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Source: *The Journal of Arizona History*, Winter, 1994, Vol. 35, No. 4 (Winter, 1994), pp. 397-426

Published by: Arizona Historical Society

Stable URL: <https://www.jstor.org/stable/41696206>

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STATEHOOD POLITICS AND TERRITORIAL DEVELOPMENT

The Arizona Constitution of 1891

by
Mark E. Pry

WHEN ARIZONA BECAME the nation's forty-eighth state in 1912, its admission brought to a close a campaign that had lasted for more than two decades. For most Arizonans, and for many historians as well, the long and sometimes acrimonious fight for statehood has come to be symbolized by its later episodes, such as the struggle over jointure with New Mexico in 1904–1906 and the controversy surrounding the 1910 constitution. We forget that, in the fall of 1891, twenty-two territorial notables gathered in Phoenix to write a constitution that became the basis for a statehood bill in Congress. The 1891 document was very different from the one adopted twenty years later. Fundamentally conservative, it emphasized government economy and fiscal restraint, and took modest steps toward providing a hospitable climate for business development. Although Congress refused to take the constitution seriously, the 1891 convention marked the first substantial step in Arizona's drive for statehood.

Nothing that could properly be called a statehood movement existed in Arizona in the quarter century after creation of the territory in 1863. Politicians periodically suggested that they were ready for admission, but most confined their dissatisfaction with the territorial system to grumbling about “carpetbagger” officials and complaining that the federal government failed

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to appreciate Arizona's circumstances and needs. To a large extent, Arizonans were much more concerned with the settlement, investment, and development of the territory. Arizona's first census, in 1864, showed 4,573 non-Indian inhabitants. By 1890, the non-Indian population had risen to 59,620 (compared to an Indian population of 28,623, most living on reservations)—a substantial increase but still a small figure given the territory's size. Only Nevada, Alaska, and Wyoming had fewer inhabitants. Arizona's taxable wealth amounted to just \$28.1 million.¹

Arizona's economy seemed to have reached a plateau. The mining industry, concentrated primarily on gold and silver, peaked in the early 1880s and then slowly declined; by 1890, production had fallen to \$2.3 million from a high of \$9.3 million in 1882. The range cattle industry, which had shown early promise, also contracted in the 1880s due to overgrazing of fragile range lands and a nationwide slump in beef prices in 1887. Agriculture seemed to be the one bright spot; nearly 300,000 acres of desert land, most in the Salt and Gila river valleys, had been reclaimed through irrigation by 1890. Aridlands farming had risks, however; erratic river flows and floods made continued expansion less than certain.²

Like other westerners, Arizonans were nevertheless optimistic about their prospects. They claimed, with some justification, that as the final decade of the century began, the territory was entering a new phase in its growth and development, primarily as a result of railroad construction. New industries such as copper mining, winter agriculture, and lumbering were laying the foundation for Arizona's modern economy.

Arizona's statehood movement began under these circumstances in 1889. Even then, Arizonans were divided on the wisdom of organizing a drive for admission, and few were optimistic that Congress would grant their request. Although the territory's Democratic and Republican parties, barely a decade old, tried to outdo each other in defending the principle of "home rule" (by which they meant the appointment of "bona fide" residents to federal offices in the territory), neither had included a statehood plank in its platform. Most important, the leading newspapers had yet to press the statehood issue in their

editorial pages. The territorial press greeted with some skepticism an omnibus statehood bill for Arizona and Idaho proposed in the House of Representatives in January of 1889. The Republican *Phoenix Herald*, for example, suggested that Arizona should wait until it was in a stronger position in terms of development and population. "The Herald does not regard the Territory ready for admission now nor does it believe that we are any more ready to construct a State Government now than we are to be admitted," editor Nathan A. Morford argued.³

When the Fifteenth Territorial Legislature met later that month in Phoenix, Democratic Governor C. Meyer Zulick included in his annual message a request that the lawmakers ask Congress to pass a statehood enabling act. Describing the territorial system of government as "repugnant to the enlightened sense of the American people," Zulick argued that "our progress would be more rapid and our prosperity would be quickened" if Arizona were admitted to full membership in the "sisterhood of states."⁴ In early March, Richard E. Sloan, a Republican councilman from Pinal County, introduced a bill calling for a territorial convention to write a state constitution. With bipartisan support, Sloan's bill passed both the Council and the Assembly, and Zulick signed it.⁵

However, Lewis Wolfley, a Republican appointed by President Benjamin Harrison to take Zulick's place, blocked implementation of the bill. Writing to the Secretary of the Interior a month later, Wolfley asked that the secretary forward the bill to the attorney general for what Wolfley hoped would be a negative review. "I consider this at best premature legislation," he wrote, "as our Territory has yet to exceed seventy thousand inhabitants and can ill afford this expense."⁶ Informed that the attorney general had concluded that the legislature could legally call a constitutional convention, Wolfley then questioned the legality of the legislative session that had passed the convention bill. When authorities in Washington still refused to declare the convention illegal, Wolfley thwarted statehood advocates by refusing to call for the election of delegates as required by the legislation.⁷

Wolfley was not alone in opposing the convention. As summer passed and the delegate election date approached, he re-

ceived encouragement from around the territory. Most critics argued that the convention would be too expensive, while others reasoned that a convention not authorized by Congress would do little to improve the territory's chances of admission. "A constitutional convention at its best will be an expensive luxury, one the territory can ill afford to indulge in for the time being," the Tucson *Arizona Citizen* editorialized. The *Arizona Star*, the *Citizen's* Democratic counterpart, agreed, estimating that a convention could cost taxpayers up to \$100,000.⁸

The *Phoenix Herald*, meanwhile, had abandoned its earlier opposition and now advocated both a convention and statehood. Dismissing the cost issue as false and based on exaggerated estimates of convention expenses, editor Morford argued that statehood was a matter of principle rather than dollars. To bolster his case, Morford sought the opinion of former governor Anson P. K. Safford, who derisively pointed out that "when our friends in Congress ask us to stand up like men and throw off the swaddling clothes and assume men's apparel and a position of manhood, we in reply tremble with fear and say we are too poor."⁹ As for popular views of the controversy, two of Wolfley's correspondents probably came closest to the truth when they observed that in Pinal County, "the general public has as yet given the subject but little thought."¹⁰

Wolfley succeeded in blocking the convention, but within a year he was out of office, removed by Harrison for his persistent opposition to the administration's arid lands policy.¹¹ In the meantime, Democrat Marcus A. Smith, the territory's non-voting delegate to Congress, introduced an Arizona statehood bill in January of 1890. The bill never made it past the House Committee on the Territories, but this and other developments indicated that statehood was becoming a political issue in Arizona. Democrats and Republicans included statehood planks in their 1890 platforms, moving for the first time beyond simply asking that Arizonans be appointed to federal offices in the territory. Also, acting Governor Nathan O. Murphy recommended in his annual report that Congress pass a statehood enabling act—the first time an Arizona governor had made such a request.¹²

