from time to time. At first Albert P. Rockwood was very reluctant to turn over the prison to the Marshal, but finally he did release it to him after claiming certain properties as belonging to the Territory of Utah.¹

Marshal Patrick was given authority to take charge of all United States prisoners who were serving in the Utah Penitentiary. In addition he had been given permission to contract with the proper authorities in the Territory of Utah for the board and care of the Territorial convicts.² Soon after the delivery of the Penitentiary to the United States Marshal in 1871, Warden Rockwood proffered to contract with the Marshal for the keeping and carrying out the sentences of the Territorial prisoners left in his custody. Marshal Patrick said that he would keep the prisoners for a dollar and a half a day, but Warden Rockwood refused to turn them over to Patrick, for Rockwood felt that Patrick was asking too much money. Warden Rockwood did not make a contract with the U.S. Marshal and decided to keep the prisoners. He felt that they could be kept for less than half the amount Marshal Patrick was charging.³

¹Orson F. Whitney, Whitney's Popular History of Utah, (Salt Lake City: The Deseret News Press, 1916), p. 271.

²Ibid.

³Ibid.

With the United States Marshal in charge of the Penitentiary, the Territorial government realized that some other provisions had to be made to keep their prisoners. Warden Rockwood was instructed to make the necessary arrangements with the authorities of Salt Lake County for the use of the county jail to keep the convicts, but the plan did not please the county officials. Warden Rockwood then was given the signal to find some other suitable place to house the convicts until something more desirable could be arranged. It was then decided by the Legislative Assembly to appropriate five thousand dollars annually, or enough money necessary to keep and feed the convicts.¹ Money was also appropriated for the purchase of six steel cells to safeguard the convicts. At the same time there was again talk of the Territory building a new penitentiary, and again one of the areas proposed for a prison site was Church Island in Great Salt Lake.²

Despite all proposals to build a new prison, one was not built at that time; instead prisoners were committed to Warden Rockwood who rented buildings in which the prisoners were kept, when they were not working away from Salt Lake City.³

The name of the penitentiary from 1855, when it was completed for use, till 1871, when it was taken over by the U. S. Marshal, was Utah Penitentiary. When this property was

¹Rockwood, op. cit., p. 39.

²Ibid., p. 38.

³Ibid., p. 39.

taken over by the United States Marshal, it then became known by law as the United States Penitentiary and kept this name until 1896, at which time all the prison property was turned over to Utah, which became a new state after existing as Utah Territory for forty-six years.¹

At that time the territorial prisoners were moved from place to place, wherever there was a suitable job of mining, quarrying, or any other laboring jobs convicts could do. Warden Rockwood moved the prisoners to many places, working on many jobs, but none of them ever escaped, due to the unique system he had of transporting the convicts from place to place in portable iron cells. These iron cells were made of bars of iron about a half inch in diameter, riveted to cross bars standing about twelve inches apart. The space between the iron bars on the ends, top and bottom was only about two inches. Entrance to the iron cell was through a small door in the center of one end of the cell. The door to the cell was made of the same kind of iron and was secured with two locks. The cells weighed about 1300 pounds and cost about two hundred dollars each. The cells were six and a half feet wide, seven feet long, and eight feet high. Two portable wooden bunks were in each cell and there was sufficient room to lodge two convicts in each unit.² These iron portable cells were particularly designed to be used outside the prison wall, when the convicts were moved from one job to another. In warm and

¹Ibid., p. 67.

²Ibid., p. 65.

pleasant weather the cells were usually kept in a large tent, with a guard always on duty. When late fall and winter weather came, and until warm spring weather came again, the convicts were placed in the cells inside suitable buildings. The cells were considered to be quite secure, were well ventilated, were easily kept clean and could be moved at the pleasure of the warden in charge. These iron cells were used first by the Territorial warden and later were adopted by the United States Penitentiary in Salt Lake City. Several of the county jails in Utah Territory later adopted and used these iron cells too.¹

In 1877 United States Marshal Nelson was in charge of the United States Penitentiary in Utah Territory, and Warden Rockwood was still the Territorial warden. Warden Rockwood had no prisoners in his custody at that time, and Marshal Nelson requested the loan of the iron cells and some other property being held by Rockwood as property of the Territorial government of Utah. Since the property requested to be loaned was for the safe keeping of United States convicts, and therefore in the interest of public safety, Mr. Rockwood made the loan, after receiving clearance from the auditor of Public Documents in the Territorial Government.² A copy of a receipt from Marshal Nelson to Albert P. Rockwood is interesting because it reveals some of the equipment used in prisons of

¹Ibid., p. 66.

²Ibid., p. 64.

Utah Territory during the time Utah Penitentiary was in the hands of the United States Marshals:

Salt Lake City, November 3rd, 1877--

Received as a loan of A. P. Rockwood, for the security or use of the convicts committed to the United States Penitentiary, the following named articles, to wit, five iron cells, one black dilto, three shackles, each with chain and slug, and two iron wheelbarrows, they being the property of the Territorial government of Utah, in the custody of said Rockwood and subject to the direction of the Legislative Assembly of said Territory; all said articles I agree to return to him on ten days' notice, at any point he may designate within one mile of Salt Lake County Court House.

William Nelson
U. S. Marshal¹

In 1883, with the United States Penitentiary at Salt Lake City still in the hands of the United States Marshal, the prison was in a very dilapidated and undesirable condition. It looked only slightly different than it did when first put into use in 1855. It consisted of a rectangular mud wall enclosure. The walls were now nineteen feet high with guard towers at each corner. The enclosure contained several acres of land and inside were three houses with slanting wooden roofs. One of the houses was a low log structure that looked something like a cow barn, and this building served the double purpose of a dining room and meeting hall. The two cell houses were made of adobe and stones. The beds in the cell houses were bunks arranged along the walls, one above another, three high.² The cell houses consisted of one large room each,

¹Ibid., p. 65.

²James E. Mandell, (Inmate 5984) History of the Utah State Prison 1850 to 1935, (Salt Lake City: Telegram, 1935), p. 2.

and beds were all in the single room of each cell house. New inmates not accustomed to snoring did little sleeping until they became used to this annoying prison feature. The prisoners were locked in these cell houses each night and let out each morning at breakfast time.¹ During the day prisoners could wander anywhere within the walls, but they could not, without permission, cross "the dead line," located in front of a pair of heavy iron and wooden gates, the only means of egress from the prison. There was still a wooden walk on top of the walls and guards patrolled these and could see all that was going on within the walls from sentry boxes at the corners of the wall.² In one corner of the enclosure was an iron cage called "the sweat box," where convicts who continually gave trouble to the guards were placed. The warden's house was just outside the gates to the wall and was virtually a part of the high mud wall. Female prisoners were kept in the warden's house at this time. Also just outside the walls of the prison was another building containing a kitchen, a storeroom and a reception room where inmates could receive visitors on certain days.³

The water system for the prison was much like the rest of the prison--very poor. Water was carried in buckets from Parley's creek which flowed just outside the south wall of the penitentiary. A story is told about the prison water system

¹Whitney, op. cit., p. 427.

²Ibid., p. 427.

³Ibid.

in 1883 that seems to bear out the fact that the water was often muddy and unfit to drink.

A newcomer to the prison was sitting at the mess table with his ration of water before him; he reached out across the next man's plate for the pepper and salt. Not being permitted to converse with one another in the dining room, he whispered to his dinner mate: "This here soup needs a little seasoning." Another prisoner elbowed him and muttered out the corner of his mouth: "The soup ain't up yet. Ain't as dark as that. That's yer water."¹

It was after 1885, however, before the water system of the prison was made more modern. It was in 1896 that Warden Dow was instrumental in having a 9,600 ft. pipe installed from Parley's Canyon to an 80,000 gallon reservoir. This greatly helped the quality of drinking water at the prison as well as aiding the irrigated crops on the prison farm.²

There is no record of their being a Territorial warden after 1878, and it is assumed that the Territorial prisoners were kept in the city and county jails when possible to do so. Some of the more desperate criminals probably were housed in the United States Penitentiary, because in 1894 the United States Government requested payment from the Territorial Government for the upkeep of Territorial prisoners in the United States Penitentiary in Salt Lake City.³

In 1885 the United States Government at last decided to improve the United States Penitentiary at Salt Lake City.

¹Mandell, op. cit., p. 2.

²A. Michael McGee, The Exodus of the Utah State Prison at Sugarhouse, November 1950. Unpublished Manuscript, p. 3.

³Senate Ex. Doc. 80, 2d Session in Vol. I.

With money appropriated by Congress, the government contracted to erect a stone wall around the prison and in 1890 completed it. Number two cell house was built in 1885 to replace the old cell houses of adobe and logs. When number two cell house was completed, it was much better than the adobe houses but was poorly ventilated. There was still no individual water system as was installed later in the number one cell house, and night buckets were used for personal service. The cells were constructed of steel and were the first of their kind to be so constructed in a cell house in Utah. On the front of the cells was a heavy lattice, steel barred door that obstructed the view of prisoners looking out, but the prison was gradually being improved.¹

The Territory of Utah became the State of Utah January 4, 1896, and three days later all federal supervision at the prison was discontinued. Heber M. Wells, the first Governor of the State of Utah, appointed George N. Dow as the warden of Utah State Prison.² Warden Dow took over his new duties January 7, 1896. The newly acquired property consisted of the administration building, the central structure which still stands, and number two cell house, with capacity to house 500 prisoners. All of this was surrounded by a stone wall nineteen feet in height. Also included in the property were one hundred and eighty acres of land, purchased by the

¹Mandell, op. cit., p. 2.

²McGee, op. cit., p. 3.

United States Government.¹ Up to the time Utah became a state and inherited the prison property, the United States Government had expended three hundred thousand dollars upon the penitentiary.²

During the period of time between 1904 and 1918 a number of important improvements came about within the walls of the prison, but perhaps the greatest improvement was the construction of a new and modern cell house. This cell house stood as the only modern one within the walls of the Utah State Prison and remained so until just recently when prisoners were moved from Utah State Prison, Sugarhouse, Utah, to the new prison at the point of the mountain nineteen miles south of Salt Lake City. The cell house that was built at that time was known as number one cell house. It was built entirely of steel, concrete, stone and brick. There were four floors, with two hundred cells in the house. They were arranged in tiers, with twenty-five on each side, making a total of fifty cells on each floor. The cells were each equipped with running water and individual wash basins. Each cell had a steel bed with a cotton mattress and woolen blankets, a steel folding chair, and electric lights. The doors to the cells could be operated individually or collectively as a tier. The cell doors were controlled from a lever box located on each floor at one end of the corridor.

¹Ibid., p. 194.

²Warrum, op. cit., p. 194.

As long as a prisoner observed the rules of sanitation, he could decorate his cell and arrange pictures and accessories to his own taste.¹

The new number one cell house was built by Pauly Jail Construction Company, of St. Louis, Missouri, at a cost of one hundred and fifty thousand dollars, and by the end of 1918 the value of all the prison property had increased in value to over five hundred and seventy thousand dollars. A biennial report for 1917 and 1918 itemized the prison properties as follows:

Estimated Value of Utah State Prison Property

184 acres of land at \$300.00 per acre.....	\$ 55,200.00
Prison, including cells, cell houses, shops, guard houses, boiler rooms, carpenter and blacksmith shops and wall.....	425,000.00
Administration Building.....	20,258.88
Barns, pig pens and sheds.....	4,379.86
Ice house and root cellars.....	1,598.38
Electric lighting system.....	2,273.55
Water system.....	29,988.91
Live stock.....	6,300.00
Shop machinery.....	600.00
Six cottages (complete).....	12,000.00
Farm house.....	4,000.00
Water stock.....	5,565.00
New milk house.....	899.04
Sewer system.....	2,675.38
New bath house.....	1,675.38
New board of Pardons Room.....	656.06
Farm machinery.....	400.00
	<u>\$573,470.44</u> ²

In the 1920's improvements were made in number two cell house. It had been built in 1885 and was lighted by

¹Mandell, op. cit., p. 5.

²Report of the State Board of Corrections for the years 1917 and 1918, (Salt Lake City: The Deseret News, 1919), p. 18.

candles and oil lamps, which were replaced by electric lights in 1924.¹ With the lights and a sewer system for the entire prison and the guard cottages connected with the city sewer system, number two cell house was more comfortable, though it still did not compare with number one cell house.²

From time to time factory machinery of some kind was utilized by the prison to provide labor for the prisoners. As early as 1898 there were a number of factory machines which were operated profitably by convict labor in manufacturing various clothing items. In 1923 an overall factory was established and was operated successfully for ten years, until it was shut down by the Hawes-Cooper bill, which prohibited goods made by convicts from being sold on the public market. About the only industry that has survived till today is the automobile plate factory that was started in Utah State Prison at Sugarhouse in 1924.³

One of the first to suggest that a new prison site was needed was Warden Davis in 1926. He believed that it would be to the best interest of the prisoners if the prison were moved from the city. Warden Davis believed in segregating the hardened prisoners from the young malefactors and proposed the purchase of about six hundred acres of land in a farming area to carry out this plan. The prison site that the Utah State

¹Mandell, op. cit., p. 18.

²Report of the State Board of Corrections for the years 1915 and 1916, (Salt Lake City: The Arrow Press, Tribune Reporter Publishing Co., 1917), p. 39.

³McGee, op. cit., p. 6.

Prison was located on in Sugarhouse was fast being surrounded by dwellings and business establishments. The prison site chosen in the foothills of southeast Salt Lake City in 1853 by A. W. Babbitt was now a part of that city.

During the thirties, inmates at the Utah State Prison gradually grew in numbers until the prison was in an over crowded condition. By this time the prison was also in a very dilapidated state in almost every way. Repairs were needed badly but prison officials, as well as the state legislature, were aware of the great cost repairs involved and knew that a new prison was the only way to correct conditions of Utah State Prison at Sugarhouse, Utah.

The authorization for a new prison was finally made in 1937, with the state legislature appropriating a hundred thousand dollars for the selection, purchase and improvement of land suitable for a prison site. A selecting committee was chosen, consisting of fourteen persons with Samuel W. Steward, chairman of the State Board of Corrections, as chairman of the Commission, and Sumner Margetts as secretary. The committee soon found a suitable location, and after much deliberation a farm site consisting of 1009 acres of land was purchased. Plans were adopted to construct a new and modern prison on the site as soon as possible. The new prison site was located about twenty miles south of Salt Lake City, two miles north of the point of the mountain on the west side of the road on Highway 91.

Ashton and Evans, Architects, were selected to design

the new prison; and in November, 1940, construction began on an authorization from the state, on a "pay as you go" basis. The first stage of construction on the prison was completed in 1941 at a cost of over \$292,000.00. Work on the prison was halted during the war years due to worker and material shortages but was resumed in July, 1948, at a time when the prison at Sugarhouse was literally bulging with prisoners.

When construction started in 1940, it was estimated that the new prison would cost about a million dollars. As was mentioned, all construction was to be on a "pay as you go" basis, but if all the money had been appropriated then for the construction of the prison, perhaps the state would have been saved as much as a million and a half dollars. Again, in 1946, an estimate was made relative to the cost of the prison, and the figures were then placed at a little over a million and a half, and prices were still rising. Another estimate as to what it would cost to complete the prison was made in 1948, and the grand total then was estimated to run over two and a half million dollars. This estimate included residences for guards to cost around \$185,000.00. Plans for a 30 foot wall around the prison were authorized and approved at an estimated cost of \$425,000.00.¹

At present the new Utah State Prison is still unfinished, but since 1948 contracts have been awarded to a number of construction companies totaling \$2,411,528.64. These

¹Biennial Report of the Board of Corrections, State of Utah, Fiscal years 1946-1948, pp. 15-16.

contracts are for buildings, maintenance equipment, boiler plant, sewage disposal, restaurant and kitchen equipment etc. Thus in the neighborhood of \$3,000,000.00 has been spent or will be spent for the land and buildings operated under the title of Utah State Prison. In addition to the above amount, it has been estimated that \$335,236.00 more is needed to complete the prison as it should be. Money is needed to install hospital equipment, to build a shop and factory building, to erect a warden's residence, a farm dormitory and slaughterhouse, and to provide for other incidentals.¹

In March of 1951 the new prison at the point of the mountain was considered near enough completion to house the prisoners then confined in Utah State Prison at Sugarhouse, Utah. March 12, 1951, five hundred and seventy inmates were transferred to this new prison located on 1009 acres of land. Of these five hundred and seventy inmates transferred from Sugarhouse, one hundred and nineteen were already at the new prison living in a temporary farm dormitory. These prisoners had been working and sleeping at the "honor farm," first established in 1939 after the land was purchased. The prisoners on the "honor farm" and those transferred from Sugarhouse were equal to a number of incorporated Utah towns.

The new prison, built to accommodate over 600 prisoners, is very modernistic in design and is conspicuous

¹Biennial Report of the Board of Corrections of the State of Utah, for Biennium July 1st, 1948 to June 30th, 1950, p. 23.

with its absence of a prison wall.¹ The prison is surrounded by a pair of parallel fences, broken only by the three gun towers and a central control tower strategically located. Actually, the institution proper, which includes the single building housing the administrative departments and cell blocks, and the yard for inmate recreation, covers an area of twenty-four acres.²

The new prison proper seems to have taken advantage of all innovations in penal architecture and philosophy. It is clean, well ventilated, and the surroundings are comfortable and pleasant. Nicely painted walls have replaced the dreary, dark cells. The prison has an excellent kitchen and a clean dining room, both equipped with stainless steel utensils and equipment. More than 600 inmates could be served at one sitting if such operation were desirable.

The prison plant also has a splendid gymnasium and auditorium, and efforts are being made to utilize the hours of prisoners to keep them busy at something all the time.

From the early Territorial prison of 1854 to the new Utah State Prison of today, many changes have taken place. With the old prison at Sugarhouse being razed, and the new prison rapidly being completed, the State of Utah can pride

¹In a personal interview with Clarence Dent, Chief Clerk of Utah State Prison, I was informed that former plans to build a 30 foot wall around the new prison have been permanently abandoned.

