

NEVADA'S ORIGINAL JURISTS FLITTED THROUGH NEVADA

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On Oct. 31, 1864, Nevada joined the Union under President Abraham Lincoln during the Civil War. On becoming a state, for the first time the voters elected the state judges. Then, political parties nominated candidates for elected offices at party conventions. All the original justices were Republicans (Union supporters), but they were not always allies and at times had been bitter rivals.

In November 1864 at Nevada's first election, the Republican Party ticket for the High Court included attorneys Henry O. Beatty, Cornelius M. Brosnan and James F. Lewis. The people who supported Lincoln voted all the Republican candidates for statewide office into office, including the High Court justices.

On Dec. 4, 1864, these lawyers took their oath of office for terms that began in January 1865. The Nevada Constitution provided that the original justices would draw lots to determine who would serve a term of two years, four years and six years. From then on, the term would be six years. The man who drew the shortest term would be the first chief justice, then the four-year term holder, followed by the six-year term justice.

Of the three, only Lewis, who drew the two-year term and the chief justice position, com-



pleted his term. Beatty drew the four-year term to January 1869 but resigned two months before his term ended. Gov. Henry Blasdel appointed fellow Republican Bernard Whitman to fill Beatty's term. Brosnan, who drew the six-year term, died in April 1867, so he never served as the chief. Blasdel appointed Republican J. Neeley Johnson to fill Brosnan's term.

Common life stories

The five justices had all previously run for an office before being elected to the Nevada Supreme Court. For all five of them, Nevada Supreme Court justice was the last political position they would hold.

Like most attorneys at that time, they learned the law by studying with other lawyers. All five had practiced law before moving to Nevada. Although they had not served as judges before their election, the justices' decisions were well-researched, logical and eloquently written: a credit to their talents and educations.

Here are brief stories of the patriarchs of Nevada law, in the order they were elected or appointed.

Name: James F. Lewis
Place and date of birth: Wales, 1836
State and date of first bar license: Wisconsin, 1860
Residence before Nevada: Wales, New York and Wisconsin
Age at election: 28
Dates of service on Nevada Supreme Court: 1865 to 1873
Place and date of death: Arizona in 1886

Around 1862 James Lewis moved to Washoe City, Nevada, and formed a law partnership with Territorial Judge John North. In April 1864, Territorial Gov. James Nye appointed Lewis as the Washoe County district attorney. The voters elected him to the post in September, but he resigned two months later when he won the Supreme Court seat.

In 1866, after he completed his two-year term as the first chief justice, the Republicans nominated him again, and the voters re-elected him for a six-year term. The Republicans chose not to nominate him for a third term. In 1873, Lewis opened his law practice in Virginia City. In 1879, he set up shop, again with Judge North, maintaining offices in Virginia City and San Francisco. In 1886, Lewis took a mining case in Arizona. On his way home, the train broke down and the passengers were stuck for 30 hours without food or drink. After the incident, he gulped down too much ice water or lemonade; he fell ill and died at age 50 on Aug. 17, 1886.

Name: Henry O. Beatty
Place and date of birth: Kentucky, 1812
State and date of first bar license: Ohio, 1836
Residence before Nevada: Kentucky, Ohio and California
Age at election: 52
Dates of service on Nevada Supreme Court: 1865 to 1868
Place and date of death: California, 1892

In 1852, Henry Beatty settled in Sacramento, California. He unsuccessfully campaigned for a seat on the California Supreme Court several times. After his last defeat in September 1863, he moved to Virginia City. In January 1864, he and Brosnan unsuccessfully ran for the Territorial Storey County District Court judge slot. (Ultimately, the position remained vacant because Nevada became a state.)

In October 1864, the Republicans nominated Beatty for one of the positions on the Nevada Supreme Court. At the election, his son William won the District Court judge seat in Lander County. (Later, when William was elected to the Nevada Supreme Court, Henry and William became the only father and son pair to ever be elected to the Nevada Supreme Court.)

Three years into his term, having attained the title of chief justice, Henry Beatty sued to compel State Treasurer Eben Rhodes to pay his salary in gold coin, not "greenbacks." In *State ex. rel. H.O. Beatty v. Rhodes*, 3 Nev. 240 (1867), Beatty argued that Rhodes illegally reduced his salary because "greenbacks" were of lesser value than gold.

