

Nevada Territory: Legislative Assembly of Nevada Territory

The Nevada Territorial Legislature was created by the Organic Act. This Act, signed by President James Buchanan, became effective March 2, 1861 (U.S. Statutes at Large, 1863, v. 12, pp. 209-214), and provided that the legislative assembly of the Territory of Nevada would consist of two houses, the Council and the House of Representatives. The Council consisted of nine members but could be increased to thirteen, and the House consisted of thirteen members but could be increased to twenty-six. The Legislature was further established by the Laws of the Territory of Nevada, 1861, chapter 89, sections 4 and 5, which provided that members of the legislative assembly would be chosen by the qualified electors of their respective districts, at the general election, as by law provided, for the year 1863, and that Council members would hold their terms of office for two years while Representatives would hold their terms of office for one year. All legislation had to be approved by Congress.

The Nevada Territorial Legislature held three sessions during the territorial period.

Session One: October 1 – November 29, 1861:

After the Territory of Nevada was established, Governor Nye ordered that an election be held by districts - counties not yet being established, to select the legislators and a delegate to Congress. He also declared that a legislative session should assemble at Carson City October 1, 1861. The session convened on that date and ended November 29, 1861, lasting 60 days as provided in the Organization Act of Congress. In the election held in August 1861, John Cradlebaugh, the former federal judge, was elected as the first territorial delegate to Congress.

The first statute passed by the people of Nevada, as represented in the first session of the Nevada Territorial Legislature, was "An Act adopting the Common Law of England" which was signed by Governor Nye October 30, 1861. Nevada's original nine counties were established by an act approved November 25, 1861, replacing the temporary districts formed for census and election purposes. The nine counties in order of their mention in the act were Esmeralda, Douglas, Ormsby, Washoe, Lyon, Storey, Lake, Humboldt, and Churchill.

Among other actions taken at this first session of Nevada's Territorial Legislature was "An Act to Prohibit Gambling," which provided that persons who were involved with games of chance were guilty of a felony and subject to imprisonment for two years and a fine of up to \$500.

Early action was taken to designate a seat of government for the newly-established territory. The legislators chose Carson City, which had been designated the new county seat for Carson County by the Utah Territorial Legislature earlier the same year. The legislature provided for an election to be held "on the second Tuesday in January, A.D. 1862, at which

there shall be elected all territorial, county, and township officers authorized by the laws of this territory, and not otherwise provided for;" thus it provided for actual organization of the county governments in particular. In a separate act, boards of County Commissioners to consist of three members, were established for each organized county. The Nevada Militia was provided for in a lengthy 84-section act.

To provide for county representation in following territorial legislative sessions, an act stipulating that the several assessors in the counties enumerate their white inhabitants and transmit these "census" returns to the governor, was adopted. Authority was given to the governor "to apportion the number of the

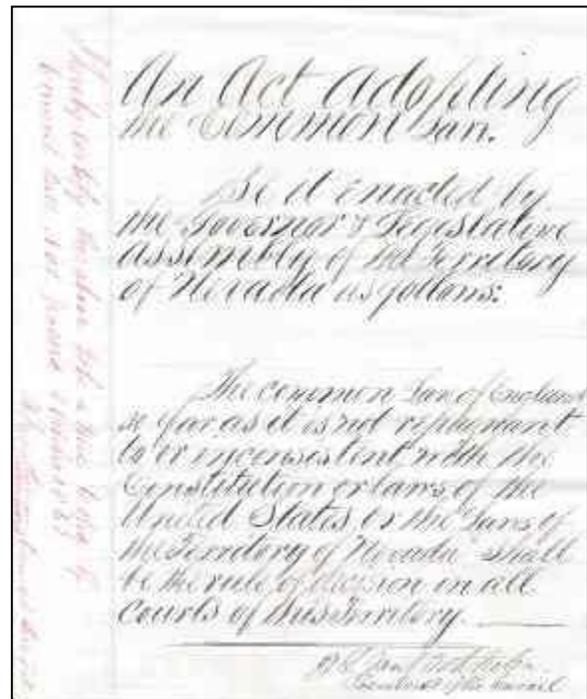


Figure 1: Council Bill 1, 1861, adopting the Common Law of England. Nevada State Archives.

members of the legislative assembly, to be elected in each county, according to the number of inhabitants as shown by the returns of the county assessors." Another act provided for annual sessions of the legislative assembly of the Territory of Nevada to "convene on the second Tuesday in November of each year." The first session also increased the size of the territorial legislature to 13 councilmen and 26 representatives.

