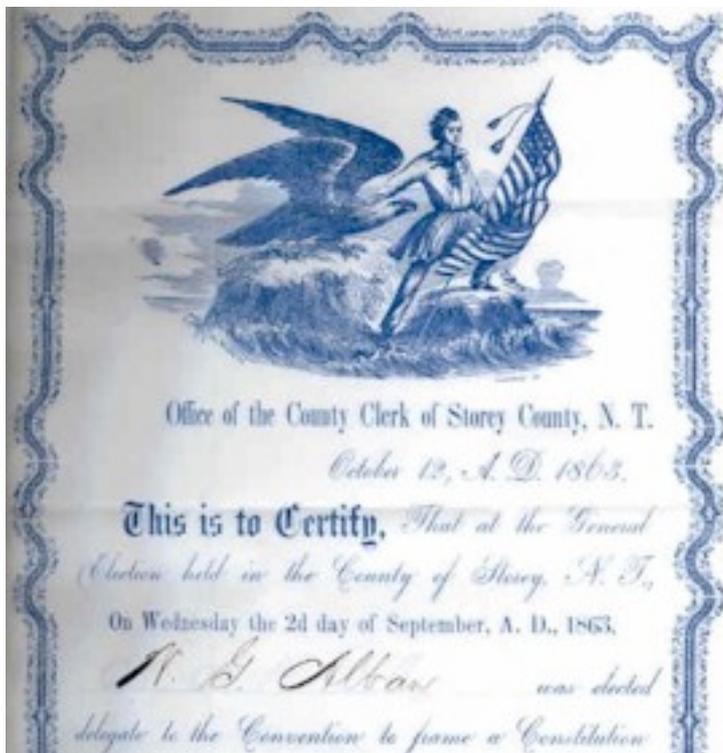


## Administrative history

Chapter CXXII of the Laws of the Territory of Nevada, 1862, authorized a state election to determine whether there should be a Nevada Constitutional Convention. 80% of the voters in the September 1863 election approved the question of whether to frame a constitution for the "State of Washoe." The convention, which began on Nov. 2, 1863 and lasted 32 days, was presided over by John W. North, with William M. Gillespie serving as secretary. [Delegates to the 1863 Convention](#)



The First State Constitutional Convention was authorized only by the Nevada Territorial Legislature and did not have the sanction of Congress. A statehood bill for Nevada was introduced in Congress in 1863 and passed by the Senate on March 3 by a vote of 24-16 after debate, which had centered on the population of the territory. However, the 37th Congress expired at midnight the same day and the statehood bill was lost in the House of Representatives when a motion to suspend the rules and take up the bills to admit Colorado and Nevada into the union failed to obtain the necessary two-thirds majority.

At the Convention there was a spirited contest over the naming of the state. The act creating

the convention referred in the title, and again in the body of the act, to the “State of Washoe.” But the delegates apparently did not consider the name a given and eventually the name “Nevada” was approved.

Of the thirty-nine delegates to the Constitutional Convention, all but five had come to Nevada by way of California, all but five were under fifty years of age, and all but two had been in the territory less than five years. Thus, it was only natural that the Constitution was based largely on the Constitution of the State of California, which in turn was similar to the New York State Constitution. The most important member of the convention was William Stewart, a Virginia City lawyer identified closely with leading Comstock mining corporations. Stewart fought a losing battle during the debates against the taxation article which provided for taxation of the shafts, drifts, and bedrock tunnels of mines, regardless of whether they were productive or not. Stewart wanted taxation only on the net proceeds of productive mines. Ironically Stewart supported the proposed Constitution on the presumption that the first state Legislature would amend the new constitution to provide taxation only on the net proceeds of productive mines.

