

THE INFLUENCE OF ORGANIZED
LABOR ON THE MAKING OF
THE ARIZONA CONSTITUTION

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by

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Introduction

By the time of the passage of the Enabling Act in 1910 it was anticipated that organized labor would not be a passive factor in the formation of the new state government for Arizona. Feeling that the interests of labor were hampered under the Territorial government, its hope for a higher place in a state government made it especially interested. It is the purpose of this thesis to analyze the activities of this group prior to the Enabling Act, its participation in the election of delegates, its power in the Convention to write measures in the Constitution directly favoring its interests, and its influence during the ratification of the completed Constitution by the people of Arizona and by Congress.

CHAPTER I.

Early Struggle For Statehood

From early Territorial days the people of Arizona aspired to statehood until they were finally successful in 1912. In 1872, when other territories were becoming states, Delegate Richard C. McCormack of Arizona made an appeal to Congress for statehood. At this time the Territory had a population of 12,000, very few of whom were taxpayers. From this time on until 1909 every delegate to Congress introduced a bill for statehood.¹

A step toward the goal was made in 1891 when Congress passed an act providing for the holding of a Territorial Convention but it did not provide an enabling act. This convention, when assembled, was strongly partisan; the Democrats having seventeen members and the Republicans only five.

Acting Governor N. O. Murphy, when speaking of the parties in the convention said that the principal bone of contention was the question of a "test act" for the Mormons.

1. Wright, J. B., Story of Arizona's Admission to Statehood, a paper in University of Arizona Library.

"The Democrats oppose the 'test oath' and the Republicans favor the measure because the Mormons of Arizona vote the Democratic ticket, and that the question is entirely political and not moral, and the proposed 'oath' if required by the constitution would be an unjust and unconstitutional discrimination on account of religious belief; that the Mormons have renounced the practice of polygamy and bigamy by edict of their church authorities, and that they conform to the laws of the country, are worthy people, and are entitled to the same consideration accorded to other citizens." 2

The constitution, completed on October 2, 1891,³ stated that gold and silver were to be legal tender for all debts and obligation contracted in the state; any contract to the contrary notwithstanding. It also said that eight hours were to constitute a day's labor in all state works.⁴ The voters of the Territory approved the constitution by a vote of 5,440 to 2,282.⁵

Delegate Smith was able to get the constitution through the House, which had a Democratic majority,⁶ by a vote of 174 to 12, but it was killed in a

2. Report of N. O. Murphy, Acting Governor of Arizona, to the Secretary of the Interior, 1891, pp. 39-40; Report of The Governor of Arizona, 1885-1895.
3. McClintock, J.H., Arizona: The Youngest State, Vol. II, p.362
4. Letter of F. O. Brady to the Enterprise, Florence, 1891, Collection of documents and papers on Statehood, Vol 21, Compiled by Geo. H. Kelly, Later citations will be under Kelly, Geo. H.
5. Report of L. C. Hughes, Governor of Arizona, to the Secretary of the Interior, 1893, p. 57, Report of the Governor of Arizona 1885-1895.
6. Graham County Bulletin, Solomonville, Arizona, June 10, 1893.

Senate committee in 1893.⁷ The Republicans were opposed⁸ to the provision that silver should be legal tender. At this time the National Democratic party was for free and unlimited coinage of silver.⁹ The Republicans were opposed to statehood for Arizona because it would mean two more Democratic senators in Congress.¹⁰ During the time Congress was debating on the constitution, a committee from Arizona¹¹ was in Washington to lobby for its passage.