After Treasurer Rhodes lost in District Court, he appealed. Amazingly, Chief Justice Beatty personally argued his position before the court. Justices Lewis and Johnson overturned the District Court and found that, based on an Act of Congress, gold coin and "greenbacks" were equivalent when paying debts and that Beatty's salary was a debt. Therefore, they found he was not entitled to receive his salary in gold coin.

At the Republican convention the next year, the delegates nominated Bernard Whitman, not Beatty, for the Supreme Court. Whitman won the 1868 election and, a week later, Beatty resigned two months before his term expired. He died in Sacramento in Feb. 14, 1892, at age 79.

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Name: Cornelius M. Brosnan
Place and date of birth: Ireland, 1813
State and date of first bar license:
New York, 1841
Residence before Nevada: Ireland, New
York and California
Age at election: 51
Dates of service on Nevada
Supreme Court: 1865 to 1867
Place and date of death: California, 1867

In 1850, Cornelius Brosnan set up a law practice in San Francisco. In 1862, the growing number of mining lawsuits attracted him to Virginia City. In 1863, he served in the Second Territorial Legislature and, in 1864, in the Second Constitutional Convention.

As previously mentioned, in 1864, his political path collided with Henry Beatty's over the Territorial District Court bench that they both lost. In October 1864, the Republicans nominated Brosnan for the Nevada Supreme Court. When the justices met to determine the length of their terms, he drew the six-year term from 1864 to 1870.

He died before he donned the chief justice robe. In late 1866, he traveled to California for medical treatment. On April 21, 1867, at age 53, he died in San Jose, likely of consumption (tuberculosis).

Name: John Neely Johnson
Place and date of birth: Indiana, 1836
State and date of first bar license: Iowa, 1845
Residence before Nevada: Indiana, Iowa and California
Age at appointment: 42
Dates of service on Nevada
Supreme Court: 1867 to 1871
Place and date of death: Utah, 1872

In 1849, the Gold Rush drew J. Neely Johnson to Sacramento, California, where he campaigned for several offices. In 1855, he joined the American or Know Nothing Party (based on anti-immigration and anti-Catholic sentiments). The party nominated him; the voters elected him the fourth governor of California. Because of Johnson's controversial political appointments and failure to properly handle the insurrection of the San Francisco Vigilantes, the party did not nominate him for a second term.

In 1863, he moved to Carson City and chaired the Judiciary Committee at

the first Constitutional Convention. The next year, he presided over the second Constitutional Convention.

In April 1867, after Justice Brosnan's death, Gov. Blasdel appointed Johnson to fill the vacancy. The law required Johnson to run for election for the balance of Brosnan's term in 1868. Elected, he served until January 1871.

In retirement, he opened a law practice in Salt Lake City, Utah, where he died of sunstroke at age 47 on Aug. 31, 1872.

Name: Bernard C. Whitman

Place and date of birth: Massachusetts, 1828

State and date of first bar license: Maine in 1848–1849

Residence before Nevada: Massachusetts, Maine and California

Age at election: 40

Dates of service on Nevada Supreme Court: 1868 to 1875

Place and date of death: California, 1885

A Harvard University graduate, Bernard Whitman settled in Benicia, California in 1850. His ambitions collided with Johnson's when he joined the Know Nothing Party. In 1855, he lost the party's nomination for governor to Johnson.

In 1863, he moved to Virginia City. In December 1864, when the Nevada Legislature met to elect the state's new U.S. Senators, he attempted to get elected to one of the seats. Although Whitman was nominated, the legislators elected well-known William Stewart on the first ballot. The legislators balloted several times to fill the second seat. Ultimately, Territorial Gov. James Nye garnered a majority of the votes.

In 1868, Whitman won the Nevada Supreme Court seat to succeed Beatty for a six-year term. Gov. Blasdel then appointed Whitman to fill the last two months of Beatty's term after he resigned. Whitman served on the Supreme Court until 1875 and retired to practice law in Virginia City. In 1883 he moved to San Francisco, where he died of a stroke on Aug. 5, 1885, at age 57.

Conclusion

While the first Nevada Supreme Court justices left a sturdy foundation for our laws, none of the justices lived in the state very long. Beatty and Brosnan lived in Nevada for five years, Johnson for eight, Lewis for 12 and Whitman for 20. The men came for the opportunities offered by the mining boom and their political chances and, except for Brosnan, who died, the judges left when these opportunities declined. ■