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LOCATION OF IDAHO'S TERRITORIAL CAPITAL

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On December 24, 1864, Boise became the capital of the territory of Idaho. But although the act of the territorial legislature was clear and simple, the situation was not, and the story surrounding it is typical of politics of that day.

When the territory of Idaho was established by Congress, March 4, 1863, the law provided that the first territorial legislature should select a permanent capital. Originally, before the new territory was set up, the weight of population had been in the north and the principal city there was Lewiston. When the first territorial governor, William Henson Wallace, reached the territory in July, 1863, it was logical for him to establish his office in Lewiston and proclaim the organization of the territory from that town. It was also to Lewiston that he summoned the first territorial legislature in December, 1863.

But for a little more than a year the center of population had been shifting. Gold had been struck in the Boise Basin in the summer of 1862, and the new mines had drawn population from north to south. When the census, on which apportionment was based, was taken in September, 1863, the area around Boise already had far more people than did the northern mines around Lewiston. The trend continued in coming years.

That first legislature in Lewiston in 1863 did not face the issue of locating a definite territorial capital. Thus all through 1864, Lewiston was the temporary seat of the territorial government, but there was no permanent capital.

In November, 1864, the second legislature assembled, again in Lewiston. Northern Idaho members tried to avoid the issue of locating a territorial capital by asking Congress to create a new Idaho Territory composed of northern Idaho and eastern Washington, which would have left southern Idaho free to go off in any direction it chose. But northern Idaho had a population of only 2,790 compared with southern Idaho's 18,997--and southern Idaho legislators wanted to stay a part of the territory. They had the votes to do it, they defeated the northern proposal, and they went on to establish Boise as the capital of Idaho.

The north was horrified at this defeat. Although at the close of the legislative session the act became law and Boise therefore became the capital, Lewiston lawyers took the matter into court. They claimed that the entire session of the legislature was illegal because they thought it had convened on the wrong day. In fact, nobody could tell which was the right day. The first session had passed conflicting laws. One act directed that the second session should assemble on November 14, 1864, but another provided that the terms of members of the second session should not begin until January 1, 1865. Following this line of thought, a Lewiston lawyer complained to the court that "sundry persons claiming to have been elected as members of the House of Representatives" had met before their terms had commenced, and had "pretended" to locate the capital permanently in

Boise. There followed one of the most fantastic law suits of the West. The Governor of the territory, Caleb Lyon of Lyonsdale, departed from Idaho while out hunting ducks, leaving his private secretary as the entire executive department. On the later the court served an ancient writ forbidding him to leave the court's jurisdiction, and when some Boise partisans tried to swipe the territorial seal and archives in order to remove them to Boise, Lewiston established an armed guard over the papers themselves. Both sides used loud language about each other, and there were petitions to Congress and hearings before a probate judge. His was not the proper court to hear the matter, but the proper court was incapacitated for reasons which embarrassed Lewiston. The territorial supreme court was not yet organized. The judges had not yet gotten together, and anyway the court was supposed to assemble in the capital and nobody knew where the capital was.

Matters dragged on this way, with confusion worse compounded, until a man named C. Dewitt Smith arrived in Lewiston, March 2, 1865. Smith, the new secretary of the territory, and thus acting governor in Governor Lyon's absence, had both funds and the ability to command help from federal troops at Fort Lapwai. One afternoon he went out for a ride, and the next day he came back with a file of soldiers. Shortly he was on his way to Boise with the territorial seal and as many of the territorial papers as he could carry. Lewiston promptly and literally threw the rest of the territorial papers in the Lewiston jail.

But the story was about over. Secretary Smith, complete with seal and archives, got to Boise on April 14, 1865. In due course, the Supreme Court organized and heard the case, although the matter came up so early in the court's existence that the order was recorded, but not the opinion. (We know about the court arguments only from newspaper reports of the day.) The legality of the second session of the legislature was upheld, and it became clear that Boise had been the official capital since December 24, 1864, even if it had taken many months and assorted law suits, arrests, military expeditions, and bad language to put the decision into effect. Matters in Idaho settled down until the next crisis, which in these stormy days was not long in appearing.

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