Further unsuccessful efforts to get statehood were made by Delegate Murphy in 1895 and Delegate Wilson in 1899.¹²

From the above facts the conclusion can be drawn that there was a certain element in Arizona in the late nineteenth century who desired statehood. Just why they were so desirous of having a state government is a different problem. Settlers of the western lands who had come from other states naturally felt that they were capable of running their own government. This idea was expressed in a message of Governor Zulick in 1889:

"For more than a quarter of a century the people of Arizona have been deprived of all voice in the government which they help by their taxes to maintain. The time has arrived when Arizona should be relieved from this tutelage and

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7. Robinson, W. H., The Story of Arizona, p. 177.
 8. Report of L. C. Hughes, op. cit., p. 58.
 9. Graham County Bulletin, Solomonville, Arizona, May 20, 1892.
 10. Ibid., December 22, 1893.
 11. McClintock, J. H., op. cit., pp. 262-3. This committee included Charles W. Wright of Tucson, W. J. Murphy of Phoenix, E. B. Gage of Congress, John Lawler of Prescott, and Dr. L. W. Mix of Nogales.
 12. Robinson, W. H., op. cit. p. 177.

be endowed with the duties and responsibilities of statehood. A territorial government, depriving, as it does, the citizen of full participation in the government under which he lives is repugnant to the enlightened sense of the American people." 13

He further expressed the same idea in 1894:

"Now they are taxed, yet unrepresented. They have no voice in the Federal Laws created for their government; they have no voice in the naming of the territorial officers who govern them, or in the selection of judges who pass upon their dearest and most sacred rights. their legislature can form no law which is not subject to the disapproval of Congress". 14

This emotional aspect undoubtedly had some effect upon the clamor for statehood, but the primary motives were economical and political. The leaders of the movement put stress upon the emotional side because they knew it would arouse interest in folk who otherwise would not be effected to any degree by the economic and political motives. Nearly every American has learned in his elementary history courses that the colonies broke from the mother country because there was "taxation without representation". Politicians used this slogan in nearly every public speech for statehood.

The fundamental motive for statehood was the desire of the taxpayers of the Territory to have

13. Message of Governor Zulick to the Territorial Legislature, January 21, 1889, Messages of Territorial Governors to Territorial Legislatures from 1864 to 1909.

14. Kelly, Geo. H., Statehood, Vol. 21. Arguments of C. Meyer Zulick, ex-Governor of Arizona, submitted to the Committee on Territories, U. S. Senate, January 22, 1894, p. 10.

power to tax property which was then able to escape taxation. From early Territorial days, mining, farming, and live stock raising have been the chief industries of Arizona. Although the mines produced more wealth than any other industry, it paid only a small tax as is shown by a table of taxable values reported by the Territorial Board of Equalization.¹⁵ The stocks of these different mining corporations were sold to capitalists in the east or in foreign countries. This meant that the tax on the stock of the mines did not go to Arizona as the "tax status, or legal residence of personal property for tax purpose, is the residence of the owner."¹⁶ If the people could get the government in their own hands they might levy a heavier tax on the mining corporations. In the first place it would be possible to raise the rate of assessment on mining improvements; also they might put a high yearly registration fee upon each corporation. The Governor of the Territory also hoped for some sort of an income tax for in a report to the national government he said that

"either the profits of mines or proper value upon the dividends of paying mines should also be assessed. There can be no possible justification for permitting great producing mines to¹⁷ escape contributing to the revenue of the Territory."

15. Message of Governor Franklin to the Territorial Legislature January 28, 1897. Messages of Territorial Governors to Territorial Legislatures from 1864 to 1909. See Governor Murphy's messages of 1891 and 1899.

16. Murdock, J. R., Constitutional Development of Arizona. p. 14.

17. Message of Governor Murphy to the Territorial Legislature, January 16, 1899. Source same as of note 15 above.

The people also felt that the railroads should be another source of income when the Territory became a state. An early policy of the United States government was to give large tracts of land to railroad companies to induce them to build railroads into the west; this land and improvements thereon were exempt from taxation for a certain time. By 1890 a tax had been levied on part of the railroad property but there was still some exempted. Those that were taxed usually paid less than they should have paid by giving a low valuation to the assessor. If properly taxed, these railroads would bring in a large revenue to the Territory. The Territorial Board of Equalization catered to the railroad interests.