With Wolfley out of office, the way was clear for statehood

advocates to try another convention bill. The Sixteenth Legislature met in January of 1891, and by March the Council and Assembly had passed a convention bill by comfortable margins. John N. Irwin, Wolfley's replacement, signed it into law. As before, the measure received bipartisan support. Republicans introduced and signed the bill that passed both houses of the Democrat-controlled legislature.¹³

In late March, Irwin issued a call for a May 12 election to select twenty-two delegates to the convention, which would convene in Phoenix on the first Monday in September. Although the original bill had proposed nonpartisan elections, in its final form it provided for each party to run a slate of candidates. As subsequent events would confirm, partisan antipathy was simply too intense to expect that the two parties would cooperate on a matter as important as the constitutional convention. "In a republic of this character there is no such a thing as non-partisanship, unless a citizen desires to shirk responsibility," the *Arizona Republican's* editor wrote shortly before the election. "Parties are formed with set principles and ideas, and it is the duty of every good citizen to ally himself one way or the other."¹⁴

Since the 1880 election, the first contested by territory-wide Democratic and Republican organizations, the two political parties had waged an increasingly intense struggle. From 1882 through 1890, one house or the other of the legislature changed hands after virtually every election. During the legislative sessions, Republicans and Democrats frequently fought over gubernatorial appointments, which required Council approval. Based on newspaper coverage and editorials, it would seem that little was at stake except the privileges attached to political office; editors of both parties rarely missed a chance to characterize the opposition as "time-servers" whose devotion to politics was entirely self-motivated. Substantial ideological differences, however, lurked beneath the fog of partisan invective. On the eve of the delegate election, these divisions were sharpest over two issues: government taxation and debt, and political rights for Mormons.¹⁵

Republicans and Democrats differed little in practice on questions of government spending, yet the Democrats managed to cultivate the reputation—not entirely earned—of being

more devoted to economy. Spending and debt levels had been major issues since 1885, when the Thirteenth Legislature (known subsequently as the “Thieving Thirteenth” or “Bloody Thirteenth”) not only doubled the territory’s bonded debt by creating several new territorial institutions, but also exceeded by more than \$45,000 the statutory maximum on legislative expenses. That session, Governor Frederick W. Tritle was a Republican and Republicans provided the leadership of both houses, even though they held the same number of seats as the Democrats. Democrats shared responsibility for the session’s excesses, for it is likely that their willingness to let the Republicans organize the legislature was secured by liberal promises of patronage. Nonetheless, they seized the opportunity to blame the Republicans for the government’s “extravagance” and extract maximum political benefit from the episode.¹⁶

Democrats also relied on their national reputation as the party of minimum government, which was built around pledges to reduce the tariff and prevent waste in dispensing federal soldiers’ pensions. At the territorial level, the Democrats’ actual practice of government economy did not extend much beyond legislative expenses; for example, in 1887 they economized to the point of refusing to keep an adequate journal. But they used their platforms in 1886 and 1888 to good effect, advocating “rigid economy” and tax reductions while the Republicans remained silent on the issue. In 1890, they demanded reductions in salaries, taxes, and fees, and the elimination of the territorial offices of attorney general, commissioner of immigration, geologist, and superintendent of public instruction. By 1890, the Republicans also had incorporated an economy pledge into their platform. Their proposals to reduce taxes and eliminate offices (without specifying which ones) were undercut, however, by promises to pass “liberal legislation” in support of public schools and to encourage development of local industries, which to some territorial voters meant subsidies.¹⁷

The two parties were most clearly divided over the question of political rights for members of the Church of Jesus Christ of Latter-Day Saints. Ever since the issue had moved to center stage in the early 1880s, Arizona Republicans had advocated disfranchising and barring from political office Mormons

who refused to testify that they neither practiced nor approved of polygamy. Democrats, on the other hand, consistently opposed any such measure, commonly known as a test oath. The Thirteenth Legislature passed a test oath in 1885, but repealed it two years later after Democrats took control of the governorship and the legislature. No defenders of polygamy, the Democrats argued that citizens should be punished for their acts, not their beliefs, and that the 1882 Edmunds Act had already resolved the issue by criminalizing polygamy and providing for the disfranchisement of convicted polygamists.¹⁸

Not surprisingly, Arizona Mormons responded by voting overwhelmingly Democratic in territorial elections. They did so not only because the Democrats opposed test oaths—a reflection of the national party's devotion to religious and ethnic (though not racial) tolerance—but also because church leaders instructed the faithful that the Saints' interests were best served by supporting Democrats. This practice of bloc voting further antagonized Republicans, who argued that it violated the separation of church and state and was fundamentally un-American. "The history of the Mormon church in the United States," Republican platform writers argued, "means an ecclesiastical control that has ever been aggressive, exacting and tyrannical and whose boast has ever been that the Mormon church and people do not and will not assimilate with the people of our country."¹⁹

The test oath issue dominated the convention delegate campaign of 1891. The issue was made more acute because Idaho, which attained statehood in 1890, had incorporated a test oath in its constitution. Earlier that year, the U.S. Supreme Court had upheld the constitutionality of such restrictions on suffrage rights. In addition, Republicans bolstered their earlier arguments with a warning that Congress would refuse to admit Arizona if its constitution failed to include an oath. "Both the Republican and Democratic statesmen in Congress would never listen to her application for admission without some such protection, for a moment," the *Phoenix Herald* editorialized. In response, Democrats reiterated their argument that there already were sufficient laws against the practice of polygamy and that the test oath, not Mormon involvement in politics, was funda-

mentally un-American.²⁰

With the exception of the test oath, both parties preferred generalities when discussing the constitution, knowing that voters would probably base their decisions more on party loyalty than on issues. In Maricopa County, for example, Democrats called for a constitution “adapted to the needs of the people” that kept expenses “to the lowest point consistent with good government.” The Republican *Phoenix Herald* argued for a “liberal, progressive, economical and fundamental” document and claimed that the territory’s citizens demanded “that the Convention shall reduce the cost of Government to the people while it increases their privileges and the security of Government”—a formulation with which hardly anyone could quarrel. Most Republican newspapers that had earlier opposed statehood set aside their reservations and concentrated instead on electing delegates who would best advance their interests in the convention. One exception was the *Arizona Journal-Miner* in Prescott, which continued vigorously to oppose statehood, arguing that “nothing can be gained” by holding a convention.²¹

The election on May 12, 1891, was a resounding victory for the Democrats. Their candidates won seventeen of the twenty-two delegate positions, including all of the seats in Maricopa, Graham, Apache, Gila, Yuma, Coconino, and Mohave counties. They also captured majorities of the Pima and Yavapai county seats. The two parties split Pinal County, and the Republicans won a majority of the seats in Cochise County.²² The delegates were, for the most part, seasoned politicians with wide experience in public life. Noticeably absent from their ranks was anyone who could be called a reformer. Although winds of political change were blowing across the nation—the national People’s Party was formed in Cincinnati the same month the delegate election was held—they had barely touched Arizona. According to one newspaper, ten of the delegates were lawyers, five were involved in mining, one was an editor, two were businessmen, two were farmers, and one was a rancher. Of those delegates for whom biographical information is available, fifteen had held some kind of political office, either elective or appointive, in Arizona or elsewhere. The roster included territorial Superintendent of Public Instruction George Cheyney of Pima County,



George W. Cheyney.
AHS #3798.

