

January 1933

Hiram Pits Bennet

William H. Robinson Jr.

Follow this and additional works at: <https://digitalcommons.du.edu/dlr>

Recommended Citation

William H. Robinson, Jr., Hiram Pits Bennet, 10 Dicta 356 (1933).

This Article is brought to you for free and open access by the Denver Law Review at Digital Commons @ DU. It has been accepted for inclusion in Denver Law Review by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

HIRAM PITS BENNET

By WILLIAM H. ROBINSON, JR., of the Denver Bar

ONE day a good many years ago, two young men, arm in arm, were proudly admiring a little frame building which had recently been erected near Cherry Creek. A small wooden building—so you and I would describe it today, and thus summarily dismiss it from our thoughts; yet to those young men as they stood before it that day in 1869, it was the most important structure ever erected—at least the most important ever erected in the Territory of Colorado; and as they looked at the building their glances frequently would stray up to a freshly-painted sign which read, "Bennet & Hallett, Attorneys-at-Law."

Bennet & Hallett—it was the first law partnership formed in Denver. The partnership was entered into during strenuous times, for the Cherry Creek settlement, like any typical frontier mining community, consistently disregarded the law and permitted the ends of justice to be obtained only "in the face of opposition and danger."¹ The partnership had grown out of peculiar circumstances. Hiram Pits Bennet had come to the settlement in 1859 from Nebraska City. Shortly thereafter he began the practice of law in the office of a lumber yard owned by D. C. Oakes. Moses Hallett had arrived in Colorado in the same year, but instead of entering the practice had prospected for gold. Hallett, unsuccessful in his prospecting, drifted back to Denver where he attempted to borrow enough money from Steven Hempstead to return to the family home in the East. Instead of lending Hallett the money, Hempstead went to Bennet with the suggestion that Hallett be hired to work in the law office. When Bennet refused, Hempstead agreed to pay Hallett's wages. Under this proposition Bennet agreed to "hire" Hallett. Within a short time after Hallett had entered the office as a law clerk, Bennet proposed the formation of a law partnership. Hallett immediately accepted the proposition, and the new firm ordered their office to be built.

In later years Bennet admitted that he painted for Hallett a very rosy picture about the amount of legal work to be done in Denver. Like most frontier men, Bennet was ex-

¹Rocky Mountain Herald, April 4, 1909.

tremely optimistic. He believed in the future of new lands wherever they might be. Practically his whole life was spent on a frontier.

Born September 2, 1826, in Carthage, Maine, his family traveled westward in 1839 to settle in Andrew County, Missouri, where they lived until Hiram was twenty years old. The Bennet family then moved eastward to Richland County, Ohio, to stay for four years, returning to Missouri in 1850. Young Hiram taught school there and studied law, being admitted in the following year to the Missouri bar. Practicing in Missouri for only a short time, he became dissatisfied and decided to go to Western, Iowa, where he hung out a shingle. In 1852 he was appointed judge of the circuit court in Iowa. Western, however, did not appeal to Young Bennet so in 1854 he left for Nebraska City.

He barely had settled down to the practice of the law there when he was elected to the council of the first legislative assembly.² A short time later, Bennet contested for a seat in the United States Congress against B. B. Chapman, but lost. Bennet was selected in 1858 as a member of the Nebraska House of Representatives and by that house was selected as its presiding officer. He was known as a fair and progressive speaker.

