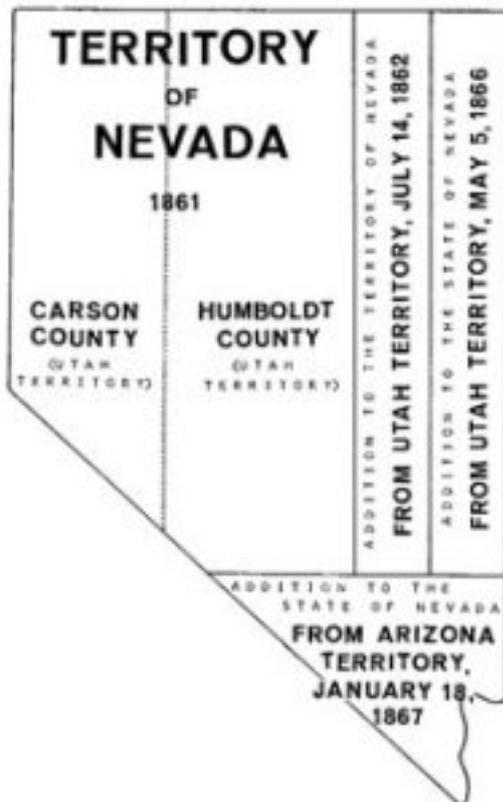


by Guy Rocha, former Nevada State Archivist

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Some people know that when Nevada became a state in 1864, the area today that includes greater Las Vegas (the town celebrated its 100th birthday in 2005) was in Arizona Territory. An act of Congress in May 1866 added a degree of latitude to southern Nevada including a new boundary with Arizona at the Colorado River.

What most people don't know is that Governor Henry Blasdel recommended on January 10, 1867 that the state legislature pass a resolution accepting the cession, which the legislature did just a few days later. However, the legislature failed to heed the governor's additional advice to pass the necessary resolution calling for a citizens' election to ratify the action changing the state's boundary in the constitution to include what is now southern Nevada. While the Arizona territorial legislature formally acceded to the congressional action in 1871 by dissolving its county government north of the Colorado River, the Nevada constitution did not reflect the newly-acquired domain.

Nobody apparently noticed. A large part of Lincoln County and a small part of Nye County extended to the south of 37 degrees latitude. When the state legislature carved Clark County out of Lincoln County in 1909, all the new county was made up of land once under the jurisdiction of Arizona and not described in Nevada's constitution. Today more than 70% of the state's population lives in Clark County.

Prison inmate Jerome Peter Kuk was the first person known to have raised the issue in court of whether Las Vegas was in Nevada or Arizona. Kuk was convicted of homicide in 1962, after spending time in the Nevada Mental Hospital subsequent to the brutal shooting of Steve Bowman in Boulder City on October 18, 1958.

Following unsuccessful appeals of his conviction in 1964 and 1967 to the Nevada Supreme Court, Kuk filed a writ of habeas corpus in the district court in Carson City in 1968 claiming the Clark County district court had no jurisdiction to try and convict him and that his sentence was illegal. District Judge Frank Gregory denied the writ stating that a favorable ruling would put Las Vegas and its casinos in "never-never land." "The question of whether this territory is actually a part of Nevada has aroused a feeling of mirth and a good deal of laughter, particularly in the press," Gregory noted, "I consider it a very serious problem."

Kuk immediately filed a petition for rehearing to the State Supreme Court, but it was denied on November 19, 1968. An application for a writ of habeas corpus to the Federal District Court in Carson City was denied in 1969, the court arguing that Kuk's claim was without merit. He was released on parole to his birthplace, Amsterdam, New York, in 1970 and died in Oneonta, Alabama, on December 15, 1995 at the age of 62.

Convicted murderer Antonio Surianello and the Clark County Public Defender's office used the discrepancy in the state constitution in a 1976 case on appeal to the Nevada Supreme Court. Surianello had been convicted of the savage stabbing death of Paula Annas in a Las Vegas hotel room on March 31, 1974. A number of points of law were contested and an argument was made that Las Vegas, the Clark County seat of government, was not part of Nevada and "therefore the statutes of Nevada have no force and effect."

"This jurisdiction issue," opined the court, "which is presented periodically, is, of course, meritless and is summarily rejected." The court reasoned that the legislature had formally accepted the cession by resolution and that the amending of the state constitution to reflect the new boundary was a housekeeping measure that had been neglected over the years.

Surianello's appeal was denied and he remains today incarcerated in the state prison system for life.

However, then-Nevada Legislative Counsel Frank Daykin figured it was time to do what hadn't been done for over 100 years--change Nevada's constitution to reflect the current boundaries. The 1979 session of the state legislature approved Joint Resolution No. 24 to conform the constitutional boundary of Nevada to its actual boundary. The resolution subsequently passed the 1981 legislature and was ratified by the voters on November 2, 1982.

Paradoxically, 115 years after Congress ceded, and the Nevada legislature accepted, the part of Arizona Territory that is now southern Nevada, 34 per cent of the total voters voted against making the change. While the constitutional amendment carried in every county, many of the voters opposed to the change were in Clark County which, according to the state constitution, was not even part of Nevada at the time of the general election in 1982. Go figure!

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