"It is observed at the meetings of the Territorial Board of Equalization that representatives of the different railroads nearly always appear and ask for a reduction in valuation. They should be fully taxed. This Board of Equalization is under territorial officers appointed by the national government and not dependent upon popular will in Arizona." 18

As shown by Governor Murphy's message to the Territorial Legislature in 1893, there was a feeling in the Territory that there should be no exemption of any kind unless the voters of the Territory desired it:

"Their construction (railroads) should be encouraged under suitable limitations, wherever it is clear that the material interests

18. Ibid., January 20, 1891.

of the Territory are advanced thereby. The right to regulate and control, however, whenever the people's interests are concerned, should be carefully preserved by the State, and suitable safeguards should be maintained in regard to questions of taxation Encouragement of this kind should be granted, properly limited, whenever a majority of the taxpayers desire it, but I deem it unwise to exempt for too long a time." 19

There were also other minor sources from which the Territory could get revenue if it had control over the government. Much of the land held by the national government would be turned over to Arizona, and thus produce a revenue. Complaints were also made that the wealthy cattle and sheep owners with large droves grazing upon these untaxed domains, did not always return to the assessor all of their property. When the assessor came around he saw only a few of the sheep or cattle at once and did not know how many there were in all.

With this system of taxation it was only natural that those who paid taxes would want statehood so the burden of taxation would be equally distributed. The Governor of the Territory said

"that if all property in the Territory subject to taxation were assessed, at a proper valuation, the people who now bear the burdens of government--which are now unequally distributed--would pay less than they do under the present conditions." 20

19. Message of Governor Murphy to the Territorial Legislature, February 14, 1893. Messages of Territorial Governors to the Territorial Legislatures from 1864 to 1909.

20. Ibid., January 16, 1899.

The question is, who paid the taxes? The answer is that those paid who could find no way, by foul means or fair, to escape. Taxation fell principally upon the small real estate owner, the grazer with a small band of cattle or sheep, and the farmer. A more definite picture can be drawn by giving the tax report of 1898. The total taxable values of the Territory was \$28,047,176. Of this amount the value of land was \$1,393,285; value of town lots was \$3,313.063; value of improvements of town lots was \$3,289,880; value of cattle was \$3,413,001; value of rail-roads was \$5,333,082; and the tax on mines was not mentioned.²¹

It is hard to estimate what part labor played in this early struggle for statehood, but its influence could not have been great. Labor has very little influence except when it is organized and there were no general organization formed, except those of railroad employees.²² Labor had not organized because the condition of the laboring classes was good,

"the supply and demand are fairly equalized, wages satisfactory, and labor contented".

So far there had been no strikes or organized movement²³ against capital. Three fourths of the voting population

21. Ibid., Message of Governor Franklin, 1897, p. 7.

22. McClusky, H. S., Interview.

23. Report of Murphy, Governor of Arizona, to the Secretary of the Interior, 1891, p. 34. Report of the Governor of Arizona 1885-1895.

were miners and most of the miners were Democrats.

Throughout this early struggle for statehood the national government said that the Territory was not ready for statehood. The lawlessness of the people and the large debt of the Territory were used by them as indications that the people could not govern. Those desiring statehood answered back that the Territory had sufficient wealth, population, and good government to become a state. Many of the states admitted during the last forty years had no greater population than Arizona and much less undeveloped^e walth.²⁵ Statistics could be shown to Congress that Arizona had a right to become a state. She had in 1893 approximately 80,000 population, 1,750,000 acres of pine forest that could be used when statehood was acquired, 1,000,000 acres of cultivated land, 1,000 miles of irrigation canals, \$15,000,000 vested in mining machinery, \$20,000,000 invested in live stock, \$25,000,000 in annual products, and \$80,000,000 of taxable property.²⁶ As these figures were given by Mr. Ellinwood, who then resided in Coconino county, they may have been slightly exaggerated, for he was speaking for the people who desired statehood. There were no mines in that county that would be affected

