

**GEORGE A. NOURSE – Republican, Elected
1st Nevada Attorney General
Term: January 4, 1865–January 7, 1867**

State Capital [picture]

Circe 1875

Introduction

George Augusta Nourse was born in Hollowell, Kennebec County, Maine, on December 19, 1824. He was a student at Bowdoin College, Brunswick, Maine, but when health issues forced him to leave, he went to Aroostook County in Maine and established a farm.

In 1852, Nourse turned his attention to the study of law and graduated from Harvard University's Law School. He then migrated to St. Anthony, Minnesota, where he became the City Attorney and then to Hennepin County, where he became that county's District Attorney.

Minnesota was admitted into the union on May 11, 1858; in March 1861, Nourse was appointed by President Abraham Lincoln as United States Attorney for Minnesota. About July 1863, Nourse resigned as United States Attorney for Minnesota and moved to the Carson City Territory of Nevada, perhaps attracted by the mining craze on the Comstock Lode being then at its height.

Nourse was admitted to the Nevada Territorial Bar on June 2, 1862,¹ and was re-admitted to the Nevada State Bar on April 25, 1864.²

In its July 6, 1864, printing, the *Sacramento Daily Union* Newspaper reported that on July 4, 1864, Nourse was at the Nevada state constitutional convention in Carson City, Nevada Territory, representing Washoe and Roop Counties.

It is interesting to note that on October 13, 1857, Nourse was elected as Minnesota's first Attorney General, and on November 8, 1864, Nourse was elected as Nevada's first Attorney General.

After leaving the Nevada Attorney General's Office, Nourse, in 1868, as in present day, challenged an election result. In *State of Nevada ex rel. George A. Nourse v. Robert M. Clarke*, 3 Nev. 566 (Nev. 1868), Nourse, the plaintiff contended that newly-elected and inaugurated Robert M. Clarke was not eligible to become Nevada Attorney General because the Nevada state constitution prohibited a person holding a federal office or position from being elected to a Nevada state political office.^{3 4 5} Nourse contended that since Clarke was the United States District Attorney for Nevada on November 8, 1864 (Election Day), Clarke was incapable of being elected the Attorney General. However, there was evidence that Clarke had submitted a resignation letter to President Andrew Johnson on October 25, 1866, effective November 1, 1897, and another resignation letter on November 5, 1866. So the question before the Nevada Supreme Court was whether Clarke tenured his resignation as United States Attorney for Nevada before his November 6, 1866, election to the office of Nevada Attorney General. The case was dismissed because the question of when the resignation letter was received (by then President Andrew Johnson) could not be determined, and the Court ruled that Clarke could be elected and could serve as Nevada Attorney General.

In 1868, Nourse moved to San Francisco, California, where he practiced law before moving to Fresno, California. In 1886, Nourse unsuccessfully ran as a Republican for Fresno, California, County Superior Court Judge.

Nourse died on June 28, 1901, in Fresno, California.

Election of 1864

Nourse was elected as Nevada's first Attorney General in Nevada's first state-wide election on November 8, 1864. Of the 16,308 votes tendered, Nourse (Republican) received 9,798 (60.1%) votes to W.H. Rhodes' (Democrat) 6,510 (39.9%) votes.⁶

Office Administration & Duties

According to Nevada statutes at the time, the Nevada Board of Examiners was to provide an office for the Attorney General and other Nevada constitutional officers,

however, the Nevada State Capital had not yet been built. Because a location was needed for state constitutional officers to conduct business, an office for Nourse's use was rented from Peter Cavanaugh Sr., in Carson City, Nevada, who also happened to be the general contractor for the Nevada State capitol building.

Nourse had no deputies or other office support staff. The Nevada Attorney General's budgets for the 1864–1865, 1865–1866, and 1866–1867 state biennial fiscal periods were as follows:

1864–1865 Budget	<u>\$2,500</u> : Attorney General's Salary
1865–1866 Budget	<u>\$2,500</u> : Attorney General's Salary
1866–1867 Budget	<u>\$2,500</u> : Attorney General's Salary

Beginning in 1864, the Nevada Attorney General was designated by statute a member of the Board of Examiners.⁷ The 1867 Nevada State Legislature passed a number of statutes requiring the Attorney General to be a member of the Nevada Board of Examiners, Board of State Prison Commissioners, Parole Board, and Board of Directors for the Nevada State Library. Nourse also was required to provide oversight to various private companies' toll road franchises that the Legislature had granted in the Washoe City, Carson City, Virginia City, Steamboat, and Dayton areas.

One of Nourse's first acts as a member of the Nevada Board of Examiners was to approve the appropriation of \$3,416.77 to the *California State Telegraph Company* for the expense of telegraphing the Nevada State Constitution from Carson City, Nevada, to Philadelphia, Pennsylvania.⁸

*Chapt. LXV. – An Act authorizing the Payment of Expense
incurred in Telegraphing State Constitution
[Approved March 3, 1865]*

The People of the State of Nevada, represented in Senate and Assembly do enact as follows:

Section 1. The sum of three thousand four hundred and sixteen dollars and seventy-seven cents is hereby appropriated from any monies which may come into the public treasury, not otherwise appropriated, in coin, to pay the charge for telegraphing the Constitution of Nevada from Carson City to Philadelphia; the claim therefore having been duly allowed by the Board of Examiners.	Appropriation
Sec. 2. The State Controller is hereby authorized and directed to draw his warrant on the State Treasurer, in favor of the "California State Telegraph Company" for the above amount payable as aforesaid, and the State Treasurer is hereby authorized and directed to pay the same out on any monies, not otherwise specially appropriated, which may come into the treasury as aforesaid.	Controller directed to draw warrant
Sec. 3. This act shall take effect, and be in force, from and after its passage.	

¹ *Nevada Historical Quarterly*, Vol. XXVI, Winter 1983, Number 4, p. 280.

² *Nevada Reports*, Number 22, p. 13.

³ Article 4, Section 9 of the Constitution, which declares "that no person holding any lucrative office under the government of the United States, or any other power, shall be eligible to any civil office of profit under this state" is not confined to members of the legislature, but is applicable to all officers of the state.

⁴ Article 4, Section 9 of the Constitution: providing that no person holding any lucrative office in the government of the United States shall be eligible to any civil office of profit in the state, a person holding the office of United States district attorney is ineligible to the office of attorney general of the state.

⁵ An unconditional resignation, to take effect immediately, becomes effective when deposited in the post office properly directed to the person authorized to receive it.

⁶ *Political History of Nevada*, 2006, p. 354.

⁷ 1864–1865 Statutes of Nevada, Chapter XXXII, p. 135.

⁸ 1864–1865 Statutes of Nevada, Chapter LXV, p. 187.