

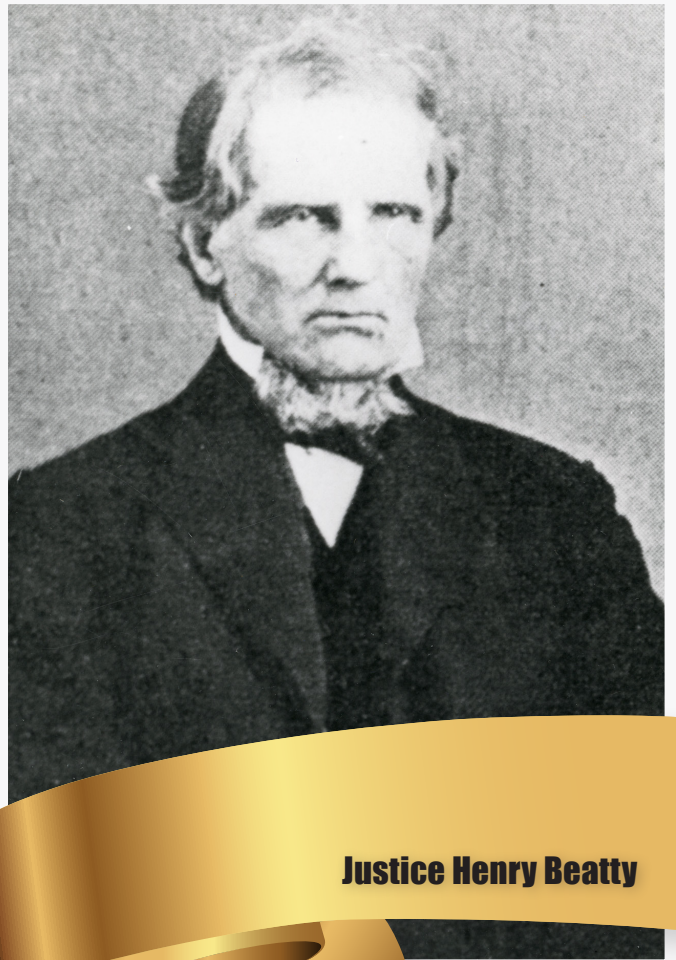
Early Years of Nevada Supreme Court: 1864-1916

BY PATRICIA D. CAFFERATA, ESQ.

On November 8, 1864, Nevada held its first election. All statewide elected officials' terms were for two years, including Nevada Supreme Court justices. After that election, each justice's term would span six years. The original three justices received staggered terms; Justice James Lewis was elected to a two-year term, Henry Beatty to a four-year term, and Cornelius Brosnan to a six-year term. Thereafter, one seat was up every statewide election.

The first three judges were white men. The current Nevada Supreme Court bench includes four white women, two white men, and one African-American/Korean woman.

Another difference between today's nonpartisan court and the original court is the role that political parties played in the



Justice Henry Beatty

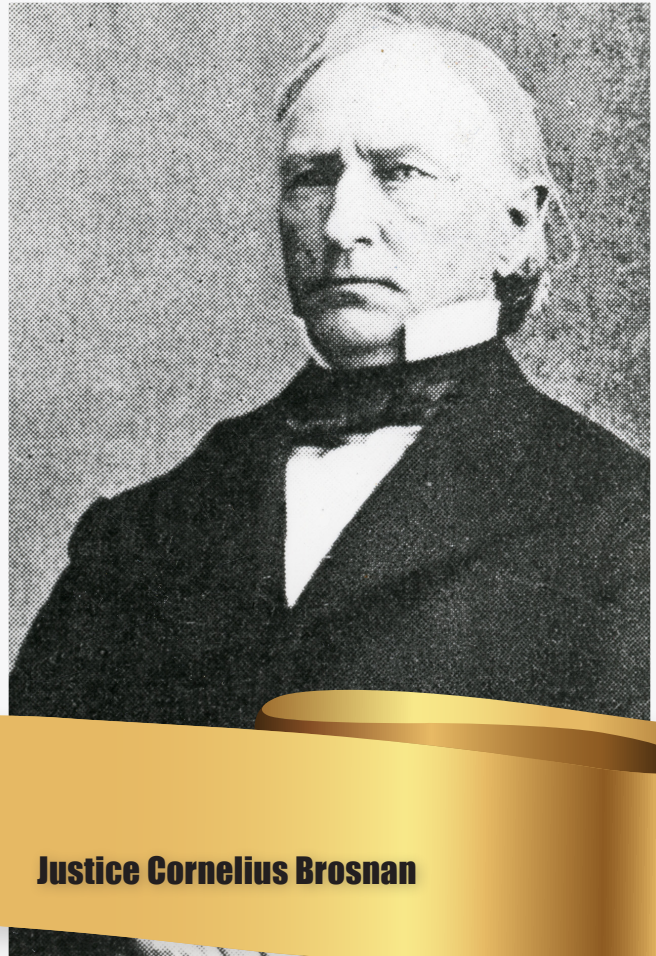
nominating process. At first, the political parties decided their nominations for all positions on the ballot, including the Nevada Supreme Court bench. Thus, until the 1916 election, the justice candidates campaigned on either the Democratic, Republican (originally the Union Party), Silver, or Silver-Democrat ticket. Nevada became a state under Republican President Abraham Lincoln during the Civil War, the residents who supported him were Republicans, and those who supported the separation of the South from the North were Democrats. Early Nevadans were overwhelmingly members of the Republican Party.