²W. C. Thompson, (Inmate) "A Contribution to Penal Progress," Prison World, November, 1951, p. 16.

herself in making great strides in penal progress, but progress costs. The cost of operating this new prison is much greater than the old Sugarhouse prison, because there is much more space, but an increase in investments should pay larger and better dividends in human improvements.

CHAPTER IV

UTAH PENITENTIARY BEFORE STATEHOOD

In the fall of 1854, a year after construction had begun on a Territorial prison, it was declared to be completed. A. W. Babbitt, Secretary of the Territorial Treasury, notified the Legislative Assembly that the new prison was ready to be put to the use for which it was built, and in January, 1855, legislation for the operation of the prison was enacted. James W. Cummings, of the Legislative Assembly, was entrusted with the task of drawing up a bill containing procedures for the establishment and operation of the prison. The bill was presented to the Legislative Assembly in the early part of January and was passed and approved by the Governor January 16, 1855.¹

By laws enacted, the penitentiary was to be placed under the direction of three inspectors and a warden, to be elected by joint vote of the Legislative Assembly. On January 18, 1855, Daniel Carn was elected warden and Wilford Woodruff, Albert P. Rockwood, and Samuel W. Richards were

¹A. P. Rockwood, A Report with Extracts from the Congressional Acts of the United States Congress, The Legislative Journal and Laws of the Territory of Utah and a Concise History of Utah Penitentiary, Its Inmates and Officers, From the Year 1855 to 1878. Compiled for and by the Request of Mr. H. H. Bancroft, Salt Lake City, January 4, 1878, p. 3.

elected inspectors to administer the affairs of the first penitentiary in Utah Territory. The warden and inspectors were elected for terms of two years respectively. Authorization was given the warden to draw money on the Territorial Treasury as needed, to defray expenses of food, clothing, raw materials for manufacturing and other articles deemed necessary to run a prison. The inspectors, or at least one of their number, were required to visit the prison at least once a month. The inspectors as a Board were required to visit the prison once every three months or oftener, depending on the circumstances. They were given access to all parts of the prison at all times and were required to check all records, regulations and procedures. The warden and members of the Board of Inspectors each were bonded for \$5000.00 as security to the Territory.¹

When the Board of Inspectors and the warden were duly elected and approved in their offices, a clerk was appointed, and they proceeded to establish rules and regulations for direction of officers and discipline of the convicts. The warden had the clerk deliver a copy of rules and regulations to all employees, and a copy of discipline rules was given to each inmate. It was the first of February, 1855, before the penitentiary organization was complete with all parties concerned duly instructed.

¹Acts, Resolutions and Memorials of the Legislative Assembly, Passed by the Legislature of the Territory of Utah, (Great Salt Lake City: Joseph Cain, Public Printer, 1855), pp. 272-273.

Warden Carn was instructed to keep a record of the proceedings at the penitentiary in a daily journal, but he kept very few records. The records he did keep were very brief and involved very little detail. However, he did keep an account of inmates entering and leaving the penitentiary. In 1855 nine convicts were committed to the penitentiary; in 1856 nine more entered; in 1857, only one; in 1858, none; and in 1859 six were committed to the penitentiary. During the same period of time twelve were pardoned, one was discharged on writ of error, three escaped, and nine served out their terms of sentence.¹

Warden Carn and members of the Board of Inspectors proved to be efficient men who did their work well and pleased the Legislative Assembly. They were all re-elected to their respective offices from time to time and continued in office for five years.

In January, 1860, the Legislative Assembly amended the laws of 1855 relative to the organization and establishment of the territorial penitentiary. The office entitled "Inspectors of the Penitentiary" was superseded by a "Board of Directors of Utah Penitentiary." The penitentiary was placed under the supervision of the Board of Directors, consisting of three members elected for terms of one year, by the Legislative Assembly. They were also bonded for one thousand dollars each. The Board of Directors was required to visit the prison as often as was deemed necessary to govern it. They were granted

¹Rockwood, op. cit., p. 4.

access to all books and records and were required to report each year at the annual sessions of the Legislative Assembly. The warden was also to be elected annually by the joint vote of the Legislative Assembly. It was now realized that the warden had very liberal access to the Territorial Treasury, and his bond was raised to ten thousand dollars.¹

The first warden to serve under the new Board of Directors was Alexander McRae. He was elected warden by the joint vote of the Legislative Assembly in January 1860.² McRae was born in North Carolina, but he migrated to Indiana where he became a convert to Mormonism in 1837. His first knowledge of penal institutions was gained while he was an inmate of Liberty Jail, Clay County, Missouri, in 1838.³ After the capitulation of Nauvoo, McRae became acquainted with penal work in a different way when he served as sheriff in Kaneshville, Iowa. He also served as Bishop of the Eleventh Ward in Salt Lake City during the time he was warden.

During the year of 1860 twenty-three territorial prisoners and one United States convict were committed to Utah Penitentiary. Of the twenty-four prisoners committed to the prison during the year, three were discharged by writ of

¹Acts, Resolutions and Memorials of the Legislative Assembly, Passed by the Legislature of the Territory of Utah, (Great Salt Lake City: Henry McEwan, Publisher Printer, 1866), pp. 96-97.

²Rockwood, op. cit., p. 5.

³Joseph F. Smith, Essentials in Church History, (Salt Lake City: Deseret News Press, 1947), p. 249.

habeas corpus; nine were pardoned; three terms expired; one escaped; and nine remained in custody.

The Board of Directors elected in 1860 had consisted of Feramorz Little, Frederick Kesler, and E. R. Young, and the same men were re-elected in January, 1861. The new warden elected to succeed Alexander McRae was James A. Little. He had served as a missionary to England for the Mormon Church and was a man of integrity, but as a warden he was not a very efficient man. Warden Little kept very few records and left no information on the number of inmates committed to the prison in 1861. One thing is certain, however, there were no convicts left in prison when he finished his term of office. During Little's term as warden, every convict in his custody escaped except one and he was pardoned.¹ In all fairness to James A. Little, it should be mentioned that the prison was in an extremely dilapidated condition at this time, which contributed in part to the escapes.²

In 1862 the Legislative Assembly was under fire from the public for the way affairs at the penitentiary had been administered under ex-warden Little. An investigation at this time revealed that many things were needed to accomplish the desired end of reclaiming or reforming convicts at the prison. Often convicts sentenced to hard labor in the penitentiary were kept in idleness because funds were not available to hire guards to oversee the prisoners on labor jobs outside the

¹Rockwood, op. cit., p. 7.

²Ibid., p. 8.

prison. There were other cases where convicts were committed to the penitentiary for short sentences and were not compelled to do hard labor outside the prison. These convicts were very discontented because of the idleness in which they were forced to serve their sentences. Funds were not available to purchase material and tools to keep them busy inside the prison; consequently, returns from convict labor were often very small.

The Mormon belief that all men should work and support themselves evidently carried over into the administration of Utah Penitentiary, because in 1860 a law was passed by the Territorial Legislature authorizing the warden of the prison to have convicts work on jobs outside the prison walls.¹

Though the law was passed, very little convict labor had been done before Warden Rockwood's time. The Board of Directors was directly responsible for convict labor since it was their job to screen and approve all convicts for labor outside the prison. Convicts of questionable character, sentenced to hard labor, were placed under constant guard while laboring away from the prison.²

During Daniel Carn's administration as warden, from 1855 to 1859, convict labor was performed even though the convict labor law was not passed. Just how much money was realized from convict labor during Carn's administration is uncertain, but only fifty dollars is actually accounted for.³

¹Ibid., p. 17.

²Ibid., pp. 16-17.

³Ibid., p. 4.

In 1861 convict labor increased slightly and \$175.00 was earned to help defray the expenses of the penitentiary. In 1861 the average number of convicts in the prison was a little over four, but the total operating cost for the year was \$4,584.11. This averaged \$3.23 per day for each convict. Naturally the Legislature was perturbed about the high cost of maintaining the penitentiary. They had passed a law authorizing convict labor the year before, but almost nothing had been done about it. A. P. Rockwood was determined to operate the penitentiary more economically when he was elected warden. With Rockwood as warden in 1862, more prisoners were committed to the prison than in 1861, but the total cost of operating the prison was only \$1,696.25.¹ Elected again in 1863, Rockwood planned to push his program of convict labor to the limit.² There was plenty of available work for convicts during 1863, and when the year ended convict labor had earned enough to completely defray the cost of prison expenses. The records actually showed an income of two dollars and fifty-one cents.

It was Rockwood's theory that hard working convicts would be more interested in sleep and rest at night than escaping, consequently, the convicts were kept busy. They worked on territorial roads, logging in the canyons, or whatever the warden could contract for them to do. His theory

¹This figure did not include the salary of the warden, which amounted to about \$1000.00 a year at this time.

²A. P. Rockwood was re-elected each year from 1862 to 1878 and continued in office 16 years.

proved true, because only five convicts escaped from 1862 through 1864, as compared with eight escapes during the single year of 1861.¹

The big problem facing Rockwood as warden from 1864 to 1870 was that of procuring available work for the convicts, close to the penitentiary.² The most profitable and available labor for convicts at this time was road work or earth excavation jobs. Plenty of this type of work was usually available, but the Legislative Assembly often would not permit convicts to work on public highways because it deprived others of work. Rockwood always kept the convicts busy doing something to help support themselves. He saved the Territorial Government thousands of dollars during the time he served as warden of Utah Penitentiary from 1862 to 1878.³

The convicts did not always do their work willingly. On one occasion they wrote a petition to Warden Rockwood informing him that they would not perform any more work on labor jobs outside the penitentiary. The petition was signed by all inmates except three, who had nearly served out their sentences. Warden Rockwood read the petition and told the guards to lock the prisoners back in their cells. He then let

¹Rockwood, op. cit., p. 17.

²The work had to be close to the penitentiary at this time so the convicts could go there at night for safe-keeping. Also it gave them less chance to escape going to and from work. After 1870 much convict labor was done long distances from the prison due to the use of portable iron cells. (See page 52 for a description of the portable cells.)

³See Appendix C.

part of the guards off for the day and went home himself. Next morning the convicts were fed an excellent breakfast, then their cells were opened and they were told to go to work, but they still refused. Again they were locked up and this time their meals were cut to three-fourths rations. They continued in their refusal to work until their rations were cut to one-fourth on the fourth day. On the morning of the fifth day they all gladly went back to work.¹

Utah Penitentiary had rules and regulations that all inmates were required to obey. The convicts were allowed to write and receive letters, but all correspondence going in or out of the penitentiary was inspected and approved by the warden. Prisoners could have visitors, but only in the presence of a guard. The warden acted as chaplain for the institution and advised the convicts in spiritual matters. The health of the prisoners was good, and from 1855 to 1878 there were no natural deaths in Utah Penitentiary. When the convict had served his term of sentence or was released for some other purpose, he was provided with clothing amounting to not more than fifty dollars or money exceeding thirty dollars.²

Members of the Board of Directors and wardens that helped regulate affairs of the penitentiary from time to time were usually honorable men. They believed that kindness and

¹Rockwood, op. cit., p. 67.

²Acts, Resolutions and Memorials of the Legislative Assembly, Passed by the Legislature of the Territory of Utah, (Great Salt Lake City: Henry McEwan, Publisher Printer, 1866), pp. 96-97.

attention to the prisoners by officers of the penitentiary were of vast importance in maintaining good order and government in the institution. Yet they thought that convicts should not be coddled or given liberties which might lead to a relaxation of the rules and discipline of the prison. The prisoners were given to understand that while they were prisoners they would be treated as such.

The convicts had access to several Salt Lake County libraries, and many of them spent their spare time reading books. Other than reading, the convicts never had shown an interest in education, but in 1866 a real interest in education was manifest among them. The prisoners presented Warden Rockwood with a petition signed by all inmates, requesting that they be given the privilege of holding school at the prison, to be taught by one of their own number. The warden was much impressed by the eagerness of the convicts to increase their education and was happy to help them. The convicts each contributed money for the school and the warden went to purchase the needed supplies. However, he found that the contribution was insufficient to purchase the proper supplies, so he made up the difference from the funds of the institution. Soon a school within the prison was operating successfully. Classes were held each week day between the hours of 6 P.M. and 8 P.M., and they were well attended. Classes were taught in reading, spelling, writing, geography, arithmetic, elocution and composition.¹

¹Rockwood, op. cit., p. 12.

Education was one step towards helping criminals better themselves while in prison, but in the Territory of Utah there were many commendable preventative measures of crime. Speaking at the National Prison Reform Congress held at Baltimore, Maryland, on January 21, 1873, Warden Rockwood had the following words to say about conditions in Utah that discouraged crime there:

. . . First, our license law is nearly tantamount to prohibition, especially in small or thinly inhabited settlements.

Second, the Territory is subdivided into about 170 wards, or precincts, nearly all of which have an organized Relief Society, whose business is to look after and supply the needs of the poor and unsuitably cared for children. These societies are exclusively managed by ladies, and all aid is rendered by voluntary donation. The higher aim of the society is to prevent children being brought up under demoralizing influences, and to direct the juveniles in the paths of virtue. Parents and guardians not willing to accept the proffered aid, are free to take their own course so far as the Society is concerned.

Third, by an act passed by the Legislative Assembly in 1853, the probate court of each county is authorized (on complaint that there are in the county minor children who are not properly brought up) to issue an order to a proper officer requiring him to bring said children before the court, and summon the parents or guardian, as the case may be, to appear and show cause, if any they have, why said children should not be bound out to suitable persons under the provisions of the statute.

Most of the citizens of Utah are partial to large families; consequently, there is not much trouble in procuring suitable places for children in the most respectable families with little cost to the county.

The salutary effects of these preventative measures are visible in the streets of our cities by the absence of prostitutes, walking, mincing, and tinkling as they go, designing to lead the unsuspecting youth from the path of virtue. As yet no female convict has been committed to my custody, nor to the custody of my predecessors in office.¹

Warden Rockwood was a man of integrity and character.

¹Ibid., p. 38.

He had a manner about him that commanded respect from everyone, and during his sixteen years as warden of Utah Penitentiary he won the friendship of almost every inmate committed to the penitentiary. His chief weapon was that of kindness, and through kindness he accomplished much with the convicts. Through kindness he controlled the most hardened criminals. On one occasion, two men arrested for horse stealing were committed to the county jail. While awaiting trial they often boasted in the presence of the city jailer that they would not work under any conditions when they were committed to the penitentiary. These things came to the ears of Warden Rockwood, but he was not perturbed by the reports. Through his use of kindness he completely won the hearts of the two men when they were later committed to the penitentiary. In the words of Rockwood:

. . . In the early part of June they were delivered to the penitentiary. I bade them make themselves comfortable and contented, and they would be properly cared for. When supper drew nigh, I asked them if they were fond of bread and milk. They said that they were, but had not had the luxury for several years, adding that as children they used to eat bread and milk, and that their mothers used to serve it out. Soon I went in with the coveted meal, and with a bowl of strawberries. They fairly laughed for joy. Next morning beefsteak, vegetables, bread and milk were served for breakfast, the sight of which again made their hearts leap for joy. Next came the assignment of the labor, which they had sworn not to do; nevertheless, they receded from their vow and quietly commenced. When all was suitably arranged, I was about to withdraw, I cautioned the superintendent, in their hearing, not to work these men too hard, as they had been shut up in the county jail for several weeks and were not used to the scorching rays of the sun, and their hands were tender and not recently accustomed to the handling of rough tools, like our picks and shovels. I then stepped into my carriage and drove off. In the evening the Superintendent reported that the day passed quietly, and that the work went well. At the

close of the day these convicts inquired of the others if this was the way they were treated all the time. They answered in the affirmative, and assured that the warden would be as kind as a father. The next day being Sunday, I went in and inquired after the welfare of each convict. At length I came to the two new convicts and spoke a few kind words to them. They commenced sobbing followed by a flood of tears, and a voluntary confession of what they had said when in the county jail. They promised that I should have no trouble with them. Kindness had melted and subdued them. If men so hardened can be conquered, who shall be despaired of?¹

Prisoners laboring outside the penitentiary were guarded by armed prison guards, but there were exceptions to this rule. When a youth was committed to prison for a crime and was not considered a hardened criminal, he could be hired out to a parent, brother or friend to serve out his sentence. Prison officials were aware of the bad influence hardened criminals had on youthful offenders and were always glad to see the young convicts hired out. When application was made to hire convicts of this type, the following considerations were made first:

1. The prisoner had to be considered safe from possible assault by persons seeking revenge for past offenses.
2. Persons offering to hire this class of criminal were required to be responsible for the execution of the sentence.
3. The convict's word of honor had to be proven.

If a convict was requested and the warden felt that the prisoner met the proper requirements, the case was referred to the Board of Directors for final approval. If the Board of

¹Ibid., p. 49.

Directors approved the convict for hire, a contract was entered into.

The conditions of the contract were of such nature that the employer was to feed, clothe, guard and meet all charges incurred in the execution of the convict's sentence and to pay the warden the amount set forth in the agreement.¹ The convict was required to obey the rules of the institution as far as they were applicable to him. A further condition was that the convict could be returned to the penitentiary on the order of the warden without reason or explanation. With these and other more minute stipulations, the employer was then appointed deputy warden and bonded as security for the execution of the convict's sentence. The convict was then released to his employer but still remained under the watchful protection of the warden who had power to order his return at any time.² This system of hiring out convicts worked satisfactorily in most cases, with only four per cent of the cases proving unsatisfactory. The other 96 per cent hired out were in a measure reclaimed, and many settled down to be good citizens. Others passed out of the Territory to parts unknown, but none of them were ever recommitted to custody of the warden for second offenses.³

The most annoying thing connected with being warden

¹The cost to hire a convict was about thirty dollars a month.

²Rockwood, op. cit., p. 51.