Attorney General William Herring of Cochise County, and former governor Frederick A. Tittle of Yavapai County (all Republicans), as well as Delegate to Congress Marcus A. Smith of Cochise County, Pima County District Attorney Francis H. Hereford, and former Arizona Supreme Court justice William H. Barnes of Pima County (all Democrats).²³

The delegates met in Phoenix for less than a month, beginning on September 7. Partisan animosity surfaced almost immediately and set the tone for the remainder of the convention. No Republicans attended the first session, with the exception of Territorial Secretary Nathan O. Murphy, who was present to swear in the delegates. Four of the Republican delegates, apparently satisfied with their brief protest, showed up on the second day; the fifth Republican, Frederick Tittle, never attended the convention and was the only delegate who did not sign the final document.²⁴

Because the delegates had devoted so little time in their campaign to discussing the constitution, except in the most general terms, they entered the convention having made few commitments other than their well-known positions on the test

oath. In a sense, though, they arrived in Phoenix with an unspoken mandate: they were expected to establish a state government that would foster economic growth. Since the territory's formation, the legislature had practiced the "politics of development"—granting franchises, incorporating companies, lobbying for federal appropriations, and authorizing subsidies to encourage the construction of railroads, wagon roads, and the like. No reform parties or proposals had emerged during the election, so delegates had little reason to abandon or significantly alter this time-tested approach to governance, other than removing some of the obvious flaws in the territorial system. As much as they might differ on specific issues, delegates from both parties and all regions shared a broad consensus on the importance of economic development.²⁵

In addition, statehood advocates were urging the delegates to devise a constitution that would convince doubters in Congress and elsewhere that the territory was ready for the responsibilities that accompanied membership in the Union. Although the delegates never completely agreed on what Congress expected—the Republicans, for example, insisted on a test oath to mollify congressional critics—most believed that they had to devise a conservative plan for retiring the territorial debt and construct a financially sound state government. Some Arizonans also felt that statehood depended on demonstrating the territory's improved moral tone and showing that its social and political institutions were sufficiently "Americanized," by which they meant that the territory had transcended and subordinated Mormon, Hispanic, and Indian cultural influences.

A test oath was one of the first articles introduced at the convention. On September 11, Republican William Herring proposed that Mormons who refused to swear that they neither believed in nor practiced polygamy should be denied the right to vote or hold political office. Democrats took advantage of their majority in the convention to ensure that Herring's proposal remained in the Elections and Suffrage Committee for the duration of the proceedings and never reached the floor for a vote. With the test oath bottled up in committee—one of whose Democratic members was John Hunt, a Mormon bishop from Apache County—skirmishing was largely confined to news-

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paper editorial pages. While Democratic editors soft-pedaled the issue, Republican papers pressed for political restrictions, even when it became clear that the convention would sidestep “the Mormon question.”²⁶

Herring also proposed a religious liberty article that prohibited any “act of licentiousness” or other activity “inconsistent with the peace and safety of the State,” by which he meant the practice of polygamy. This, along with a more specific provision classifying polygamy as a felony, easily passed the convention. Despite their opposition to test oaths, Democrats had never suggested that polygamy should be legalized. As it turned out, the debate over the test oath would be the last episode in the struggle over the Mormon role in Arizona politics. While the convention was still in session, LDS representatives traveled from Salt Lake City to Phoenix to meet with prominent Republicans including Herring, Territorial Treasurer William Christy, and editors of the party’s local newspapers. After assuring their hosts that Mormons could be loyal Republicans, LDS leaders embarked on a campaign urging Arizona church authorities



William Herring;
AHS #20658.

and members to affiliate with both political parties. Their work yielded results in the 1892 election when Republicans abandoned their criticism of the church and campaigned for Mormon votes.²⁷

Although the main purpose of the test oath article was to “purify” elections by disfranchising Mormon voters and thereby ending Mormon bloc voting, it also was part of a larger effort to promote moral reform. Herring also sought to prevent the future state from licensing lotteries, gambling, and other “games of chance.” After a brief debate in which Democrat Marcus Smith accused Herring of wanting to “throttle and run the morals” of Arizona’s citizens, the delegates approved a ban on lotteries. However, they easily defeated a broader gambling prohibition by a vote of 17–4 (with three of the four Republicans voting in favor of the measure). For all practical purposes, the lottery prohibition was aimed at Arizona’s Mexican-American citizens. Together with the test oath, it demonstrated how moral reform could be harnessed to the task of Americanizing the territory, by reinforcing Protestant values and Anglo-American dominance in politics and cultural matters.²⁸

Woman suffrage received more attention than other reform measures, largely because suffrage advocates were well organized and persuaded the delegates to allow them on the convention floor. On two afternoons, a group of activists that included Josephine Brawley Hughes, the wife of *Arizona Star* editor Louis Hughes, and Sam Webb, a prominent Democrat, addressed the assembly. Using arguments that suffragists throughout the country had advanced for years, they argued that women constituted a powerful force in society that could be harnessed in the interest of good government and moral reform. As voters, they could help pass “pure legislation,” in particular for the improvement of schools and municipal government. “Our object is not office holding so much as a desire to correct the evils of government,” Kansas suffragist Laura Johns told the delegates.²⁹

Indeed, a good deal of woman suffrage’s support both in and out of the convention hall arose not so much from solicitude for women’s rights as from concern with finding an electoral counterweight to “ignorant” and “unsound” male voters. Herring, woman suffrage’s most vocal advocate in the conven-

tion, argued that the measure would “offset the ignorant Mexican vote,” while Webb combined his advocacy of women’s rights with a suggestion that “weak and unsound” men be barred from voting. One of the ironies of the debate was that many Mormons supported woman suffrage. LDS leaders felt that they, too, could harness the power of female votes—a prospect that could only have disturbed Republican proponents. Delegates received at least two petitions favoring woman suffrage from predominantly Mormon Apache County.³⁰

Advocates of woman suffrage existed in both parties, but its advertisement as a mechanism for moral reform cost it the support of the majority of Democrats, who had traditionally opposed such legislation as an unwarranted extension of government authority. Only one Republican delegate, W. A. Hartt of Pima County, opposed woman suffrage, while the only significant Democratic support originated outside the convention, notably from Sam Webb and editor Louis Hughes.³¹ Comfortably in control, the Democratic delegates confined their opposition to claims that the measure lacked broad support in the territory, including among women. It was, the *Arizona Gazette* editorialized, “a revolutionary and untried question” that, if included, would scuttle the constitution. After considerable debate, the delegates voted 16–5 to deny women the vote. They did, however, allow women to participate in school board elections, and they gave the legislature authority to further extend the suffrage, provided the majority of the state’s voters ratified its decision.³²

