

# IDAHO STATE HISTORICAL SOCIETY

## REFERENCE SERIES

### THE FIRST IDAHO TERRITORIAL LEGISLATURE

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When the first Idaho Territorial Legislature convened at Lewiston, December 7, 1863, they faced a mountain of work. Counties had to be reorganized and staffed with officials. Revenue laws had to be passed to give the new territory a local income. Most important, a code of criminal and civil practice had to be adopted to put teeth into the territorial court system. The Organic Act had set up the territorial supreme court, had divided the territory into three Judicial Districts in which a district court was to be held periodically by each of the supreme court justices, and finally, had provided for probate and justice court adjudication. But aside from broad definitions of jurisdiction, the basic law had left the judicial details up to the territorial legislature. That meant the Lewiston body not only had to clarify court functions, but also had to give the court something to do by providing the territory with a body of civil and criminal law. In his message to the lawmakers, Governor William B. Daniels, the territorial secretary who had automatically fallen heir to the executive office when Wallace resigned after the October election, acknowledged the need to adopt not only a comprehensive legal code, but also the Common Law of England. In his words, "The Common Law is said to fill every interstice, and occupy every wide space which the statute law cannot occupy, and is regarded as indispensable by all our States and Territories."

The lawmakers made the problem of judicial organization their major item of business. First they implemented Wallace's Court organization decree of November 18, 1863, by drawing the boundaries of the three districts and by assigning the judges. Then the legislators drafted bills defining a crime, outlining probate rules and procedure, and establishing judicial processes in both civil and criminal actions. The members capped the entire legal code with a bill making the English Common Law the law of the land. By the close of the first session, a complete body of territorial law had been drawn and passed. No longer would Idaho courts have to try to operate under Washington.