



Photo courtesy of the Idaho State Historical Society

The original courthouse at Pierce City in 1862 was built with timber hewn with broad axes. The ground floor was used for two jail cells and the sheriff's office. The second floor was for the court and commission meetings. The structure served as Shoshone County Courthouse for the district court of the First Judicial District of Idaho Territory.

## PIERCE CITY JUSTICE IN THE BOOM TIMES

Judge John H. Bradbury

### The beginning

Canal Gulch! That's where it all started, at Oro Fino Creek in the Clearwater drainage of Nez Perce country. There, in September 1860, Wilbur Bassett, a member of Elias D. Pierce's twelve-man prospecting party, discovered gold. In a later account, Pierce said they "[f]ound gold in every place in the stream, in the flats and banks and gold generally diffused from the surface to the



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bed rock. I never saw a party of men so much excited."<sup>1</sup>

The prospecting party returned to Walla Walla to publicize the find and recruit men to commercially exploit it. Few took Pierce's story seriously, but he did succeed "in enlisting the interests of thirty-three stout-hearted men."<sup>2</sup> Colonel George Wright, in charge of Fort Walla Walla, however, opposed the party's plans because he feared troubles with the Nez Perce if the integrity of their 1855 treaty were breached by a stampede.<sup>3</sup> But the lure of gold was not to be denied.

The party left Walla Walla for Oro Fino Creek in November. "[A] detachment of dragoons was sent after the men, and pursued them as far as the Snake River, but failed to overtake them."<sup>4</sup> When the men arrived back at Oro Fino Creek

they "wrought diligently building cabins, whipsawing lumber for sluice boxes, prospecting and the like."<sup>5</sup> They also laid out a plan for the town which they named Pierce City.

At a January general meeting of the miners, known as Miners' Meetings, the men established and named the Oro Fino Mining District of the Washington Territory.<sup>6</sup> The men also voted to apply the same mining laws that had applied to the California mining camps to the district.<sup>7</sup> The laws provided that "[a]ny person or persons who may have grievances to settle – in case they cannot agree – a Miners' Meeting shall be called at which the matter shall be decided finally."<sup>8</sup>

The men at the meeting had also elected four men to return to Walla Walla to deliver mail, replenish supplies and

to try again to publicize the find. They left Pierce City on snowshoes and arrived half-starved at a Nez Perce camp at the mouth of Oro Fino Creek (where the current town of Orofino is).<sup>9</sup> They then trudged on to Walla Walla where they arrived “with a considerable sum of money in gold dust.”<sup>10</sup> The gold made believers of the doubters. It was no longer just talk. Alonzo Leland, the publisher of the Portland Weekly Times, gave wide publicity to the find, which was quickly picked up by other newspapers.<sup>11</sup> Idaho’s first gold rush was underway.

### Gold rush

The hardy sojourners encountered many physical and human perils on their way to Pierce City. Steep ridges, forbidding ravines, narrow trails and deep snow were common. Horse thieves plied their trade on the Camas Prairie. Packers were murdered. Pack trains and their freight were hijacked. And in one case, a miner on his way to Pierce City was parted from his one hundred pounds (yes, pounds, not ounces) of gold.<sup>12</sup> We do not know what happened to the miner who lost 100 pounds of gold except that, while poorer, he had less work to do once he was relieved of his gold.

Despite all these challenges, by April of 1861 there were three hundred people in the district, by May there were nine hundred, and by July “the creeks were swarming with people.”<sup>13</sup> Eventually that year, the population may have reached as many as seven thousand people, of whom perhaps “only two thousand were real miners...”<sup>14</sup> The population grew so large that Shoshone County cast the most votes in the Washington Territory congressional election that year.<sup>15</sup>

The miners converging on the district prospected for gold with iron gold pans. The value of a claim was gauged by the worth of the gold that a pan yielded, which went for fifteen dollars an ounce. If the claim was worth the cost and labor, most miners mined the gold with sluice boxes, which were long, narrow wooden chutes with transverse wooden slats or ribs attached to the bottom, called riffles.<sup>16</sup>

Gold was usually found in quiet portions of a stream where the current could not carry it any further. The miners dug away the sod in these areas down to bedrock and installed the sluice boxes. They then built dams above the boxes to collect water and attached water wheels to divert the water to the boxes. Once everything was in place, the men shoveled the paydirt into the boxes where the water would wash away the sand and gravel, leaving the heavier gold lodged up against the riffles. It was grueling work.<sup>17</sup>

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### Life in a boom town

The five thousand inhabitants who were not “real miners” were “cutting trees, sawing boards for buildings and [sluice] boxes, running stores, playing cards, selling and drinking whiskey, driving teams, digging ditches, [and] sometimes digging graves.”<sup>18</sup> There were three general stores, several boarding houses and three hotels. Also gracing the town were four saloons and there were even more hotels and saloons at the short-lived town of Oro Fino, a short distance away at Rhodes Creek.