The debate over woman suffrage forced the delegates to confront another difficult issue—namely, how much authority to give the new state legislature and whether to include specific provisions in the constitution restricting the legislature’s power. Some delegates—most notably Marcus Smith, who consistently advocated a strong, independent legislature—felt that the constitution should take care not to “bind” lawmakers, and that most issues were best left to future deliberation of the legislators. After all, more than a third of the delegates had served either in the Arizona legislature or elsewhere. Others were less inclined to trust the legislature’s judgment. Most delegates retained fresh memories of the sharp partisan conflict over “mis-



Frank H. Hereford.
AHS #56275

deeds” in past sessions—especially the Thirteenth Legislature—and few were willing to argue publicly that the new state government should leave the legislature unchecked.³³

The delegates addressed the matter of legislative authority early on, when they assembled the article establishing the legislature and enumerating its powers. The question of legislative subsidies for railroads and other private enterprises presented the convention with its first real stumbling block. In response to a proposal for an outright ban on such assistance, Pima County delegate William H. Barnes led defenders of subsidies in protesting that railroads were vital to economic growth and “go hand in hand with prosperity.” He proposed that, rather than prohibiting subsidies, the constitution should allow them if ratified by two-thirds of the state’s voters. William Herring supported Barnes’s proposal, arguing that “the people have the right to tax themselves, as we have got to have railroads, canals, toll roads, etc., and we have to bear those burdens. There is a diseased sentiment about new states going into debt, which has no foundation.” Maricopa County delegate H. N. Alexander then suggested that only property owners, liberally defined,

should be allowed to vote on subsidies. Barnes, however, proclaimed that he opposed "all propositions that dollars, and not men, shall vote." Despite the objections of Alexander and of Marcus Smith, who opposed legislative subsidies in any form, the convention adopted Barnes's proposal.³⁴

The final legislative article prohibited the state legislature from authorizing any public debt, incurred by any level of government, on behalf of a private enterprise. The potential effect on subsidies was limited, however, for it exempted railroad, canal, reservoir, and municipal projects, provided that any aid was first approved by two-thirds of the "qualified electors" of the jurisdiction offering the subsidy. In other matters, the article was more restrictive. It banned many kinds of special legislation, limited legislative sessions to sixty days, specified pay and mileage reimbursements, imposed a cap on the number of clerks the legislature could hire and on their pay, and laid down rules that made it more difficult to pass appropriations as amendments to other bills or as last-minute measures at the end of sessions.³⁵

The delegates designed many of the article's provisions to remedy the shortcomings of the territorial legislature, for hiring clerks had been the central issue in the Thirteenth Legislature, and the length of sessions was a constant source of friction between Democrats and Republicans. Yet the proposed changes differed in only minor ways from federal legislation already in effect in Arizona and the other territories. Congress had prohibited certain forms of special legislation since 1867, and the recently passed Harrison Act (1886) proscribed a wide variety of special acts. Sessions had been limited to sixty days since 1880, and Congress had always limited the number and pay of staff to levels not much different from those set by the proposed constitution. Regarding subsidies, however, the Arizona constitution was somewhat more liberal than the Harrison Act, which prohibited territorial legislatures from authorizing or contracting any debt on behalf of any individual private enterprise.³⁶

The delegates also sought to rein in the power of the executive department, though the restrictions written into the executive article were not nearly so comprehensive as those in

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the legislative article. In particular, the proposed constitution prohibited pocket vetoes and required that all fees collected in the course of state business be turned over to the treasury rather than remain in the hands of the officeholder who collected them. In an effort to reduce administrative costs, Barnes proposed eliminating the position of superintendent of public instruction and having the governor serve as ex-officio superintendent. School administration was primarily a local affair, Barnes argued, and at any rate the governor would have “ample time” to oversee education. The proposal received only limited support, however. Herring was among the opponents who objected that it would be “a matter of retrogression” not to provide for the superintendent’s position, and that failure to do so would subject the territory to “the severest criticism” in Congress.³⁷

In addition to restraining the power and authority of the legislature and the executive, the delegates also sought to limit the amounts and types of taxes that could be levied by all levels of government. The taxation and revenue article and the public indebtedness article both passed with relatively little debate.



*Sam Webb. Sharlot Hall
Museum #PO-1522P*

The only disagreement arose over the provision establishing a sinking fund to pay off the territorial debt.

The revenue article established a maximum property-tax rate for the state—though it could be interpreted as not limiting taxes to support schools or pay state debts—and it did the same for counties and municipalities. Most importantly, it created a sinking fund for the state and individual counties that would be financed by special property taxes and used to retire outstanding debt. The main argument in favor of the state fund was that Congress would approve statehood only if it was convinced that the territory had solved its financial problems. As Marcus Smith reminded the delegates, he expected to be questioned extensively in Washington about the territorial debt when the next statehood bill came up. With Smith and Barnes urging creation of the sinking fund, Winthrop A. Rowe (the Prescott Democrat who was president of the convention) and H. N. Alexander led the opposition. Rowe argued that counties should be allowed to pay their debts as they saw fit, while Alexander suggested that debt retirement was best left to the first state legislature. Their attempts to reduce the sinking fund tax rate and to exempt counties from its provisions failed, however, as the delegates approved the final version of the article.³⁸

Unlike the revenue article, the public indebtedness article received only passing mention in the territorial press, yet its provisions were far-reaching, for it set limits on government spending that were even more severe than those imposed by Congress in the Harrison Act. According to the article, the state debt could never exceed 1 percent of the assessed valuation of property, while county debts could not exceed 2 percent of assessed valuation. Municipal debts also were limited to 2 percent, except for the construction of sewers (which were subject to a higher limit) and water works (which were not limited at all). In contrast, the Harrison Act limited territorial debt to 1 percent and county debts to 4 percent of assessed property. Despite some complaints about the Harrison Act—William Herring called it a “crime” that “shuts the door in the face of the most struggling manly set of people under heaven”—the delegates were unwilling to create more generous debt limits.³⁹

As the debate over legislative subsidies made clear, the del-

legates were as concerned with promoting development as they were with holding down government costs. One development cause that enjoyed almost universal support was remonetizing silver, which most Arizonans believed would aid the mining economy and, because of its inflationary impact, attract investment capital. Free silver was fast becoming a potent political issue, especially in the West and South, and the convention delegates were eager to do their part to promote the silver cause. Consequently, they inserted a clause in the constitution's bill of rights declaring both gold and silver to be legal tender in the state. Representatives from Cochise and Pima counties, whose economies especially depended on mining, urged delegates to adopt the measure. In addition to touting its impact on the economy, they also insisted on its political importance. George Cheyney, the Cochise County Republican who proposed the clause, argued that it was necessary in order to secure the votes of miners in the ratification election, while Marcus Smith claimed it would help reconcile silver Republicans in Congress to statehood for Arizona.⁴⁰