24. Ibid., Report of Governor L. C. Hughes, September 26, 1895, p. 80.

25. Ibid., September 1, 1893.

26. Kelly, Geo. H., Statehood, Vol. 21. Speech of E. E. Ellinwood of Coconino county, Nov. 27, 1893.

by statehood but there were people who desired to get their hands on the timber land of the northern part of the county. The Governor attributed the debt of the Territory, which was \$3,000,000, to national control:

"It may be claimed by some that a plea for statehood is now ill-timed when considered in connection with the financial condition of the territory. If the conditions are carefully analyzed, it must certainly be apparent that the financial conditions of Arizona are almost entirely due to the faulty revenue system, either as to law or the enforcement thereof, and cannot be constantly claimed as a reason of inability for successful self-government." 27

The leaders of the Statehood movement in Arizona knew that the national government's argument that the Territory was not ready for statehood was a curtain behind which they tried to hide the real objection. The real objection was that Arizona would be a Democratic state and send two Democratic senators to Congress. Since the Civil War the Senate of Congress usually had been controlled by the Republican party. The importance of Arizona as a Democratic state was referred to as far back as 1879.

"With the Democratic party in power it behooves us to go to work at once to perfect our organization and thus furnish, when Arizona does become a state, two Democratic senators to help the party maintain its control of the senate, and a representative of the same faith. With the thorough

27. Message of Governor Murphy to the Territorial Legislature, January 20, 1891. Messages of the Territorial Governors to the Territorial Legislatures from 1864 to 1909.

organization of the party there we could show such a majority in the territory that congress would not hesitate an instant to admit us, for no other reason than to increase the party strength in the Senate and House." 28

By the twentieth century Arizona's struggle for statehood had taken on a somewhat different aspect. The south and the west had taken up Arizona's cause and Congress realized that statehood for Arizona must come in a few years. As statehood was inevitable, the Republicans tried to figure out some way in which they could control Arizona. Senator Beveridge, Chairman of the Committee on Territories, was probably the first one to think this could be accomplished by uniting New Mexico and Arizona. In 1902 he made a visit to Arizona to investigate the conditions of the Territory to see if it were ready for statehood. On his return to Washington his report stated that he could not recommend statehood for Arizona unless²⁹ it and New Mexico were taken in as one state.

Mr. Quay, on November 16, 1903, introduced into the House a bill

"to enable New Mexico and Arizona to form a constitution and state government and be admitted into the union on equal footing with the original states." 30

28. Kelly, Geo. H., Politics, Vol. 27, An article from the Arizona Silver Belt, January 24, 1879. Office of the State Historian, Phoenix, Arizona. A Collection of documents and papers on Arizona politics.

29. McClintock, J. H., op. cit., p. 362.

30. Bard, T. R., The Autonomy of Arizona Guaranteed Forever, p. 3. Speech of Senator Bard of California in the Senate of the U. S., Friday, January 6, 1905.

Chairman Hamilton forced the bill through the House by a vote of 195 to 150 in spite of the protest of Arizona's delegate who repeatedly told them that Arizona did not want statehood if, to acquire it, she must be joined with New Mexico.³¹ E. E. Ellinwood, Chairman of the Democratic Territorial Central Committee, at a hearing before the House Committee on Territories, December 11, 1903, expressed the opinion of Arizona:

"If you cannot benefit the Territory of Arizona, do not do her any harm. New Mexico does not want us tied to her and we do not want to be tied to New Mexico. We want statehood, gentlemen of the committee, but we are not insane over the subject of statehood. Arizona is unanimous on this subject. We will not have it if we can help it." 32

Senator Foraker of Oklahoma and Senator Bard of California were the leaders of the opposition in the Senate and Senator Beveridge led the side that favored it. Foraker succeeded in getting an amendment tacked to the bill which allowed both territories to vote on the acceptance of the joint bill. A provision was also attached that elections were to be held in Arizona under the law of 1906, as many of the Mexicans had been disfranchised by a later Educational Test Bill.³³

The two territories voted in November 1906; the returns in Arizona were: 3,141 for and 16,265

