

Michael A. Diskin (Democrat)

Term 1: January 1, 1923 – January 3, 1927 (Elected)

Term 2: January 3, 1927– January 5, 1931 (Elected)

Biography

Michael Angelo 'Jack' Diskin, the son of Thomas and Mary (Halleron) Diskin, was born on January 10, 1884, in Scottdale, Pennsylvania. Diskin graduated from Scottdale High School in June 1900 and attend Notre Dame University, South Bend, Indiana. In 1907, Diskin graduated with a Bachelor of Laws degree (LL.B), and the Indiana State Bar admitted him as a member of the Bar. He worked in Indiana for a few months before he moved to Goldfield, Nevada, in 1908.

The next year, Diskin was admitted to the Nevada State Bar. From 1909 to 1911, he practiced law in Goldfield with Col. T. V. Eddy under the firm name of Eddy & Diskin. While in Goldfield in 1912, Diskin married Florence Patricia Dissegen. Their daughter Florence was born there a few years later. Also in 1912, Esmeralda County voters elected Diskin district attorney. A Democrat, he won with 894 votes to Republican Frank M. Church's 791 votes. (In those days, a district attorney's term was for two years.) In 1914, the voters reelected Diskin—he collected 824 votes to Republican J.G. Thompson's 768 votes.

On April 22, 1918, Diskin was appointed Assistant United States Attorney for Nevada with an annual salary of \$2,500. His office was located at 220 Mill Street, Reno, Nevada.

In 1922, the voters elected Diskin Nevada Attorney General, and he served two terms ending in January 1931. He faced no Democrat primary opposition in either election.

During Diskin's term as Attorney General, even though he, the governor, and secretary of state counted the money in the state treasury every month, State Treasurer Ed Malley and State Controller George Cole managed to embezzle thousands of dollars from the treasury. Their accomplice was George Wingfield's Carson Valley Bank's cashier H.C. Clapp.

The treasurer and controller were long time officials from Nye County, Nevada, the largest population base in the state in the early 1900s. In 1904 and 1912, Nye County voters elected Cole as one of their representatives to the state assembly. Malley was the Tonopah Chief of Police and constable before being elected Nye County sheriff and assessor in 1910. In 1912, while campaigning for reelection as sheriff, he was accidentally shot in the right arm when a shotgun, tangled in some overcoats, accidentally discharged in the car he was in. A surgeon amputated his arm.

In 1914, Malley and Cole were elected to their respective state offices and reelected in 1918. The voters returned Malley to office in 1922 and 1926, but Cole lost his reelection bid in 1926. While in office, the men embezzled \$516,322.16 from the state treasury. Beginning in 1919, with the help of Clapp, the cashier of the Carson Valley Bank, the two diverted state funds for their own benefit. Using the state's money, they invested in Tonopah mining stocks and Signal Hill Oil Company, and when no oil was discovered, they lost the state's money.

When the crime was discovered, in June 1927, bank cashier H.C. Clapp confessed and pled guilty and served time in the state prison. Subsequently, the Ormsby County District Attorney, assisted by Attorney General Diskin, prosecuted Malley and Cole. The two men

were tried, and the jury found them guilty after only three hours of deliberation. Pat McCarran, former Justice of the Nevada Supreme Court and later U.S. Senator and longtime Wingfield critic, unsuccessfully defended them. Coincidentally, McCarran also served as the attorney for Nevada Signal Hill Oil Company. In 1931, after four years in state prison, Malley and Cole were paroled, and in 1935, Governor Richard Kirman pardoned them.

Malley and Cole were well acquainted with George Wingfield, owner of the Carson Valley Bank, and their bondsman, who guaranteed the security of the state's money. After the conviction, bondsman Wingfield paid the state only \$154,896.65, a small part of the \$516,322.16 stolen. Meanwhile, Governor Fred Balzar called a special session of the state legislature to impose a ten-year property tax to replace the balance of the stolen money.