In addition to compiling a constitution, the convention delegates nominated a list of state officers for the ensuing election of January 19, 1864, as follows:

Representative in Congress—John B. Winters of Lyon County  
Governor—Miles N. Mitchell of Storey County  
Lieutenant Governor—M.S. Thompson of Humboldt County  
Attorney General—Henry G. Worthington of Lander County  
Justices of Supreme Court—J.B. Harmon of Storey County; M.D. Larrowe of Lander County;  
and Richard S. Mesick of Esmeralda County  
Clerk Supreme Court—Alfred Helm of Ormsby County  
Secretary of State—Orion Clemens of Ormsby County  
State Treasurer—William B. Hickok of Lyon County  
State Controller—Edwin A. Sherman of Esmeralda County  
Superintendent of Public Instruction—A.F. White of Ormsby County  
State Printer—George W. Bloor of Storey County

The Constitution was opposed by a large group of disappointed candidates who had been defeated at the Union Party nominating convention. Since the Union Party was the only important political organization in the territory, these losing candidates hoped to have another chance by defeating the Constitution and thus voiding the election of officials to serve under the provisions of the document. The Union Party split, the mining tax provision, and public mistrust of the ambitious Stewart’s motives in supporting statehood appear to be the main reasons the

voters turned down the proposed Constitution by better than a 4 to 1 majority.

The official reporters of the convention were Andrew J. Marsh of the Virginia City Territorial Enterprise newspaper and Amos Bowman of the Virginia Daily Union. Marsh was assisted by his newspaper colleague Samuel Clemens (Mark Twain), brother of Orion Clemens, Secretary of the Territory. According to provisions in the constitution, they were to be paid when government under the new constitution commenced. However, with the constitution defeated in the 1864 election, the trio remained unpaid and the proceedings were unpublished until 1972, except as serialized in the Enterprise and Daily Union. The only known surviving copies of the original published proceedings are in scrapbooks compiled by Orion Clemens which now reside in the Mark Twain Papers at the University of California, Berkeley. "Discovered" in the early 1970s by Professor William C. Miller of the University of Nevada (Reno), the proceedings were edited by Miller, Eleanore Bushnell, Russell W. McDonald, and Ann Rollins and published by the Nevada Legislative Counsel Bureau in 1972 as Reports of the 1863 Constitutional Convention of the Territory of Nevada.

Fortunately, although the proceedings went unpublished for 109 years, the official minutes, journal, roster of delegates, drafts of the constitution, and final version as passed by the convention survived. Ironically, after being voted down, the final version of the 1863 Constitutional Convention was used as a starting point for the 1864 Constitutional Convention and bears additions in red ink indicating changes to be adopted in the new constitution.

### **Records of the First Constitutional Convention**

The minutes of the First Constitutional Convention were recorded by William M. Gillespie, secretary of both the 1863 and 1864 conventions. After the convention the records came into the care of the Secretary of the Territory and subsequently, the Nevada Secretary of State. They consist of four archival boxes.

Item: TERR-0134    Old #: T/V/C0/10                      Date: 1863  
Type: Volumes  
Remarks: Minutes, First Constitutional Convention; roster of delegates and amendments  
Agency: Nevada Constitutional Convention, 1863

Item: TERR-0133    Old #: T/V/C0/10A                      Date: 1863  
Type: Volume

Remarks: Minutes, First Constitutional Convention (photocopy)  
Agency: Nevada Constitutional Convention, 1863

Item: TERR-0135 Old #: Date: 1863  
Type: Manuscript sheets  
Remarks: Draft constitution, loose sheets (mold damaged)  
Agency: Nevada Constitutional Convention, 1863

Item: TERR-0121 Old #: T/V/C0/2-7 Date: 1863  
Type: Volumes  
Remarks: Nevada State Constitution. 6 copies: 1 final version, unsigned; 1 final version signed, with 1864 changes made in red ink; 4 draft versions  
Agency: Nevada Constitutional Convention, 1863

Photo credit: Oath of delegates to the 1863 Constitutional Convention, courtesy of Nevada State Archives.