³Ibid., p. 52.

of a penitentiary was that of having a prisoner escape, and Warden Rockwood had many problems with escapees. The territorial prison was made ready for the reception of convicts in 1855, and by the end of 1863 seventy-five convicts had been committed to prison, of whom only seventeen served out their sentences. Eighteen convicts escaped, twelve of which were never recaptured. Three convicts were killed attempting to escape. Thirty-eight were also pardoned or released by the exercise of habeas corpus, much to the dissatisfaction of Warden Rockwood, who had the following to say about the practise:

. . . Thirty-eight were discharged by the unwarrantable and unjust exercise of habeas corpus and pardoning power, thereby in some cases setting at liberty persons convicted of the most enormous crimes known to our laws, whose vicious habits and unrestrained passions render life and property altogether unsafe. Hereby annihilating the certainty of punishment and making the verdict of juries and the sentence of courts a ridiculous burlesque and total nullity, and by the prejudicial, unjust and implacable exercise thereof by Federal, Judicial and Executive authority, the administrators of which they themselves were worthy of and justly entitled the choice and occupancy of the most safe and secure berths within the prison wall.¹

Escapes from Utah Penitentiary were quite numerous. The number of escapes plus those killed attempting to escape between 1855 and 1878 averaged about 25 per cent of all prisoners committed to the penitentiary during this time.²

Rockwood's experience with escaping convicts started in January, 1862, when he was first elected warden. There were

¹Ibid.

²See Appendix B.

only six convicts in Utah Penitentiary at this time. One of these convicts, Delos Gibson, escaped May 24, 1862. He was captured near Fort Bridger the last of June. While being returned to Salt Lake City, Gibson attempted escape by swimming the Weber River and was shot and killed. His body was brought back to Salt Lake City and delivered to Warden Rockwood in July 1862.

Two other convicts, Alfred Higgins and William Eccles, also escaped in May 1862. They were reported as having been in Utah County and were later seen in Idaho Territory. The convicts joined an emigrant company enroute to Oregon but went down to Brigham City, Utah, while waiting for the company to start. On their return to the emigrant camp, they boasted to the ferryman at Bear River that they were escaped convicts from Utah Penitentiary on their way to Oregon. They told the ferryman to tell anyone who might pursue them to bring their "grave clothes" along, implying that they would die rather than allow themselves to be recaptured. The ferryman sent a notice to the sheriff of Box Elder County telling of the whereabouts of the two fugitives. The sheriff immediately rounded up a posse, and after traveling all night, arrived at the emigrant camp the next morning about daybreak.¹ Seeing the posse arrive in camp, the convicts attempted to flee to the mountains on horseback. They were pursued, and when close enough the sheriff

¹A posse was easy to raise in those days because there was a law that made it a criminal offense to refuse to serve in one. An exception to the law was allowed if good enough reason for refusal to serve could be shown.

requested that they surrender. They ignored the request and were shot and killed.

At the end of 1862, five convicts had escaped and three were returned to Utah Penitentiary dead.

Eccles, the fugitive killed in Idaho Territory, was a fellow always ready for a joke. One night when the rest of the prisoners were loudly saying their prayers, Eccles was heard to pray:

Oh Lord, now I lay me down to sleep;
I pray thee that Burnett, the guard, may soundly sleep.
If I should get away before he wakes,
May he never me overtake.¹

In the winter of 1863 the prison was in a very dilapidated condition. Prison funds were insufficient to pay even a night guard, and the day guards locked the prisoners up and left them until the next morning. During this period of time two convicts, Angelos and Dives, dug a hole from their cell through the wall into the inner court. Then they tore their blankets in strips and made a rope. By the aid of some small willow sticks they threw their rope over the wooden handrail on top of the wall and scaled the wall easily. They went into the city and broke into the county court house and stole money from the sheriff's drawer and the city recorder's desk. They then returned to the prison, scaled the wall into the inner court and crawled through the hole back to their cells. They replaced the loose stones in the wall and were asleep in their bunks the next morning when the guards came. They went out on

¹Rockwood, op. cit., p. 9.

a number of trips to steal and prowl around before they were detected. A suspicious guard discovered their escape secrets two weeks before they had planned to escape for good. Immediately after the warden was notified of the discovery by the guard, he had the convicts put in irons and placed a guard over them night and day.¹

Thwarted in his escape attempt, Dives threatened revenge on the sheriff and his deputies, the Salt Lake City mayor, and the police force. In March 1864 he made good his escape in a very clever way. Rockwood gave the details:

. . . It was our custom at the close of the day for the two guards to conduct the convicts to their cells and lock them up for the night. One of the guards was armed and stood at the door, while the other guard conducted them in. Dives came to the guard at the door and said he had forgotten to empty his night vessel. The guard let him pass out with the vessel, when as soon as he was outside he turned and slammed the door and locked it. Locking both guards on the inside. It was customary after locking up the prisoners for one of the guards to retire outside the inner court and the other remained in the inner court for night guards. This was well known to Dives, and he went to the door and impersonated the guard by knocking for the turnkey to let him out. It being dark the turnkey could not discern that it was any other person but the guard, and opened the door, when Dives snatched the key, locked the door, and made off taking the key with him. Thus he made good his escape . . .²

Quite a few people were very much afraid of Dives because of his previous threats, and a reward was promptly announced for his capture dead or alive. A few weeks after his escape he was seen one day in Salt Lake City, and it was learned that he would return to the city that night. The

¹Ibid., pp. 23-24.

²Ibid., p. 25.

policemen were cautioned to be sure that they attack the right man and to get in the first shot. Dives was shot and killed that night as he attempted to escape from the police. His body was delivered to the warden the next day.¹

In 1865 two more convicts escaped to Utah County and stole two horses. They rode south to Millard County, about a hundred miles away and stole two more horses and headed in the direction of Nevada. About thirty miles from Pioche, Nevada Territory, they were overtaken by a posse from Millard County. They were commanded to surrender but failed to obey, and both men were shot and killed. After the escape incidents of 1864 and 1865, many convicts were placed in irons for their security as well as the safety of the guards.

Escapes from the penitentiary plagued Rockwood throughout his long period of service as warden. Perhaps 1869 was the worst year of Rockwood's administration, because eleven prisoners escaped and two were killed attempting to escape.

On one occasion six United States convicts were committed to Utah Penitentiary for offenses against the United States. Several of the convicts were soldiers. On the second day after the six convicts had been committed to the penitentiary, a well dressed woman visited the prison and requested the privilege of having an interview with her husband, named McCoy, who was a soldier. Warden Rockwood inquired of the nature of the visit and then admitted her to the visiting room

¹Ibid., pp. 25-26.

of the prison. He then sent a guard to get the woman's husband. The guard brought the convict into the visiting room and Warden Rockwood told him that it was a pleasure to present his wife for a short visit. The convict arose and warmly greeted the woman. After a short visit the woman thanked the warden and left. The next day when the warden was in Fort Douglas, Colonel Connor inquired of him about McCoy. Rockwood told him that the prisoner was happy because his wife had visited him the day before. Colonel Connor then told Rockwood that McCoy was not married and requested him to describe the woman to him. Finally it was established that the visitor was a woman of ill repute.

The next day the warden called McCoy into his office and asked him why he had deceived him into believing that the visiting woman was his wife. The prisoner, a non-Mormon, looked at Rockwood and replied, "Mr. Warden, you introduced her as my wife, and I understand that you Mormons have a way of marrying by proxy and I accepted the ceremony."¹

Other encounters with United States soldiers were less comical to Warden Rockwood. On several occasions a number of soldiers outside the prison walls attempted to free their friends from the penitentiary. Through the efforts of the unidentified soldiers outside the prison wall, two United States convicts escaped in 1863.

On April 29, 1863, a soldier named Gridly Plank, from Camp Douglas, shot at Warden Rockwood five times with a navy

¹Ibid., p. 22.

size revolver. Fortunately none of the shots struck the warden. Rockwood arrested Gridly, bound and locked him in a cell in the penitentiary until the next day and then delivered him to the civil authorities. Judge Elias Smith committed Gridly for assault with intent to kill. Colonel Connor came and took the prisoner from the civil courts and said he would be given a military trial. Witnesses were never called to testify about the incident and Gridly went free.¹ Such incidents as this insult only served to make feelings worse between territorial employees and United States soldiers.

The contention between Federal Judges and people of Utah Territory, that had been going on since Utah became a territory, was still going on at this time and affected penitentiary affairs. In September, 1863, an event occurred in connection with the penitentiary that further widened the trouble between federal judges and Warden Rockwood. The territorial marshal brought ten men charged with murder to the penitentiary with an order from the United States District Judge of the Third Judicial District to keep the men until called for by the proper authorities. Rockwood refused to take charge of the men because he had no secure place to keep them; the money appropriated for penitentiary purposes had been exhausted; the men were not yet convicts and could not be put to work to help earn their living. Rockwood justified his stand on the issue as follows:

If I had money belonging to the institution I know of

¹Ibid., p. 18.

no law authorizing or requiring me to expend it on this class of prisoners. By the foregoing it is reasonable to infer that there is a difference of opinion between the U. S. District Judge of the third Judicial District, and the ministerial officer of the penitentiary. Therefore I respectfully suggest that you recommend that the Legislative Assembly appoint and appropriate a committee to examine the statutes on this subject, and if they are not sufficiently explicit for the common understanding, that they be made so. And if they are found sufficient that they bring in a bill making it a penal offense for a judge of a court to impose on a ministerial officer in like manner.¹

In January, 1871, a congressional act was passed authorizing United States Marshals in certain territories of the United States to take charge of the territorial prisons erected by the United States. The United States Marshal in Utah was also authorized to contract with the proper authorities to keep the territorial prisoners. Anticipating that Marshal Patrick would want to take over the territorial prisoners from his keeping, Warden Rockwood hired most of them out, in keeping with the previously established policy of the prison.²

On July 28, 1871, Marshal Patrick and Governor Woods came to the penitentiary and Patrick demanded possession of the penitentiary and the prisoners. Rockwood informed Patrick that the Territorial Government had an interest in the penitentiary, and since he was under bond for the property committed into his trust, he needed more time to make

¹Ibid., p. 35.

²Acts, Resolutions and Memorials of the Legislative Assembly, Passed by the Legislature of the Territory of Utah, (Great Salt Lake City: Henry McEwan, Publisher Printer, 1866), pp. 96-97.

necessary arrangements. More time was granted Rockwood, but he was told by Patrick that the prison would be taken by force if there was any unnecessary delay. In early August Rockwood entered a protest against Marshal Patrick's actions, but on August 3, 1871, Patrick took possession of the penitentiary.¹

Marshal Patrick took possession of the penitentiary, but there were no territorial prisoners there since Rockwood had hired them out. Several weeks later Patrick sent a United States Deputy Marshal for the prisoners. Rockwood asked the deputy for a warrant for the prisoners but he did not have one. In spite of Rockwood, the deputy went to the farm where one prisoner was working and took custody of him. Fearing that Patrick would also get the other convicts, Rockwood took them to Salt Lake City jail and made arrangements for them to be kept there. Patrick then came to the city jail and demanded the prisoners but was refused by the city marshal, John McAllister. Patrick threatened to arrest and imprison McAllister and Rockwood in Fort Douglas and further threatened to get help and break into the jail and get the prisoners. Instead of breaking into the jail, he entered charges against the two men for resisting a United States officer in the discharge of his duties.² An investigation was held later but nothing ever came of it. Rockwood again put the prisoners to work, but Patrick went to the fields where the prisoners worked and took them into his custody.

¹Whitney, op. cit., p. 271.

²Rockwood, op. cit., p. 44.

In December, 1871, Marshal Patrick presented a bill for having kept the territorial convicts, to the territorial auditor of public accounts. The bill amounted to over six hundred dollars, and the auditor refused to give him the money because he was not known under the territorial law as an officer of the penitentiary. Patrick then presented the bill to the territorial treasurer, who told him that he could make no payments without the auditor's warrant. Subsequently, Marshal Patrick presented his claim to Warden Rockwood, whereupon Rockwood asked him, "Who employed you to keep the prisoners?" The Marshal answered, "Nobody." Then Warden Rockwood said, "I suggest that you look to Mr. Nobody to pay you."¹

The aggressive measures taken by Marshal Patrick in taking possession of the territorial convicts, after he had possession of the penitentiary, had a deeper significance than appears on the surface. During the late 1860's and early 1870's a crusade started in Utah Territory among the non-Mormons to arraign Mormonism as a system, in the persons of its leaders, before the courts. Funds were contributed by the leaders of the crusade. Over eight thousand dollars was contributed to further the movement by none other than United States Marshal Patrick.² One thing in Marshal Patrick's favor

¹Ibid., pp. 44-46.

²Orson F. Whitney, History of Utah, (Salt Lake City: George Q. Cannon & Sons Company Publishers, 1892), Vol. I, p. 578.

was that his proceedings against the Mormons were taken under cover of the law.¹

Evidently the Marshal's plan in taking over the penitentiary from the territorial warden was to have a prison in which to place the Mormon leaders, if they were successful in convicting them in the courts. His reasons for going to such measures to get custody of the territorial prisoners is best explained in the words of Orson F. Whitney:

. . . It was the purpose, in short, to indict and try Brigham Young and other leading Mormons, not for polygamy under the Congressional Act of 1862, but for adultery, or at least lewd and lascivious cohabitation, under the laws of the Territory. Their conviction under those laws, and their sentence to the penitentiary, would of course make them prisoners of the Territory, and consequently, unless the Marshal had taken the action he did, they would have been placed in Warden Rockwood's custody instead of his own

The motive of the prosecuting attorney in proceeding under the laws of Utah instead of under the act of Congress, passed for the special purpose of meeting polygamous cases, was probably this: The maximum punishment for adultery was imprisonment for twenty years and a fine of one thousand dollars, while punishment for polygamy was limited to five years imprisonment and a fine of five hundred dollars.²

The Territorial Government refused to pay expenses of the convicts that Patrick took from Warden Rockwood in August, 1871. Marshal Patrick evidently learned a lesson, because he never again attempted to take custody of convicts under territorial jurisdiction, except on orders from the courts.

¹The very fact that an act was passed granting control of Territorial Penitentiaries to United States Marshals at this time seems to imply that the crusade had support from political forces outside Utah.

²Whitney, op. cit., p. 590.

Territorial convicts could have been committed to the penitentiary under federal management, but charges were so high to keep them there that Warden Rockwood made other arrangements for their safe keeping.¹ Territorial prisoners were kept in county jails and later in rented buildings after the penitentiary was lost to the United States Marshal. Territorial prisoners always worked to help support themselves, and the Legislative Assembly thought seriously of having them build a new territorial prison during this period but plans never materialized.

In 1875 Warden Rockwood had only two territorial convicts in his custody. Both of the prisoners were in prison for twenty years for the crime of murder in the second degree. In 1877 Rockwood was directed by court order to take the two prisoners to the United States Penitentiary to serve out their sentences. This left no convicts in the hands of Warden Rockwood, and evidently the office of Territorial Warden was terminated around 1878 because future territorial convicts were placed in the United States Penitentiary and their upkeep paid for from the Territorial Treasury.²

From 1871 until 1896 the territorial prison, formerly known as Utah Penitentiary, was under jurisdiction of United

¹Rockwood, op. cit., pp. 66-68.

²Ibid., p. 33.

States Marshals stationed in Utah Territory.¹

During the 1880's many Mormons were sentenced to serve time in the United States Penitentiary for participation in the religious belief of plural marriage. Ruder Clawson was the first church leader to be sentenced to prison for the charge of polygamy. He was sentenced to four years in prison and fined eight hundred dollars. During the 1880's upwards of a thousand men were sent to the United States Penitentiary for failure to discard their plural wives and families.² Hundreds were driven into hiding and thousands were disfranchised. Women were also sent to prison for failure to testify against their husbands. The United States Government kept paid spotters and spies to report on Mormons guilty of living in polygamy. These were busy days at the United States Penitentiary and trying days for the Mormons.

Soon after the passage of the Edmunds Law in the spring of 1882, raids by the marshals began in different parts of Utah Territory, causing much excitement. The Mormon men living the law of plural marriage were usually men of moral integrity and courage and were warned by the people of the community when the marshals were to serve them with a summons. They often hid themselves with the knowledge that if the

¹The penitentiary was known as Utah Penitentiary from 1855 until it was taken over by Marshal Patrick in 1871, then its name was changed to United States Penitentiary. When Utah became a state in 1896, the prison received the name it is known by today, Utah State Prison.

²Charles L. Walker's Diary, Manuscript in B.Y.U. Library, p. 164.

marshal could not find them then he could not serve them with a summons. Thus many raids were made at night. Raids on the Mormons' settlements were often conducted in the following manner:

They would designate a certain number of the brethren that they desired to capture and three or four of them would come into town during the night and lie in wait at the house of some traitor. The people reposing in peaceful slumber, not conscious of any danger being near, and perchance the husband and father being weary of camping out would have repaired home for a good night's rest to enjoy the society of their loved ones; when all was quiet during the small hours in the morning a loud rap would be heard at the door. The family would spring from their beds and in sudden tones whisper the word, "marshals." Perchance a louder and harsher knock would follow and one of the family would ask, "who is there?" and they would say, "marshals, open the door or we will bunt it down," and if the Father happened to be in the house he would meet them with a light at the door and admit them, and with cocked revolvers they would demand his surrender. Thus by demons in human shape he would be dragged away to some pretended court. In case the husband was not at home, the wife, with almost frantic fear, would admit them to the house and sometimes by threats and abusive language, she would be compelled to show them through the house, while the children would nestle close together in their beds, being overcome with fright and anxiety for the safety of their Father and protector

Generally on such occasions the word of alarm would soon spread and lights would glitter in all parts of the town and perchance if the raid had been successful the news would soon be conveyed from house to house of the capture of some of the most respectful citizens. On such occasions excitement would generally run high and many would be the expressions of indignation, and were it not for wise council of more matured minds, many of these raids would have ended in a scene of blood, as it was hard to see fathers, relatives and friends taken away in such a manner.¹

Another method used by the marshals to get information on those living in polygamy was to dress like a miner or

¹Joseph Smith Black's Diary, Manuscript in B.Y.U. Library, pp. 77-79.

stockman and visit various houses making inquiries. If the marshals found certain men living the law of plural marriage, they served them with notices to appear in court. Papers were also served on those they desired to use as witnesses.

