

# BACK STORY

## SECOND CONSTITUTIONAL CONVENTION PART ONE

BY PATRICIA D. CAFFERATA, ESQ.

Nevada Territorial Secretary Orrin Clemens called the first Constitutional Convention to order in November 1863. The delegates met for 32 days, adopted a state constitution and proposed a slate of officials. When their work was presented, the voters rejected the proposed constitution and candidates. The constitution was unpopular for several reasons, but the most important complaint was that the document was perceived as unfair to mining (the major industry in the territory at the time). The proposal was to tax all mines, shafts, tunnels and drifts, regardless of whether they were productive or not.

After the first constitution was rejected, a second Nevada Constitutional Convention was held in Carson City on July 4, 1864. Thirty-nine men had been elected from across the state, but only 35 of them actually attended the convention. All the delegates were Republicans or Unionists, except for Francis Proctor from Nye County. Eleven of the 35 delegates were lawyers representing Storey, Humboldt, Ormsby (Carson City), Lyon, Washoe, Nye and Lander counties. Storey County (Virginia City) sent four delegates and each of the other counties sent one lawyer to the convention.

Some of the lawyers went on to have distinguished careers, others served in local office and a few faded out of sight. At the second convention, the delegates elected lawyer J. Neely Johnson from Ormsby County as president of the convention. In 1856, the voters elected him governor of California, a member of the American Party (“Know Nothings”), but his party failed to re-nominate him for the position. He moved to Nevada, and the people in Ormsby County elected him as a delegate to the first and second Nevada Constitutional conventions in 1863 and 1864. After statehood, he was appointed to

the Nevada Supreme Court bench when Justice Cornelius Brosnan died during his term in 1867. Johnson served on the bench until 1870.

Among the more prominent delegates to the second convention was Irishman Cornelius Brosnan. An unusually trained lawyer, he actually studied law in school (Plattsburg College in New York state). In those days, the customary route to become an attorney was to study the law under another attorney. In 1862, Brosnan moved to Virginia City and served with J. Neely Johnson in the first and second constitutional conventions. From Storey County, Brosnan was elected to the Nevada Supreme Court in 1864, for a term to end in 1870, but he died in 1867. Governor Henry Blasdel appointed Johnson to complete Brosnan’s term.

Another important lawyer to serve in the constitutional convention was Storey County delegate, Thomas Fitch. Before he moved to Nevada, he served in the California Assembly in 1863. Known as an eloquent speaker and orator, Fitch’s nickname was “Silver-Tongued Orator of the Pacific.” After the Nevada convention, he became the district attorney of Washoe County. In 1868, he was elected on the Republican ticket to Congress by 881 votes, but he lost his reelection effort by 330 votes in 1870.

The Second Constitutional Convention lasted 21 days, and the constitution was adopted by a vote of 19 to 2. Under the new constitution the mines were to be taxed on the proceeds of the productive mines, not on their land. On October 12, the people voted and passed the constitution by 10,371 votes to 1,284. Nevada became a state on October 31, 1864. ■

### Delegates to Second Constitutional Convention

**Cornelius Brosnan**  
Charles DeLong  
Edmund Francis Dunne  
**Thomas Fitch**  
Lloyd Frizell  
Albert Hawley  
**J(ohn). Neely Johnson**  
Francis (Frank) Kennedy  
George Nourse  
**Francis Proctor**  
James Warwick

Those delegates whose  
names appear in bold type  
are referenced in the article.

**AUTHOR’S BIOGRAPHY on page 9.**