But it was not all hard work. The old California miners brought a liberating perspective to the district. They had “long since shaken off the shackles of an effete civilization, and had been living for many years free from the trammels and restraints of Sunday-school influences. The greenhorns and tenderfeet were not slow in learning how to follow in the footsteps of those who had so long enjoyed that larger liberty that comes from a wild, free life lived so far away in the remote mountain regions.”<sup>19</sup> And almost overnight Pierce City became a town where miners could have fun.

All of the saloons and most of the hotels and boarding houses had liquor licenses that permitted them to sell whiskey by the “gulp, quart, gallon or any other quantity.”<sup>20</sup> There were also ladies whose affections were negotiable. William Ford’s saloon at Oro Fino was one of the most popular in the district because “he employed Spanish dancing girls to entertain the miners.”<sup>21</sup> And during the winter, poker games would go round the clock. When a player went broke, someone would stake him so he could stay in the game.<sup>22</sup>

Although the mining district was located in Shoshone County, “there were no county organizations; no local officers of the law; no courts. In fact the county was a veritable haven for escaped convicts, desperadoes, thugs and thieves and abandoned characters of every variety.”<sup>23</sup> And those who had come from the east often

“brought with them all the bitterness and prejudice engendered by that [Civil War] strife and the violent expression of this prejudice was the occasion of many a personal encounter.”<sup>24</sup>

A consensus was quickly reached that the region “was very badly in need of courts, if the peace and dignity of the territory was to be maintained there at all.”<sup>25</sup> To that end, on July 8, 1861, the voters elected three commissioners, a sheriff, a probate judge, an assessor, a treasurer, a coroner and a constable. Shoshone County was now in business and Pierce City was its county seat.

At the May 1862 court term, the county commissioners appointed a committee to select a site for a “permanent courthouse, a building of great need, as heretofore the county had been paying out considerable money in rent.”<sup>26</sup> On June 7, 1862, they accepted a bid to “build a courthouse and jail at Pierce City for \$3,700 in county script.”<sup>27</sup>

Men used broadaxes to hew the logs to “square timbers,” which were joined by half-dove-tailed notches. The first floor housed two jail cells and the sheriff’s office. The carpenters put iron bars in the cell windows and drove kegs of nails into the cell walls so the prisoners could not cut their way out. The second floor was for the court and the commission proceedings and records. It was completed in August. When Congress created the Idaho Terri-



Photo courtesy of the Idaho State Historical Society

tory the next year, on March 3, 1863, it became the Shoshone County courthouse for the district court of the First Judicial District of Idaho Territory and Pierce City continued as the county seat.<sup>28</sup>

### Early court filings

W. C. Greaves filed the first legal document on September 1, 1861. It was a \$299 mechanics lien for work done on the Lusk & Co. claim. He sought \$100 for making and putting in an over shot [water] wheel, \$14 for making and putting up water wheel boxes, \$160 for furnishing 32 sluice boxes at \$5 a box, and \$25 for an indecipherable item.<sup>29</sup>

In May 1863, R.S. Green alleged in his complaint against a fellow named Frank Surprise that “he [Green] is the lawful owner of a certain white mare, now in possession of Def’t who wrongfully detains the same from Pl’ff.” The judge noted that the mare was surrendered of the day of trial. Another dispute that was settled on the day of trial was a \$42.50 bar bill that saloon owner A. G. Corbett claimed Hiram Millikin owed him. Not to be outdone, Mary Ann McIntire, who had bought Hiram Millikin’s saloon, charged that Corbett “did receive at his own instance and request liquors at Hiram Millikin’s Saloon in Pierce City at divers times ... amounting to thirty eight and 50/100 dollars.”<sup>30</sup> The outcome of that dispute was not recorded. One suspects they may have settled it over a drink.

Horses and whiskey were not the only fodder for the court system. Gerolemo Geovante and two partners alleged the defendants “did unlawfully and without our consent commence to construct a dam to our damage on our claim on Barclay Gulch...” The Territory charged that O.I. Edmonds “did steal and feloniously take from the house of J.G. Dodge ... gold dust (in a malyum) belonging to the said J.G. Dodge ... to the amount of one hundred dollars.” Edmonds apparently did not tarry to spend his purloined booty at Millikin’s Saloon because the sheriff’s return on the warrant reported that he “could not be found in Shoshone County.”<sup>31</sup>

The sheriff did not have much better luck with Fredrick Baker, who had been arrested for stealing a pair of boots. The sheriff noted on the file, “Prisoner Broke Custody and cannot be found in said County.” But if the sheriff found persons who had a money judgment against them, the proceedings were brief. Pierce City merchant Christian Swendsen got a \$40.75 judgment against James Riley for board, merchandise, and sundries. Sheriff Elijah K. Davidson found Riley and executed on

the judgment. “The said James Riley was found by me in Nez Perce County on Lapwai Creek. I made a search of his person and found \$23.75 on his person – it being all the money I could find on him. He paid me \$20.00 in gold coin.”<sup>32</sup>