With the passage of the Edmunds Act, some men gave up plural marriage and abandoned their wives, much to the scorn of staunch Mormons. As a rule, men living the law of plural marriage were honorable men who loved their families and rather than break the covenants they had made before God and forsake their families, they went to prison. Some older men who had married their wives many years before 1882 refused to leave their wives and were given from sixty days to eight years in the penitentiary. In some cases they were also charged heavy fines and court costs. The unfairness of the Federal Judges to Mormons found guilty of polygamy was recorded by Joseph Smith Black, who served three months in prison for plural marriage in 1889. As follows:

In the case of a man by the name of Wright who committed a deliberate murder by shooting Soren Christensen at Deseret, while he was in his wagon with his wife and baby, blowing his brains out, bespattering the woman and child with brain and blood, he was only sentenced to one year's imprisonment. Pardon Dod of Unita Valley in a drunken row killed a man, shot four balls into his body, pleaded guilty to manslaughter, and through the kindness of Judge Judd had sentence suspended. Dr. Sharp of Sevier County, who had seduced two women, getting them both with child, was sentenced to thirty days. H. H. Wells of Provo Bench, who seduced his wife's sister while his wife was sick was given sixty days in the penitentiary. Evan Thomas, for committing a crime against nature with a mare, was sentenced to one year in prison. These were all non-Mormons, while on the other hand, Mormons were sentenced as follows: Hans Hesperon, for marrying and taking care of his wife was given eight years in the penitentiary and costs. L. Larson of St. George for having two wives got

two years. C. Anderson, the clerk and historian of Millard County got 17 months and costs for being the father of his wife's baby. B. Yates of Scipio and Paxton of Kanosh got 10 months and costs each. There were ten Mormons from Millard County sentenced at this term of court, from 50 days to 17 months. Thus we can see the discrimination made between the two classes of offenders.¹

Prejudice was so strong against Mormons that evidence and arguments for the defendants were not even considered. These unjust practices were hard to take by the Mormons. Many of them had donated money to aid the cause of their country during the Civil War. They now felt that they were being wronged by a government that they had been taught always to respect and love.²

All prisoners committed to the United States Penitentiary during the 1880's were required to abide by the established rules of the prison. When they entered the institution they were shaved of their beards and dressed in stripes. The men were hardly recognized by their own wives when visited and young children visiting the prison with their mothers often failed to recognize their fathers. This of course caused many heart aches.

Inmates were placed in cells five feet wide, seven feet high, and seven feet long. The cells were constructed three tiers high. There were no lights except candles. There were no bathroom facilities and night buckets called "dunnigans" were standard equipment in all cells. Inmates were allowed to walk in the yards, to read and to participate in

¹Ibid., p. 86.

²Ibid., p. 90.

other activities. They were also required to bathe once every two weeks and to wash before each meal. Letter writing was restricted to once a week. Mormons in prison held their religious services each Sunday. They formed a good choir and spent many hours together singing hymns.

Because of the monotony of prison fare, inmates showed little enthusiasm for meal time. Breakfast consisted of black coffee, boiled beef, gravy and bread. They received boiled beef and soup for dinner. For supper, mush and tea without sugar were served. A vegetable was served only once a week. Milk was not served with the meals but could be purchased for less than four cents a pint. Other foods were allowed the inmates if they could get someone on the outside to bring it to them. Metal knives and forks made good weapons so they were banned. In their place wooden knives and forks were used. Some forks made out of twisted wire were also used. Despite a lack of variety, the prisoners had plenty to eat but were allowed only eight to ten minutes for each meal.¹

After serving three months in the penitentiary for plural marriage, Joseph Smith Black was not satisfied with many of the penal practices of 1889. In his diary he offered his opinion on the need for certain reforms in the penitentiary, and in doing so he revealed many features of the penal system of that day.

First I would abolish the sweat box as I consider it a barbarious means of torture, and behind in these enlightened days. I would punish willful offenders for violating

¹Ibid., pp. 90-99.

the rules, but would do it in a humane manner. I would suppress profanity and smoking as they are both low and degrading. I would have a suitable building for a hospital with two compartments for different classes of criminals. I would move the out house to some more out of the way place, and not have it right at the main entrance of the building, and have it more private as so much exposure is likely to blunt the finer feelings which humanity should possess. There should be a large building suitably furnished for school purposes and all should be required to attend at least four hours daily. If suitable teachers could not be found among the convicts the government should employ them. Every able bodied man should labor at least four hours a day. They should earn their living and not be an expense to the government. Men should be employed so that they could not spend their time in idleness studying and learning more meanness and go out worse than they come in. The object of imprisonment should be reform. All officers should be removed that can look upon the sufferings of a human being without feelings of sorrow. In fact it should be the feeling of all to help to reform the unfortunate and make them feel that humanity is not a blank.¹

Before the 1890's the United States Penitentiary at Salt Lake City had become an over populated institution filled mostly with Mormons convicted on charges of polygamy. In 1886 over a hundred people were committed to the penitentiary for polygamy alone. The need for a larger and better prison for prisoner accommodations had been realized in 1885, and construction of a new prison began that year. Construction on the new prison continued until 1890, and when completed prisoner accommodations had been greatly expanded.²

From 1855 until Utah became a state in 1896, the prison policies of the Territorial Government conflicted with that of United States Marshals appointed to Utah Territory. The conflict over these policies never really involved

¹Ibid., p. 99.

²Mandell, op. cit., p. 2.

administrative methods but was simply an overflow into prison affairs from the general over-all controversy existing between people of Utah Territory and federal appointees. The controversy lasted until Utah achieved statehood in 1896.

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CHAPTER V

UTAH STATE PRISON SINCE STATEHOOD

The Enabling Act authorizing the people of Utah Territory to form a constitution and state government was approved by President Grover Cleveland July 16, 1894. It contained the provision that "The United States Penitentiary near Salt Lake City and all lands and appurtenances connected therewith and set apart and reserved therefor are hereby granted to the State of Utah."

Utah achieved statehood in 1896, and up to that time the Federal Government had spent over \$300,000.00 on improvements at the penitentiary. A new cell house containing 240 cells with accommodations for 500 inmates had been completed in 1890. The prison buildings were surrounded by a stone wall nineteen feet high. Over 180 acres of farm land had been purchased by the United States Government in the early nineties, and by 1896 seventy-eight acres were under cultivation.¹

In 1896 the government and control of Utah State Prison was vested in a Board of Corrections consisting of four members. Three members were appointed by the Governor upon the advice and consent of the Senate. The Governor, an ex-officio

¹Noble Warrum, Utah Since Statehood, Historical and Biographical, (Salt Lake City: S. J. Clark Publishing Co., 1919), Vol. I., p. 194-195.

member of the Board, served as the fourth member. Each succeeding governor has automatically become an ex-officio member of the Board of Corrections. Members served without pay. It was the duty of the Board of Corrections to select and appoint a warden under the following stipulations:

The said board shall appoint the Warden who shall hold office during the pleasure of the board. He shall possess the ability and qualifications necessary to successfully carry on the industries of the prison, and be one who has the executive ability essential to the proper management of the officers and employers under his jurisdiction, and to enforce and maintain proper discipline in every department, and the board shall have power to remove him for causes, after opportunity shall be given him to be heard, upon written charges. No warden shall be removed except for cause. The board shall be the sole judges of the sufficiency of the cause, and any and all decisions of the board shall be final.¹

A warden could not be a member of the Board of Corrections, and upon being selected and approved he was bonded for \$20,000.00. In 1896 his salary was only \$75.00 a month, but he received in addition, a house, fuel, lights and provisions for guests who visited or had business connected with the prison. The warden was required to keep a daily journal and report to the Board of Corrections in their bi-monthly meetings held at the penitentiary.

The Board of Corrections adopted all general rules for the government and discipline of the prison. It met at least once each six months to determine what line of productive labor was to be carried on in the prison. Various lines of work were selected in which inmates were expected to participate. The

¹Laws of the State of Utah, (Salt Lake City: Deseret News Publishing Co., 1896), p. 253.

Board of Corrections was careful to choose industries that would not compete with private industries in the state.¹

By 1896 contracts for hiring out convicts of the state prison were unlawful, but they could still be employed by the warden in the erection or repair of buildings or walls, or any other work within the prison. All convicts except those in solitary confinement were required to work eight hours every day, except on holidays and Sundays. The Board of Corrections adopted rules for crediting deserving prisoners with some portion of their earnings. Unmarried prisoners received credit on 10 per cent of their earnings, while married prisoners received credit up to 25 per cent of their earnings.

Convicts guilty of misconduct could be punished by the warden under regulations adopted by the Board of Corrections. Punishment by cold water showers or bare back whippings were not allowed. Any punishment of a convict was to be kept in a written memorandum by the warden.²

The first governing body of Utah State Prison consisted of Governor Heber M. Wells, M. B. Sowles, Francis Armstrong, and Thomas Kearns, as members of the Board of Corrections, and George N. Dow as warden.

George N. Dow took his position as warden in January, 1896. He was a thorough disciplinarian, yet a kind hearted, merciful man. As warden he was conscientious and faithful at

¹Ibid., pp. 258-264.

²Ibid., p. 265.

all times. There were 189 convicts in prison when George N. Dow entered upon his duties at the prison. The prison was new and the problem of overpopulation was unknown. The big difficulty during Dow's administration was that of an adequate water supply for the prison. Water for the prison at that time was pumped by hand from a nearby water ditch into tanks located at the top of the buildings. Water was distributed about the prison premises in pipes running from the tanks.¹

Heber M. Wells, the first Governor of Utah, was of the opinion that the prison could be operated more economically as state property than it had been as property of the United States. The operating cost of the United States Penitentiary in 1895 had been over \$40,000.00. Governor Wells, in his message to the Legislature in January, 1896, recommended that only \$30,000.00 be appropriated for maintenance of the prison that year. The designated sum was appropriated by the state legislature, and at the close of the year a balance of \$2,650.00 was on hand. Thus, the operating cost of Utah State Prison during the first year of statehood was over \$12,000.00 less than it had been the last year under Federal control.²

Governor Well's second message to the State Legislature in 1897 recommended an appropriation of \$57,575.00 for Utah Prison. Of this amount \$30,000.00 was to be used for maintenance and the remainder was to be applied toward making prison

¹Message of Governor Heber M. Wells to Second Session of the State Legislature of Utah, January 12, 1896, Public Documents of State of Utah, 1896., pp. 1-11.

²Warrum, op. cit., p. 194.

improvements and providing a better water supply.¹ Thus at the very beginning of Utah as a state, the policy of improving and maintaining an efficient penal institution was adopted. This policy has been followed by succeeding legislatures.

During Warden Dow's administration an initial effort to manufacture certain articles to be sold to the general public was begun. Mattress machines and knitting machines were purchased and convicts taught to operate them. Clothing, shoes, socks, and hair cinches were manufactured and sold to the public for a profit of over \$4,000.00 the first year.² Many of the manufactured clothing articles were used by inmates of the prison and the mental hospital in Provo, Utah. Various industries were added at the prison from time to time, and by the end of 1902 idleness among inmates at the prison had ceased.

George N. Dow died February 27, 1904, following a lingering illness. He had been ill for almost a year and T. C. Wright, deputy warden, had acted as warden during that time. He continued in this position until March, 1904, when Arthur Pratt was officially appointed to the position.

Arthur Pratt served as warden of Utah State Prison for fourteen years and witnessed many reform measures during this

¹The appropriation helped better the water supply, but it was not until 1914 that the water problem was considered to be satisfactory.

²Warden Dow's salary was raised to \$100.00 a month after the first year. Perhaps it was because of the success he had in manufacturing.

period. He maintained that discipline in a prison was of prime importance for the benefit of the prisoner and those in charge. His methods were never harsh, but discipline greatly improved at the prison during his administration. With permission of the Board of Corrections, Warden Pratt abolished the lock-step and wearing of stripes.¹ The dark solitary cells used occasionally to confine unruly convicts were also abolished. The most important improvement during Pratt's administration was the erection of a modern cell house at a cost of \$150,000.00. By the end of 1918 the value of prison property had increased to over \$500,000.00.

The prison water supply problem existed before statehood and continued to be a problem through most of Warden Pratt's administration. During the early days, drinking water and irrigation water both came from Parley's Canyon. Later the city claimed 82 per cent of Parley's Canyon and piped the water into the city. The state then spent \$10,000.00 laying a six inch water pipe from the prison to the city water lines. The city charged the prison \$100.00 a month for water, which was paid by the prison under protest. In 1911 the state bought 323 water shares from Kennedy Irrigation Company, but this proved insufficient to supply the needs of the prison.² In 1914 they bought 60,000 gallons of water on a daily

¹Inmates refusing to abide by rules of the prison were still compelled to wear stripes.

²Report of the State Board of Corrections for the years 1917 and 1918, (Salt Lake City: The Deseret News, 1919), p. 18.

schedule from Mrs. Dudley Dudler. A sewer system was then installed for the entire prison, and for the first time in fourteen years the prison and the farm enjoyed ample water supplies.

Simon Bamberger was elected Governor in 1916, and by 1918 a complete change in personnel had taken place at Utah State Prison. The Board of Corrections reappointed Arthur Pratt as warden in 1917, against Governor Bamberger's wishes. Displeased with their action, he appointed a complete new Board of Corrections in 1918 and asked Warden Pratt to resign. Pratt refused to resign because the 1896 law stated that a warden was to remain in office unless removed for cause. At Bamberger's request the State Legislature amended the 1896 law to give the governor the authority to appoint and fire wardens.¹

George A. Storrs was appointed to succeed Pratt as warden in 1918. He had served as sheriff of Utah County for three terms and had had much experience in dealing with criminals. He was large of stature, kind and soft spoken. He was respected and loved by guards and inmates alike.² Warden Storrs hoped to make real men out of the prisoners and established an honor system among them. They were given many privileges under the honor system, but if they violated this

¹Laws of Utah, 1917, pp. 252-253.

²Andrew Jenson, L.D.S. Biographical Encyclopedia, (Salt Lake City: Deseret News, 1901), Vol. I, p. 329.

trust, they were never again trusted but were kept locked in the prison.

Warden Storrs started organized athletics at the prison. He secured a motion picture machine and movies were shown the inmates once a week. A swimming pool was built by the inmates and many other wholesome privileges were extended. Warden Storrs had seen too many convicts leave prisons with embittered and warped minds and felt that they were products of the iron hand of discipline. His object was to return prisoners to society with hopeful hearts and new respect for their fellowmen.¹

In 1920 James Devine succeeded George Storrs as warden. He served in this position five years and saw important improvements at Utah State Prison. A new lighting system was installed and the guards were required to punch clocks every thirty minutes. Guards were also required to be finger printed along with the prisoners. A further security measure was introduced to the guards when the sawed off shotgun became a part of standard equipment in all of the prison wall towers.

Devine took office just after World War I, at a time when every prison in the nation showed increases in population. By the end of 1922 the population of Utah State Prison had increased nearly 50 per cent over 1918, and for the first time

¹Ibid., p. 329.

²A. Michael McGee, The Exodus of the Utah State Prison at Sugarhouse, November, 1950. Unpublished Manuscript, p. 25.

came a faint whisper that a new institution out of town was needed.¹

In 1925 Richard E. Davis was named as warden and remained in office twelve years. Davis apparently became so interested in his work that it became a part of him. He had a violent temper and not being opposed to the use of "cuss words," there were times when the air about the prison held a blue haze. Whether arguing with or for an inmate, Davis was at his best. So intent was he on doing something for the men under his jurisdiction that he had been known to sit at his table at mealtime on a day of parole meeting and never touch his food. The entire time was taken up with argument as to why his belief about some inmate was not an ultimatum.

Warden Davis fought tirelessly for general improvement of living conditions and rehabilitation of prisoners under his care. He believed that the hardened criminal should be segregated from the youthful offender and advocated the removal of the prison to a site where this principle could be put into practice. No racial discrimination was ever observed at Utah State Prison before the time of Warden Davis, but when Negroes from the deep South requested a separate dining table and bath tier, their wishes were granted.²

In 1937 Owen Nebeker was appointed warden after Richard Davis tendered his resignation. Nebeker had formerly been quite a successful parole officer, but as a warden he was a

¹Ibid., p. 25.

²Mandell, op. cit., p. 8.

failure. He had great plans for developing industry, remodeling various prison buildings, but things never seemed to develop as he planned. He started a cannery, a molasses mill, a shoe repair shop, and tried to start a soap factory, but everything failed except the cannery. He had wonderful ideas but little cooperation from the State Legislature to carry out his plans. Nebeker was a failure as warden because his ideas on institutional planning were far ahead of his time.¹ In 1939 Nebeker's health began to fail and became a hindrance to him in performing his duties as warden. He was advised to take a trip to California as a health treatment, and he never returned. He died at Glendale, California, April 30, 1940.

In 1940 John E. Harris, former contractor, government employee, and former chief of police at Provo, Utah, was appointed warden. Harris liked his work as warden because he believed that there was good in all men. He felt that men who experience success in prison gain respect and confidence in themselves, and his major aim as warden was to give each inmate the opportunity to succeed in some prison enterprise. He achieved his aim by allowing inmates to fill as many jobs in the prison as possible. Inmates were in charge of the kitchen, the bakery, the license plate factory, etc. The men learned their jobs well and took a great deal of pride in holding

¹Many of Nebeker's ideas for making the prison self sufficient were later adopted.

trusted positions.¹ Education and vocational training were also encouraged and developed.