In 1926, Diskin issued an opinion (AGO-247) on a legal question posed by the Washoe County District Attorney: "can Indians, residing on the Pyramid Lake Indian Reservation, vote for township officers of Wadsworth Township, Washoe County, Nevada?" Diskin's analysis concluded that the Wadsworth Township in Washoe County includes the Pyramid Lake Paiute Reservation, under the jurisdiction of the United States Government. Under a recent Act of Congress, Indians, under certain conditions, have been given the right to vote. The U.S. Citizenship Act of June 2, 1924, gave Indians the right to vote. While citizenship was conferred by this Act, in order to vote in the State of Nevada, mandatory under the law, a person's residence must be within the State. The boundaries of Wadsworth Township include the Reservation. The sole question to be determined is whether a residence upon the Pyramid Lake Indian Reservation constitutes residence within the State of Nevada? To support the theory that such residence cannot be established requires sustaining the contention that the State of Nevada has no jurisdiction and that the United States has exclusive jurisdiction over this territory. Diskin's opinion stated that a residence on this reservation is a residence within the State of Nevada.¹ In *Ex Parte Crosby*, 38 Nev. 389 (1915), the Supreme Court of Nevada in court stated:

The Pyramid Lake Indian Reservation was definitely created and the lands embraced therein [were] withdrawn from sale or disposition, by order of President Grant on March 23, 1874, some ten years after the admission of this State into the Union. We have been unable to find the existence of any treaty or agreement between the Government and the Pah Utes, or other tribe of Indians, relative to or affecting the territory embraced within this reservation, either prior or subsequent to the admission of this State. The State has by no Act of which we are aware ever relinquished jurisdiction over this territory.

The Supreme Court, therefore, having ruled that the state courts have jurisdiction over white persons and offenses committed within the Indian reservation, I must conclude that this decision negatives the theory that such territory is exclusively within the jurisdiction of the United States and, on the contrary, affirm the principle that the officers of the State of

¹ ag.nv.gov/uploadedFiles/agnv.gov/Content/Publications/opinions/1926_AGO.pdf. AGO-247, *Elections—Indians' Rights to Vote—Residence Qualification, Indian Reservation—State's Jurisdiction Over—Residence Thereon Sufficient*. September 28, 1926, pg. 35. Accessed October 9, 2018.

Nevada and the several townships therein have jurisdiction to enforce the criminal laws in said territory.²

In 1931, after retiring as Attorney General, Diskin opened his private legal practice in Reno.

In 1948, Diskin's wife Florence died in Reno following a lengthy illness. In addition to her husband, she was survived by a daughter, Florence Diskin Clay, and two grandsons, Diskin W. Clay and Norman M. Clay.

Years later, Diskin, suffering from Parkinson's disease, died from pneumonia in Reno, on October 14, 1962.

Election of 1922

On November 7, 1922, the voters elected Diskin as Nevada's 18th Attorney General and of the 27,897 votes cast, Diskin (Democrat) received 14,111 (50.6%) votes to H.H. Atkinson's (Republican) 13,786 (49.4%) votes.

Election of 1926

On November 2, 1926, the voters reelected Diskin Attorney General. Of the 29,559 votes cast, Diskin (Democrat) received 15,627 (52.9%) votes to Benjamin F. Curler's (Republican) 13,932 (47.1%) votes.

Office Administration and Duties

In Diskin's first term of office, his office staff consisted of a deputy attorney general and a stenographer. During his second term, his stenographer was Mildred Bray, who later became Nevada's Superintendent of Public Instruction, the first woman appointed and subsequently elected to that office.