In some matters, such as legislative subsidies, the delegates' insistence on frugal government was at odds with their desire to subsidize economic development. In framing the constitution's article on corporations, though, they were able to indulge their preference for minimal government at the same time that they appealed to business interests. Although several delegates found it convenient at times to blame corporations for some of the territory's problems, and referred darkly to the "grasping, monopolizing tendencies of railroads," the corporations article was quite mild in its regulation of business enterprise. Its chief provision, a ban on special incorporations, would have had little practical impact, for the Harrison Act already prohibited them. The corporation article also barred "unreasonable" rate discrimination by common carriers (though it failed to specify which enterprises were included in that category), "sham corporations" (by revoking unexercised and expired special corporate charters), and stock watering. Otherwise, the delegates took a restrained approach to business regulation; they sought to prevent legislative connivance in setting up corporate schemes that were injurious to the public welfare but made no specific

provision for regulatory bodies (such as a corporation commission), choosing instead to give the legislature authority to regulate corporations and revoke their charters.⁴¹

Framing a water article presented the greatest challenge to the delegates. Because no other development issue had as much potential for inspiring conflict, they deferred consideration of this article until nearly the end of the convention. The delegates already had signaled their reluctance to challenge vested water rights and interests—first by defeating a proposal to classify canals as common carriers (a move that would have facilitated the supervision and regulation of canal companies) and then by including in the bill of rights a clause giving private parties the right to condemn private land across which they desired to run canals, railroads, telegraphs, and other improvements.⁴²

At its most fundamental level, the water-rights dispute was between those who would allow individuals and corporations to develop private reservoir and water-storage projects largely free of government interference, and those who felt that such activities were best carried out by the state or, at least, kept under strict state regulation and control. The delegates also disagreed over the legislature's role in water matters. Some favored leaving regulation of water-rights largely to the discretion of the state legislature—a position favored by John Wesley Powell, who sent a letter on the subject to the convention—while others favored a more detailed water-rights article that placed limits on what the legislature could and could not do.⁴³

Pinal County Republican Thomas Davis introduced the most comprehensive water-rights article. It declared that all water (except groundwater) was the property of the state. Although corporations and individuals retained the right to appropriate water, any storage or delivery system was to be considered a “public franchise” and subject to state regulation. The article also established a priority of rights, with domestic and agricultural uses taking precedence over mining and manufacturing, and claimants had to use their water rights within one year or risk losing them. Davis argued that mining and manufacturing would never be large water users, and that controlling corporate water development was the major challenge facing the



William Henry Barnes.
AHS #B-4020.

delegates. His proposal not only would have prevented speculation by requiring the prompt exercise of water rights; it also would effectively have prevented the development of private reservoir companies, which Davis feared because they created “water monopolies.”⁴⁴

The water-rights committee, which included fourteen of the twenty-one delegates, considered six water propositions in addition to the one proposed by Davis. After several delegates complained that the committee had too hastily rejected some of the proposals, the convention created a special committee, consisting of one delegate each from Maricopa, Yuma, Pinal, Graham, and Pima counties, to combine the various features and come up with a final article. The group issued its report the following day, with Davis submitting a minority opinion. It failed, however, to speed up deliberations. The convention as a whole ended up debating not only the committee’s draft article, but practically every other water-rights proposal.⁴⁵

Herring also urged strong state regulation of water development. He and Davis argued that private water projects should be subject to legislative control, and that the state should be

allowed to establish irrigation districts and appropriate public money to pay for storage and delivery facilities. Although they succeeded in getting an irrigation district section added to the final water-rights article, they failed to win support for most of their other proposals. The delegates refused to establish a priority of rights, to require that water rights be fully used (at the risk of otherwise losing them), and to subject canal companies to state regulation. Most agreed with Maricopa County delegate Marshall Williams, who argued that the constitution should take care to “abridge the powers of the legislature from sanctioning further difficulties on the water question.”⁴⁶

In the end, the delegates declined to give government a strong regulatory role in water matters. The final version of the article declared that all “natural streams and lakes” were the property of the state. Yet, it also endorsed all existing rights, as well as the principle of prior appropriation, which had the effect of simply reaffirming the status quo. As the *Arizona Gazette* noted, no “inherent or prior right . . . is invaded anywhere in the article.” It gave individuals and corporations the right to build reservoirs to impound flood and “surplus” waters, imposed no restrictions on water-rights holders other than urging them to use their rights “reasonably and economically,” and left the matter of regulating canal companies up to future legislatures.⁴⁷

Once the water-rights article had been hammered out, the constitution was for all practical purposes completed. Herring proposed holding a ratification election in the spring of 1892, but he was outvoted. The majority of delegates favored a December 1 election so that Marcus Smith could submit the constitution to Congress at the beginning of the year.⁴⁸

Herring provided some last-minute fireworks by accusing the Democrats of excessive partisanship and of formulating a “democratic constitution,” a charge that the majority members denied. He then filed a formal protest and cast the only dissenting vote (though he did sign the document) as the constitution passed 16–1.⁴⁹ In his protest, Herring singled out two articles for condemnation. He claimed that the elections and suffrage clause unduly restricted the legislature’s authority—he had wanted to let the legislature decide on woman suffrage without voter approval—and that the water-rights section would

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“operate to the advantage of corporations and against the owners and occupants of lands.” In his final speech to the convention, Herring reiterated that he favored statehood; he merely wanted to “remove some lifts that interfere with a journey either on the wagon road or the highway” to statehood.⁵⁰

Convention president Rowe struck a more enthusiastic and optimistic note in his closing remarks to the delegates: “Statehood! Will there be found any who will not feel a thrill of patriotic enthusiasm at the very idea? This marriage, this compact with the great dom[i]nant throbbing civilizing American nation will make us broader and better as individuals and communities. We will be closer and warmer in our affections and more in touch with the energy and aspirations of our nation, more zealous to augment its power and glory and more eager to defend when menaced, the principles of American policy and the honor of American citizenship.”⁵¹

Before adjourning, the delegates appointed a committee of six Democrats and one Republican to write a defense of the constitution. Entitled “Address to the People,” it began with an



Marcus A. Smith. AHS #53396

attack on the “bad government” of the past, even though the convention delegates and the political parties they represented bore much of the responsibility for the previous conduct of territorial government. “Unguarded official action is to be seen all along the line of our Territorial travel, and extravagant legislation has naturally followed,” the committee wrote. “Hence today, while we are preparing for a new order of things under an economic and well guarded constitutional form of government, we are brought face to face with an empty treasury and a large outstanding Territorial debt of nearly one million dollars.” To end this “leakage in the treasury, and extravagance in public expenditures,” the delegates had framed a constitution “that would secure a just and economical administration in all of the Departments of State.” Most important, the committee pointed out, “the different departments have been shaped after the system most familiar to our people, that nothing may be hazarded by experiment.”⁵²

