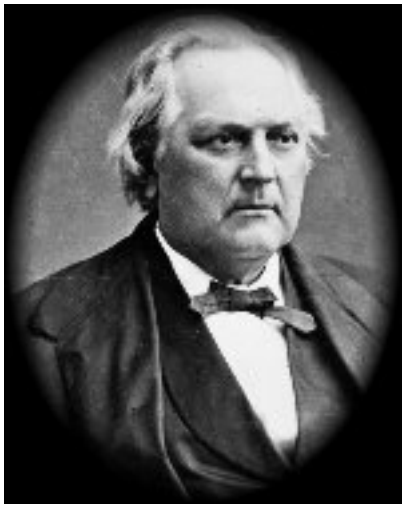
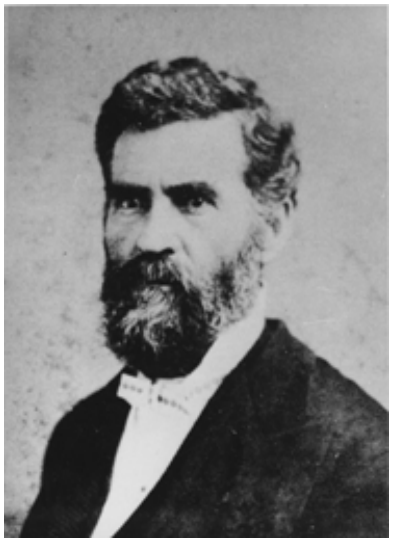
Brief History of Nevada Territory,
1861-1864



All things come to those who wait. Congress passed and, on March 2, 1861, President Buchanan signed, "An Act to Organize the Territory of Nevada." Two days later Abraham Lincoln became President of the United States. On March 22 the President commissioned James W. Nye of New York as Governor and Orion Clemens of Iowa as Territorial Secretary of Nevada. The Territorial Governor arrived at Carson City July 8, 1861, via the Isthmus of Panama. Secretary Clemens came by overland stage accompanied by his young brother Samuel, who was to become the immortal Mark Twain poking fun at the world, including the territorial politicians.



As was the case with many of Lincoln's appointments, Nye was selected in part for patronage reasons. It seems that Nye, a former Whig political leader in New York, had stumped the

midwest for Lincoln in the 1860 election and was being rewarded for his services. However, Governor Nye had also served as Police Commissioner of New York City and Lincoln needed a strong chief executive to ensure that Nevada Territory remained loyal to the Union. Orion Clemens was chosen to be Secretary of the Territory because of a political connection. Orion had studied in the St. Louis law office of Edward Bates, who later became President Lincoln's Attorney General.

"An Act to Organize the Territory of Nevada" approved by President Buchanan on March 2, 1861, established at the outset the boundaries for the new territory as follows:

... beginning at the point of intersection of the forty-second degree of north latitude with the thirty-ninth degree of longitude west from Washington; thence, running south on the line of said thirty-ninth degree of west longitude, until it intersects the northern boundary line of the Territory of New Mexico; thence due west to the dividing ridge separating the waters of Carson Valley from those that flow into the Pacific; thence on said dividing ridge northwardly to the forty-first degree of north latitude; thence due north to the southern boundary line of the State of Oregon: thence due east to the place of beginning ... (See Map 2)

Three important facts established by this organic act have led to an unusual amount of confusion regarding the boundary lines of Nevada. First, it will be noted that the act employed the term "longitude west from Washington." Full numbered degrees west from Washington do not coincide with full numbered degrees west from Greenwich. A difference of approximately two miles, depending on the latitude, exists between Washington and Greenwich longitude, Washington longitude being farther to the west. Secondly, as originally constituted, Nevada Territory was relatively narrow and lacking, by two degrees, one-third of its longitudinal width, eventually attained by 1866 (see Map 13). A third reference has produced the most confusion. The act specifically mentioned the western line as a "dividing ridge," which, by definition, is the crest of the Sierra Nevada. However, it should be pointed out that such a boundary line was contingent on the following action as provided in the first part of the act:

... Provided, That so much of the Territory within the present limits of the State of California, shall not be included within this Territory until the State of California shall assent to the same by an act irrevocable without the consent of the United States: ...