Early Partisan Elections

The first justices elected were Republicans: Lewis, from Washoe County; and Beatty and Brosnan from Virginia City, Storey County. These lawyers were nominated at the Republican Party's convention. Likewise, the Democratic Party nominated three attorneys to represent their party: J.R. McConnell from Storey County, E. W. McKinstry from Esmeralda County, and C. W. Wallace also from Storey County. At the general election, the Republicans won by a large majority of the votes.



Justice James Lewis



Justice Cornelius Brosnan

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Despite their election victory, only Lewis completed the original term. He finished his first two-year term, and the voters re-elected him once more. However, even if a justice won election or re-election, their next election was not guaranteed. Apparently, the early Republicans and Democrats believed in term limits because sometimes the parties failed to re-nominate some of their candidates. For example, in 1866, the Republicans failed to re-nominate Beatty. Six days after the 1866 general election when Republican Bernard Whitman was elected, in a fit of pique, Beatty resigned and moved to Sacramento, California. Lewis also suffered the same rejection when the Republicans failed to re-nominate him in 1872. Instead, the party nominated Thomas Hawley, who won the general election.

Brosnan, who drew the original six-year term from 1866 to 1872, died before completing his term in April 1867. He traveled to San Jose, California, to seek medical treatment for consumption or tuberculosis, where he died. J. Neely Johnson was born in Indiana in 1836 and settled in Carson City, where he was appointed in May 1867 and was then elected to complete

Brosnan's term in 1868. Yet, Johnson did not file for election to complete Brosnan's term.

During the 26 partisan elections that followed the first one, 14 Republicans were elected, three of whom were first appointed and subsequently elected to the bench. Of the four Democrats elected, John Garber was originally appointed before being elected. During the Silver and Silver-Democrat party's heyday in Nevada (1896-1904), the voters elected four justices, and one more was appointed from those parties. Thomas Van Camp Julien, who was appointed, served the shortest time of any justice in Nevada history. He completed only three months on the bench and did not run for election. One of the elected Silver-Democrat

party justices, George F. Talbot, was first elected under that party's banner but later changed to the Democratic Party to successfully run for re-election in 1908. However, in 1914 he lost the Democratic primary election to Ben Coleman, the winner of the general election.

During the Silver and Silver-Democrat party's heyday in Nevada (1896-1904), the voters elected four justices, and one more was appointed from those parties.

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Savage Works mill, Virginia City, Nevada.
Photo by Timothy O'Sullivan. Albumen print, 1868

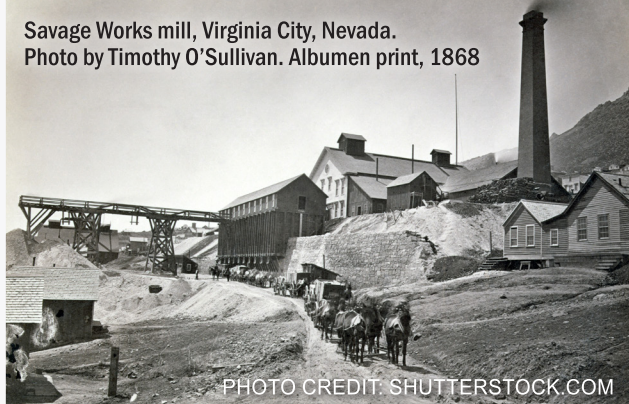


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The 1915 Legislature voted to make the judicial offices nonpartisan, so the political parties no longer decided the nominees. Therefore, in the 1916 and in subsequent elections, judicial candidates were not nominated by a political party, nor was a political party listed after their names on the ballot.