An act approved November 29, 1861, divided the territory into three judicial districts, the first to embrace Storey, Washoe, and Lake counties; the second, Ormsby, Douglas, and Esmeralda counties; the third, Lyon, Churchill, and Humboldt counties. The same act provided county seats for the several counties as follows: Esmeralda County, Aurora; Douglas County, Genoa; Ormsby County, Carson City; Washoe County, Washoe City; Storey County, Virginia City; Churchill County, Buckland's; Humboldt County, Unionville; Lake County, (decision of voters); and Lyon County, Dayton.

Territorial officers and local county and township officers were designated by this first session of the territorial legislature as follows: for the Territory, in addition to top officials appointed by the U.S. president, were a treasurer, auditor and ex officio librarian, superintendent of public instruction, delegate to Congress, members of the Council, members of the House of Representatives, and an attorney for each judicial district; for each county, a county clerk and ex officio auditor, sheriff, tax collector, assessor, treasurer, recorder, county surveyor, county school superintendent, and three commissioners; for each township, a justice of the peace and ex officio coroner; and a constable. District attorneys and probate judges were to be nominated by the governor and confirmed by the Legislative Council. Territorial officers not appointed by the President were to be appointed by the Governor; with confirmation by the Legislative Council. Road supervisors were to be elected in the road districts of the territory. Territorial officers appointed by the governor, county officers, and members of the legislative council were to hold office for two years. Members of the House of Representatives and township officers were to hold office for one year. The governor was authorized to appoint a number of notaries public to hold their offices at the pleasure of the executive.

Many acts of this first territorial session were lengthy, some running to six and seven hundred sections, and laid a firm foundation of law on which the future was to be built. The first Nevada Territorial Session ended November 29, 1861.

Session Two: November 11 – December 20, 1862:

The Second Regular Session of the Legislative Assembly of the Territory of Nevada convened November 11, 1862, and adjourned December 20, 1862, lasting the 40 days provided by the Organic Act for sessions subsequent to the first. Among the early actions taken at this session was the changing of the name of Lake County to Roop County.

Another action taken at this session provides an explanation of why no records are found for a Territorial Session of the Nevada Assembly in 1863, though annual sessions were provided for by law during the time Nevada was a territory. At the First Session in 1861 an act (Chap. LXV), provided for annual sessions to "convene on the second Tuesday in November, of each year." At the Second Session in 1862, Chap. XVIII changed the time of convening annual sessions of the Legislative Assembly to "the second Tuesday in January, of each year." The act was not to become effective until the "first day of March ... one thousand eight hundred and sixty-three." This was necessary to prevent another session falling upon the heels of the Second Session of 1862, in January of 1863. This resulted in the calendar year of 1863 being without a session of the Legislative Assembly, creating a period of not quite 13 months between adjournment of the Second Session, December 20, 1862, and the convening of the Third Session, January 12, 1864.

The town of Gold Hill was the first municipality to be incorporated under laws of the Territory of Nevada by an act approved December 17, 1862, at the Second Session. Two days later Virginia City, formerly incorporated under the laws of Utah Territory, was reincorporated under Nevada law as the City of Virginia.

From the eastern portions of Humboldt and Churchill counties the Second Territorial Session created a new county known as Lander. The act provided that the county seat for Lander County be "Jacob's Springs, on Reese River, until the permanent location shall have been determined" by an election in the county.

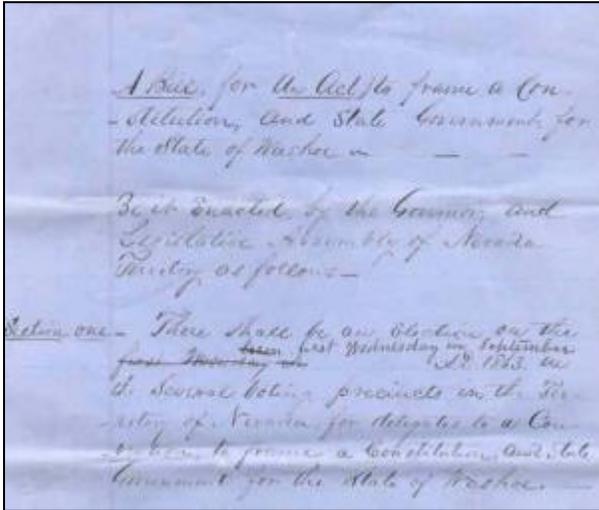


Figure 2: Council Bill 78, An Act to Frame a Constitution and State Government for the State of Washoe, 1862. Nevada State Library and Archives.