### Judge Israel Burr Cowen

Israel Burr Cowen was one of the several early judges who presided over these and other disputes at Pierce City. His character and personality also defined the early judiciary in Shoshone County. In April 1849, the twenty-year-old Cowen left Galena, Illinois, with a wagon train on its way west through Council Bluffs and Salt Lake City on to Eldorado, California. He mined there for thirteen years until he heard about the discovery of gold in the Clearwater country.<sup>33</sup>



Judge Israel B. Cowen

Cowen took a steamboat to Lewiston, where he arrived in May 1862. Having lived in rowdy mining camps, he was probably prepared for the town that greeted him when he stepped off the stern-wheeler at Lewiston. It was “an infant ... town of canvas walls and rude primitive structures, of dens of unbridled vice and iniquity, a town which just before had to resort to a vigilance committee in order to cow the rough element[.]”<sup>34</sup> It is not known if the thirty-three-year-old Cowen dallied or soon departed, but when he did leave for Pierce City, he trod the eighty-some mile trail on foot.

Cowen served as the probate judge and justice of the peace for many of the twenty-two years that Pierce City was the county seat. He also served four years as a county commissioner, four years as the sheriff, and four years in the territorial legislature. When the post office replaced the pony express, he also served as the post master of Pierce City for six years. In that job, he routinely walked to Lewiston and back with the mail, much of which he covered on snow shoes during the winter. But for all of that, of course, he was still a miner at heart. And mine he did. His claim included a twelve-mile-long water ditch he had dug by hand.<sup>35</sup>

Lest you think the Honorable Israel Burr Cowen was not deserving of the honors his peers bestowed on him, you should know that in addition to all the challenges he faced, he conquered them all with a deformed hand and a club foot.

And so it was in the early days of Idaho’s first courthouse, when a claim was valued by the gold in a pan and whiskey was sold by the gulp.

### About the Author

**Judge John H. Bradbury** is a retired judge for the Second Judicial District, where he served from 2002 to 2011. His great grandparents arrived at Pierce in 1868 to search for gold. His grandfather was a six-week old infant at the time. Judge Bradbury received his undergraduate degree from the University of Idaho and his law degree from the University of Michigan. After law school, he served with the Eighth Army in Korea in military intelligence. He spent 44 years as an attorney, including co-founding a 35-lawyer firm in Anchorage and Seattle and serving as a partner in a Seattle maritime law firm. In addition, he has served as a Special Assistant Attorney General for the state of Washington.

### Endnotes

- <sup>1</sup> Gary J. Williams, Ronald W. Stark, E.D. Pierce, *The Pierce Chronicle*, (Idaho Research Foundation, Inc. 1975).
- <sup>2</sup> *History of North Idaho* 19-20 (Western Historical Publishing Company 1903)..
- <sup>3</sup> *History of North Idaho* at 20.
- <sup>4</sup> *History of North Idaho* at 20.
- <sup>5</sup> *History of North Idaho* at 20.
- <sup>6</sup> Layne Gellner Spencer, *And Five Were Hanged*, 31 (Ramax Printing and Awards 1968).
- <sup>7</sup> Spencer at 30-31; *History of North Idaho* at 22.
- <sup>8</sup> Spencer at 30-31.
- <sup>9</sup> Spencer at 31.
- <sup>10</sup> *History of North Idaho* at 20.
- <sup>11</sup> *History of North Idaho* at 20.
- <sup>12</sup> *History of North Idaho* at 30.
- <sup>13</sup> *History of North Idaho* at 22.
- <sup>14</sup> Byron Defenbach, *The State We Live In 173-174* (Caxton Printers, Ltd. 1933).
- <sup>15</sup> Pierce Courthouse at Pierce, Idaho (Idaho State Historical Society (undated)).
- <sup>16</sup> Defenbach at 169-171.
- <sup>17</sup> W.A. Goulder, *Reminiscences: Incidents in the Life of a Pioneer in Oregon and Idaho* 211-215 (Timothy Regan 1909).
- <sup>18</sup> Defenbach at 173-174.
- <sup>19</sup> Goulder at 206-207.
- <sup>20</sup> Spencer at 41.
- <sup>21</sup> Spencer at 39.
- <sup>22</sup> Goulder at 235-236.
- <sup>23</sup> *History of North Idaho* at 29.
- <sup>24</sup> *History of North Idaho* at 29.
- <sup>25</sup> *History of North Idaho* at 34-35.
- <sup>26</sup> *History of North Idaho* at 1017.
- <sup>27</sup> *History of North Idaho* at 1017.
- <sup>28</sup> *Idaho’s Oldest Public Building – The Pierce Courthouse* (Idaho State Historical Society (undated)).
- <sup>29</sup> Shoshone County court records, Clearwater County Historical Museum.
- <sup>30</sup> *Id.*
- <sup>31</sup> *Id.*
- <sup>32</sup> *Id.*
- <sup>33</sup> *History of North Idaho* at 1065.
- <sup>34</sup> *History of North Idaho* at 34-35.
- <sup>35</sup> *History of North Idaho* at 1065; Spencer at 38.