



IDAHO
LEGAL
HISTORY
SOCIETY
EST. 2005

CALENDAR

ILHS History Display

May 24, 2010

Open House: Chambers of
Judge Randy N. Smith,
Pocatello, Idaho

July 15, 2010

Idaho State Bar Annual Meeting
Idaho Falls, Idaho

July 16, 2010

U.S. Federal Courthouse
Pocatello, Idaho

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POOR HOUSE, POOR FARM
IDAHO'S POORHOUSE LAWS

By the late 19th century the county poorhouse system was well established in the U.S. as a means of caring for society's indigents. The very first session of the Idaho Territorial Legislature in 1863 assigned the legal responsibility of caring for the poor to its county commissioners. Poorhouses were planned to be efficient, cost effective ways to provide relief to the poor, as well as an opportunity to reform them of the bad habits that were thought to have led them to poverty. Four Idaho counties were given special authority for poor farms, the first of which was Shoshone County.

In 1883, the Idaho Territorial Legislature passed an act requiring Ada County to purchase a poor farm of 80 to 160 acres to provide for the care of the poor in Ada County:

The said farm when so purchased shall be known as the Poor-farm of Ada County and the house thereon as the Poor-house.

The 160-acre Ada County Poor Farm was established in a rural area in what is now northwest Boise, north of State Street. Poor farm occupants originally worked there to repay their debt to society.

As time passed poorhouses became primarily nursing homes for impoverished elderly people.

For example, the Twin Falls County poor farm, that operated from the 1930s to 1968, was home to mostly elderly men without families, many of whom were bedridden.



Idaho County's poor farm.

OVER THE HILL TO THE POOR-HOUSE

*Over the hill to the poor-house I'm trudgin' my weary way---
I, a woman of seventy, and only a trifle gray---
I, who am smart an' chipper, for all the years I've told,
As many another woman that's only half as old,
Over the hill to the poor-house---I can't quite make it clear!
Over the hill to the poor-house---it seems so horrid queer!
Many a step I've taken, a-toilin' to and fro,
But this is a sort of journey I never thought to go.*

—Will Carleton 1897



Bonner County's poor house.

Because its residents were mostly unable to work, the county hired workers put up fruit, raise chickens, milk cows, cattle and swine, grow vegetables and grain, and generally provide for up to 100 residents.

(Continued on page 4)

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Boise, Idaho 83724

A Message from the Past President

I am pleased to present the Idaho Legal History Society's fourth issue of its quarterly newsletter (previous issues can be viewed on the ILHS website at www.id.uscourts.gov/ilhs). Although I "officially" stepped down as President of the ILHS in January, I am writing to give you a few important updates.

First, please welcome our new President, Scott Reed, Vice-President, Judge Ron Wilper and (returning) Secretary/Treasurer, Susie Boring-Headlee. I am confident that they will continue the many good activities that ILHS has begun, and will work to expand our many efforts and offerings.

Second, I am very excited to report that the ILHS has decided to undertake an ambitious project to collect the history of the practice of law in Idaho beginning in territorial times. To that end, we've contracted with the editor of this newsletter, Claudia Druss, to research and draft a "coffee table" book chronicling the 150-year history of the practice of law in Idaho. The working title of this project is *Tents to Towers: 150 Years of Legal Practice in Idaho*. I have been working closely with Claudia to identify existing resources, and long-time ILHS member Judy Austin has agreed to help edit this project as we move forward. As you can imagine, the book project is not only an ambitious endeavor, but a potentially expensive one. Accordingly, your generous donations to this project are always welcome (and tax-deductible)!

Third, over the past few years, the Oral History Committee of ILHS (currently chaired by Ernie Hoidal) has successfully completed oral histories of some of Idaho's most notable (and colorful) lawyers and judges. Many of these transcripts are now available to the public at the Idaho State Historical Society's library, while others are privately held pursuant to the wishes of the subject. To help facilitate the dissemination of these oral histories, ILHS is currently inventorying its collection with the hope of posting such information on our website. In that way, members of the public can share in the wealth of information collected from these extraordinary individuals.

Finally, if you haven't already done so, please consider renewing your annual membership to ILHS. For a modest fee of \$25, you can be a part of an organization that is truly working to save the past. Given our limited budget, much of our efforts come from a dedicated group of volunteers – but some costs and fees are unavoidable. Your membership dollars help support the many good efforts currently underway and will help us grow the ILHS to provide the public with access to even more valuable historical materials and information. For more information, please check our website.



*ILHS Past President
Deb Kristensen*

ILHS MISSION STATEMENT

- (1) To foster and promote public knowledge of, and interest in, Idaho's legal history;
- (2) To promote and encourage research of Idaho's legal history;
- (3) To collect and preserve records, relics, oral histories and other things of interest to Idaho's legal history, and to make the same accessible for public examination;
- (4) To encourage interest in Idaho's legal history through meetings, presentations, lectures and other public forums; and
- (5) To procure or publish and distribute historical material for educational purposes, the proceeds of which, if any, are to be used exclusively for the express purposes of the Association.