The new prison site at the Point of the Mountain was purchased just before Harris was made warden. He established an honor camp there to improve and cultivate the farm land. Soon a fine young orchard was growing and a fine underground system of irrigation had been developed. The farm grew in every department, with hogs, cows, chickens, turkeys, and vegetable crops. The biggest thing in the development of the farm at the Point of the Mountain was not in the vast quantities of food produced, vital as that was, nor in the ingenuity displayed, nor yet in the savings made for the state, but in the breadth of vision and sympathetic understanding of the men in charge of the project of reclaiming men's lives in the process of farming.

Farm-grown products have greatly increased at Utah State Prison since the new location was purchased. Much of the foodstuff served in the prison today comes from the farm at the Point of the Mountain which was largely developed under the administration of Warden John E. Harris.

During Warden Harris's administration, housing facilities were far from satisfactory at the prison in Sugarhouse, Utah, but the mental attitude of the prisoners was generally good. High paying defense jobs during the war years

¹With this method fewer prison personnel were used to run the prison and money was saved for the state. Prison personnel consisted of less than forty men under Harris as compared with over fifty at present.

created quite a turn over of employees at the prison where wages remained about the same, and this was the most serious problem facing Warden Harris during his nine years as warden of Utah State Prison.

Warden Harris was severely criticized by the press in the early part of 1949. The criticisms evidently developed in the governor's office as part of a political move to remove Harris as warden, and replace him with a friend of the governor. The criticisms were never proven.¹ In view of the charges against Harris, an investigation was made by a committee February 24, 1949, under the direction of the Utah State Senate and at the insistence of Warden Harris.² The report in letter form was as follows:

Mr. Alonzo F. Hopkins, President
Utah State Senate
Building

February 24, 1949

Dear President Hopkins:

Considering the publicity given in the press, much of which has been adverse to the present management of the Utah State Prison, we, your Committee on Public Institutions, feel it proper to make a brief report of our recent visit to the State Prison, at which time there was a large legislative representation, both of the Senate and the House.

We feel that commendation is due to the Warden and Board of Corrections for the favorable conditions which we found, considering the handicapped and crowded conditions of the prison.

The Prison is maintained in cleanliness. There is evidence of cooperation. We feel there is an advantage

¹A personal interview with ex-warden John E. Harris February 11, 1952, in Provo, Utah.

²Among the charges against Warden Harris was that meat was sold or traded for whiskey. Hay was also supposed to have been sold and the money misused.

in having continuity of purpose and planning, as well as trained personnel. We understand that 84% of the inmates released from the State Prison make good and do not return. This record leads the nation and compares most favorably with the national average of 40%.

We feel that an excellent job has been done, considering that practically twice as many men are crowded into the prison as its normal capacity warrants. We believe that completion of the new prison should be pushed with every available means and completed without undue delay.

We recommend the honor method now in use at the State Prison of appealing to the best motives of the inmates, and their cooperation with the Board of Corrections and the State Warden in bringing about their own rehabilitation.

Sincerely

Lorenzo E. Elggren

Chairman

Senate Committee on
Public Institutions¹

Warden Harris resigned in the early part of 1949. He afterwards revealed that he resigned as warden after an interview with Governor Lee in which Lee failed to name the source of false charges against him. In the course of the interview Harris said that Lee shrugged his shoulders and said, "Well, you know how politics are." When Harris showed anger at Lee's answer, Lee admitted that he was going to have a new warden.² Since Warden Harris' resignation three years ago, many changes have taken place in the administration of affairs at Utah State Prison. There have been three chairmen of the Board of Corrections: Herbert Snow, Adrain Pembroke and John F. Dugan.

¹A copy of the report was obtained from Lorenzo E. Elggren, Chairman of Senate Committee on Public Institutions.

²Personal interview with ex-Warden John E. Harris February 11, 1952, in Provo, Utah.

During the same time five wardens, Mason Hill, A. O. Severson, Tom Callicot, Wesley Haslam, and Marcel Graham, have been appointed. Thus, from 1896 to 1949, Utah State Prison had had seven wardens, and from 1949 to 1952 it has had five.

Each succeeding warden at Utah State Prison has had rules and regulations by which they have governed the penal institution. Rules change with time and often become obsolete, but some general rules exist indefinitely. Today, when a man is committed to Utah State Prison, he is photographed, classified, and given a number. To protect the health of himself and others he is usually quarantined for a short period of time.

No inmate of Utah State Prison is allowed to have money in his possession. Those having money when they enter the institution are relieved of it. The prison clerk's office takes the money and credits it to the inmate's account. When the inmate desires money to spend in the prison he is issued coupons which are used the same as money. Prison officials open all incoming and outgoing mail and can control this problem without trouble. If an inmate desires to take money from his account at the prison and send it home to his family, the transaction is taken care of by the prison clerk. The absence of money as a medium of exchange in prison lessens the vice of gambling and makes escapes difficult.¹

Each inmate receives a twenty-five cent book of U. S. postage stamps every two weeks. He may use the stamps for

¹The absence of money does not stop gambling, because the inmates gamble with stamps and coupons, but it tends to curb it.

postage or purchase at face value from the prison commissary. Men who work steadily in key positions are rewarded by receiving two twenty-five cent books of stamps every two weeks. This practice has proved to be a successful means of supplying an incentive for personal initiative and endeavor.¹

A set of rules for the governing of inmates living in barracks at the Point of the Mountain prison farm in 1949 was fairly representative of the general type of rules guards were expected to know in handling inmates:

1. To the Officer in Charge of Visits: Under no circumstances will any one under the influence of intoxicating drink be allowed to visit an inmate or allowed on the prison reservation.

2. You are never allowed to permit an ex-convict to visit another inmate or permit him on the reservation unless directed by the warden.

3. Prisoners are not to congregate in the drive way, or in the front office, or hallway during visiting.

4. Any suspicious actions on the part of visitors must be looked into at once and reported to the Superintendent.

5. Visitors must conduct themselves properly at all times and will not be allowed to walk around the premises.

6. Mushy actions, such as hugging and kissing, or any improper actions will not be tolerated.

7. Visits must be confined to immediate families. Friends and distant relatives must have special permission. This will be granted only when an important reason is given.

8. Guards must be courteous and respectful to all persons who are reasonable and worthy of respect. Call for assistance when dealing with others not of this type.

9. There shall be no loafing on the lawns or picking of the roses on these premises.

¹Biennial Report of the Board of Corrections of the State of Utah, Fiscal years 1938-1940, p. 9.

10. No one is allowed to loaf in the various places on the ranch where he has not been assigned to be. He must always conduct himself in an orderly way and shall at all times be ready and open to inspection by a guard.

11. No two men shall become so infatuated with each other that they become suspicious in the eyes of others. It matters a lot. We don't go for the brotherly love that some try to put over.

12. Keep clean in your person, in your sleeping place and about the things you say and do.

13. Guards will refrain from boisterous or profane language, or indecent stories and reprimand men for the least appearance of insubordination.

14. It is the responsibility of all guards to see that the buildings and grounds, roadways and walks in the inclosure are kept orderly and clean. Obscene and nude pictures are not allowed anywhere on the premises.

15. All your actions must be open and above board. You must be exemplary and obey the rules that govern the men where they are demanding order and neatness. Your quarters must be kept clean, your person and your conduct must become that of an officer. Business dealings with inmates is not good business.

16. Inmates should be treated with fairness at all times. Favoritisms, or partiality is ruinous to good discipline.

17. One of the chief functions of a prison employee is to improve the inmates' morale, behavior, and self discipline.

18. Prison environment is unnatural and does not have the refinements found in society. The inmates' horizon is narrowed and he must adjust to it. He lives in a small world and every happening is of the greatest importance to him¹

Since statehood wardens and prison officials of Utah State Prison have had problems with escaping prisoners. From 1896 to 1950 over two hundred inmates had escaped from Utah State Prison. A few spectacular escapes have occurred, but

¹A copy of the rules was obtained from Jesse Walton, former prison guard, now retired.

most of the prisoners that escaped were trustees working on jobs outside the prison walls. A great percentage of them were captured and returned to the prison.

In 1897, a year after the prison became a state institution, a burglar named Harry Tracy escaped after serving only three months of his sentence. Tracy acquired a gun and overpowered a guard and went over the wall. Several years later Tracy was cornered in a wheat field by a posse, but rather than surrender he committed suicide.¹

In October, 1903, the first major break within the walls of Utah State Prison occurred when six desperate convicts overpowered the guards and tried to scale the walls on home made ladders. The tower guards opened fire, killing one and foiling the attempts of three others. Two made good their escapes but were captured and returned to the prison within a week. Two guards in opposite towers, Zebulon Jacobs and David Wilcken, were severely wounded in the escape attempt. There was never any direct evidence that any of the escapees had weapons, and the general belief was that the guards shot each other in the cross-fire. An investigation was held, but nothing definite was established beyond the fact that the two guards were severely wounded. Immediately after the investigation two towers were vacated and remained empty throughout the use of the prison at Sugarhouse, Utah.²

¹Mandell, op. cit., p. 20.

²McGee, op. cit., p. 8.

Five prisoners figured in the famous "stretcher" case of 1921. Guns were smuggled into the prison with which they overpowered the inside guards. They traded clothes with the guards and locked them in cells. Dressed in the guard uniforms, the prisoners proceeded to the hospital with one of their number on a stretcher. The unsuspecting tower guards thought that the guards were taking a sick inmate to the hospital and allowed the convicts to pass unchallenged. A few minutes later they emerged from the hospital with a crude ladder and attempted to scale the wall. Finally the guards in the tower realized that something was amiss and opened fire on the prisoners. A number of shots were exchanged, and in the confusion that followed all five prisoners disappeared. Three days later three of them were found hiding in the basement of the hospital but two of them had escaped. Only one of the escaped men was ever apprehended.¹

Very few prisoners have escaped that were never heard from again, but in 1921, the escape of Harry Brewer, number 3217, was one of these unusual cases. The story of Brewer was as follows:

. . . Harry Brewer, number 3217, had been committed to the institution on the charge of murder, and carrying the sentence "to be shot on September 28, 1916." However, this sentence was commuted, and Harry was given the freedom of the yard. This inmate was a very unusual man, and in spite of his twenty-one years of age, he was a most serious young man. His word was his bond, and the usual "yard foolery" found in the youth of an institution was noticeably lacking in his make-up. He attended the school regularly, giving serious thought to the study of a

¹Mandell, op. cit., p. 20.

foreign language. Harry first attracted the attention of the warden by temporarily refusing an offer to be placed in the status of "trustee," and therefore given the chance of working outside the prison walls. As an excuse for such a refusal he offered, "I can't promise not to run away, and until I can make such a promise it would be better for me to remain inside." It wasn't so very long before he decided that he could be trusted, and for the greater part of four years he worked for Warden Storrs on the prison farm. During the evenings he continued to study, and according to reports, he became quite proficient in the use of a "foreign language," as it was so identified by Harry when asked what tongue he was learning to speak.

As of every four years, comes the inevitable election and rumors regarding same. Such rumors are of a like pattern. A new Governor is a cinch to be elected, and it is but natural to assume that the new Governor will immediately appoint a new warden, that is, if you desire to listen or pay heed to the numerous wiseacres found in all institutions. "Con" psychology is most flexible and without too much provocation, the subjects under discussion are apt to reach the apex of imagination. Imagine the rumors when it was actually known that Governor Mabey had defeated the democratic candidate, and would on January 1, or thereabouts, name a new Warden.

Harry, upon hearing that Warden Storrs was to be replaced, providing the tone of politics played true to note, went to the Warden and asked to be brought in from the farm, and his name be taken from the trustee list. "Why?" the Warden inquired, "you're doing all right, and I want you to stay outside." But Harry was adamant in his decision. "No, Warden, there seems to be a new Warden coming to take your place, and I have no way of knowing if I will like him. I will wait and see who he is."

"And if you don't like him?" queried the Warden.

"Well, sir, if I don't like him I shall leave, and from the inside. I have already promised you that I would not leave the farm. Now, I promise you that if I don't like this new Warden, I will leave from the inside of the prison compound."

Naturally the Warden was skeptical and warned against such foolishness. Nothing more was thought of it, and it was considered but another inmate with ideas. Several had spoken of the futility, but they had failed to reckon with a man who was true to his promise and conviction. He had stated that he knew of one or two "routes" to take, and it was not idle gesture to Harry Brewer.

On the 8th day of June, 1921, one man was short on the morning count sheet. That man was Harry Brewer. How he made his way from the cell block to the outside was

never completely solved, and no one has heard from him or concerning him from that day to this . . .¹

In 1933 another escape occurred which is worthy of mention. Robert Earle used a crudely fashioned rope to climb upon the prison wall. He then slugged the guard in the north-east tower and threw a rifle and shotgun to two confederates standing in the recreation yard below. The two men also attempted to scale the wall but the rope broke before they reached the top. Earle made good his escape but was later captured in Oregon and returned to Utah State Prison in August, 1934.²

Closely related to escapes from prison, but of a more serious nature, is the problem of prison riots. A number have occurred within the prison since statehood, but only a few have grown to proportions requiring outside officer aid.

In November, 1932, a riot was started within the prison walls by 250 prisoners. They turned tables upside down and threw food all over the dining room. Furniture was piled against the kitchen stove and a fire was started that threatened to burn down number two cell house. Several prison guards were in the dining room when the riot started, and the prisoners attempted to hold them as hostages. The guards managed to escape and lock the dining room doors, confining the prisoners to the kitchen, number two cell house, and an

¹McGee, op. cit., pp. 26-27.

²Ibid., p. 37.

enclosed court. A convict attempted to expand the field of operations by breaking from the convict held buildings and was shot in the leg. After this incident the guards gained the upper hand on the unarmed prisoners and ended the riot.

One of the most potentially dangerous riots occurred in connection with the escape of Robert Earle in November, 1933. After Earle had escaped over the prison wall, some 300 convicts began milling around in the prison recreation yard. They were quelled by the guards before an organized attempt to expand the prison break into a general riot was made.

In 1945 about thirty-five convicts launched a riot that was quelled only after highway patrolmen and city policemen were dispatched to the prison. The riot started after six incorrigibles broke out of the disciplinary section of a cell block tier and released thirty others. They broke down a separating door and gained complete control of the cell block. Over fifty windows were broken in the building and they refused to return to their cells until outside reinforcements arrived. The melee lasted nine hours but no one was injured.

May 20, 1951, a riot occurred at Utah's new penitentiary at the Point of the Mountain. Never in the strife and escape-filled history of Utah's prison was there a riot like this one. The inmates literally took charge of the prison and methodically wrecked the place. Windows were smashed and practically everything of a destructible nature was destroyed or damaged. At first, damages were estimated to be as high as \$50,000.00, but later estimates placed the figures at \$6,000.

The prisoners were given an opportunity to tell their side of the story before the Governor and the Board of Corrections. At the meeting the prisoners demanded that certain prison employees be fired, and strangely enough their demands were met when over half a dozen experienced guards were fired.

August 14, 1951, prison inmates claimed that one of their number was mistreated and rioted again at the Point of the Mountain prison. Warden Haslam and a guard were held as hostages. Windows were broken and toilet bowls were ripped from the walls. Damages to prison property, however, were estimated to be less than \$500.00. Over a hundred peace officers were called to the prison before the riot ended.

In the opinion of many, the riots at Utah State Prison in May and August happened mainly because the inmates were moved to the new prison before it was completed. Many security measures had been eliminated from the original plans for the prison, and further aided the rioters.

Albert P. Rockwood, warden of the Utah Penitentiary during territorial days, believed that riots and escapes could be eliminated by working the prisoners. This philosophy has also persisted in Utah State Prison. In 1896, when Utah State Prison first began to operate, Warden George N. Dow started various work projects within the prison to utilize the convict labor. Industries were begun on small scale and soon the inmates were manufacturing textiles, shoes, and various clothing articles. Many of the manufactured articles were used by state institutions, while others were sold on the markets.

The Hawes-Cooper Bill of 1933 prohibited the sale of convict made goods on the markets, and most manufacturing ceased in the prison.¹

Along with the prison inherited from the United States in 1896 was 180 acres of farm land. The prison has operated a farm with convict labor ever since. At first the interest in farming was somewhat passive, but a real effort to develop farming was made during the first World War. Farming has gradually developed and expanded in many ways. Today the new prison site consists of over a thousand acres of land, and the inmates produce enough from the farm to make the prison self sufficient in many food items.

The contract system of employing convicts in Utah by hiring them out to contractors at low wages was done away with before statehood, but in 1911, the Legislature passed an act authorizing the employment of convicts upon the public highways of the state. Convicts chosen to work on the roads were carefully selected, and the policy of the Pardon Board was to be as liberal as possible with those who made good.² Road camps were established in Grand and Carbon counties, and a number of roads were constructed by convict labor. The convicts received ten days off their sentences for every thirty

¹The prison still manufactures all the clothing worn by the inmates. The automobile license plate machine still manufactures all automobile license plates and road signs for the state.

²Warrum, op. cit., pp. 194-195.

days worked.¹

A few prisoners escaped from the road camps, but everything considered, convict labor was a very profitable enterprise for the state.² From 1919 to 1920 convicts working on public highways did 53,293 total days work. At a rate of \$4.00 a day, the value to the state was \$213,182.00. Expenses of the prisoners ran \$48,414.00, leaving a total profit to the state of \$164,768.00.

There were never many women prisoners at any one time in Utah State Prison, and from the first they had living quarter problems. They were shifted from quarter to quarter and no place proved convenient to both the women and the administration. In 1922 the upper floor on the east end of the machine building was made into women's quarters. The women were locked in these quarters during the entire day but were let out for an hour or two in the evenings after the male prisoners had been locked in their respective cells for the night. Later they were moved to the top floor of the administration building and kept this location until Utah State Prison stopped keeping female prisoners.

In 1938 Utah prison officials made arrangements to house female prisoners at Colorado State Penitentiary in Canon

¹McGee, op. cit., p. 19.

²More convicts escaped from the camp in Grand County than any other place. An investigation revealed that most of them escaped because they were afraid of the great numbers of rattle snakes they saw in Grand County.