Aware that statehood opponents were likely to warn of tax increases, the committee went to some length to explain the sinking fund established to pay territorial and county debts, as well as the limits the constitution placed on state spending and borrowing. Referring to the restrictions on subsidies, they assured voters that the “public credit . . . cannot be loaned at legislative will.” In fact, they argued, the debt and spending limits imposed on all levels of government—state, county, and municipal—“virtually puts them on a cash basis, and shuts down the flood gates of the issuance of bonds, warrants and other evidences of indebtedness.” Anticipating other complaints, the committee defended the decision to deny women the vote, suggesting that “mature deliberation” had convinced the delegates that extending the suffrage would be “unwise.” And they pointed to the constitution’s conservative approach to corporate regulation, which was intended to ensure that “capital may not be shut out of the State and its progress retarded.”⁵³

Notably, the “Address” betrayed the committee’s concern that Arizona voters were suspicious of the changes that statehood might bring and of increased taxes in particular. For example, in discussing the school-lands article, they assured property holders that “the pioneer and early settler who has braved

the danger of frontier life, and settled upon and improved these lands is not unprotected." Moreover, they claimed, the grant of school and other lands to the state by the federal government would more than offset any increase in the cost of state government. "If we adopt this Constitution, and thereby obtain admission, we bring into the lap of the State millions of wealth, which we cannot possibly obtain while we are in a Territory."⁵⁴

Concern over opposition to the constitution was well founded, for it soon became clear that most of the territory's Republican newspapers either opposed its ratification or were refusing to endorse it. Prescott's *Arizona Journal-Miner* emerged as the most vocal critic, opposing both ratification and statehood. Editor John C. Martin especially attacked the water-rights and school-lands articles, arguing that expectations of a land windfall were premature. He also repeated an argument that he had been making ever since the constitutional convention was first proposed in early 1891: "Already the rate of taxation in Arizona is higher than in any other territory or state in the union. It is so high that capital is frightened by it. . . . A vote for statehood in Yavapai county means simply a vote for new and higher taxes."⁵⁵

Other Republican papers, many of which supported the statehood movement but attacked the constitution, repeated the *Journal-Miner's* arguments. Several were especially critical of the decision to leave out the test oath, and they raised the specter of undue Mormon influence in Arizona politics. According to a Tucson correspondent of the *Arizona Republican*, "the Italian hand of the Mormons, through the medium of their leaders, is already visible in their efforts to have the constitution adopted." In a Tucson speech, Republican C. W. Wright warned that the absence of a test oath would ruin state government. "The judge [Wright] said that he believed that in ten years the Mormons would control the state, the legislature and the courts 'and then God help the Gentiles'," the *Arizona Citizen* reported approvingly.⁵⁶

Supporters of the constitution preferred to advertise the virtues of statehood rather than discuss the provisions of the constitution. Sometimes they labeled critics of the constitution

as enemies of statehood as well. Writing to the *Arizona Gazette*, Phoenix Democrat Thomas E. Farish dismissed concerns about higher taxes, arguing that the “additional expenses of a state government would be a bagatelle as compared to the increased benefits to be derived from it.” The real issue, he reminded readers, was economic and political development, which he insisted would proceed faster under a state government “untrammelled by rulers and law-makers two thousand miles away, careless of our needs and ignorant of our wants.”⁵⁷ Delegate John F. Wilson of Prescott castigated the *Journal-Miner* as an “enemy” of Arizona miners and businessmen and a friend of “Wall Street and the gold bugs of the East.” A correspondent of the Democratic *Prescott Weekly Courier* had already charged that only “obstructionists who gorge at the public crib and fear a change that would deprive them of the spoils of office” opposed ratification.⁵⁸

The most widespread, and arguably the most persuasive, argument in favor of the constitution was that it should be approved despite its limitations. “A vote for the constitution is a vote for statehood; a vote against the constitution will be construed by congress to be a vote against statehood,” *Arizona Star* editor Louis Hughes wrote. The *Phoenix Herald*, the lone Republican paper to support ratification, took essentially the same position. Although it had criticized delegates for ignoring the test oath, the *Herald* argued that voting for the constitution was a way of demonstrating support for statehood and promoting the territory. “Those of the people who wish the most rapid development of Arizona . . . and the most careful, responsible form of government will vote for the Constitution; those who hope for a continuance of the fast and loose conditions that now prevail . . . will vote against the Constitution,” editor Morford suggested. Taking a different tack, Phoenix’s Democratic *Arizona Gazette* appealed to local patriotism: “Let all lovers of home rule and independence join hands and vote for the constitution.”⁵⁹

On December 1, Arizonans ratified the constitution 5,440 to 2,282. As the *Arizona Republican* observed on the following day, the campaign had been subdued; even the *Republican*, which had been harshly critical of the convention, did not actively

oppose ratification. Although pleased with the results, statehood advocates probably were dismayed by the voter turnout, which was one-third less than at the last general election (7,722 vs. 11,078) and unlikely to impress skeptics in Congress. The battle in Congress, however, lay in the future. For the time being statehood supporters savored the victory.⁶⁰

The 1891 ratification campaign was the last opportunity for significant internal disagreement over Arizona's readiness for statehood. Thereafter, opposition melted. This did not mean that statehood was no longer a contentious matter for, as the 1891 constitutional convention demonstrated, support for early admission did not necessarily translate into agreement on what kind of state government should follow. However, as the locus of the statehood struggle shifted to Washington, internal political differences over statehood lay dormant until 1910, when another constitutional convention convened. For most of the remainder of the territorial period, Arizonans fought not with each other but with critics in Congress and the national press.

Early in 1892 Marcus Smith introduced in the House of Representatives a statehood bill that incorporated the newly written constitution. As events during the next two years proved, not everyone in Congress shared Arizonans' conviction that the territory had been adequately developed and was ready for admission. Pointing to the territory's small population and aridity, among other negative characteristics, opponents of the bill attacked Arizona's claim to statehood as pretentious and premature, arguing that the territory needed to attract more immigrants and capital before applying for admission. More important, Republicans feared that the arrival of new senators from Arizona and New Mexico (which was also seeking admission) would jeopardize their control of Congress. With Republicans from the more populous, industrialized states of the Northeast leading the opposition, the Senate twice refused to vote on admission of the southwestern territories. Following the second defeat, in 1893, Arizona statehood faded from congressional view for the remainder of the century.