31. McClintock, J. H., op. cit., p. 364.

32. Bard, T. R., op. cit., p. 7.

33. Wright, J. B., op. cit., Admission to Statehood, pp.7-8.

against; the returns in New Mexico were: 26,195 for and 14,735 against. Thus there was a majority in the negative of all votes cast and the Joint-Statehood Bill had been defeated.³⁴ Organizations had been at work in Arizona to have the bill defeated. The Board of Trade in Phoenix asked all commercial organization to meet their delegates in conference. There Governor Kibby issued a call for a convention. The convention met and a non-partisan Anti-Joint Statehood League was organized. This organization was the nucleus³⁵ of the opposition.

This vote did not mean that the people of Arizona Territory cared less for Statehood than did those of New Mexico Territory: instead, it meant that the people of the Arizona Territory had fundamental reasons for their opposition to a joint government with New Mexico. Practically the same interests desired statehood in 1906 that had desired it in the previous century with the exception that labor was better organized and saw the possibilities of getting laws more favorable to labor under a state government than they could under a territorial government. The taxpayers of the Territory were becoming more insistent that the railroads, the mines, and the unsurveyed domain should be more adequately taxed. The opinion against

34. Robinson, W. H., op. cit., p. 179.

35. "Builders of the State", Arizona, September, 1910, p. 74.

the mines was thus voiced by the Governor:

"Great wealth has for many years been taken from the mines in this Territory and distributed as dividends to other sections of the world. Assessment has been made of, and taxes levied on, the surface ground and reduction plants of these mines; this has been done, apparently, without taking into consideration the value of the individual property as a revenue producer A tax ... imposed upon the output of producing mines, would add materially to the revenue of the Territory; would greatly reduce the rate of taxation, and would allay the feeling of those engaged in other pursuits than mining that they were bearing more than their share of the expense of maintaining the government." 36

Although a majority of the voters of the Territory desired statehood they preferred to live under territorial government in Arizona than under joint government with New Mexico. In this instance and in nearly all similar cases there were theoretical reasons and real reasons. That statement does not mean that the theoretical reasons did not contain a substance of truth in them or were not of importance, but it means that they, by themselves, would not have been significant. These theoretical reasons were that the two Territories were too large for one state, that the two Territories had nothing in common, and that Congress was breaking her promise to Arizona. If

36. Message of Governor Brodie to the Territorial Legislature, 1903, Messages of Territorial Governors to Territorial Legislatures from 1864 to 1909.

the two Territories were combined they would have an area larger than the total area of the original thirteen colonies. A state of this size was considered much too large for a good governmental machine. The two Territories had nothing in common since they had been separated for forty years and during that period they had developed different governments, different codes, different laws, different histories, and different debts.³⁷ Speakers, newspapers, and periodicals accused Congress of breaking good faith with the Territory as she was not abiding with the act of February 24, 1863 which created the Territory of Arizona. This act provided

"that said government shall be maintained and continued until such time as the people residing in said Territory shall ...apply for an obtain admission as a state on equal footing with the original states" 38

and

"that nothing in the provision of this act shall be construed to prohibit the Congress of the United States from dividing said Territory or changing its boundaries in such manner and at such time as it deems proper' "

but it omits the usual reservation of the right to " 'attach any portion of the Territory to any other State or Territory of the United States' ".

This omission, they claimed, signified that Congress would
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never again join New Mexico and Arizona.

37. Official Record of Mark A. Smith, Delegate from Arizona, 1887-1909, Vol. IV, p. 630. Compiled Reports of the House of Representatives, U. S. Congress.

38. Ibid., p. 688.

39. Bard, T. R., op. cit., p. 22

It can be concluded that the real reason that Arizona didn't want joint statehood is that she would be dominated by New Mexico; according to the Census of 1900 the population of Arizona was 122,931 and the population of New Mexico was 195,310.⁴⁰ Domination by New Mexico would mean Republican party control by the Mexican race. The majority of the people of New Mexico were native New Mexicans of Spanish, and mixed Spanish and Indian descent. Practically all of the people spoke the Spanish language in the affairs of daily life, and the majority spoke nothing but Spanish. Thirty-two and two tenths per cent were illiterate.⁴¹ The majority of the people of Arizona were of the white race.