The general westward trek of 1859 found Bennet within its ranks, but he went no farther than Denver. In that mining camp—for Denver was little more than a mining camp at that time—Bennet found law and order little more than a phrase. The many civil courts presented a confusing problem of jurisdiction. Appeals to the supreme court of the territory were infrequent, in fact so infrequent that its chief justice had more business in his capacity as Justice of the Peace. Criminal law was administered by a court which recognized only three degrees of punishment—thirty-nine lashes on the bare back, banishment from the territory, and death. The courts were generally held beneath a cottonwood tree, whose shade afforded relief from the rays of the sun, and whose boughs furnished a convenient means of executing the frequent sentence of death. Because of the difficulties and injustices of criminal procedure, and because of the general dis-

²Hall's History of Denver (1913), page 660.

respect held for the law, Bennet, aided by A. C. Hunt and A. Sagendorf, started a movement for a People's Court. At a public meeting the plans for such a court were adopted, and Major Jacob Downing and Niles Sargeant were selected by acclamation as judges. This court followed the Iowa statutes since they were the only statutes in town. The statutes were taken from the library of Bennet who, because of the size of his library, "was regarded as the legal oracle of the county, he having by far the largest and most valuable collection, viz. —14 volumes."³

Bennet was chosen public prosecutor. In spite of his strenuous efforts and those of others, the self-appointed vigilante continually took the law in their own hands; and "it was not an uncommon sight to see one to six human bodies hanging from lamp posts in an early morning." Bennet immediately commenced a vigorous campaign to drive out desperadoes. Major Downing had been selected judge and co-operated with Bennet in every way. Within a period of thirty days Bennet prosecuted and Downing sentenced 125 men to the chain gang.⁴ During his term as prosecutor, Bennet, though he never hesitated to prosecute or speak out, always went unarmed. Downing later in commenting on this fact, said, "Hiram Pits Bennet is one of the bravest and best men that it has ever been my fortune to know."

Aiding Bennet and Downing in their campaign for law and order, The Rocky Mountain News in every issue battled the lawless element. Carl Woods, the leader of the desperadoes, threatened to destroy the News. While threats were being passed back and forth, Charles Harrison killed a negro, named Starks. Although Harrison claimed the killing was in self-defense, the News condemned the incident in bitter language. Woods seized upon this incident with the intent to bring matters to a head. His gang captured William Byers, editor of the News, and took him to the Criterion Saloon to apologize to Harrison. As a preliminary to the apology, Woods ordered drinks for the crowd; and as the liquor was being served, Harrison let Byers out the back door. When Byers got back to the News office, he armed all of his em-

³Vol. 7 Dawson's Scrapbooks.

⁴Denver Times, March 3, 1905.

ployees and barred the doors. Within a few minutes Woods and his gang were outside the building blazing away with their guns. It was quickly rumored through the town that Byers had been killed. A large posse was organized and Woods was captured and held for trial. Since Byers was very much alive, Woods could not be tried for murder. Charges of lawlessness and of disturbing the peace were preferred against the desperado. Bennet was selected as judge of the extemporaneous court, and he presided over the three-day trial. The sentence of the court that Woods should be banished forever from the Territory was carried out immediately at the conclusion of the trial.

One of the important trials conducted in the People's Court was that of James Gordon for murder. Gordon, who had committed a series of atrocious murders, was captured and returned to Denver by W. H. Middaugh who secured a special appointment as United States Deputy Marshal for this purpose. The trial was held under a cottonwood tree at the corner of Fifteenth and Wazee Streets. A. C. Hunt was the presiding judge, and H. R. Hunt, W. P. McClure and J. H. Sherman were appointed as counsel for Gordon. Beside Bennet, Jacob Downing and James Coleman presented the people's case. The trial lasted from September 28 to October 2. When the issue was submitted, the people unanimously voted guilty. On the sixth of October, Gordon was hanged on a scaffold which was located on the site where the Evans home was later built. The last case heard in the People's Court occurred November 30, 1860, when Pat Waters was tried for murder. Bennet prosecuted this case and secured a verdict of guilty. Waters was hanged December 20.⁵

One of the reasons for the abandonment of the People's Court was the establishment by Act of Congress, February 28, 1861, of a judicial system for the territory. The act provided for a Supreme Court presided over by three judges, and for an attorney-general and a marshal; inferior courts were to be established by territorial statutes. Congress further provided for a government for the territory and Gilpin was selected by President Lincoln as the new governor. On May 20, 1861, Bennet, as chairman of the reception committee wel-

