

JUDICIAL ETHICS

By Honorable David Hardy, Second Judicial District Court

I depart from biographical sketches this month to write about the Second Judicial District courthouse and recent developments in the new courthouse project. On July 23, 2019, the Board of County Commissioners directed staff to develop and report process protocols and financing options. The Board's actions reveal strong county leadership and result from several master plan studies and years of collaboration between county and court officials. While the project is still being developed, and there are no current commitments, the county is on the eve of possible action. Given this development, it is appropriate to begin with the history of the courthouse as we look to its future.

The Nevada Territory was created in 1861.¹ The first Territorial Legislature divided the Territory into nine counties, including Washoe County. The county seat was Washoe City, which was then the largest town within county boundaries.² On July 16, 1863, Washoe County advertised for bids to construct a courthouse in Washoe City with an estimated cost of \$15,000. A bid was accepted and the simple courthouse was completed within four months.

A Washoe City newspaper reported in 1866 that the courthouse was damaged by a wind storm and the county was seeking bids to make repairs. The newspaper was critical of the bid process and potential bidders. Grand juries were frequently used at the time, and a grand jury inspected the completed repairs the same year and concluded the courthouse was "in as good a state of preservation as could be expected in a building so faulty in its construction."

Judge Charles Harris was elected Washoe County district judge in 1866. He was 27 old. Judge Harris had a complicated and short judicial career



The second Washoe County Courthouse, completed in 1873

that reveals his metropolitan preferences were inconsistent with the realities of a developing frontier judiciary. He was born in New York and moved with his family to Michigan when he was young. He and his family later moved to Minnesota. He enlisted in the Union Army and was seriously wounded at the Battle of Bull Run in 1861. He was taken from the battlefield as a prisoner-of-war and transferred to a Confederate prison hospital in Richmond. He was reported as killed in action and his family conducted a funeral for him in Minnesota, not knowing he was alive in Virginia.

Judge Harris worked at the Quartermaster General's Office in Washington, D.C. after being released from the prisoner's hospital in Richmond in November 1861. He studied the law during this time and was admitted to practice in Minnesota in 1864. Instead of moving to Minnesota, he moved to Nevada in September 1864, during the transition from territory to statehood.

Shortly after his election to the bench, Judge Harris sued Washoe County for better judicial accommodations. The county was satisfied a vacant room in the courthouse, which was "modestly furnished," was sufficient for all judicial business. Judge Harris was described by one commentator as being "a little elevated with judicial dignity" when

he demanded finer furniture and more space, to include "convenient sleeping apartments, as being essential to the administration of justice and the maintenance of the dignity of the court." The local newspaper observed "certain of Washoe County's officials find it impossible to discover the exact character of their rights as officers, and as a natural consequence an immense amount of expensive and vexatious litigation follows."

The battle between Judge Harris and the county commissioners was just beginning. In 1868, the grand jury recommended the county perform more repairs to the courthouse. Judge Harris was unhappy the county was not moving quickly enough, so on August 3, 1868, he testified before the grand jury that he "would not risk another term of court in the courthouse on account of its dilapidated condition." Judge Harris lost public support when the newspaper reported the courthouse was sufficient to sustain the work of the court.

Economic energy in Washoe County migrated north from Washoe City to the Truckee River when the railroad was completed in 1868. Civic leader and businessman Myron Lake deeded 40 acres of land to the Central Pacific Railroad in exchange for the railroad's construction of a rail station. The Central Pacific built the station, auctioned the remaining land, and changed the name of the area from Lake's Crossing to Reno.³

Judge Harris vacated the Washoe City courthouse and began holding court in a Reno theater. During the summer of 1871, the location of a new courthouse in Reno was publically debated. The *Nevada State Journal* reported:

In making a permanent location for the Court-

house, the County Commissioners should not be influenced by the selfish interests of this or that man. Reno is a permanent and growing town, and the Courthouse should be located with a view to the future. It should not be too near the river, for the noise and confusion of the rushing waters, whenever the river is at a high stage, is a very serious objection. It should not be on or near the business streets of the town, where the noise and clatter of the surrounding business would seriously interfere with Court affairs. It should be located sufficiently near the business portion of the town, on a plat of ground large enough for plenty of room on all sides of the building, so that the surroundings can be adorned with shade trees and ornamental shrubbery.

