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Smith: James Duane Doty - Frontier Promoter

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RECENT BOOKS

This department undertakes to note or review briefly current books on law and matters closely related thereto. Periodicals, court reports, and other publications that appear at frequent intervals are not included. The information given in the notes is derived from inspection of the books, publishers' literature, and the ordinary library sources.

BRIEF REVIEWS

JAMES DUANE DOTY—FRONTIER PROMOTER. By *Alice Elizabeth Smith*. Madison, Wisconsin: State Historical Society of Wisconsin. 1954. Pp. vi, 472. \$5.

In any general study of the western transmission of American law it is necessary to pay especial attention to the careers of the lawyers and judges who moved westward with the frontier. The career of James Duane Doty is typical. From New York, where he was born, Doty went to Detroit (the capital of Michigan Territory) in the summer of 1818 at the age of 18. In the spring of 1818 the territory of Michigan had been extended westward far enough to include the present state of Wisconsin. After two months of study in a law office Doty was admitted to the bar of the Supreme Court of the territory, and served as its clerk from September 29, 1819 to June 22, 1820. After his term as clerk Doty practiced law at Detroit until he was appointed "additional judge" for the territory of Michigan on February 1, 1823 at the age of 23. As "additional judge" he was required to hold a superior court at three places in the sparsely settled country west of Lake Michigan, and to reside in that part of Michigan Territory. He served as "additional judge" until 1832, after which time he resumed his career as a practicing lawyer in the Wisconsin area—an area that became a separate territory in 1836; a state in 1848. But, as was true of many frontier lawyers, he gave as much (or more) time to politics and to land speculation as he did to law. In the political field he was successively member of the Legislative Council of the territory of Michigan, delegate to Congress from Wisconsin Territory, governor of Wisconsin Territory, member of Wisconsin's first constitutional convention, and member of Congress from the state of Wisconsin. He was an agent of the American Fur Company, and was so active as a land speculator, and promoter of town sites, that he is referred to in the title of the book under review as "Frontier Promoter." In 1861 he again moved westward, having been appointed superintendent of Indian affairs for the territory of Utah. He became governor of Utah Territory in 1863, and died while holding that office in 1865.

The above outline of Doty's career is fully filled in and exhaustively documented by Miss Smith in her scholarly and well-written biography of James Duane Doty—Frontier Promoter. It should be noted, however, that while Doty the politician and land speculator lives again in the pages of the book, Doty the lawyer and judge remains unknown. This is true because Miss Smith makes no attempt to evaluate Doty's legal ability or to compare his work as a judge with that of others working under similar conditions. The omission in this

respect is not a fault, but a proper recognition of the line which should separate the work of the general historian from that of the specialist in legal history. Miss Smith's contribution to legal history is found in her careful account of the physical and social conditions under which Doty worked, and in her numerous references to manuscript and other legal-history sources. Her account closes on this tragic note: "In the fall of 1868 the library that Doty had painstakingly gathered, and carefully preserved through his many moves, a collection so huge that it made three large wagonloads, was carted from the Loggery to a paper mill in Neenah and ground into pulp."

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