A senator from South Carolina expressed the views of the typical Southern Democrat when he said:

"If I understand the situation, that it is a cry of a pure blooded white community against the domination of a mixed breed aggregation of citizens of New Mexico, who are Spaniards, Indians, Greasers, Mexicans, and everything else ... I want to say that I cast no reflection upon the New Mexicans, but I say, as a white man, I appeal for white supremacy in Arizona." 42

New Mexico was a strong Republican territory. Under its control, many Arizonians felt that corporations would control the industries and government. The Governor of the

40. McClintock, J. H., op. cit., p. 364.

41. Official Record of Mark A. Smith, Delegate from Arizona 1887-1909, pp. 695-700.

42. Bard, T. R., op. cit., p. 7.

Territory expressed the feeling that the people didn't want to give up the control they had.

"They have worked too hard to mold the State from the desert; they have expended too much time and energy in the upbuilding of the Territorial public institutions to, at this late day, desire to surrender their control to others." 43

Many people in Arizona felt that they were being sacrificed for party gains.

"The creation of new states has often marked some important epoch in the political history of the nation and too frequently has signified the accomplishment of some selfish scheme of political party which at the same time controlled the government." 44

Organized labor was one of the strongest opponents of joint statehood. By 1906 the railroads and the mines of the Territory were well organized into local unions.⁴⁵ The members of the Unions didn't want the Mexican as a co-worker or as a political faction within the state. They did not want the Mexican as a co-worker because they had a racial prejudice against him, because he did not readily join labor unions, because he had a lower standard of living, and because he voted the Republican ticket. As he did not join the unions he underbid the union man, thereby he threatened the union wage; not only that but he was often used as a strike breaker. The Mexicans' low standard of living made it possible for him

43. Report of the Governor of Arizona to the Secretary of the Interior, 1903, p. 205.

44. Bard, T. R., *op. cit.*, p. 7.

45. Clark, U. S., "Mexican Labor in the United States," Bureau of Labor Bulletin, no. 78, p. 477-492.

to work for a lower wage.

"The wants of the Mexican peon are hardly more complex than those of the Indian from whom he is descended. An adobe hut with an earth floor, or even a shelter of branches against the wind, a few pieces of pottery, a serape or a sheepskin to lie on at night and keep out the blasts by day, a modicum of cotton clothing, sandals, and a cheap straw sombrero are a sufficient domestic equipment. Corn, beans, and chili are the staples of his coarse and simple diet." 46

Probably the greatest objection that labor had to joint-statehood was that the Republican domination by the labor vote would take many of the privileges from him that he already had and stand in the way of future legislation favorable to labor. This truth is illustrated by the comparison of the Constitutions adopted by the two territories in 1910.

46. Ibid., p. 501.

CHAPTER II.

EVE OF THE CONVENTION

Labor Awakens To Its Opportunity

After the Joint Statehood Bill was defeated by a popular vote of the Territories, the people of Arizona felt more at ease. They knew that Congress had absolute power over the admittance of new states but now that joint statehood had been defeated there was not much chance that this attempt would be repeated. They felt that statehood would come within a few years, but each year deferred was a golden year lost. In the election of delegates for Congress in 1908 both the Republican and Democratic delegates promised statehood for Arizona if elected.¹ The election returns showed that the Republican candidate Cameron won over the Democratic candidate by a majority of seven hundred.² This did not mean that the majority of the people had suddenly given up their Democratic principles and turned Republican, but it meant that they would vote any way for expediency. They felt that the Republican candidate could be on friendly terms with his brother Republicans and get a more favorable enabling act than a Democrat could.