Mr. Lake lobbied to have the courthouse built south of the river. He offered to sell one acre of land to the county for \$1,500, with a pledge to plant shade trees, provide water to the courthouse, and “lay out a public square in front of the site.” The land Mr. Lake offered is the land upon which the current courthouse sits. The county’s decision to purchase the land was controversial because most of Reno was developing north of the river and Mr. Lake controlled the toll bridge that allowed passage across the river. The site selection was briefly litigated before Judge Harris and the Nevada Supreme Court until the location was finally settled.

The county requested bids to construct a new courthouse on September 10, 1871, with an estimated construction cost of \$20,500. Construction began on April 20, 1872, with 40 permanent on-site workers. (The original Washoe City courthouse was

deeded to the state for use as a hospital for the mentally ill but demolished in 1873.) The cornerstone was placed on June 22, 1872. The commission changed the exterior finishes from what were originally designed, which led the newspaper to complain the alteration “destroyed wholly the symmetry and beautiful architectural appearance of the building.” The courthouse was completed on January 24, 1873, and was described as a “substantial structure” with “excellent” interior finishes. Change-order litigation increased the original cost by 25%.

The 1873 courthouse “was a fine-looking, two-storied, brick edifice with a frontage of 58 feet and a depth of 79 feet.” It contained first-floor offices for the county clerk, treasurer, assessor, recorder, and sheriff. There was also space for a small county jail. The second floor consisted of a 35x58 foot “pleasant courtroom,” jury room, and rooms for the district attorney and county surveyor. The zinc-covered dome was 16 feet high and 10 feet in diameter. An artistic rendition of the 1873 courthouse is included in a large mural on the wall of the historic rotunda in the present courthouse.

Turf battles began immediately upon completion. A mere two weeks after the courthouse was completed, Judge Harris entered an order the press described as a “literary and legal curiosity.” The order reveals the high probability of judicial hubris:

It is by law within the inherent power of this Court first to occupy the entire structure, or so much thereof as is reasonably necessary for its own convenience and the convenience of its immediate officers, including the Clerk, Sheriff and District Attorney, without controlling reference to the convenience or necessities of such other officers of the County as are of not immediate service to the Court.

And the Court will of its own power appropriate such portions of this or any other building occupied by it as is most convenient for our own purposes, and the ready access of and to its own particular officers. And while by law it is made the duty of the Board of County Commissioners to provide suitable structures for the use of the Court and its officers, as well as the officers of the County, yet the Court will not suffer its manner or extent of occupation of such public property, when so provided, or its reasonable convenience to be controlled or restricted by the arbitrary will of a Board of Commissioners.

It satisfactorily and fully appears to this Court that the said Board of Commissioners have failed to reserve for the occupation of the District Judge any convenient apartment within this spacious building, neither have they provided elsewhere such office. Therefore this Court at this time assumes its rightful jurisdiction of this matter and acts therein by virtue of its authority as will be hereafter more fully apparent.

It appears to this Court that in the said Court House, contiguous to the Jury Room upon the second floor . . . is a room of convenient size and well lighted, suitable in all respects for use as an office for the use of the Judge of this Court. That said room is now occupied by a number of persons

engaged in business which is principally disconnected with the duty of any county office. That one of said persons incidentally exercise the office of County Surveyor, by which to give a color of title to such occupation of said room, but that the duties pertaining to said office are trivial in extent. Wherefore, this Court by reasons of the law and the premises, hereby appropriates said room to its use as an office for the District Judge. And the Sheriff is hereby directed to proceed without delay or bantering of words to clear said room of all persons and property now being, occupying or remaining therein, except such stove and furniture as he shall ascertain to belong to the County.