Lawyer Shoots Judge Morford Over a Woman

In the rough and tumble days of the late 1860s, Idaho's prominent lawyers and judges were just about as likely to be involved in shootouts to settle disputes as any other citizens.

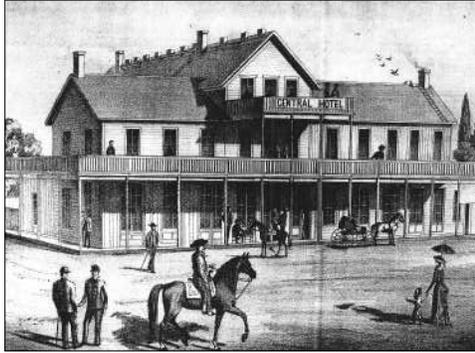
Take the case of prominent Boise attorney Theodore Burmester, for whom the year 1869 was one of tragedy and loss. Along with his legal practice in Boise City, he owned a ranch out on the Overland stage road where his wife and children lived.

Tragedy struck the family in the spring of 1869 in a story reported as far away as New York. A farm hand at the ranch attacked Burmester's wife Minnie while Burmester was away. In the ensuing struggle, she was shot in the abdomen while the man proceeded to set fire to the Burmester house.

Minnie managed to crawl out of the burning house. Her son was rescued by a neighbor; while others carried her to a nearby farm and sent for medical help. Minnie died of her wounds several days later. The house had burned completely and the farmhand's remains were later found in the ruins.

After the loss of his wife and home, Burmester moved to a Boise hotel, Hart's Exchange, but continued to visit the ranch periodically. He spent the spring term of the court in Owyhee County where he met Judge Russell B. Morford. Morford was newly arrived in Idaho from Oregon where he had been the Umatilla County Judge and County Clerk.

Burmester was depressed about the loss of his wife and Morford socialized with him, offering his own wife's singing and guitar playing to cheer him up. Later that summer Burmester was seen with Mrs. Morford on several buggy rides out to his ranch



Hart's Exchange in Boise where Burmester and Morford stayed. Elliott's 1884 History of Idaho Territory.

and to other locations, sometimes alone.

At some point Burmester learned that Morford's wife was leaving him and seeking a divorce. She asked Burmester to handle the divorce for her. Although Morford initially stayed with Burmester during the separation from his wife, he later grew angry that Burmester had caused the situation.

On the day of the shooting, Burmester and his partner Judge Scaniker were discussing a case and decided to seek the opinion of two other attorneys, Mr. Rosborough and Mr. Ganahl. On the way, they passed Morford on Main Street. Burmester confronted Morford,

saying that Morford "made a face" at him. Both fired shots and Morford was killed.

This was not the first time Burmester was quick with a gun. At the Idaho Democratic convention in 1866, he reportedly fired point blank at a prominent legislator and newspaper editor, H. C. Street, to settle a dispute. Street was saved from death by a wallet in his breast pocket.

Burmester's trial for murder was replete with witness descriptions of the times he and Mrs. Morford had been seen together. More than 60 witnesses were called in all.

In a scandalous verdict, Burmester was acquitted of all charges after the jury deliberated about 30 minutes. Presiding Judge David Noggle was accused in an *Idaho Statesman* editorial of having instilled in the jury a bias to acquit Burmester despite all evidence. The court of public opinion was clearly against Burmester.

After the trial, Burmester sold his ranch and left Idaho. He went on to practice law for many more years in Oregon and Utah where he died in 1894.

*Sources: Idaho Tri-Weekly Statesman
December 1869, January 1870;
Portland Oregonian, June 1866*

Chief Justice Noggle's Controversies



Chief Justice David Noggle.

Photo: Idaho State Historical Society

Judge David Noggle was no stranger to controversy in Idaho. He was deeply involved in the divisive political struggles of 1869, when Democrats and Republicans fought for control of the new territory. In the hotly contested Chinese Miners' Tax case, his unclear ruling angered both sides of the controversy. He did not find that a special tax on only Chinese miners was illegal, but he did throw out the case for procedural reasons. Some Democrats denounced Noggle's ruling on the tax as a "mess of baseless, utterly absurd, almost senile, and wretchedly ridiculous slop." He was described by one writer of the time as "a man whose brain was affected, and who allowed himself to be made the instrument by which thieving politicians carried their points." Noggle was repeatedly ridiculed in the pages of the *Idaho Statesman*, often because nearly all his cases resulted in acquittal of the defendant.

