

# The United States Marshals Of Arizona Territory

## Part One – Edward Phelps

*Roy B. Young*

Arizona Territory had fourteen United States Marshals between the formation of the territory in 1864 and 1912, when Arizona was admitted to the Union as a state. Some of the marshals are well-known to students of outlaw-lawman history, such as: Robert H. Paul, Crawley P. Dake, and William Kidder Meade. Others are relatively unknown, including: George Tyng, Francis Henry Goodwin, and William M. Griffith.

Books or substantive articles have been written about several of the marshals, including: Milton B. Duffield by Dr. Benjamin Sacks, Crawley P. Dake, William Kidder Meade and Zan L. Tidball by Dr. Larry Ball, Benjamin Franklin Daniels, by R. K. DeArment, and two books on Robert H. Paul, one by John Boessenecker, and another by this author, Roy B. Young.

This study, which was presented as one paper at the 2012 WWHA Roundup in Prescott, Arizona, will appear in three parts over the next three issues of the *WWHA Journal* and will deal with three representative marshals, one each from the decades of the 1860s – Edward Phelps, 1870s – Isaac Q. Dickason, and 1880s – Zan Tidball.

### Edward Elisha Phelps, Jr. Second Arizona Territorial Marshal

Dr. Edward Elisha Phelps, Jr. was the first of two physicians to hold the office of United States Marshal of Arizona Territory, receiving two consecutive Presidential appointments.<sup>1</sup> No known photo of Dr. Phelps has been located though there are several available photos of his father, Dr. Edward Elisha Phelps, Sr.

Dr. Phelps, Jr. was born in Windsor, Vermont about 1831. His father was a Brigadier Surgeon in the Civil War and a prominent physician of Windsor and Brattleboro, Vermont. He was a professor of medicine at the University of Vermont and Dartmouth College in Hanover, New

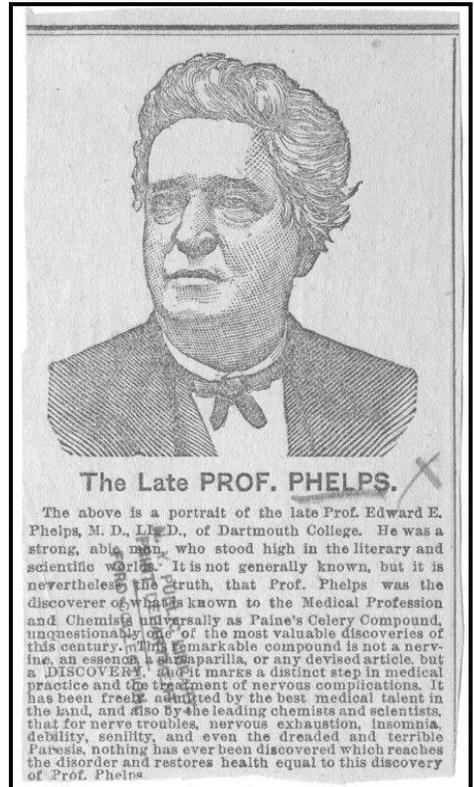
Hampshire; additionally, he wrote several medical textbooks and was famous for several cures for nerve conditions.<sup>2</sup>

No extant records have been found regarding Edward Jr.'s medical training, though on the 1850 census, at the young age of 19, he was listed as "Elisha, physician," living in the household of his physician father.<sup>3</sup> According to the 1864 Arizona Territorial Census, Edward, and his younger brother George, arrived in Arizona about 1860 from Canada; he was then shown as a single man, and a soldier.<sup>4</sup>



**Dr. Edward Elisha Phelps, Sr., 4<sup>th</sup> Vermont Infantry 1862,  
standing under tent.**

(“Vermont in the War” John Gibson Collection Houghton Photographs)



**Sketch of Dr. Edward Phelps, Sr.  
(New York Public Library,  
ID: 1809745)**

After a short time in Arizona, Phelps joined the Union forces in the Civil War and served with the California Volunteers. Military records have Dr. Phelps listed as a surgeon or assistant surgeon from 1863 to 1865.<sup>5</sup> He first enlisted as an assistant surgeon on June 1, 1863 and was promoted to full surgeon on January 4, 1865. He served at Fort Gaston and at Camp Iaqua, both in Humboldt County. When he learned of his appointment as United States Marshal for Arizona Territory, he was mustered out of the 7<sup>th</sup> Infantry Regiment on May 22, 1866 at San Francisco.