The State of California never legislated to "assent to the same." This left the western boundary line for the newly-created Nevada Territory identical with the eastern boundary line of the State of California as established in 1850. Congress, realizing that California existed as a sovereign state and thus could not have territory taken from her, made the provision to establish the "intent" of Congress. No time was set as to when California should "assent." Presumably this

could be done even at this late date in history, an action not likely to be taken by it.

The area taken from Utah Territory to form the new Territory of Nevada was exactly coextensive with Carson and Humboldt Counties of Utah Territory as they existed on the date the Territory of Nevada was created, Washington and Greenwich longitudinal differences notwithstanding (see Map 12 and Map 13).

Among other things the act provided for a governor who "shall commission all officers who shall be appointed to office under the laws of said territory." Also a "secretary of said territory" to "record and preserve all the laws and proceedings of the legislative assembly all the acts and proceedings of the governor," and to transmit copies of the laws and executive proceedings to the President and Congress. The secretary was also "to execute and perform all the powers and duties of the governor," when the governor was absent from the territory. In this capacity the Territorial Secretary acted much the same as would a Lieutenant Governor.

In the act a legislature was provided consisting of a council and house of representatives. The council had nine members and could be increased to 13. The house had 13 members and could be increased to 26. Term of office for the council was two years, for the house one year. Apportionment of legislators was based on population for both houses of the territorial legislature.

Under the act, the governor was to "cause a census or enumeration of the inhabitants of the several counties and districts of the territory to be taken." This was done in July 1861, by Henry De Groot, and showed a population of 16,347, not including Indians. The governor was also to "declare the number of the members of the council and house of representatives to which each of the counties or districts" was entitled, and to set the time and place for the conduct of the first election. The time and place for the meeting of the first legislative assembly was to be established by the governor with a limit of 60 days, subsequent sessions being limited to 40 days.

The governor was granted authority to organize and appoint officers for the territory and to establish districts, until a legislative body could establish counties and provide for their organization.

The Organic Act provided that "judicial power of said territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace." It will be recalled that, at the time, an adequate court system was sorely lacking in Carson County. The supreme court was to consist of a chief justice and two associate justices, and the territory was divided into three judicial districts.

The following territorial officers received their appointments from the President of the United States: governor, secretary, chief justice, associate justices, attorney general, marshal, and surveyor-general. Annual salaries were as follows: governor, $1,500 and $1,000 as superintendent of Indian affairs; and supreme court justices and the secretary, $1,800 each.

The territory was authorized to elect a delegate to Congress and the governor was to establish the time and places for the conduct of such election. The governor also was to define the judicial districts, appoint judges to them, and establish the times and places for holding court sessions.

Territorial officers were James W. Nye, Governor; Orion Clemens, Secretary of Territory; Benjamin B. Bunker, Attorney General; John T. Lockhart, Indian Agent; Perry G. Childs, Territorial Auditor; John H. Kinkead, Territorial Treasurer; S. C. Gallagher, Governor's Private Secretary; John W. North, Surveyor-General; Butler Ives, Deputy Surveyor-General; John F. Kidder, Chief Clerk; Julius F. Garret, Assistant Clerk Surveyor-General's Office; George Turner, Chief Justice Supreme Court; Horatio N. Jones, Associate Justice; Gordon N. Mott Associate Justice; and J. McC. Reardon, Clerk.

The district courts were organized as follows: First District, Gordon N. Mott, Judge; David M. Hanson, Clerk, and Dighton Carson, District Attorney. Second District George Turner, Judge; Alfred Helm, Clerk, and Marcus D. Larrowe, District Attorney. Third District Horatio N. Jones, Judge; Alfred James Clerk, and E. B. Zabriskie, District Attorney.

The following were later appointed probate judges: Chauncey N. Noteware, Douglas County; A.W. Oliver, Humboldt County; William Haydon, Lyon County; F.C. Dixson, Ormsby County; L.W. Ferris, Storey County.

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Top: Territorial Governor James Nye
Bottom: Territorial Secretary Orion Clemens