Noggle had grown up on the frontier in Ohio where he had little time for education. He married, moved to Illinois, and was admitted to the bar in 1838 with no formal legal education. He opened a law office in Wisconsin and was elected to the first state constitutional convention in 1846. There he championed women's rights among other causes. Noggle was elected judge of the First Judicial Circuit of Wisconsin in 1858.

He was appointed Chief Justice of Idaho Territory by President Grant in 1869, a position he held until 1874 when he resigned due to poor health. He was said to have suffered from dementia.

Sources: History of Rock County, Wisconsin 1879; History of Washington, Idaho, and Montana: 1845-1889, H.H. Bancroft; Idaho State Historical Society Reference Series #83.

20th Century Idaho Profiles

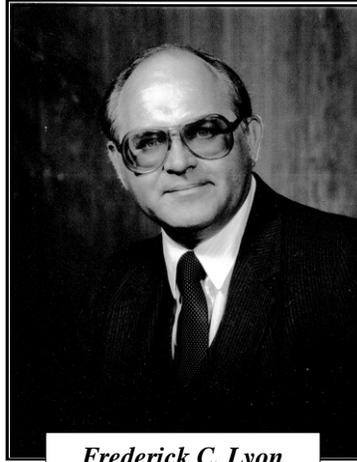
The Human Touch: Frederick C. Lyon

This personal profile was excerpted from an interview by the ILHS oral history program, documenting the history of legal practice in Idaho.

Frederick C. (Fred) Lyon was Clerk of the Idaho Supreme Court for 22 years before he retired at the end of 2004. He was born in 1939 in Salmon, Idaho, the son of an attorney and a legal secretary. He attended the University of Idaho law school where he met his wife, Diana Burns.

Lyon graduated with a *juris doctorate* in 1964 and joined his father's law firm in Salmon. He was elected prosecuting attorney in Salmon and later worked in various legal positions. He joined the Idaho Supreme Court in 1982, about the time the state Court of Appeals began. At that time, Charles Donaldson was Chief Justice of the Supreme Court and Jesse Walters was chief judge of the Court of Appeals.

Lyon's work for the court initially included scheduling cases and reserving courtrooms through out the state. During court travel he was responsible for all the files



Frederick C. Lyon

associated with the cases.

Supreme Court Justices drew their cases by lot from a ballot box. Later the system changed and the law clerks drew the cases. The Supreme Court heard three cases a day in Coeur d'Alene, Moscow and Lewiston for the North Idaho Term. The Southeast Idaho Term included Idaho Falls, Pocatello and Twin Falls. During the winter months, the court stayed in Boise.

Lyon also handled uncontested motions, admission ceremonies for the Idaho State Bar, annual memorial ceremonies for deceased judges and attorneys, and *Idaho Reports*, which included the opinions of the Idaho Supreme

Court and the Court of Appeals.

Before the justices came out on the bench, Lyon ensured that the attorneys were present in the courtroom and helped put nervous first-time attorneys at ease:

I would try to spend a little more time with them and tell them that the justices put their pants on in the morning the same way they did and that...it was going to be a good experience for him or her.

During his 22-years with the Court, Lyon maintained his residence in Pocatello and commuted to Boise. While in Boise, he volunteered at St. Luke's Regional Medical Center in the neonatal intensive care unit. There he held newborn infants and played with other hospitalized infants, providing them with the all-important benefits of human touch and attention during their medical treatment.

—From an oral history interview by Cameron Burke

—Reported by Jean M. Buchanan



Idaho Supreme Court Building

Idaho Governor Norman Willey in the Poorhouse

(Continued from page 1)

Folks without families or resources from any background could end up in the poorhouse. After a series of financial setbacks, one of Idaho's governors, Norman B. Willey, lived in the county poorhouse near Topeka, Kansas.

Willey had been a mine superintendent who moved to the northern Idaho gold camps in 1864. His political career began with two terms in the Idaho legislature.

He became governor of Idaho when Governor George L. Shoup, who planned to move on to the U.S. Senate in 1890, arranged to have him elected lieutenant governor. Willey would take over as governor when Shoup moved to the Senate.

Willey played a role in the 1892 Coeur d'Alene mining troubles, where he worked to subdue miner unrest in a conflict that eventually led to a declaration of martial law and the arrest of nearly 600 miners. After extended litigation, the U.S. Supreme Court reversed many of the convictions and the miners returned home as heroes.

After his term as governor, Willey returned to mining, but did not fare well financially, ending up in a poorhouse in Kansas. The Idaho legislature eventually assisted him by appropriating \$1,200 for him as an unofficial pension.