Phelps was first appointed to the marshal's office by President Andrew Johnson on May 23, 1866; he received the Senate's confirmation on June 18, 1866.

Signing a contract with the United States Army on May 31<sup>st</sup>, Phelps immediately moved to Prescott where his first medical service appears to have been as an assistant surgeon at the joint military and community hospital between Fort Whipple and Prescott; shortly thereafter he was

employed as a contract surgeon at Camp Crittenden.

In June of 1866, Phelps made a return trip to San Francisco where he met with Generals Halleck and McDowell.<sup>6</sup> On this trip, according to historian Dr. Larry Ball, the newly appointed marshal helped the businessmen of Arizona by persuading the military to have quartermasters pay debts in the territory in coin rather than by check.<sup>7</sup>

The 1866 territorial census of Arizona lists Phelps as 38 years of age, a physician and United States Marshal.<sup>8</sup> The enterprising bachelor also worked his own mine and engaged in farming, gaining a hay contract at Camp Crittenden.<sup>9</sup>

Dr. Phelps took the oath of office and posted bonds on the October 6<sup>th</sup> before Judge Turner. The *Arizona Miner* on October 13, 1866 announced:

**THE NEW MARSHAL**

Andrew Johnson, reposing special trust and confidence in the integrity, duty and diligence of Edward Phelps, has by and with the advice and consent of the

Senate, appointed him Marshal of the United States for Arizona Territory.

An August 1867 notice in the San Bernardino, California *Bulletin* referred to Phelps as “Medical Director for the District of Arizona.”<sup>10</sup> This position was sometimes referred to as “Medical Purveyor.”<sup>11</sup> Dr. Phelps and another army surgeon, Dr. John E. Clutter, moved to Tucson in

1867 when the territorial capitol was established there. An *Arizona Miner* advertisement in 1867 listed the two men as “Contract Surgeons, Tucson and Prescott.”<sup>12</sup> On June 21, 1868, Phelps requested release from his military contract stating that he could not do justice to the practice of medicine, and “at the same time attend seven terms of court, two of which are at Prescott and two at La Paz.”<sup>13</sup>

(FORM 18.)

CONTRACT WITH A PRIVATE PHYSICIAN

[Notice of the annulment of this Contract, stating explicitly the cause therefor, and the date, must be forwarded to the Surgeon General.]

This Contract, entered into this 31<sup>st</sup> day of May, 1866, at San Francisco, in the State of California, between Surgeon Thos. M. Cornwell of the United States Army, and Dr. Edward Phelps, of San Francisco, in the State of California, Witnesseth: That for the consideration hereafter mentioned, the said Dr. Edward Phelps promises and agrees to perform the duties of a Medical Officer, agreeably to Army Regulations, at Fort Whipple Arizona, and to furnish and keep in good order, and accessible at all times, complete sets of amputating, trephining, and pocket instruments; and the said Surgeon Thos. M. Cornwell promises and agrees, on behalf of the United States, to pay, or cause to be paid, to the said Dr. Edward Phelps, the sum of one hundred dollars for each and every month he shall continue to perform the services above stated, and one hundred and thirteen  $\frac{83}{100}$  dollars per month, and transportation in kind, when performing service in the field, which shall be his full compensation, and in lieu of all allowances and emoluments whatever.

And it is further agreed, That in case the said Dr. E. Phelps be unable to provide the aforesaid instruments, they will be furnished to him by the Medical Department of the U. S. Army, and the cost price thereof deducted from his monthly pay. This contract to continue at least three months, if not sooner determined by the Commanding Officer for the time being, the Medical Director, or the Surgeon General.