1. House Reports, Vol. I, 61st Congress, 2nd Session, 1909-10, Report No. 752, p. 8.
2. The Nation, Vol. 90, p. 620.

Mr. Cameron worked hard for an enabling act for Arizona. On July 15, 1909 he introduced into the House a bill: "To enable the people of Arizona to form a constitution and state government and to be admitted to the union on an equal footing with the original states."³ The final enabling act gave Arizona and New Mexico permission to form constitutions, under certain restrictions. The bill passed Congress and was signed by President Taft June⁴ 20, 1910.

In accordance with the requirements of the enabling act, Governor Sloan issued the following proclamation:

"I, E. Sloan, Governor of the Territory of Arizona, pursuant to the provisions of the act of Congress approved June 20, 1910, do hereby order and proclaim that on the 12th day of September, 1910, a general election shall be held by qualified electors of the Territory of Arizona, for the election of delegates to a Constitutional Convention."

The fifty two delegates were apportioned on June 25, 1910⁵ by the men designated in the enabling act.

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3. House of Representatives, 61st Congress, 1st Session, No. 11578, pp. 1-23.
 4. For provisions of the Act see: Statutes of the United States of America, 61st Congress, 2nd Session, Pt. I, Chapter 310.
 5. Arizona Daily Star, July 2, 1910, p. 7. An elector was any male citizen of the United States over twenty one years of age who had been in Arizona twelve months and possessed the qualifications of an elector of Arizona in 1901. This provision was made because Arizona had adopted an educational test act.

As the time grew near for the election of delegates to the constitutional convention, the different economic groups realized more than ever that they must get busy in order to have their interests represented. To understand the work of the convention it is necessary to understand the economic conditions of Arizona in 1910, for each delegate chosen spoke for some interest. The mining and railroad corporations, the farmers, the cattle and sheep men, and the labor organizations would support men who would vote for measures which they desired. The success of each of these groups depended upon the number of votes they could control. To determine this, the following things must be known: first, the population of each county; second, the approximate number of people of the different groups in each county; third, the power of each group, through propaganda, "dirty politics", or any other method, to control the votes of those who were "on the fence" and did not know for whom they would vote.

This can best be shown by tables. Table I shows the population and total evaluation of each county in 1910 together with the evaluation of the chief industries. Table II shows the approximate numbers of workers in the important industries.⁶

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6. a. Table I. Proceedings of the Territorial Board of Equalization of Arizona 1910, pp.17-31
b. Table II. Thirteenth Census of the United States, Vol. IV, pp435-436

TABLE I.

FISCAL VALUATION OF PROPERTY IN ARIZONA
FOR THE YEAR 1910

COUNTY	POPULATION	TOTAL VALUATION	NO. OF FARMS	VALUE OF CULTIVATED LAND	RANGE STOCK & BEEF CATTLE	RAILROADS	MINES
Apache	9,196	\$ 1,481,309.94	803	\$ 53,620.50	\$122,120.00	\$ 653,760.00	-----
Cochise	34,594	19,323,963.03	1,042	117,000.00	548,890.00	3,134,820.00	\$7,462,635.10
Coconino	8,130	3,929,228.85	656	17,125.00	575,000.00	1,019,398.10	32,273.25
Gila	16,348	6,498,520.33	515	27,688.00	488,040.00	532,696.43	2,016,123.06
Graham	23,999	8,489,610.34	889	974,680.00	463,190.00	1,226,326.00	3,788,809.34
Maricopa	34,488	17,779,942.99	2,229	5,838,835.00	295,100.00	1,390,580.90	7,74,954.55
Mohave	3,773	1,982,275.29	111	-----	217,185.00	581,218.13	560,076.42
Navajo	11,471	1,938,850.61	977	5,878.45	203,099.00	323,388.33	-----
Pima	22,818	8,058,330.33	405	71,782.00	264,540.00	1,039,106.00	653,700.20
Pinal	9,045	2,702,111.71	614	131,269.00	235,661.00	1,153,910.87	263,122.35
Santa Cruz	6,776	2,271,294.54	176	62,272.00	187,830.00	340,600.00	187,827.16
Yavapai	15,996	9,719,993.88	522	120,593.00	634,490.00	603,059.16	4,237,927.07
Yuma	7,733	<u>3,738,139.66</u>	<u>288</u>	<u>116,349.00</u>	<u>15,938.00</u>	<u>1,239,500.00</u>	<u>437,142.66</u>
	52,525	\$87,913,371.50	9,227	\$7,845,193.95	4,202,683.00	\$10,716,230.20	\$19,714,592.16

TABLE II.