Sources: *Poor Law Legislation, Idaho State Historical Society Reference Series #151; Idaho Oral History Center #540;*

Norman B. Willey, Idaho State Historical Society Reference Series

Senator Dubois & Idaho's Test Oath

During a dark episode in Idaho's legal history

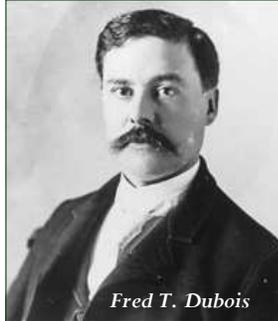
anti-Mormonism was incorporated into state law, reflecting the fervent public debate of the day as well as backroom political deals. Anti-Mormon fervor was fanned by the actions of one of Idaho's most controversial politicians, Fred T. Dubois. Dubois was both a Republican and Democratic congressman from eastern Idaho.

He was born in Illinois in 1851 and graduated from Yale in 1872. Dubois moved to Idaho Territory in 1880. Two years later he was elected U.S. Marshal of Idaho and later served as the warden of the penitentiary in Boise.

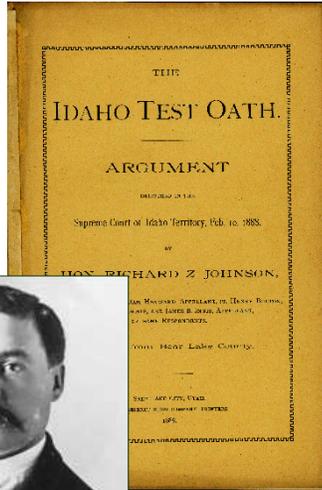
In the 1880s he led a campaign to disfranchise Mormon voters on the grounds that they had violated Idaho law by practicing polygamy, and that church leaders in Salt Lake City unduly influenced Idaho politics.

This campaign led to the test oath, passed in 1884, that was designed to disfranchise anyone who practiced polygamy or belonged to an organization that advocated polygamy.

Dubois ran as a Republican for Congressional delegate from Idaho Territory on a platform of Free Silver and anti-Mormonism in 1886. He won over the incumbent Democrat "Honest John" Hailey. At age 40, Dubois was the youngest man in the U.S. Senate, serving as a delegate to the Fiftieth and Fifty-First Congresses (1887 to 1890). He was elected Republican Senator from Idaho in 1890 and served from 1891 to 1897.



Fred T. Dubois



By 1896, Dubois had split from the main Republican Party and was the leader of the Silver Republican faction, supporting presidential candidate William Jennings Bryan, over Republican candidate, William McKinley. McKinley won and Dubois lost re-election to the U.S. Senate.

After the loss, Dubois continued his efforts to defeat McKinley and won control of Idaho's Democratic party through the "dynamiter" faction that opposed Governor Steunenberg's handling of the 1899 labor dispute in the Coeur d'Alenes.

Dubois built a powerful state machine of Democrats that gained control of the Idaho legislature. His faction

of the party vowed to send him to the national convention for the purpose of getting an anti-Mormon plank in the national platform. However, in 1908 he was removed from Democratic party leadership by a decision of the state supreme court.

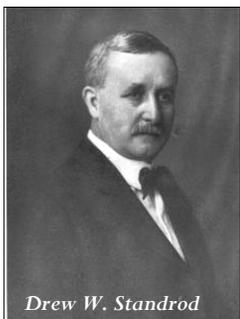
Although Dubois accomplished a number of beneficial acts for Idaho, including helping to secure statehood, he may be most widely remembered for his virulent anti-Mormonism. Dubois died in Washington, D.C. in 1930 and is buried in Blackfoot, Idaho.

Sources: *Biographical Directory of the United States Congress, Library of Congress; Fred T. Dubois Biographical Sketch, L.W. Graff, Jr.; Idaho State University,*

A Man of the Times: Judge Standrod

Drew W. Standrod was born in Kentucky in 1859, the son of a prominent physician. He graduated from Cadiz Institute in Kentucky in 1880 and was admitted to the bar in Kentucky. In 1882 he moved to Idaho where he practiced law in Malad City.

Standrod was elected district attorney as an Independent Anti-Mormon in 1886 during a period of anti-Mormon activism in county and state politics. In his second term he was a member of the Idaho Constitutional Convention drafting committee.



Drew W. Standrod

Standrod was elected district judge for the Fifth Judicial District in 1890 and held that office until 1899 when he returned to legal practice in the Pocatello, Idaho firm of Standrod & Terrell. He moved to Pocatello in 1895 and built an ornate 16-room classical revival-style house in 1902. After leaving the bench, Standrod had extensive banking interests. He and his partners purchased the First National Bank of Pocatello and he later served as president of D. W. Standrod & Company's Bank of Blackfoot. Standrod ran unsuccessfully for governor in 1900 and later served on Idaho's state public utilities commission. He passed away in 1942.

Sources: *History of Idaho, H.T. French 1914; Idaho Statesman 1900; D. W. Standrod's Mansion, Idaho State Historical Society Reference Series #965.*



Standrod Mansion.

Photo: Idaho Museum of Natural History

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