Signed, sealed, and delivered in the presence of —

A. J. Hamilton  
Surgeon U.S.A.

Thos. M. Cornwell  
Surgeon U. S. Army  
1st Lt. Dep't of Cal

Edw. Phelps

SEAL  
SEAL

Contract between the United States Army and Dr. Edward Phelps, May 31, 1866  
(Photo copy via Quebbeman, *Medicine in Territorial Arizona*)

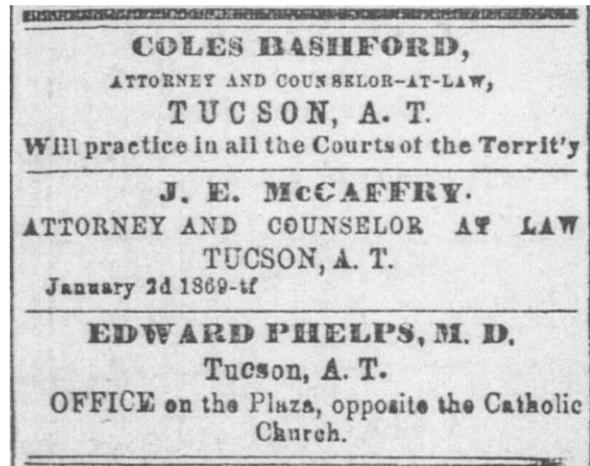
Government financing for the United States Marshals was a constant problem in the territories. Former Marshal Milton B. Duffield, writing from Tucson in January of 1873 to the *Arizona Miner* at Prescott, stated, “I notice in your Territorial Statistics in speaking of the U.S. Marshal, M. B. Duffield, that you state his salary at \$500... which I will ask you to correct. My salary was only the pitiful sum of \$200.” Deputy marshals did not fare very well either. *The Weekly Journal Miner* reported: “U.S. Marshal Edward Phelps has appointed A. G. Dunn, of this place, Deputy U.S. Marshal. The appointment is a good one, but the office, it strikes us, does not amount to much.”

In Tucson, Phelps was a popular physician though an unpopular marshal and his deputies often complained of not being paid for their services, such as conducting the census; likewise complaining were many of the jurors whose daily stipends went unpaid. *The Weekly Arizona Miner* on December 25, 1869 reported:

Citizens of this county [Yavapai] who have served on U. S. Grand Juries would be more than pleased to hear from U.S. Marshal Phelps of Tucson, regarding pay for their services. They had to neglect their own business to dance attendance upon Court, and they think it no more than right that they should receive the sums earned by them. Deputy U.S. Marshal Dunn, of this place, says he has no funds to pay them. Has Marshal Phelps?

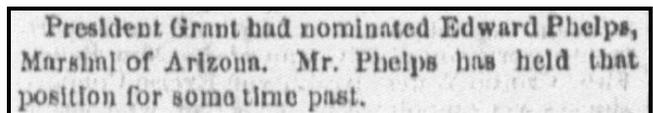
In addition to his responsibilities as surgeon and United States Marshal, Dr. Phelps was appointed by Governor Anson Safford to serve as Adjutant General for the Territory of Arizona on October 20, 1869 serving to January 30, 1871.<sup>14</sup>

In 1870, a small pox epidemic hit Fort Lowell at Tucson; 30 men died in February and 32 in March. *The Weekly Arizonan* reported, “The small pox continues to spread and plagues the Mexican portion of our population with fatal results generally. No effort, other than the untiring exertions of Dr. E. Phelps, have yet been made to stay its progress.”<sup>15</sup>



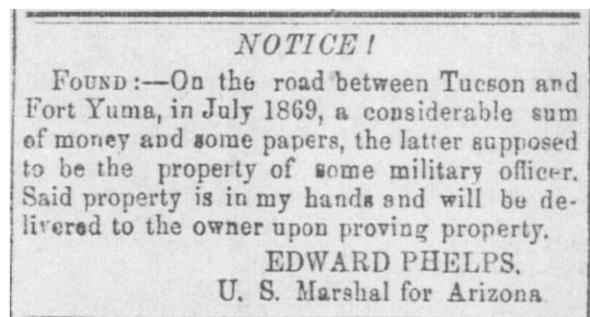
An advertisement from *The Weekly Arizonian*, April 23, 1870

Despite the general unrest over the seeming failures of the marshal, in May of 1870, Phelps received a second appointment to the office from President Ulysses Grant and was confirmed by the Senate on April 21, 1870. His appointment papers have not survived. No deputy marshal appointment papers by Phelps are extant, however Charles A. Shibell, later a sheriff of Pima County, is shown as the “assistant marshal” on the 1870 census.