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NOTES

1. The 1864 population data are from Jay J. Wagoner, *Early Arizona: Prehistory to Civil War* (Tucson: University of Arizona Press, 1975), p. 41. The 1890 population data are from Bureau of the Census, *Report on Indians Taxed and Indians Not Taxed* (Washington, D.C.: Government Printing Office, 1894), p. 134; and Bureau of the Census, *Historical Statistics of the United States: Colonial Times to 1970* (Washington, D.C.: Government Printing Office, 1975), Series A, pp. 195–209. *Report of the Acting Governor of Arizona* (Washington, D.C.: Government Printing Office, 1890), p. 5.
2. William Lyon, "The Corporate Frontier in Arizona," *Journal of Arizona History* [JAH], vol. 9 (Spring 1968), pp. 2, 13. The mining statistics are from the *Report of the Acting Governor*, p. 26, and *Report of the Governor of Arizona* (Washington, D.C.: Government Printing Office, 1883), p. 5. The stock-raising data are from Rufus Kay Wyllys, *Arizona: The History of a Frontier State* (Phoenix: Hobson and Herr, 1950), pp. 246, 249–50. According to the *Report of the Acting Governor*, p. 21, 295,200 acres of land in the territory were under irrigation in 1890.
3. The bill, introduced by Illinois Democrat William Springer, was never reported out of the House Committee on the Territories. *Phoenix Herald*, January 3, 4, 5, 1889.
4. George Kelly, *Legislative History: Arizona, 1864–1912* (Phoenix: Manufacturing Stationers, 1926), p. 144.
5. *Phoenix Herald*, March 7, 22, 23, 1889. *Session Laws of the Fifteenth Legislative Assembly of the Territory of Arizona* [1889] (N.p., 1897), pp. 63–66.
6. Lewis Wolfley to John Noble, May 1, 1889, U.S. Department of the Interior Territorial Papers, Arizona, 1868–1913, microfilm, Roll 4:18, Record Group (RG) 48, National Archives (hereafter cited as Territorial Papers).
7. Wolfley to Noble, June 26, 1889, Roll 4:98; Attorney General to Noble, July 16, 1889, Roll 4:94, both in Territorial Papers.
8. *Arizona Star* (Tucson), July 17, August 29, 1889; *Arizona Citizen* (Tucson), August 5, 1889.
9. *Phoenix Herald*, August 14, 29, September 16, 1889.
10. R. C. Brown and G. W. Brown to Wolfley, June 19, 1889, Folder 613, Box 43, Series 11, Records of the Secretary of the Territory, RG 6, Arizona Department of Library, Archives, and Public Records (ADLAPR), Phoenix.
11. Wolfley's tenure as governor is described by Jay J. Wagoner in *Arizona Territory, 1863–1912: A Political History* (Tucson: University of Arizona Press, 1970), pp. 256–79.
12. *Congressional Record*, 51st Cong., 1st Sess., pp. 401, 406, 3922. For the Democratic platform, see *Arizona Gazette* (Phoenix), October 10, 1890; for the Republican platform, see *Phoenix Herald*, August 29, 1890. *Report of the Acting Governor*, pp. 33.
13. The bill passed the Council 9–2 and the Assembly 16–8. The votes were reported in the *Phoenix Herald*, January 23, March 14, 18, 1891. See also *Sessions Laws of the Sixteenth Legislative Assembly of the Territory of Arizona* [1891] (N.p., 1897), pp. 75–78.
14. *Nogales Herald* quoted in *Arizona Weekly Journal-Miner* (Prescott), November 4, 1891; *Arizona Republican* (Phoenix), May 8, 1891. For typical remarks on the centrality of parties to Arizona politics, see the *Arizona Republican*, May 7, 8, 1891; *Arizona Gazette*, May 13, 1891; and *Arizona Citizen*, April 13, 1891. The quote is from the *Arizona Republican*, May 7, 1891.
15. The emergence of the territorial parties in the 1880 campaign is recounted in Wagoner, *Arizona Territory*, pp. 90–94. The Council was evenly divided in 1883 and 1885, Democratic in 1887 and 1891, and Republican in 1889. The Assembly was Democratic in 1883, 1887, and 1891, evenly divided in 1885, and Republican in 1889. *Phoenix Herald*, January 9, 1883; *Prescott Weekly Courier*, October 31, 1884, January 16, 1885; *Arizona Weekly Journal-Miner*, January 12, 1887, January 17, 1889; *Arizona Gazette*, January 13, 1891.

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16. For more detailed descriptions of the Thirteenth Legislature, see Wagoner, *Arizona Territory*, pp. 194–222, and Kelly, *Legislative History*, chapter 13.
17. Kelly, *Legislative History*, p. 125. *Arizona Gazette*, September 10, 1886, October 10, 1890; *Arizona Weekly Star*, September 6, 1888; *Phoenix Herald*, September 25, 1886, September 21, 1888, August 29, 1890.
18. Edward Leo Lyman, "Elimination of the Mormon Issue from Arizona Politics, 1889–1894," *Arizona and the West [A&W]*, vol. 24 (Autumn 1982), pp. 207–209. The Edmunds Act as it applied to Mormons is described in Leonard J. Arrington and Davis Bitton, *The Mormon Experience: A History of the Latter-Day Saints*, 2d ed. (Urbana: University of Illinois Press, 1992), pp. 180–82.
19. Lyman, "Elimination of the Mormon Issue," p. 210. As Lyman has argued in *Political Deliverance: The Mormon Quest for Utah Statehood* (Urbana: University of Illinois Press, 1986), pp. 1–2, bloc voting by Mormons was an important issue at the territorial level, but not in Congress, whose members were mainly concerned about polygamy. *Phoenix Herald*, August 29, 1890.
20. Merle W. Wells, *Anti-Mormonism in Idaho, 1872–1892* (Provo, Utah: Brigham Young University Press, 1978), pp. 137–41; *Phoenix Herald*, March 28, 1891.
21. *Arizona Gazette*, April 26, 1891; *Phoenix Herald*, September 11, 1891; *Arizona Weekly Journal-Miner*, April 29, 1891.
22. The Democrats won all the delegate seats in Maricopa (3), Graham (2), Apache (2), Gila (1), Yuma (1), Coconino (1), and Mohave (1) counties, plus 2 out of 3 seats each in Pima and Yavapai counties, 1 of 2 seats in Pinal County, and 1 of 3 positions in Cochise County. The Republicans won 1 seat each in Pima, Yavapai, and Pinal counties, and 2 seats in Cochise County. See the canvass for the 1891 convention delegate election, Arizona Secretary of State, RG 2, Election Records, Series 2, Box A-1, ADLAPR; *Arizona Gazette*, May 20, 1891.
23. *Arizona Gazette*, May 20, June 2, 1891. A listing of all convention delegates, along with capsule biographies, can be found in Walter Wood Walker, "Arizona's Struggle for Statehood with Emphasis on the Proposed Constitution of 1891" (M.A. thesis, American University, 1964), pp. 21ff. Information on the political offices they held is derived from Wagoner, *Arizona Territory*, pp. 498–500, 515–20; *Portrait and Biographical Record of Arizona* (Chicago: Chapman Publishing Co., 1901), pp. 24, 113–14; *A Historical and Biographical Record of the Territory of Arizona* (Chicago: McFarland & Poole, 1896), pp. 462–63, 609–10; *Arizona Gazette*, September 12, 16, 1891; James H. McClintock, *Arizona: Prehistoric—Aboriginal—Pioneer—Modern*, 3 vols. (Chicago: S. J. Clarke, 1916), vol. 3, pp. 392–93, 422–23, 736–37; Richard E. Sloan, ed., *History of Arizona*, 4 vols. (Phoenix: Record Publishing Co., 1930), vol. 3, pp. 579–80; Jo Conners, comp., *Who's Who in Arizona* (Tucson: Arizona Daily Star, 1913), pp. 581–82, 685; Walker, "Arizona's Struggle for Statehood," pp. 21, 31, 32, 34.
24. *Arizona Republican*, September 8, 9, 1891; *Arizona Gazette*, September 17, 1891; *Journals of the Constitutional Convention for the State of Arizona* (Phoenix: Phoenix Herald, 1891), pp. 5–6. The journal is better described as convention minutes, as it only recorded votes and other formal actions of the convention (such as amendments to articles, decisions of the chair, and so forth). Because no verbatim record of debate was included, researchers must rely for debate coverage on the three daily newspapers in Phoenix (one Democratic, two Republican) that regularly reported on the sessions—an uneven and often partisan source. Outside of Phoenix, the newspapers gave very limited coverage to the convention.
25. The term "politics of development" was used by Howard Lamar in "Carpetbaggers Full of Dreams: A Functional View of the Arizona Pioneer Politician," *A&W*, vol. 7 (Autumn 1965), p. 206.
26. *Journals of the Constitutional Convention*, p. 17; *Phoenix Herald*, September 11, 1891; *Arizona Gazette*, September 15, 1891. According to Lyman, in "Elimination of the Mormon Issue," p. 218, Hunt was not only a bishop but also a "secret polygamist." *Arizona*