⁵Smiley's History of Denver (1901), Volume 8.

came the man who was shortly to be his opponent for delegate to Congress. In the midsummer of that year, Bennet was nominated by a two-thirds majority of the Union Republican Convention at Golden as delegate to Congress.⁶ Amos Steck was the presiding officer of the convention. Opposed by B. S. Williams, a secessionist and former delegate from Jefferson Territory, Bennet was elected in August as the first delegate to Congress from the Territory of Colorado, and was reelected by a large plurality for a second term on October 7, 1862, when he was opposed by J. M. Francisco and Governor Gilpin.⁷

Schuyler Colfax was elected as a delegate to the House and Bennet to the Senate. As delegates these men had no vote but could take part in the discussion of bills. Their influence was responsible in the passage of bills establishing a post office in Denver, local land offices, and military posts, of bills providing appropriations for Indian treaties, and for the settlement of claims arising from Gilpin administration during the Civil War, of an act to move the surveyor's office from Salt Lake City to Denver, and of an act to provide for the establishment of a mint in Denver.

Bennet's enthusiasm for the territory had one peculiar result. Fernando Wood offered a resolution in Congress which in effect authorized the President to protect the mineral lands in the territory for the benefit of the federal government and to expel the miners from their lands, converting these improved lands to the benefit of the government. This resolution was offered as a means of defraying the expense of the Civil War. Realizing the disastrous effect such a resolution would have on the mining situation in Colorado, Bennet leaped to his feet violently protesting the resolution. In his speech he dwelt for a long time on the beauty and riches of the territory. As a result of this speech mining stock boomed and a rush was started for the gold fields. Bennet was applauded in the territory, only to be cursed later by those unsuccessful easterners who rushed there to secure some of the "virgin wealth." Wood's resolution was tabled until 1866 when it was voted down.⁸

⁶Hall's History of Colorado (1890), Volume I, page 269.

⁷Stone's History of Colorado (1918), Volume I.

⁸Hall's History of Colorado (1890), Volume II, page 323.

Another legislative act with which Bennet was identified was the act establishing the United States mint in Denver. It is perhaps worthwhile to deviate for a time to state the conditions which led to the passage of this act. Austin M. and Milton E. Clark, and E. H. Gruber formed a mining and minting company. In 1858 they founded a bank in Leavenworth, Kansas; and on July 20, 1860, they commenced work on their Denver branch, located at Market and Sixth Streets. Along with the bank they built a mint to convert the gold dust into coin in order to avoid transportation charges to the east.⁹ Clark, Gruber and Company issued gold coins in \$10.00 and \$20.00 denominations. These coins were devoid of alloy; however, some time later they issued \$2.50 and \$5.00 pieces with which alloy was mixed. Later in the year they established a branch bank at Central City, which issued demand notes on the Denver house. Within a year after opening their banks in Colorado, Clark, Gruber and Company had minted \$3,000,000 of gold, and their coins were preferred over those minted by the United States Government. In 1861, a movement, which the company backed, was started for a government mint. Bennet and Austin Clark pushed the necessary political machinery into motion in Washington. A bill was drawn up which provided for the sale of the Clark-Gruber property to the government and for the establishment of a branch mint in Denver. This bill was pushed through the legislature and became an act on April 21, 1862. On March 3, 1863, the United States completed the purchase of the mint at the cost of \$25,000. A supplementary bill was passed on June 8, 1864, which forbade the private firms from minting gold.¹⁰ Bennet's term as delegate ended March 3, 1865.

While Bennet was in Washington the building housing the firm of Bennet and Hallett, Attorneys-at-Law, had been swept away by the flood of 1864, and the proud sign of the partnership was washed into the Platte River, from which a frugal poultryman rescued it in order that he might use the sign to cover a hole in a chicken-coop. Not until 1870 did

⁹At this time there was no government statute forbidding private minting.