*Weekly Journal Miner*, May 14, 1870

On April 16, 1870, *The Weekly Arizonian* published the following notice:



This “find” may have been a foreboding of events that would follow a few months later. Why the notice was published almost a year after the occasion is a mystery.

Edward Phelps appears on the 1870 federal census enumeration of Tucson, Pima County, as a physician rather than as United States Marshal. He is shown to be 38 years of age and a native of Vermont.<sup>16</sup>

In August of 1870, Converse W. C. Rowell, Arizona Territory's United States Attorney complained to United States Attorney General Amos Akerman, and anyone in Washington who would listen, that Phelps was failing to perform his duties and that he (Rowell) was without funds to serve the process of the court.<sup>17</sup> Rowell inquired as to the amount of funds Phelps had been given to conduct his office. Akerman replied that Phelps had been advanced \$10,000 in 1867. With the wheels now turning, Phelps was ordered to give an immediate accounting of the funds. Phelps held that he was awaiting instructions from the United States Department of Justice to pay bills and fees.<sup>18</sup>

In mid-December of 1870, Phelps made a so-called 40 days "pleasure trip" in a "private conveyance" with pioneer Arizonans Pete Kitchen and Captain C.E. Mowry to Guaymas, Mexico on the California coast.<sup>19</sup> While Kitchen and Mowry soon returned to Arizona, Phelps did not, the *Arizona Citizen* and *The Weekly Arizonian* reporting that Mr. Willard, the U.S. Consul at Guaymas had stated that he had gone to Mazatlan "in an English man-of-war" "and will return to Tucson via 'Frisco."<sup>20</sup>

*The Weekly Arizonian* of February 25, 1871 reported,

Dr. E. Phelps, U.S. Marshall [*sic*] for Arizona left Tucson some seven weeks since, ostensibly upon a pleasure trip to Sonora, leaving a briefless lawyer in charge of his room and effects. Report now has it that the Marshall has taken "French leave" with some twelve thousand dollars of government funds in his possession; and as he is now overdue by some two weeks there would appear to be some foundation for the story. We know not upon what foundation rests the charge that he has government money in his possession, but 'tis freely asserted. The briefless "limb of law" above mentioned, concluded to follow the

example of his employer and on Wednesday, the 15<sup>th</sup>, pricked up his ears and started westward on a dead run – leaving sundry little bills to deplore the loss of an indulgent parent. There would seem to be a fatality connected with the Marshall's office dating from the advent of the present year.

*The Weekly Arizonian* on March 18<sup>th</sup> reported that "when last heard from [Phelps] was at Topic" in Sonora. The Pima County Board of Supervisors filed suit against Phelps, as did several citizens; eventually his property was sold to settle personal debts.<sup>21</sup>

Kitchen and Mowry made an ongoing effort to learn the whereabouts of Phelps. Kitchen reported on March 23, 1872 that Phelps had been killed by Mexican bandits for the money he held. The *Arizona Citizen* quoted Kitchen: "in his usual pompous way, Phelps made a liberal display of cash just prior to leaving a Pacific post, and he was followed and murdered. This may be a false rumor, but if confirmed as true, few here will be surprised or invest in much crape." *The Weekly Arizona Miner* followed up on April 6<sup>th</sup> with this notice:

A report was in circulation to the effect that Dr. Edwd. Phelps formerly of Tucson and Prescott, had been murdered for his money, in Mexico. As the report came from Mexicans, we fear the Doctor's career is at an end – which is to be regretted notwithstanding his former shortcomings at this place as well as at Tucson, from which latter place he skedaddled with some Government funds."

The true end of Dr. Edward Phelps cannot be proven; perhaps he was killed by Mexican bandits, perhaps he fled Mexico and lived somewhere under an assumed name. Presently, this author is working on a lead that Phelps returned to his home state of Vermont to live out his life.

The office of United States Marshal was vacant for some three months until on April 15, 1871, Phelps was replaced by President Grant's appointment of Isaac Q. Dickason.

Endnotes:

<sup>1</sup> The other physician to serve as United States Marshal for Arizona Territory was Dr. F.H. Goodwin.