Justices' Courthouses

Since 1864, the court has moved back and forth across North Carson Street in Carson City. At first, the Nevada Supreme Court met on the second floor of Abraham Curry's Great Basin Hotel on the corner of Carson and Musser streets, currently one of the Nevada Attorney General's office buildings. In 1871, the court moved into the second floor of the newly built Capitol Building across Carson Street from the hotel. In 1937, the justices outgrew that space and moved back across the street into a spacious building next door to their original quarters in the hotel. The building is now the main office for the Nevada Attorney General. In 1992, the court moved back across the street into its current courthouse and building south of the Capitol. In 2017, a new Nevada Supreme Court and Court of Appeals courthouse opened in Las Vegas.

Justices' Interesting Backgrounds

Only one of the first three original justices was born in America. Beatty was born in Kentucky in 1812. The other two justices were born in the British Isles. Lewis was born in Wales in 1836, and Brosnan in Ireland in 1813. None of the original three justices received a formal law school education. However, they studied under knowledgeable lawyers and were successfully admitted to the bar. Beatty and Brosnan were admitted to practice law in California, where they lived before moving to Nevada. On the other hand, Lewis lived in Wisconsin and was admitted to the bar there before moving to Nevada.

The lawyer appointed to complete the few months left of Beatty's term was Bernard Whitman, who was born in Massachusetts in 1828. He had also practiced in California before relocating to Nevada. Whitman, the first justice with a college degree, graduated from Harvard University.

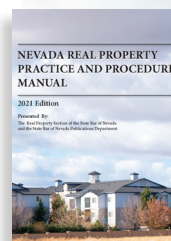
Because of Johnson's failure to complete Brosnan's term, Democratic Governor Lewis Bradley appointed John Garber to complete Brosnan/Johnson's term. Garber, the first Democrat to serve on the high court, attended the University of Virginia for two years but did not graduate. The voters elected him in 1870 in the closest Nevada Supreme Court election in Nevada history. Of 13,349 votes cast, Garber received 6,787 votes to J.S. Slawson's 6,562 to win by 225 votes. He also resigned from the court in 1872. Thus, Governor Bradley had the opportunity to make a second appointment to the Nevada Supreme Court. He appointed his personal secretary Charles Belknap, a Democrat, to the vacancy. Belknap was well connected to the governor professionally and personally. A year after the appointment, Belknap married the governor's daughter, Virginia, in February 1873. However, in 1874, he lost his attempt to complete Garber's

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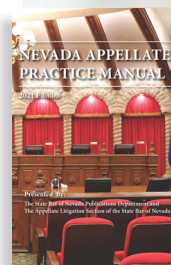
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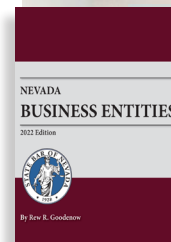
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term. Instead, Republican Warner Earll from Elko won. Undeterred, Belknap filed for election in 1880 and beat the incumbent William Beatty.

The Bradley/Belknap family connection was not the only family association on the Nevada Supreme Court bench. Nevada Supreme Court Justice William Beatty, elected in 1874, was the son of a Nevada Supreme Court justice, Henry Beatty. They are the only father-son team to be elected to the Nevada Supreme Court. William Beatty, like Garber, also studied at the University of Virginia for two years, and he too left before he graduated. In 1880, William Beatty struggled to be re-nominated to the bench at the Republican Convention. Finally, the Republicans re-nominated

him on the 71st ballot. The lack of the party's support may have contributed to his subsequent loss for re-election. Further, his loss was allegedly influenced by a defamatory pamphlet circulated in the state about William Beatty. In the general election, the Democrats were favored, and Charles Belknap won. Belknap was so popular with Nevada voters, they re-elected him in 1886, 1892, and 1898. At the end of his last term in 1905, he moved to San Francisco, where he died on October 6, 1926.

After William Beatty's loss in 1880, he promptly left Nevada and moved back to California. The Republican Party nominated him for a seat on the California Supreme Court. The voters elected him in 1888, re-elected him in 1890, and once again re-elected him until his death in 1914. He is the only Nevada justice to have served as the chief justice in two states.

While the Nevada Supreme Court's duties have remained the same for more than 150 years, the process of electing Nevada Supreme Court justices has changed significantly since 1864. Moreover, the court has grown from three to seven well-educated justices.



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REFERENCES:

See also the August 2010 issue of *Nevada Lawyer* on the First Nevada Supreme Court Justices and two articles in the October 2014 issue – one on the territorial justices and one on the partisan elections of judges.

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