¹⁰Some of the Clark-Gruber minting machinery is preserved in the building of the Colorado State Historical Society. The First National Bank of Denver was the successor to the banking business of the Clark, Gruber & Company.

the partners discover the use to which their "shingle" was being put, and by that time the sign was so battered and worn that it was utterly useless to them, hence it remained as a part and parcel of the chicken-coop.

Shortly after Bennet's return to Denver, he was made postmaster to succeed W. P. McClure.¹¹ This position he held until 1874 when he resigned his postmastership to put an end to the rumors which had been circulating concerning his management of the mails. W. W. Lander, an "able, shrewd, and wholly unscrupulous politician who was well-known at Washington," charged Bennet with the mismanagement and culpable misdirection of the mails. His attacks were directed through the *Mirror*, a newspaper edited by Stanley C. Fowler. The *Mirror*, printing the attacks on what at first seemed uncontradictory evidence, later repudiated the charges which were taken up by the *Tribune* under the editorship of Champion Vaughn. The *Tribune* later, however, acknowledged its mistake and printed a confession of some of the men involved in the scheme to remove Bennet from the position.¹² Although the charges were proved false, Bennet tendered his resignation as postmaster; and David A. Cheever was selected to succeed him.¹³

In 1876 Bennet was elected to the state's first Assembly as from the Denver District.¹⁴ He served his state in this position as ably as he had served her as a delegate.

Soon after his term in the State Senate had ended, Bennet busied himself in the formation of the Defiance Land & Town Company. The purpose of this company was to promote the present Glenwood Springs District as a summer health resort. Associated with Bennet in this enterprise were John Blake, Isaac Cooper, William Gilder and Frank Erizensperger. The company decided in 1882 to name their townsite, Defiance; but in 1883, the name was changed to Glenwood Springs.

¹¹His appointment was the climax to the McClure Scandal of 1868-69. The postmastership in the early days was frequently a cause for political intrigue and scandal.

¹²Lander attempted to involve Moffat in charges concerning public lands. Both the Bennet and the Moffat charges were proved false, and Lander disappeared from Denver. Hall's History, Volume II, page 156.

¹³Although Cheever appointed Lander as his assistant postmaster, Cheever was not connected with Lander's political schemes. Later when Cheever discovered about these intrigues, he dismissed Lander.

¹⁴O. Baskin's History of Denver (1880).

In 1888 he was appointed as "state agent" and served in this capacity until 1895. It was his duty as agent to recover lands belonging to Colorado, but wrongfully disposed of. Never an arbitrary man, his equitable decisions and actions as agent won for him many additional friends in Colorado.

In 1909 he was struck by a street car and seriously injured. From this time on until his death in 1913, he was seldom seen in public life.

Bennet was married twice. His first wife bore him two sons and a daughter—John, Hiram and Blanche. His second wife, Clara Ames Bennet, who before her marriage had been the teacher at the Brown's Bridge School, located about a mile north of Littleton, bore him one son. This son was Robert Ames Bennet, the poet and author.

There has been no man who has the distinction of so many "firsts" as has Hiram Pitts Bennet. He formed the first law firm in Colorado. He was the first public prosecutor and the first delegate to Congress from the territory. He was a member of the first legislative council in Nebraska, and a senator in the first assembly in the State of Colorado. He was the first man in Denver to raise the flag of the Union at the time of the Civil War. He was the first president of the Colorado Pioneers' Society and among the first Honorary Life Members of the Denver Bar Association.

THE LAW'S DELAY

In July, 1930, Alexander Ingles, an Italian, shot and killed his young sister-in-law while she and another girl were returning home from an evening spent in one of Denver's amusement parks. Ingles has twice been convicted of the murder, but the conviction each time has been reversed in the Supreme Court, and the defendant will soon be on trial the third time. No question ever has been raised relative to the manner in which the girl met her death. This incident aptly illustrates the need of an investigation into the subject of "Criminal Law and Its Enforcement," as part of the National Bar Program of the American Bar Association, adopted at Grand Rapids this year.