Carson County records of the Probate Court were transferred to the custody of Secretary of the Territory to provide a continued validity of judicially-settled conflicts from Utah to Nevada Territory. One of the last acts of the Second Territorial Session was a resolution asking California to adopt the crest of the Sierra Nevada as a western boundary for Nevada.

The Second Territorial Legislature also continued the pursuit of complete citizenship by passing "An Act to frame a Constitution and State Government for the State of Washoe," Chapter CXXIII, introduced by Isaac Roop and approved by Governor Nye December 20, 1862. This act set the first Wednesday of September, 1863, as the time of election, when the question of state government would be voted upon and 39 delegates to a Constitutional Convention chosen. In September, Nevada voters overwhelmingly (better than four to one) approved of statehood for Nevada Territory, and delegates were selected to convene at Carson City in November.

Session Three: January 12 – February 20, 1864:

Several actions were taken at the Third Legislative Session of the Territory of Nevada which are of interest concerning further development of county government, incorporation of municipalities and memorials to Congress.

This last legislative session of the Territory of Nevada, which met January 12, 1864 and adjourned at the end of the 40 days allowed by the Organic Act, on February 20, 1864 extended local governing authority to several other communities. The session passed acts incorporating the city of Austin in Lander County; the city of Aurora in Esmeralda County, previously granted a charter as the town of Aurora by the Board of Supervisors of Mono County, State of California, when the location was in dispute between California and Nevada; and the city of Star in Humboldt County. The City of Virginia was reincorporated at this session, having been incorporated as Virginia by Nevada Territory in 1862, and formerly incorporated as Virginia City by Utah Territory in 1861. With the 1862 incorporation of Gold Hill, the three sessions of the Territory of Nevada established five incorporated cities and towns; Aurora, Austin, Gold Hill, Star, and Virginia.

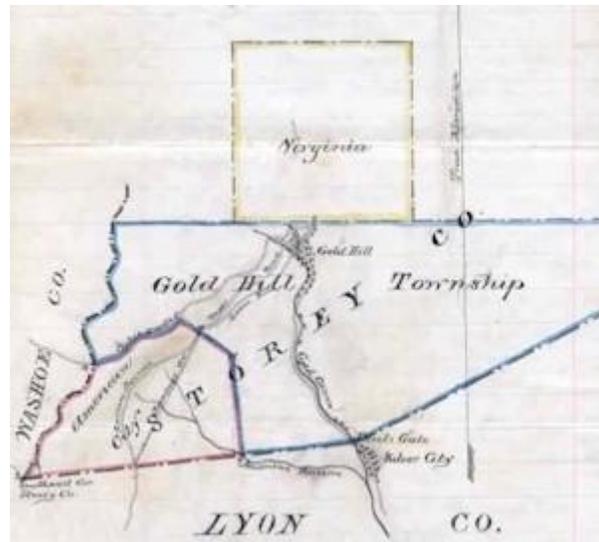


Figure 3: Map accompanying petition to redraw boundaries of Gold Hill Township, 1864 Session. Nevada State Library and Archives.

An additional county was formed by the Third Session when Nye County was created out of the

eastern part of Esmeralda County, reducing that county to less than half its former size. Nye County was attached to Lander County for judicial district purposes. The county seat was to be located at a point selected by the voters; however, until such selection the Governor was authorized to name the county seat. The same session provided for the organization of Churchill County, one of the original nine created in 1861 and formerly attached to Lyon County for judicial, county, and revenue purposes. In addition, the boundary lines for Lander County and Lyon County were changed at the session.

One of the original nine counties, Roop County (formerly Lake County), was attached to Washoe County for certain purposes at this last Territorial Session. Roop County was not abolished until 1883, when its area, along with the original area of Washoe County, formed one county from that date on. This 1864 attachment gave Washoe County its unique elongated area reaching north to Oregon.

The third and last session of the Territorial Legislature made no mention of statehood, which may indicate that it had some premonition as to what was going to happen. Statehood was coming to a head. A writer on the subject said, somewhat bitterly, that "agitation continues, particularly by aspiring politicians." The determining causes were not personal, however, nor in the interests of aspiring politicians, but were reasons of state. Moderate Republican forces in Congress, recognizing the presidential need for support in the 1864 election (a three-way race pitting Lincoln and General John C. Frémont, candidate for the radical Republicans; and General George McClellan, a Democrat), soon passed an enabling act that paved the way for statehood.