City, Colorado, because Utah State Prison did not have proper facilities for women. The expense of imprisoning women prisoners in Colorado is borne by the state of Utah. The number of women committed to prison in Utah since 1938 has averaged only two each year. Thus, it has proved cheaper to send women prisoners to Colorado State Penitentiary than to build them separate quarters at Utah State Prison.

In 1951 the constitutionality of Utah's practice of sending women felons to Colorado was challenged, and the question still remains to be settled. In the case of Inett Comes, it was argued by her attorney that imprisonment in another state was unconstitutional because it inflicted a cruel and unusual punishment amounting to banishment. At the present Inett Comes is still in Utah. The outcome of this case will be important, because it will determine whether Utah's future female prisoners will be imprisoned in Colorado or Utah.

Rehabilitation of prisoners has been repeatedly recognized as the most important function at Utah State Prison. Most of the inmates entering prison eventually return to society. Preparing them to return to society and become good citizens is a difficult task, because each inmate has individual differences. Rehabilitation of convicts is brought about by creating within them the desire to live normal social lives. Rehabilitation is not based upon submission but rather upon a whole-hearted attitude of cooperation which must be brought about by proper leadership of the officials who have daily contact with the men. An effort must be made to change

not only the inmate's actions, but also his attitudes, ideals and desires.

Religion has always played a vital part in the rehabilitation of prisoners at Utah State Prison. Religious schedules dating back over fifty years have been maintained at the prison by several religious organizations.

There was no chaplain at the prison until Reverend Joseph P. Moreton, Catholic Priest, came to the prison in 1932. Since that time he has devoted much time and effort to the welfare of the prisoners.

The Salvation Army has always helped men who were down and out and regularly visits the men at Utah State Prison. They never fail to give each inmate a gift package every Christmas season.

The Church of Jesus Christ of Latter-Day Saints has always been very active in religious work at the prison. There are more L.D.S. than any other religious group in the prison, and they are given every effort to be helped spiritually. After having been in prison the men are often reluctant to go back to their home wards and take active part in church. If they express a desire to become active in church work they are taken back to their wards and with the permission of the Bishop a meeting is held which the ex-inmate attends and his desire to again take his place in society is explained to the people of his ward and in every instance he has been accepted by the

people and thus they are started on the road to rehabilitation.¹

Education and vocational training are avenues of rehabilitation that Utah State Prison has leaned heavily upon since statehood. In 1899 evening school was made available for inmates and a great majority of them attended. A library fund, made possible by charging visitors a small sum to tour the prison, supplied the inmates with books. Vocational training was first made possible in 1897, when manufacturing machines of various kinds were purchased and inmates were taught to operate them.

During the twenties, school was maintained at the prison in the winter months of each year, and by the end of 1929 an average of 100 inmates were attending school every day. Teachers were provided, without pay, from inmate personnel, the University of Utah, or public high schools. In 1931 lyceums were presented every Tuesday in the prison chapel, where lectures and community singing were enjoyed.

In November, 1933, an organized school was established at Utah State Prison. Five teachers were employed to establish the school through the financial aid from the Federal Government. It was not compulsory for inmates to go to school, but the administration encouraged them in every way to attend. Many took advantage of these educational opportunities offered at the prison throughout the thirties.

¹Biennial Report of the Board of Corrections of the State of Utah, for Biennium, July 1st, 1948 to June 30th, 1950, p. 25.

Vocational training became the big interest of the inmates during World War II. Many of them learned useful trades and were holding good defense jobs before the war ended. Formal education was allowed to lag considerably during this period.

In 1947, under the direction of Chaplain Moreton, a new prison school program was inaugurated. The program has progressed as follows:

. . . The 1st semester of the school started in September, 1947, at which time 150 inmates were enrolled in classes of varied subjects, such as mathematics, English, mechanical drawing, mining electronics, dairying, navigation, practical electricity, architecture, book-keeping, Spanish, diesel mechanics etc. Competent inmate instructors were selected to teach these classes in courses supplied by such national schools as the Pennsylvania State College, International Correspondence Schools, the Rosenkranz Foundation, National Schools, and the National Radio Institute.

At the close of the 2nd semester in June, 1948, a Graduation Program was presented and three inmates who had successfully completed courses in their subjects were presented with Certificates of Merit. This was the 1st. graduation ever held in the history of Utah State Prison.

The Utah State Department of Education helped in a financial way and sent many volumes of books to the penitentiary. Prison school motto was, "these men make their time serve them." It is not so much what is done for the inmates as it is what he is taught to do for himself.¹

Russell Volrath, inventor and designer, spent a short time as an inmate at Utah State Prison in 1946, after passing a few bad checks. He was in charge of the prison school with a number of inmate instructors under him. He has designed disappearing guns used in coastal defenses by the United States. Perhaps the most important thing he ever designed was the vista

¹Biennial Report of the Board of Corrections of the State of Utah, Fiscal years, 1946-1948, pp. 7-9.

dome train, designed for General Motors.¹

An inmate by the name of McCoy invented a way to cut plate steel with a type of metal shears. He received a patent on the invention while in prison. Recently he received a pardon and is now heading a manufacturing company making the special metal shears he invented for the market. The prospect for McCoy's success is good, because thousands of orders have been received for his product. McCoy worked in the machine shop at Utah State Prison and developed his invention there. Vocational training really proved profitable for him.

The Board of Pardons, established soon after Utah became a state, consisted of seven members: the Governor, the five Justices of the Supreme Court, and the Attorney General. Monthly meetings were held and all applications were heard in open session. A great majority of the first prisoners applying for paroles or pardons were refused because the Board of Pardons believed that convicts could be reformed better in prison than in society. Despite the reluctance of the Board of Pardons to grant paroles, thirty-two convicts were pardoned and three sentences were commuted between 1897 and 1898.²

In 1896 authority to parole prisoners for good conduct, after thorough investigation, was first conferred upon the State Board of Corrections. Under this authority six prisoners

¹The story of Volrath came from ex-Warden John E. Harris.

²Message of Governor Heber M. Wells to the State Legislature of Utah, January, 1899, Public Documents of State of Utah, 1899, pp. 27-28.

were paroled before 1898. A little later in the year the Supreme Court of the State declared that it was unconstitutional for the Board of Corrections to parole prisoners. The decision of the Supreme Court was as follows:

. . . Section 2251, Revised Statutes, 1898, providing for a board of corrections, whose duty it shall be to allow certain prisoners to go upon parole, and the rules adopted in pursuance of that section are void, because they in effect confer the power to commute a sentence and are therefore in conflict with section 12, article 7 of the State Constitution, which creates a board of Pardons, with exclusive right to commute punishment and grant pardons; and it makes no difference that in case of parole by the board of correction, the commutation is conditional upon the good behavior of the paroled.¹

Pursuant to the decision by the Supreme Court, the Board of Corrections recalled the prisoners whom they had paroled and subsequently refused to grant any further paroles. Thus the exercising of parole clemency was conferred upon the State Board of Pardons. They could grant pardons and limit sentences in all cases except treason and impeachments. Reprieves or respites could be granted by the Governor but were not to last longer than the next meeting of the Board of Pardons.²

The Board of Pardons functioned a year before any paroles were granted. By 1900 only three had received paroles,

¹Ibid., p. 27.

²Laws of the State of Utah, (Salt Lake City: Deseret News Publishing Company, 1896), p. 43.

six had sentences commuted, and eighty-one had received pardons.¹ By 1921 the Board of Pardons had pardoned 254, commuted the sentence of 116, and paroled 369. Thus, paroles had become the most popular mode of releasing prisoners. After 1921 very few pardons were granted and records show that no sentences were commuted. From 1922 through 1950 only seven received pardons but 2674 were paroled.

In 1918, when parole was growing in popularity and practice, sixty-five men were released under the supervision of Warden George A. Storrs. There was no parole officer at this time, and Storrs tried to take the place of a parole officer in addition to his other duties. He encouraged parolees to correspond with him each month. He in return corresponded with them on stationery with no embarrassing letterhead to tell where the letter came from. Of the sixty-five parolees he supervised by letter, more than 87 per cent made good.

Owen Nebeker took the job as Parole Agent in the twenties, and by the end of 1928 there were seventy-four parolees sending in regular monthly reports. Paroles increased greatly after 1928, and the percentage of those making good fluctuated around 85 per cent.²

¹For many years it was a law that a prisoner guilty of first degree murder could not be paroled for twenty-five years. This law was never strictly adhered to. Recently a new law was passed requiring men guilty of first degree murder to serve fifteen years before they would be eligible for parole.

²McGee, op. cit., p. 31.

A great step forward was made by the State of Utah when the State Legislature created the Utah Adult Parole and Probation Department in 1937. The management and control of the department was vested in the Board of Corrections, and it appointed Oscar E. Lowder as Chief Agent. The department functions in the following manner:

. . . The work of an Adult Parole and Probation Department does not duplicate the functions of any other established agency. Its prime purpose is to protect society from those individuals who have been convicted of violating laws and have been given the privilege of living in society before serving any or all the penal term provided by law by assisting, in every way possible, those granted this privilege in effecting a successful adjustment. The authority granted the supervising agents is far reaching. They have the right to insist that a parolee or probationer stay on a job and support his dependents. They also insist that he keep reasonable companions and that he stay away from questionable places. No other agency has so much control over the lives of adults convicted by the courts but allowed to live outside of penal institutions.

Since 95 per cent will eventually return to society it's felt best to release them under supervision where they have the help of trained and skilled supervising officers to aid them with the solution of their many problems. If released and they prove good, fine; but otherwise they can have their parole revoked and returned to the penitentiary. In many instances it is possible to save the state the expense of a new trial by returning the offending individual as a parole violator.

Parole can be revoked for violation of rules established by the Board of Pardons, or the Parole Department.

It is also much cheaper to supervise an individual on parole who is capable of being rehabilitated than to keep him locked up in an institution. While he is on parole he can work and support himself and his dependents thus saving the community the expense of supporting both.

The above advantages are also true of Probation and in addition those who readjust on probation escape the stigma of having served a sentence in a penal institution and of being labeled "ex-convict." In some instances it is possible for the court to permit a probationer to withdraw his plea of guilty and to dismiss the case. This clears the individual's record of the conviction. Of

fifty-three cleared in this manner in 1946 none have ever been put back on probation due to reoccurrences.¹

From 1937 to 1950 the Adult Probation and Parole Department has supervised 1789 parole cases and 2,623 probation cases.² During the period from 1948 to 1950 some 485 persons were placed on probation in Utah. If they had been committed to prison, the approximate cost to the state for each year would have been \$354,050.00. Based on a monthly average of 600 cases under supervision for two years in Utah, the earnings of probationers and parolees gainfully employed is approximately \$1,080,000.00.

The cost to supervise a man each year is approximately \$77.00 as compared with approximately \$785.00 a year cost of incarceration. The economy of probation and parole has presented such a strong argument that on some occasions hopeless cases have been released under supervision, when the chances for their success was extremely remote. Probation and parole lose their effectiveness unless careful selection is practiced.³

Finance necessary to operate Utah State Prison has always been a matter of concern to the State Legislature. The total appropriation for maintenance of the prison was \$30,000.00 in 1896 but had risen to \$41,000.00 by 1900. Much

¹Biennial Report of the Board of Corrections of the State of Utah, Fiscal Years, 1936-1938, pp. 51-52.

²Today there are about thirteen members of the Adult Probation and Parole Department in Utah.

³Report of the Department of Adult Probation and Parole, Prison Print Shop, Utah State Prison, p. 5.

of these amounts was spent for personal services of prison personnel, maintenance and operating expenses.¹ During this same time the cost to care for convicts averaged less than fifty cents per day each.

By 1938 maintenance costs for the prison had risen to over \$100,000.00 a year. It now costs seventy-eight cents a day or \$284.49 a year to keep one convict.

If anyone thought an enormous amount was spent to operate Utah State Prison in 1938, they should have known what its operating cost was to be in 1950. From July 1, 1949 to June 30, 1950, the operating cost of Utah State Prison was \$384,280.47. Of this amount, 41 per cent was spent to pay the salaries of all prison employees and over 53 per cent went for maintenance and operating expenses. The average cost to keep a convict was \$2.15 a day, or \$787.46 a year.²

From 1896 to 1952 many changes have taken place in Utah's penal system. An increased population in the state has brought an increase in crime, and the state has spent millions to construct a modern prison to meet this new situation.

Because nearly every prisoner is eventually released, rehabilitation is the most important job in any prison, and prison administrators are aware of this. Every inmate of the

¹There were only nineteen prison employees in 1900, as compared with about fifty-five in 1950.

²Biennial Report of the Board of Corrections of the State of Utah, for Biennium, July 1, 1948 to June 30, 1950, p. 59.

prison is there presumably because he could not abide by the laws of the society in which he lived. During the past few years Utah State Prison has had new wardens come and go so frequently that the inmates have not had time to adjust to the new policies of each, consequently rehabilitation of the prisoner has been somewhat retarded. It is hoped that the present warden will be successful in his administration and that Utah State Prison in the future will reclaim lives as well as exact penalties.

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Charles L. Walker's Diary--1833-1904

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Lester H. Gogel, guard at Utah State Prison, Point of the Mountain: January 1952.

John E. Harris, ex-warden of Utah State Prison, at his home--115 South 3rd West, Provo, Utah, February, 1952.

Weston Haslam, acting warden, Utah State Prison at Point of the Mountain August 1951 to January 1952.

Wm. Ray Haueter, Identification officer at Utah State Prison, Point of the Mountain: January 1952.

Neil Ipson, ex-guard at Utah State Prison at Sugarhouse:
November 1951.

John G. Joosten, captain of guards, Utah State Prison, Point
of the Mountain: January 1952.

A. Michael McGee, (inmate) at Utah State Prison, Point of the
Mountain: November 1951.

W. C. Thompson, (inmate) at Utah State Prison, Point of the
Mountain: November 1951.

Jesse Walton, ex-guard at Bluffdale, Utah, February 14, 1952.

APPENDICES

APPENDIX A

EXECUTIONS DURING TERRITORIAL DAYS AND SINCE STATEHOOD

- (2) 1854 Two Indians, Longhair and Antelope, hanged at Cedar Valley, 30 miles southwest of Salt Lake City, September 15, 1854, for the murder of William and Warren Weeks.
- 1859 Thomas A. Ferguson, hanged October 28, a block east of the old observation tower on North Bench for the murder of his employer, Alexander Carpenter, September 17, 1859.
- 1861 William Cockroft, shot in the county courthouse enclosure at Salt Lake City, September 21, 1861, for the murder of Robert Brown in June.
- 1862 Jason Luce, shot at Salt Lake City for killing a friend on Main Street.
- 1862 An unnamed man, shot in county jail yard at Tooele for murder.
- 1869 Chauncy W. Millard, shot at the Provo jail yard for murder of a stranger riding a wagon on the west side of Utah Lake. He killed for "pleasure."
- 1877 John D. Lee, shot March 23, at scene of the Mountain Meadows Massacre for his alleged part in crime.
- 1878 Wallace Wilkerson, shot at county jail at Provo, May 15, for murder of a stockman named Baxter, near the shores of Utah Lake.
- 1887 Fred Hopt, shot August 11, at United States Penitentiary for the murder of John F. Turner, son of the Utah county sheriff, seven years before.
- 1894 Enoch Davis, wife murderer, executed September 14, at Dry Hollow Canyon, near Lehi, Utah County.
- 1896 Charles Thiede, hanged October 7, in the old county jail enclosure at Murray, April 30, for wife murder.

- 1896 Patrick Coughlin, shot December 15, near Woodruff, Rich County, for the murder of exmarshal Dawes of Wyoming and Constable Stagg of Echo, Utah.
- 1903 Peter Mortensen, shot at Utah State Prison November 20, for murder of James R. Hay at Forest Dale, December 16, 1901.
- 1904 Frank P. Rose, shot at Utah State Prison, May 22, for wife murder in Salt Lake City.
- 1912 J. J. Morris, hanged at Utah State Prison for murder of Joseph Walter Axtell on Main Street of Salt Lake City, May 9, 1911.
- 1912 Jules Zirmay, shot at Utah State Prison, May 22, for murder of Thomas Karrick, a schoolboy, October, 1910.
- 1912 Harry Thorne, shot at Utah State Prison, September 26, for murder of George W. Fassell March 24, 1910. Thorne and Thomas Riley held up Fassell's grocery, at 627 East Fourth South Street, and Thorne shot before his victim could raise his hands.
- 1912 Thomas Riley, Thorne's partner, shot at Utah State Prison October 24, 1912.
- *1913 Frank Romero, shot at Utah State Prison February 20, for murder of Albert Victor Jenkins at Sunnyside, Utah, February 5, 1911.
- 1915 Joseph Hillstrom, shot at Utah State Prison, November 19, for murder of J. G. Morrison and his son J. Arling, during an attempted hold-up at Mr. Morrison's Grocery in Salt Lake City, on the night of January 10, 1914.
- 1918 Howard DeWeese, shot at Utah State Prison May 24, for wife murder in Salt Lake City, December, 1917.
- 1919 John Berich, shot at Utah State Prison December 20, for murder of Mrs. Velma Adkins, Tooele, in September 1919.
- 1922 Steve Maslich, shot at Utah State Prison January 20, for his part in the murder of Marco Laus, East of the prison.
- 1922 Nick Oblizalo, Maslich's partner, shot at Utah State Prison June 9.

*Romero is said to have murdered more men than any other western criminal.

