



ESSAYS:

CAPITAL MOVE OR THEFT?

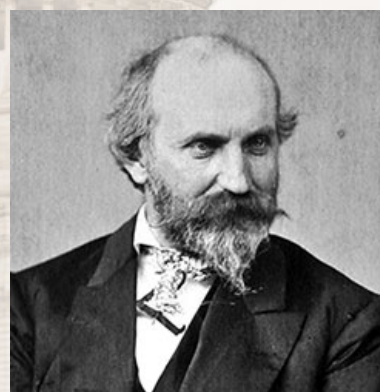
By Royce Williams

If you take the Idaho Territorial Seal and the Constitution out of a locked safe and put them in a saddlebag, telling only those who agree, then take them from Lewiston to Boise, is that just a move or is it theft?

Back in 1864, representatives from the Northern section of Idaho Territory gnashed teeth, stomped and called it grand theft, even threatened to leave Idaho and join the Washington Territory.

No, said representatives from Southern Idaho, it was just a move that brought the capital to where the people were. The people of the time were gold miners. The gold had played out around Lewiston, and Boise Basin fields were opening, the country around Idaho City being a major one. There was a surge of miners to Southern Idaho after the 1862 discoveries, along with the farmers who started clearing sagebrush around Boise to feed the miners, an Army base, and businessmen setting up shop to sell all of them anything they needed. All of it left the Lewiston area essentially depopled.

Since there was no Supreme Court in place at the time to call it either theft or move, and the territorial governor, a New Yorker named Caleb Lyon who was ambivalent about his middle-of-nowhere assignment, was out-of-territory, the arguments raged as only arguments can in a gridlocked and leaderless bevy of politicians.



After signing off on the bill to move the capital to Boise, Territorial Governor Caleb Lyon sneaked out of Lewiston under the guise of going on a duck hunting trip. Photo courtesy: ISHS



Clinton DeWitt Smith, with territorial papers in his saddlebags, brought the capital to Boise, arriving April 14, 1865. Photo courtesy: ISHS

Depending on where you lived in Idaho, the dastardly deed or official move occurred on March 29, 1865. With Lyon absent, the newest Territorial Secretary (Secretary of State) Clinton DeWitt Smith named himself acting governor. He went to nearby Fort Lapwai, brought a contingent of soldiers to the Lewiston Capitol building, broke into the building, loaded the Territorial Seal and as many official papers that would fit in his saddlebags, and headed to Boise. They were on the road (make that trail) for 16 days, arriving in Boise on April 14. This seems a long time, but the group probably wasn't familiar with the foul weather that can hit in early spring in the high prairies and rugged canyons between the two cities.

Foul! the Northerners cried. But Smith had seen the out-migration of miners as he rode into Lewiston. He had arrived on March 2, 1865.

The Northerners had thought they had a tight grip on the capital. The first territorial governor President Abraham Lincoln had sent west in 1863, a man named William H. Wallace, had picked Lewiston as the capital city. It seemed a good choice. The city at that time was larger than Olympia, Seattle, and Portland put together. It was also the closest Idaho city to his residence in Washington. His temporary territorial secretary, a man named Silas Cochran, appears to have been for keeping the Lewiston site. But a permanent secretary (Smith) can over-rule a temporary one.

How did they get into this knotty mess? Part of it was the dozen territorial governors appointed between territory and statehood. Few of them, it seems, wanted to tackle the enormous problems presented by a corduroy piece of country full of people at odds over almost everything.

It came to a slight head with the first legislative session in December of 1863. More southerners showed up than northerners, and even Wallace must have seen what was coming. It came when the southerners introduced a bill to move the capital to Boise. A representative named H.C. Riggs (a Democrat) introduced the bill, but northerners managed to get the bill tabled at that session, and everybody went home without a decision on where the capital was to be. It wasn't tough to know which site Riggs favored. He had named his son Boise, and he carved Ada County out of Boise County, naming it after his daughter.

But a funny thing happened in that first session. Apparently by mistake, the first session set two dates for the second session - one on November 14, 1864, and another on January 1, 1865.

Everybody showed up on November 14, this time with even more southern representatives. Arguments filled with spit and vitriol replaced debate, but the southerners managed to maneuver the Boise capital bill through the legislative mill. Governor Lyon signed the bill.

Northerners sued. They said that the legislature should have met in January instead of November, and everything passed during the November session was invalid. With no Supreme Court, a Lewiston judge heard the case and upheld the northerners' plea. Probate Judge John G. Berry locked up territorial records and said that if Lyon or Cochran or anyone else tried to remove them, they would be arrested and jailed.

Cochran apparently didn't want to remove them, and Lyon was out-of-territory, so Cochran, after traveling to Washington to talk to Lyon, declared that since Lyon was out of the territory, his signing of the bill was not binding. He refused to lend a hand by opening the safe for troops sent to the capitol by Lyon. Enter Smith, the permanent territorial secretary. He personally oversaw the move-theft on horseback to Boise. Smith had been chased to the Snake River ferry by U.S. Marshal Joseph K. Vincent, who waved Judge Berry's warrant for Smith's arrest. While the troops kept the marshal at bay, Smith made it to the ferry, and he didn't stop until he was across the river and into Washington Territory.



The Territorial Seal brought to Boise by Smith. It has not since been found. A new seal, designed by Gov. Caleb Lyon, was unveiled in 1866. Photo courtesy: John Mock, Lewiston historian



Smith broke into this building in 1865, stuffed territorial papers into saddlebags and escaped to Washington Territory with a U.S. Marshal on his heels. Photo courtesy: Nez Perce County Historical Society, Ira Dole collection

Smith arrived in Boise April 14, 1865, and made a short speech on the balcony of the Overland Hotel. He said he was among friends. A large crowd of Boise residents was there to cheer him.

"I feel welcome now, for it seems to me that I have got among my friends. It is the first time I have felt so since I arrived in the territory," he said. He said he planned to stay in Boise, then left the balcony after saying he was very tired.

Smith's arrival in Boise got little press coverage, for he had arrived on the same night President Abraham Lincoln, the man who had appointed him territorial secretary, was shot at Ford's Theater in Washington, D.C.

That wasn't the end of the story.

A Supreme Court came into being in 1866, and since the original lawsuit had not been settled at the territorial level, the court finally reconsidered the

case and ruled, two to one, that Boise was the one and only capital city. However, the action is recorded only in court minutes. An official opinion was never written.

And Smith did not live to see his actions upheld by the high court. While on an inspection trip to the quartz mines at Rocky Bar, he fell over dead during a game of chess. His obituary in the Walla Walla Statesman said he died August 14, 1865, and was buried on the spot "with the usual manifestation of mourning."



Idaho's Territorial Capitol was finished in 1866. It stood at the same location as the current Capitol building and was torn down to make way for construction of the State Capitol in 1919. The architect for this building was E.E. Myers of Detroit, Michigan. Photo courtesy: ISHS