Photo Credit: NV Historical Society Reno
Mildred Bay, Secretary for M.A. Diskin and later Gray Mashburn

The Nevada Attorney General's budgets for the 1923–1925, 1925–1927, 1927–1929, and 1929–1931 state fiscal periods were as follows:

² *Ibid.*

<u>1923–1925 Budget</u>	<u>\$22,000</u>	
	\$10,000	Attorney General’s Salary
	\$6,000	Deputy Attorney General’s Salary
	\$3,000	Stenographer Salary
	\$3,000	Actual traveling expenses of the Attorney General
<u>1925–1927 Budget</u>	<u>\$22,000</u>	
	\$10,000	Attorney General’s Salary
	\$6,000	Deputy Attorney General’s Salary
	\$3,000	Stenographer Salary
	\$3,000	Actual traveling expenses of the Attorney General
<u>1927–1929 Budget</u>	<u>\$22,000</u>	
	\$10,000	Attorney General’s Salary
	\$6,000	Deputy Attorney General’s Salary
	\$3,000	Stenographer Salary
	\$3,000	Actual traveling expenses of the Attorney General
<u>1929–1931 Budget</u>	<u>\$21,500</u>	
	\$10,000	Attorney General’s Salary
	\$6,000	Deputy Attorney General’s Salary
	\$3,000	Stenographer Salary
	\$2,500	Actual traveling expenses of the Attorney General

The 1923 Nevada State Legislature added some of the following duties to the Nevada Attorney General’s Office:

- The Attorney General “. . . and his duly appointed deputy shall be the legal advisors on all state matters arising in each and every department of the state government.” Also, “. . . no officer, commissioner, or appointee of the State of Nevada shall employ any attorney at law...to represent the State of Nevada within said state, or be compensated by state funds, directly or indirectly, as an attorney acting within said state for the State of Nevada, or any department thereof . . .”. If needed, the Attorney General was authorized to appoint special deputies. (Statutes of Nevada 1923, Chapter 8, Sections 1 & 2, Page 7).
- The Attorney General—in criminal cases upon request of the District Attorney—shall assist the District Attorney in the prosecution of criminal cases and appear in District Court when required. (Statutes of Nevada 1923, Chapter 38, Page 44.)

The 1925 Nevada State Legislature added the following duties to the Nevada Attorney General’s Office:

- The legislature created the *Office of the Inspector of Mines* with the Attorney General charged to prosecute any mining regulations’ violations (upon a complaint from the Mining Inspector) and be legal representative to the *Office of the Inspector of Mines*. (Statutes of Nevada 1925, Chapter 8, Section 8, Page 14).
- The Attorney General shall give his written legal opinion to the Nevada State Board of Investments concerning, “. . . the title and abstract of title of all agricultural land on which the state contemplates taking mortgages . . . [for the financing of schools]” (Statutes of Nevada 1925, Chapter 135, inclusive, Pages 221–222).

The 1926 Special Session of the Nevada State Legislature added no additional duties to the Nevada Attorney General's Office.

The 1927 Nevada State Legislature added the following duties to the Nevada Attorney General's Office:

- The legislature created a Department of Highways with three directors: the Governor, Attorney General, and Controller. (Statutes of Nevada 1927, Chapter 123, Section 1, Page 204).
- The Attorney General, as a member of the *Board of Examiners*, [is] “. . . authorized to employ one or more attorneys, at the city of Washington, District of Columbia, or elsewhere, to prosecute claims of the State of Nevada against the general government . . . for disbursements made by the Territory or State of Nevada for the benefit of the general government and occasioned by the Civil, Spanish, Indian, or other wars . . .”. (Statutes of Nevada 1927, Chapter 155, Section 1, Page 251).

The 1929 Nevada State Legislature added the following duties to the Nevada Attorney General's Office:

- The state legislature appropriated \$10,000 for the investigation of mineral resources for the State of Nevada and cooperation with a United State geological survey. The Attorney General was to review and approve all claims against this appropriation. (Statutes of Nevada 1929, Chapter 124, Section 3 & 4, Page 157).
- The state legislature created the Nevada Board of Parole with the Attorney General along with the Governor and Supreme Court Justices as members. (Statutes of Nevada 1929, Chapter 125, Section 1, Page 158).