- 1923 George Gardner, shot at State Prison, August 31, for shooting police officer Stewart, at Sandy.
- 1924 Omer R. Woods, shot at State Prison, January 18, for wife murder in Salt Lake City.
- 1925 George Allen, shot at State Prison February 20, for killing Sergeant Pierce, in Salt Lake City.
- 1925 Pedro Canno, shot at State Prison for killing June St. Clair at Park City, May 15.
- 1926 Ralph W. Seybolt, shot at State Prison for killing David H. Crowther, a Salt Lake City Policeman, January 15.
- 1926 Edward McGowan, shot at State Prison January 15, for murder of Bob Bevans in Carbon County.
- 1936 Delbert Green, shot at State Prison July 10. Technically Green was executed for murder of his uncle, James Green, but he also killed his wife and mother-in-law January 4, 1930, when he ran amuk at the latter's home near Layton.
- *1938 John Deering shot at Utah State Prison October 31, for murder of Oliver W. Meredith, Jr., May 9, 1938, in Salt Lake City.
- 1942 Donald Lawton Condit, executed for the murder of Harold A. Thorne, Salt Lake City Grocery Salesman, July 30. He killed Thorne March 20, 1941, near Cedar City, Utah.
- 1943 Walter Robert Avery, executed at State Prison, February 5, for the murder of Ogden Detective Hoyt L. Gates, during the attempted robbery of a grocery store in Ogden, February 11, 1941.

*Probably the first electro-cardiograph record ever made of a man's heart action while he was being executed was taken at Utah State Prison in 1938, when John Deering paid the penalty for murder before a firing squad. Electrodes fastened to Deering's wrists registered his pulse beat. Though apparently unconcerned, his heart beat at the rate of 180 times per minute shortly before he was shot; the heart of a man doing violent work or exercise seldom beats faster than 120 times a minute, and the prison physician said he would have died even if no bullet had been fired. His heart stopped 156 seconds after it was pierced by bullets.

- *1944 Austin Cox, U.S.P. #7554, executed June 19, for the murder of Lewis V. Trueman.
- 1945 James J. Reedl, U.S.P. #7564, executed July 13, for the murder of Mrs. Agnes Abigail Williams.
- 1951 Eliseo J. Mares Jr., #8142, executed September 10, 1951, for the murder of Jack D. Stallings, at Summit County, Utah. Execution was the first to occur at the new Point of the Mountain Prison. (Execution occurred in Unfinished A Block)
- 1951 Ray Dempsey Gardner #8626, executed September 29, 1951, for the rape murder of Shirley Gretzinger, baby sitter at Ogden, Utah. Execution took place at the Point of the Mountain Prison. (Place of Execution was in Unfinished A Block)

*Cox was a large man about six feet five inches tall, and a very moody prisoner. He knew he was going to be executed and wanted to take as many with him as he could. He stole a spoon from the food tray and sharpened it on the cement walls. His attempt at murder with the spoon was made upon Lester Gogle, a guard. He was successful in stabbing Gogle, but the wound was not serious. Cox was subdued with tear gas and gave up the crudely made weapon.

The records of the executions were copied as they were listed in the prison files. The only mistake of any historical significance found in the records was in the case of the first execution. Their files state that the execution occurred in 1858, but the diary of Hosea Stout, gives the date of the execution as September 15, 1854, and since he was at the execution he is regarded as the authority.

APPENDIX B

A RECORD OF THE PRISONERS RECEIVED AND DISCHARGED
AT UTAH PENITENTIARY FROM 1855 TO 1878

	1855	1856	1857	1858	1859	1860	1861	1862	1863	1864	1865	1866	1867	1868	1869	1870	1871	1872	1873	1874	1875	1876	1877	1878	Total
Number of convicts committed each year ..	9	9	1		6	24	6	10	18	7	21	12		9	36	12	6	10	22	22					240
Pardoned	1	7			4	3	3	4	7	7	7	5	2	2	7	2		2	4						67
Habeas Corpus						9	3		1		1						4	5	6	3	9				41
Term expired	1	2	1			1	2	4	4	1	8	2	2	4	18	3			7	5					65
Escaped	3				1	2	8	2	2	1	4		3	1	11	2	2	1	2	1	1				47
Killed attempting to escape								3		1	2				2				2		2				12
Taken charge of by military											1														1
Taken by U.S. Marshal over protest																	3								3
Turned over to U.S. Marshal by order of court																				1	1				2
Returned to U.S. Marshal																							2		2
Total																									240

145

APPENDIX C

FINANCIAL REPORT ON UTAH PENITENTIARY
1864-1875

Year	Institution Expenses	Less Amount of Convict Labor	Net Cost of Institution
1864	\$1,804.36	\$1,084.74	\$ 719.62
1865	5,965.83	1,365.32	4,330.51
1866	5,932.82	3,839.32	2,093.50
1867	5,157.30	2,367.10	2,790.30
1868	4,989.28	2,857.59	2,131.69
1869	4,925.93	2,748.78	2,177.15
1870	5,627.25	2,531.50	3,095.75
1871	4,701.40	1,498.76	3,202.64
1872	10,637.03	4,227.50	6,409.53
1873	4,410.76	3,375.75	1,035.01
1874	8,693.43	2,799.00	5,894.43
1875	4,777.83	2,803.00	1,974.83

APPENDIX D

RECORD OF PRISONERS--1896-1950

Year	Prisoners Received	Prisoners Discharged	Prisoners Paroled	Prisoners Pardoned	Sentences Commuted
1896	189
1897	116	84	0	16	1
1898	99	99	0	16	2
1899	103	106	0	20	1
1900	99	102	3	29	2
1901	102	117	2	11	0
1902	96	104	11	25	3
1903	131	107	4	22	5
1904	115	100	1	26	3
1905	134	118	5	22	9
1906	109	86	9	4	5
1907	134	113	10	20	9
1908	157	119	9	22	8
1909	166	174	6	14	17
1910	155	140	5	7	5
1911	161	168	5	21	1
1912	148	155	8	13	3
1913	152	157	14	12	2
1914	191	151	19	11	11
1915	135	155	23	2	7
1916	152	163	34	0	7
1917	144	225	34	10	23
1918	80	128	31	6	8
1919	73	102	32	1	0
1920	122	117	56	3	0
1921	160	125	51	2	0
1922	156	124	27	2	0
1923	150	107	31	2	0
1924	187	100	31	1	0
1925	187	158	49	...*	...*
1926	189	174	60		
1927	190	161	50		
1928	178	190	59		
1929	190	151	74		
1930	200	190	78		
1931	231	188	42		
1932	232	236	42		
1933	186	208	85		
1934	234	212	98		
1935	178	197	127		
1936	165	133	105		
1937	136	180	146		
1938	195	145	119		
1939	173	126	107		

APPENDIX D--Continued

Year	Prisoners Received	Prisoners Discharged	Prisoners Paroled	Prisoners Pardoned	Sentences Commuted
1940	215	164	124		
1941	148	202	140		
1942	120	214	142		
1943	145	149	122		
1944	121	115	74		
1945	181	125	92		
1946	167	119	91		
1947	224	127	91		
1948	240	217	159		
1949	253	284	201		
1950	315	214	110		

*Records of prisoners pardoned and sentences commuted not available for years following 1924.

Other methods by which prisoners were released: (1) termination of sentence by court, (2) transferred to authorities of other states, (3) terminated to federal authorities, (4) expiration of sentence, (5) to mental hospitals, (6) natural deaths, (7) executions, (8) escapes.

PLATES

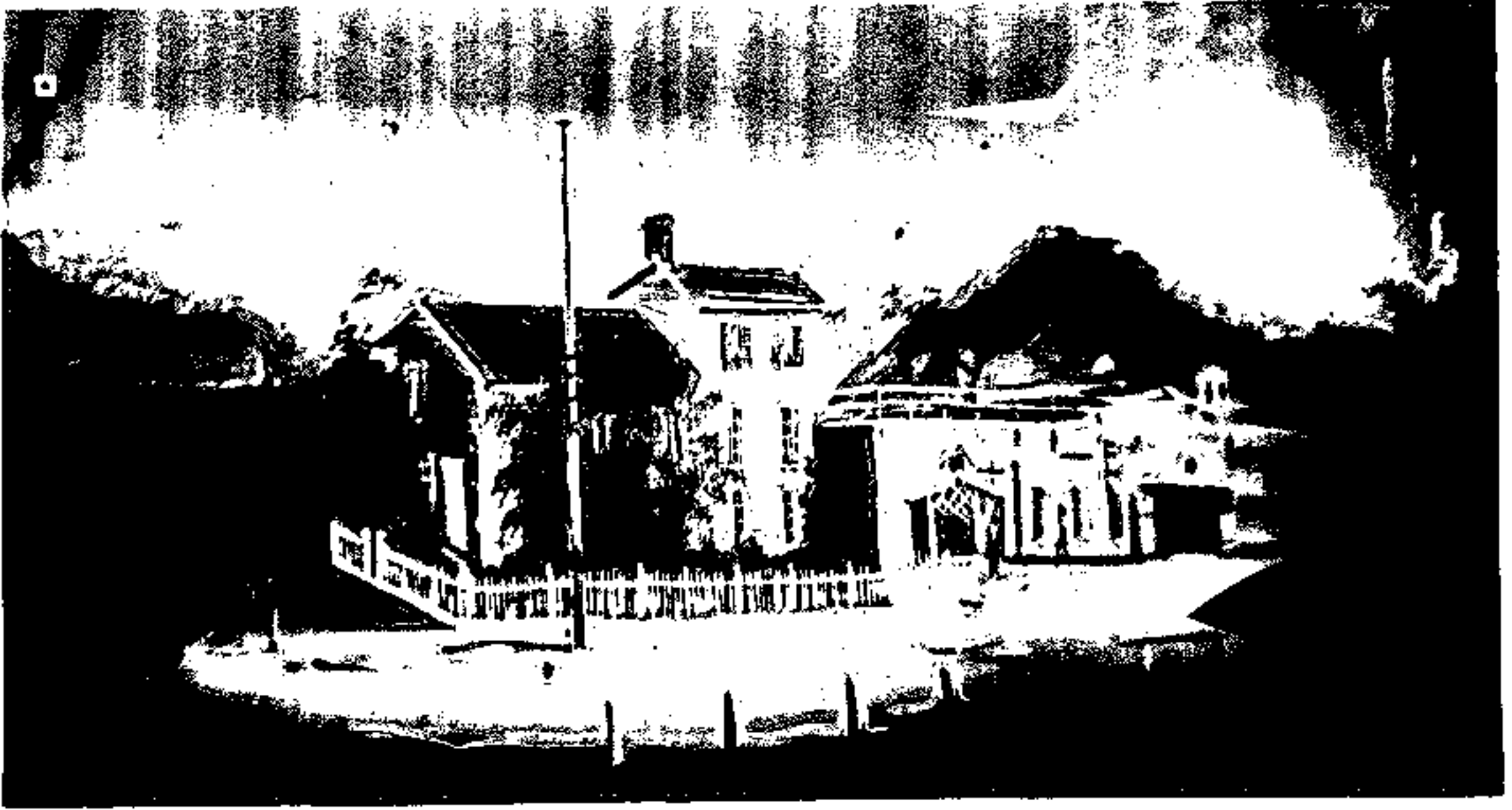


Fig. 1. Utah Territorial Penitentiary--1880

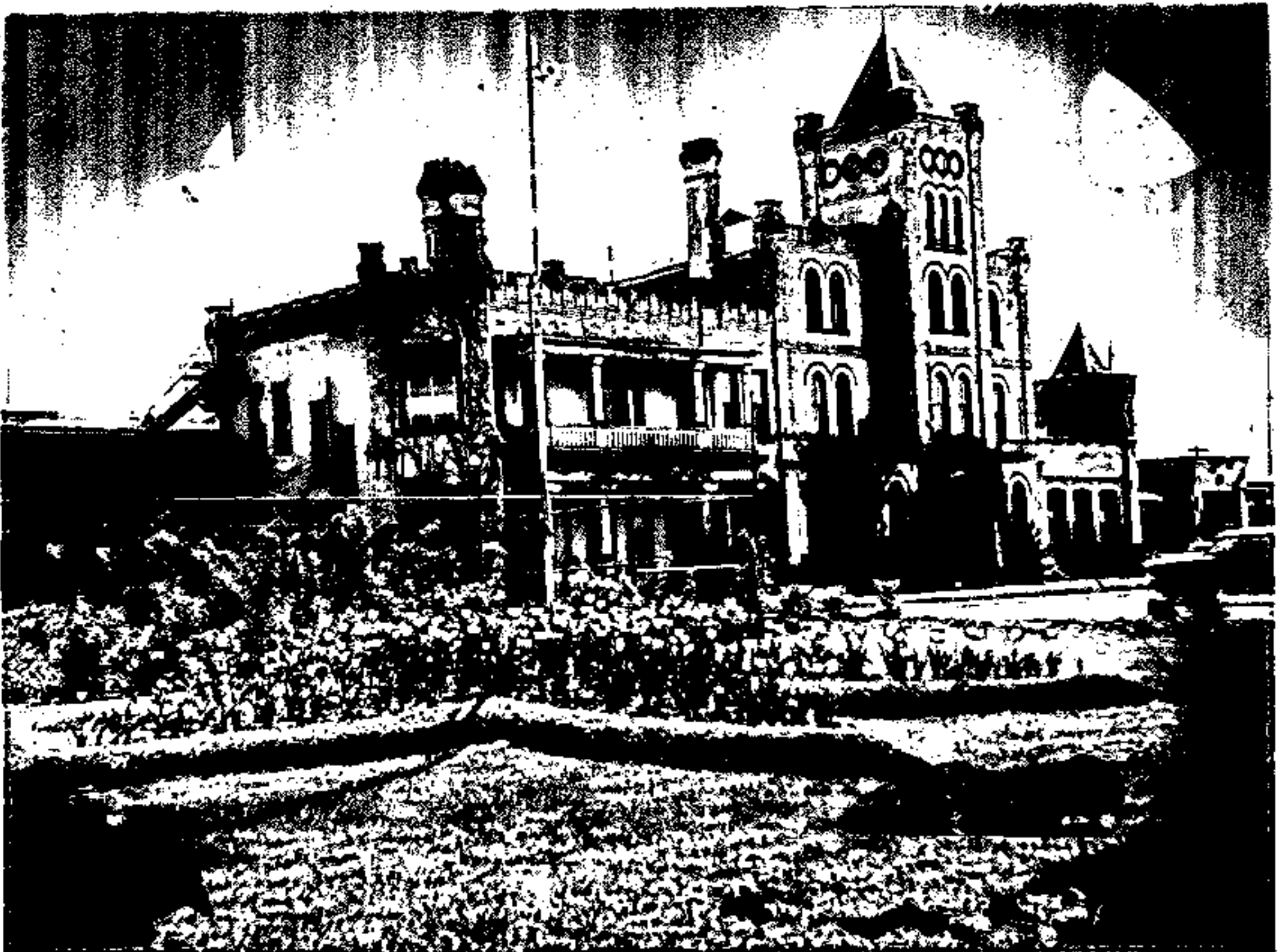


Fig. 2. Administrative Building of the old Sugarhouse Prison--1945.

PLATE II



John Leighty and Family--1899
Leighty was serving time for polygamy.

PLATE III

Methods of treatment of incorrigibles at Utah State Prison.
These methods of punishment were abandoned a number of years ago.

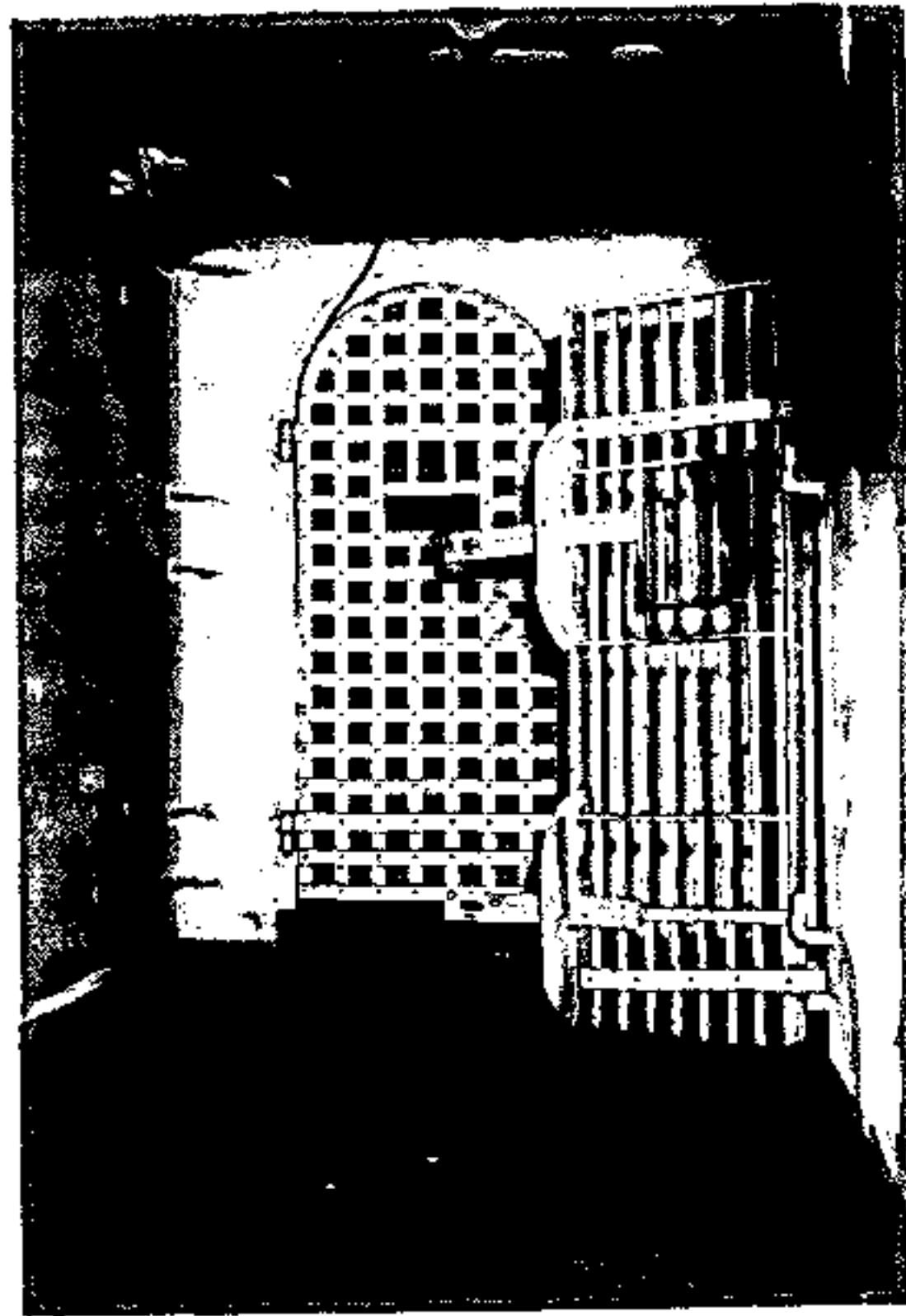


Fig. 1. Inside view of a discipline cell for incorrigibles. This cell was located in the basement of number three cell block at the old Sugarhouse Prison.