And said Sheriff is hereby further directed to procure carpet of good quality and of decent appearance, either three-ply or brussels, and carpet said room, also to procure and place therein at least three good chairs, one of which shall be an easy chair; also one good writing desk with compartments for books, papers, etc.; also one lounge of substantial and decent construction; also a broom, dust pan and whisk; also a good quality of curtains or blinds for the windows, and place the same in position; also two good lamps; also two large sized spittoons; also water pitcher and three glasses.

And said Sheriff is hereby directed and ordered to keep said room in order

at all times, and furnish therein at all times requisite fuel, stationery (including ink, erasers, etc.) and oil for lights, etc. And during the absence of the Judge from the County Seat, the said Sheriff is directed to keep the key of said room in his custody, in his office.

The newspaper editorialized: “We dislike very much to make a burlesque of this matter, and yet find it hardly possible to review it in a serious light.” It listed reasons why the county surveyor should not be “bundled out in the cold,” and concluded by stating “Nine months out of the year, the room is to be kept locked, and the key in the possession of the Sheriff, discommoding a whole community to gratify a diseased mind, the peculiar idiosyncrasy of which is a disposition to exercise arbitrary power. We know that there is such a thing as contempt of court. The court should know that there is such an offense as contempt of the sovereign people, of which he may some day be called upon to purge himself.” Judge Harris remained displeased and began absenting himself from court. He soon moved to Carson City and returned to the practice of law in 1873.⁴

The 1873 courthouse continued in service for the next 28 years and its brick foundation is part of the county’s current courthouse. But it had limitations almost from its beginning. Its ventilation and lighting systems were not properly designed. The grand jury noted its deterioration just two years after its completion. The grand jury also investigated conflicts between the county and court about maintenance. At one point, the grand jury recommended that “at least the cobwebs [be] swept from their hangings to the end that the county’s main building presents a neater appearance than it does today.”

The courthouse reached the end of its functionality shortly after the turn of the century. In 1901, the grand jury recommended the courthouse be lighted by electricity instead of coal oil. A substantial renovation was completed in 1903, and in 1907 the grand jury

recommended that courthouse stoves be replaced with a furnace and heating system. In 1907 the Nevada State Journal rhetorically asked, “Have you seen it [the courthouse] lately? Well, just go down and take a look at the institution wherein the courts dispense law and justice and the county officials perform the public’s work. It will give you a cold chill. It never was much of a building and now it is a shack, compared with what Washoe County should have. To call such a shanty a courthouse is a desecration of our mother tongue. It is not right to let it stand there. The county is too rich and populous to be optically vilified by such a structure.”

Next month I will begin with the 1910 construction of the courthouse currently in use, to include its subsequent additions in the 1940s and 1962, and the county’s efforts to construct a new courthouse that will serve the citizens of Washoe County long into the future.

¹References for this essay include: Russell W. McDonald, *History of Washoe County* (Board of County Commissioners of Washoe County, 1982); Second Judicial District Court – A Historical Perspective, *Judge Charles N. Harris*, <https://www.washoecourts.com/Historical/1861/Harris> (last visited Aug. 15, 2019).

² Washoe City began as a lumber camp near Washoe Lake in southern Washoe County to service the growth in Virginia City. It had as many as 2,000 transient residents in 1865. It is now a small ghost town.

³ The Central Pacific construction superintendent named the small community after Major General Jesse Reno, a Union Army officer killed at the Battle of South Mountain, Maryland.

⁴ In 1876, President Grant appointed Harris to be Register of the U.S. Land Office in Carson City. Harris served in this capacity until 1880. Harris was also involved with Republican politics. He was a Nevada delegate to the Republican presidential convention in Cincinnati when President Hayes was nominated. In addition to practicing law, he was an editor for Republican newspaper, *The Daily Index*.

This is number 122 in a series of essays on judicial ethics authored by Judge David Hardy, Second Judicial District Court, Dept. 15.