<sup>2</sup> Dr. Edward E. Phelps, Sr. served as professor of anatomy and surgery at the University of Vermont from 1835 to 1837 before going to Dartmouth. He served on the staff of the commander of the First Brigade, Vermont Volunteers in 1861-1862. He subsequently was in charge of the camp and military hospital at Brattleboro, Vermont. Under his watch, the hospital was credited with the largest percentage of cures of any United States Military Hospital at the time. From the *Gazetteer and Business Directory of Windsor County Vermont, 1883-1884*: History of Windsor, Vermont – “Prof. Edward E. Phelps, M.D., LL.D., son of Dr. Elisha Phelps, was born in Peacham, Vt., April 24, 1803, and came to Windsor with his parents when quite young. He attended Mrs. Seaton's private school at Cornish, N. H., studied with Parson Crosby, of Charlestown, N. H., and graduated from the military school of Captain Partridge, at Norwich, Vt., before he was eighteen years of age. He then entered Dartmouth Medical College, studied two years with Dr. Nathan Smith, of New Haven, Conn., and finally graduated from Yale College with the class of 1825. In 1828 he commenced the practice of his profession at Windsor and died here in November, 1870. Dr. Phelps married Phebe Foxcroft Lyon, of Boston, Mass., who, with her daughter, Mary A., now occupies the old homestead.”

<sup>3</sup> 1850 federal census, Windsor, Windsor County, Vermont, Elisha Phelps, age 19, dwelling 152, line 27. He is listed with his parents, sister Mary and brother George.

<sup>4</sup> 1864 Arizona Territorial Census, Edward Phelps, age 31, #306, p. 179. His brother, George Phelps, age 27, is listed as #307.

<sup>5</sup> Cooke, Trudie, “Those Territorial Adjutants General: How they lived and how they died.” [www.azdema.gov/museum/PDF/Courier%20Spring2007.pdf](http://www.azdema.gov/museum/PDF/Courier%20Spring2007.pdf). Various National Park Service records have him in the 2<sup>nd</sup>, 6<sup>th</sup>, and 7<sup>th</sup> California Infantry; see: M533 roll 5.

<sup>6</sup> *The Weekly Journal Miner*, June 13, 1866.

<sup>7</sup> See: Ball, *The United States Marshals* (Albuquerque: University of New Mexico Press, 1978) pp. 64-67.

<sup>8</sup> Phelps appears on the 1870 federal census at Tucson in Pima County, age 36, occupation physician (omitting the fact that he was at the same time the United States Marshal).

<sup>9</sup> Goff, John S., *Arizona Territorial Officials*, Volume IV (Cave Creek, Arizona, Black Mountain Press, 1988) p. 105.

<sup>10</sup> Via *Arizona Miner*, August 24, 1867.

<sup>11</sup> Henry, Guy Verner, *Military Record of Civilian Appointments in the United States Army*, Vol. 1 (New York: D. Van Nostrand Publishers, 1873)

<sup>12</sup> *Arizona Miner*, July 13, 1867.

<sup>13</sup> Quebbeman, Frances E., *Medicine in Territorial Arizona* (Phoenix: Arizona Historical Foundation, 1966), p. 65.

<sup>14</sup> The Adjutant General was one of up to five military aids appointed by the Governor; the officer, considered to be a Lt. Colonel, was to report to the Governor on military matters as they related to the need for citizen soldiers mustered to defend settlers.

<sup>15</sup> *The Weekly Arizonian*, March 19, 1870.

<sup>16</sup> 1870 Federal census, Tucson, Pima County, Arizona, page 70, household 793, June 1870.

<sup>17</sup> Cresswell, Stephen, *Mormons & Cowboys, Moonshiners & Klansmen, Federal Law Enforcement in the South & West, 1870-1893* (Tuscaloosa: University of Alabama Press, 1991) p. 183.

<sup>18</sup> National Archives, RG60, Entry 9A, Arizona Territory, Box 1, Folder 3, U.S. Marshal, October 9, 1870. 8pp. *Letters Received by the Attorney General, 1809–1870: Western Law and Order*. Major Topics: Accounting procedures; duties of deputies; decennial census; allegations of misconduct. Principal Correspondent: Edward Phelps. See also: Ball, *The United States Marshals*, p.66.

<sup>19</sup> *Arizona Citizen*, December 17, 1870.

<sup>20</sup> *Arizona Citizen*, January 28, 1871; *The Weekly Arizonian*, January 28, 1871.

<sup>21</sup> *Arizona Citizen*, April 29, 1871.