Fig. 2. Two views of the "hole," a cell used for solitary confinement of incorrigibles. It was located in the prison yard between the machine shop and number two cell block of the old Sugarhouse Prison.



PLATE IV

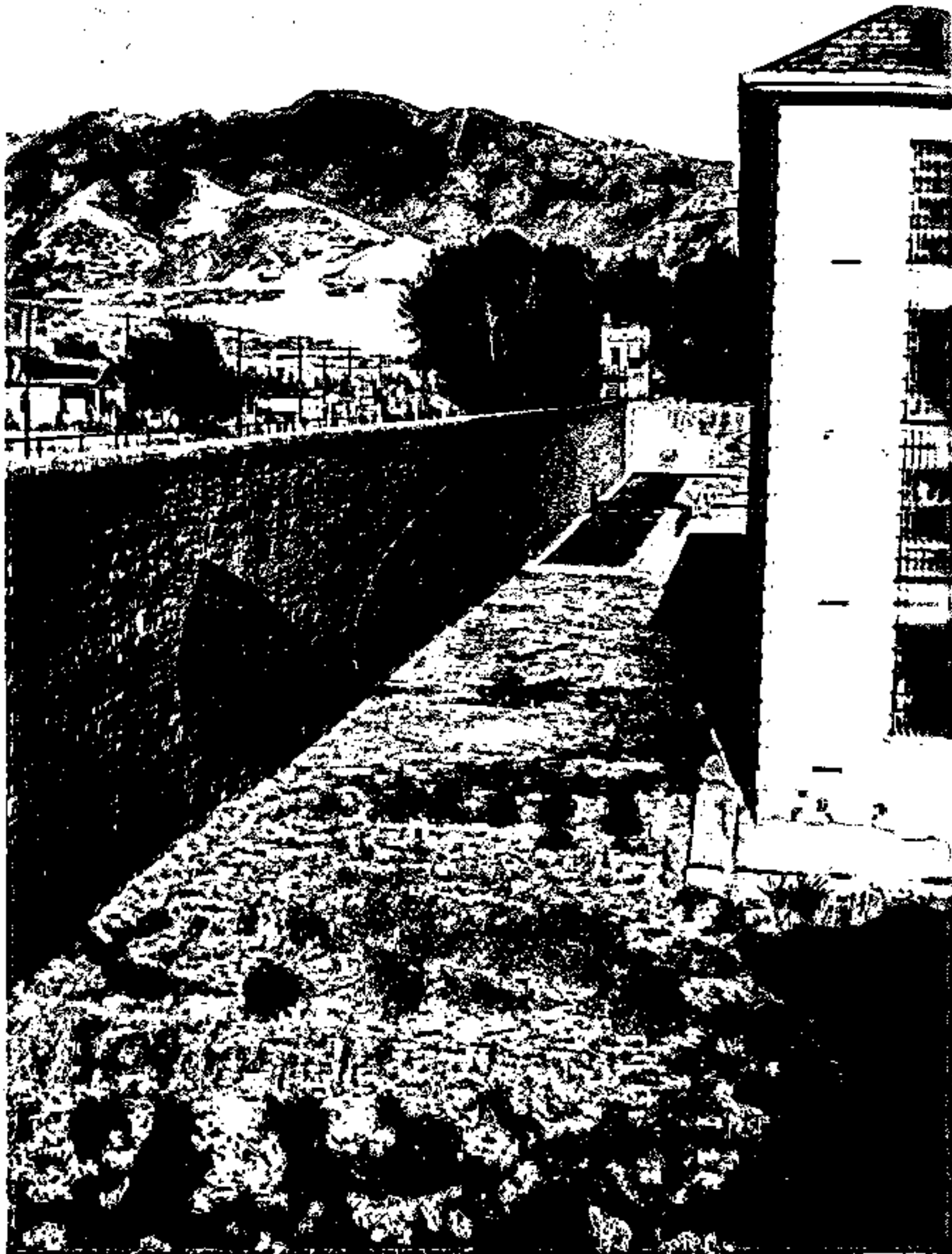


Fig. 1. View looking east along the north wall of the old Sugarhouse Prison. The view reveals a portion of number one cell block.



Fig. 2. West wagon gate entrance to the old Sugarhouse Prison.



Fig. 3. Sugarhouse Prison Potter's-field. It lies just southeast of the east wall.

PLATE V

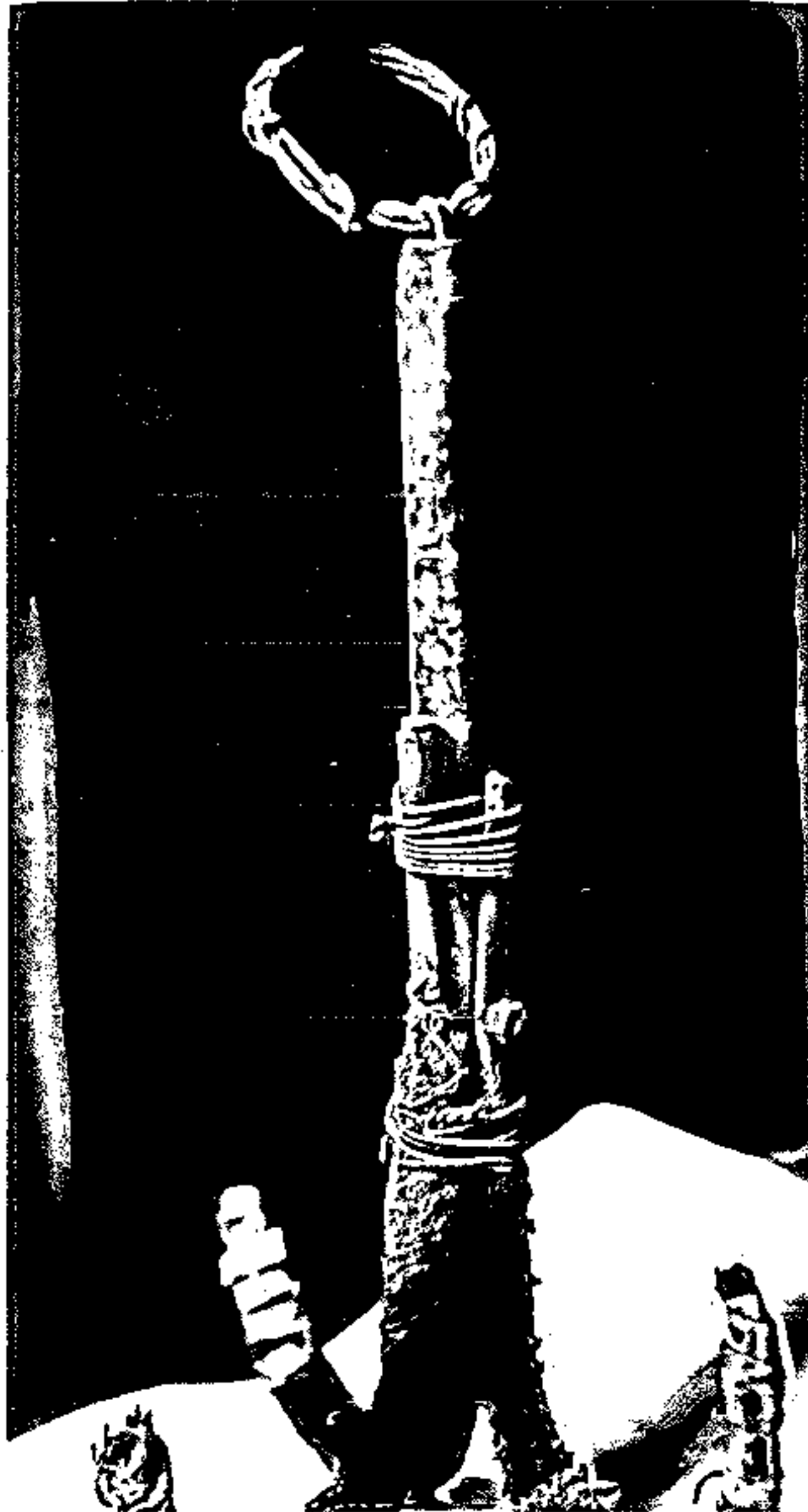


Fig. 1. Improvised hook used by convicts in their attempt to escape over the wall of the old Sugarhouse Prison--1932.



Fig. 2. H. Jorgenson, prison guard, searching a drainage culvert near vicinity of Sugarhouse Prison for an escaped convict--1940.

Old Sugarhouse Prison in process of being torn down



Fig. 1. View of number two cell block and yard.



Fig. 2. Minimum security cell block on the left, and maximum security cell block on the right.

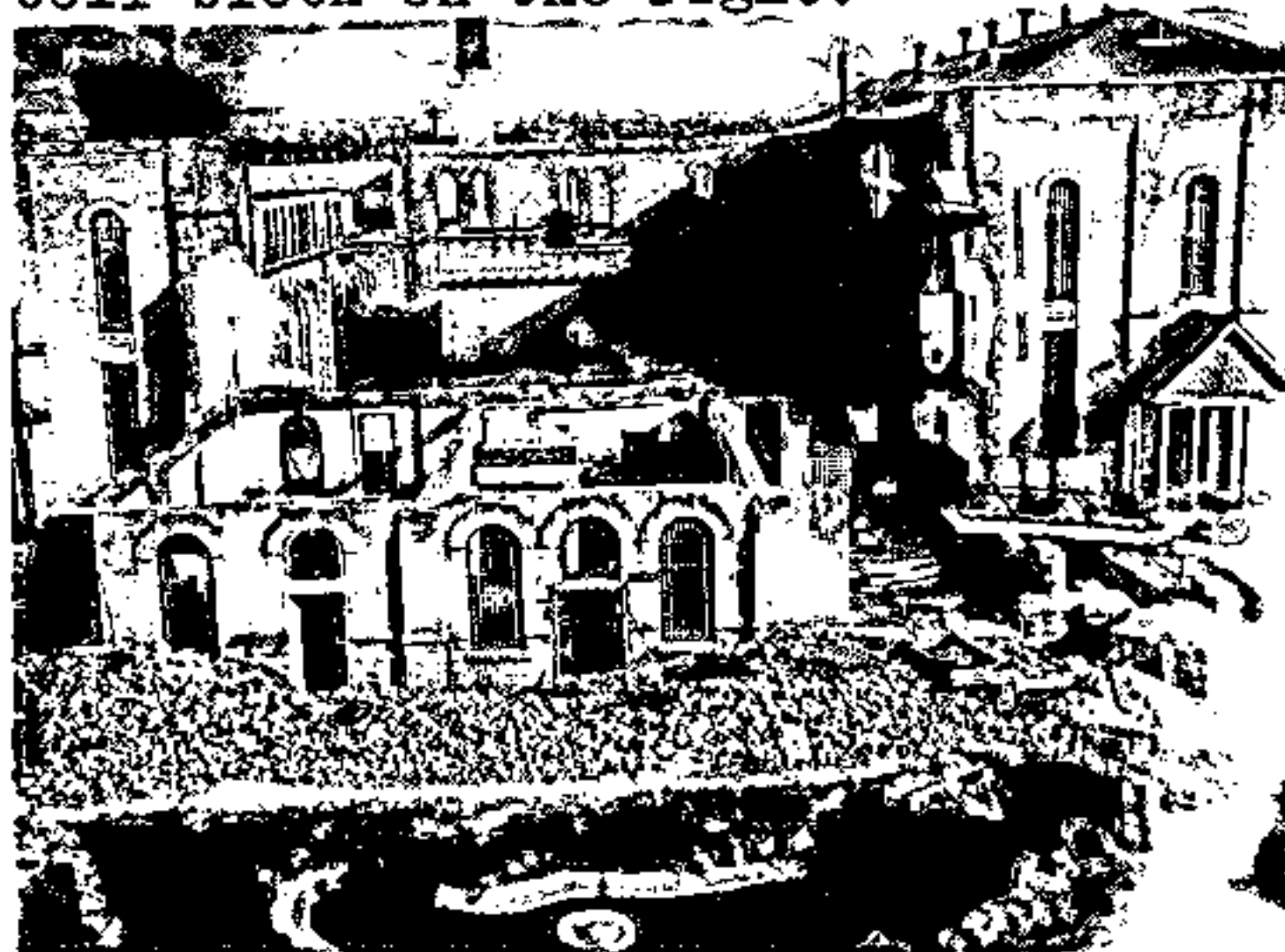


Fig. 3. The building in the foreground was used by the old Sugarhouse Prison as a barber shop, shoe repair shop and laundry.

PLATE VII



Fig. 1. View of the prison farm and the new State Prison.



Fig. 2. View of the new Utah State Prison, looking West from Highway 91.



Fig. 3. View of a cell in the new State Prison.

HISTORY OF
UTAH STATE PRISON
1850-1952

An Abstract
Of a Thesis Presented to the Faculty of
the Department of History
Brigham Young University
Provo, Utah

In Partial Fulfillment
of the Requirements for the Degree
Master of Science in History

by
James B. Hill
June 1952

ABSTRACT

The purpose of this thesis is to present a general history of Utah State Prison in order that a record of that institution may be preserved. This phase of Utah history has long been neglected. It is hoped that a contribution has also been made to a better understanding of Utah's penal system.

The present penal system in use in the state of Utah had its beginning with the early Mormon settlements in Salt Lake Valley in 1847. The first laws and judicial bodies of the Mormons were very closely tied to their religious beliefs. The handling of criminals was entirely a religious responsibility, often involving fines, restitution and corporal punishment. Governmental jails and prisons came very gradually.

The same act of Congress providing for the organization of a Territory of Utah on September 9, 1850, also carried an appropriation for the erection of public buildings, including a territorial prison. On March 3, 1853, Congress approved an appropriation for the building of a penitentiary in Utah Territory. In the last part of 1854 the prison was completed, and in January, 1855, Utah Penitentiary began operations as an organized penal institution.

From 1855 to 1860 Utah Penitentiary functioned under the leadership of a board of inspectors consisting of three members and a warden. The Board of Inspectors and the warden

were elected by the Legislative Assembly for two years each. During this period of time twenty-five prisoners were committed to Utah Penitentiary, of which twelve were pardoned, one was discharged on writ of error, three escaped and only nine served out their sentences.

In January, 1860, the Legislative Assembly amended the laws relative to the organization and establishment of Utah Penitentiary. The Board of Inspectors was at this time superseded by a Board of Directors consisting of three members, elected for terms of one year each. The warden was still to be elected by the Legislative Assembly, but for a one year term only.

The main problem facing the administrators of the territorial prison was that of escaping prisoners. The number of escapes plus those killed attempting to escape between 1855 and 1878 averaged about twenty-five per cent of all prisoners committed to the penitentiary.

In January, 1871, a congressional act was passed authorizing United States Marshals in certain territories of the United States to take charge of the territorial prisons erected by the United States. United States Marshal Patrick took possession of Utah Penitentiary from territorial warden, Albert P. Rockwood, in August 1871. The prison's name was then changed from Utah Penitentiary to United States Penitentiary.

In 1871 territorial prisoners could have been committed to the United States Penitentiary, but the legislature felt that the federal government charged too much for keeping them.

Thus the territorial government authorized Warden Rockwood to make arrangements to keep territorial prisoners in county jails and rented buildings. During the period of time just after the prison was taken over by the federal government, the Legislative Assembly seriously talked of building a new prison on Antelope Island in Great Salt Lake. Plans for the new prison never materialized and from 1878 to 1896 territorial prisoners were committed to the United States Penitentiary.

In the 1880's many Mormons were sentenced to serve time in the United States Penitentiary for participation in the religious belief of plural marriage. Upwards of a thousand men were sent to prison for failure to discard their plural wives and children. Hundreds were driven into hiding and thousands disfranchised. Women were also sent to prison for failure to testify against their husbands. These were trying days for the Mormons and busy days at the United States Penitentiary in Salt Lake City.

Utah achieved statehood in 1896 and inherited all of the property known as United States Penitentiary. The federal government had spent over \$300,000.00 on improvements at the prison after taking the prison from the territorial government in 1871. The prison could now accommodate about 500 people. Included in the prison property were over 180 acres of which seventy-eight acres were under cultivation. The newly acquired prison was given the name of Utah State Prison.

The government and control of Utah State Prison was vested in a Board of Corrections consisting of four members.

Three members were appointed by the Governor upon the advice and consent of the Senate. The Governor, and ex-officio member of the Board, served as the fourth member. Each succeeding governor has automatically become an ex-officio member of the Board of Corrections. Members of the Board of Corrections have always served without pay.

After statehood several new prison buildings were built and Utah State Prison at Sugarhouse, Utah, was regarded as an adequate penal institution until the late 1920's. By 1926 residential and business sections had gradually built up around the prison and a new location was badly needed. Prison buildings were also in need of repairs.

Authorization for the new prison was finally made in 1937, and a prison site consisting of 1009 acres was purchased. The site was located just west of highway 91, about twenty miles south of Salt Lake City.

Construction on the new prison began in 1940, but it was halted during the war years due to worker and material shortages. In July, 1948, work on the new prison was resumed, and in March, 1951, prisoners were moved into the new prison even though it was not completed. In the neighborhood of three and a half million dollars will have been spent on the new prison when it is finished. The cost of operating it is also much greater than the old prison at Sugarhouse, because it is larger, but an increase in investments should pay larger and better dividends in human improvements.