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Republican, September 27, 1891.

27. *Phoenix Herald*, September 15, 1891; *Journals of the Constitutional Convention*, p. 8; Lyman, "Elimination of the Mormon Issue," pp. 218–21, 222.

28. *Journals of the Constitutional Convention*, p. 26; *Arizona Gazette*, September 21, 1891.

29. Suffrage advocates appeared before the convention on the afternoons of September 18 and 23. *Arizona Gazette*, September 19, 1891; *Phoenix Herald*, September 23, 1891; *Arizona Republican*, September 24, 1891. Johns's speech was reported in the *Arizona Gazette*, September 19, 1891.

30. Herring's remarks are found in the *Arizona Gazette*, September 25, 1891; Webb's speech was reported in the *Phoenix Herald*, September 23, 1891; *Journals of the Constitutional Convention*, pp. 21, 32.

31. For an account of Hughes's career both as a newspaper editor and politician, see William Lyon, "Louis C. Hughes: Arizona's Editorial Gadfly," *JAH*, vol. 24 (Summer 1983), pp. 171–200.

32. *Arizona Gazette*, September 25, 1891; *Constitution for the State of Arizona as Adopted by the Constitutional Convention, Friday, October 2nd, 1891* (Phoenix: Herald Book and Job Print, 1891), Article 10, p. 21.

33. *Arizona Gazette*, September 20, 30, 1891.

34. *Ibid.*, September 18, 20, 1891; *Arizona Republican*, September 18, 1891. It is not clear from the journals or newspaper reports whether the proposal to ban subsidies was included in the original committee report on the legislative article or was proposed by a delegate.

35. *Constitution for the State of Arizona*, Article 4, pp. 11–15. The exemptions were listed in Section 39 of the article.

36. Max Farrand, *The Legislation of Congress for the Government of the Organized Territories of the United States, 1789–1895* (Newark, N.J.: William A. Baker, 1896), pp. 47–49; William H. Lyon, "Arizona Territory and the Harrison Act of 1886," *A&W*, vol. 26 (Autumn 1984), pp. 215–16.

37. *Constitution for the State of Arizona*, Article 3, pp. 9–11; *Phoenix Herald*, September 21, 1891; *Arizona Gazette*, September 22, 1891.

38. *Constitution for the State of Arizona*, Article 6, pp. 17–18. *Phoenix Herald*, September 26, 1891; *Arizona Gazette*, September 27, 1891; *Arizona Republican*, September 27, 1891.

39. *Constitution for the State of Arizona*, Article 7, p. 19. On the Harrison Act, see Lyon, "Arizona Territory and the Harrison Act," pp. 216. Herring's speech is from the *Arizona Gazette*, September 20, 1891.

40. *Phoenix Herald*, September 22, 1891; *Arizona Republican*, September 23, 1891.

41. *Constitution for the State of Arizona*, pp. 4, 24; *Phoenix Herald*, September 23, 24, 1891.

42. *Phoenix Herald*, September 23, 1891; *Constitution for the State of Arizona*, Article 2, Section 27, p. 9.

43. Powell's letter to the convention was briefly summarized in the *Phoenix Herald*, September 28, 1891.

44. *Phoenix Herald*, September 17, 23, 25, 1891.

45. *Ibid.*, September 28, 1891; *Journals of the Constitutional Convention*, pp. 43–44.

46. *Phoenix Herald*, September 17, 29, 30, 1891; *Arizona Gazette*, September 30, 1891.

47. *Arizona Gazette*, September 30, 1891; *Constitution for the State of Arizona*, Article 18, pp. 24–25.

48. *Arizona Gazette*, October 1, 1891; *Phoenix Herald*, October 1, 1891.

49. *Phoenix Herald*, October 2, 1891; *Arizona Gazette*, October 2, 1891. Of the twenty-two delegates originally elected, only former governor Frederick W. Tritle did not attend the convention at all; four others, J. W. Anderson, Alonzo Bailey, George Chey-

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ney, and Marcus A. Smith, did not vote for the final document for reasons that were not stated in the journals or any of the newspaper articles. All of the delegates except Tritle signed the constitution, however. See *Journals of the Constitutional Convention*, p. 56; *Constitution for the State of Arizona*, p. 28.

50. The protest was recorded in the *Journals of the Constitutional Convention*, p. 56; Herring's speech was reported in the *Phoenix Herald*, October 3, 1891.

51. *Arizona Republican*, October 4, 1891.

52. *Constitution for the State of Arizona*, p. 3.

53. *Ibid.*, pp. 4, 5.

54. *Ibid.*, pp. 3, 6.

55. *Arizona Weekly Journal-Miner*, November 4, 25, 1891.

56. *Arizona Republican*, October 17, 1891; *Arizona Citizen*, November 28, 1891.

57. *Arizona Gazette*, October 14, 1891.

58. *Prescott Weekly Courier*, October 16, November 6, 1891.

59. *Arizona Star*, October 29, 1891; *Phoenix Herald*, December 1, 1891; *Arizona Gazette*, October 6, 1891.

60. *Arizona Republican*, October 8, December 2, 1891. Canvass for the congressional delegate election, Arizona Secretary of State, RG 2, Election Records, Series 2, Box A-1, ADLAPR.

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