MALES ENGAGED IN INDUSTRIES

A. Farms		
1. Farm operation	9,229	
2. Hired labor	3,300	12,527
B. Mining		
1. Operators and salaried employees	1,177	
2. Wage earners	16,917	18,094
C. Railroads		
1. Brakemen	356	
2. Foremen and overseers	357	
3. Laborers	3,669	
4. Engineers	373	
5. Firemen	297	5,043
D. Animal Husbandry		
1. Stock herders, drovers, and feeders	3,741	
2. Stock raisers	2,267	6,042
E. Manufacturing and Mechanical Industries		
1. Blacksmiths	795	
2. Brick and stone masons	342	
3. Builders	334	
4. Carpenters	1,781	
5. Electricians	345	
6. Engineers	1,248	
7. Furnacemen, heaters, pourers, smeltermen	465	
8. Laborers		
a. Copper factories	1,684	
b. General laborers	2,529	
c. Saw and planing mills	340	
d. Painters	360	
e. Plumbers	245	
		<u>13,626</u>
		55,331
Total males in all occupations		77,236

As Indian reservations are in the northern part of Apache county, the white settlers are in the southern part. The Little Colorado River runs through the southern part of the county; canals run from this river to furnish abundant water to the farms of that region. In the extreme southern part of the county are stretches of grazing land upon which large herds of cattle and sheep roam. The population at this time was chiefly white, many⁷ being descendants of the early Mormon settlers. There were no mines in the county and no railroad centers. The people of this county would be interested in having a high tax put upon the corporations but would not be interested in laws favoring labor; neither would they be especially opposed to such laws.

Cochise county had the largest population of any county in the Territory. This fact is not significant after knowing that it was one of the richest mining counties within the Territory, and the mines had to use an enormous amount of labor for the large output. These mines were located in or near the Towns of Bisbee, Tombstone,⁸ Pierce, Johnson, and in the Turquoise district. There are within the boundaries of the county the San Pedro, Sulphur Springs, and Rio de Sauz valleys, which include considerable

7. De Long, S. R., The History of Arizona, pp. 89-92.

8. Report of the Governor of Arizona to the Secretary of the Interior 1910, p. 32.

bodies of agricultural land; at that time irrigation projects were needed for its development.⁹ Railroads had been built to reach the different mining centers. The main contest in this county for delegates to the convention would be between the mining and railroad interests on one side and organized labor on the other.

Coconino county was one of the largest counties within the Territory but was very sparsely settled, partly due to the large areas of mountains and desert, and also because there had not been any great attracting feature. The chief industries were farming, cattle and sheep raising, and lumbering. Sheep raising was one of the most profitable industries as there were large areas of plateau country. In the northern part of the county there were ¹⁰ thousands of acres of pine forests.

The chief industry of Gila county was mining; all the mines were located in Globe and Summit.¹¹ The county is too mountainous for much agriculture. Globe had always been a strong center for organized labor, hence for several months prior to the election of delegates it was predicted that they would be able to elect men who would ¹² represent their interests.

9. Thornber, John, Personal Interview

10. De Long, S. R., op. cit., pp. 94-99.

11. Report of the Governor of Arizona to the Secretary of the Interior, 1910, p. 32.

12. McCluskey, H. S. Interview. He was the private secretary of G. W. P. Hunt, and a leader of labor.

Graham county, too, had mining as its chief industry. Its population was the third largest in the Territory; a large majority of this population was employed¹³ in the mines of Metcalf, Morenci, and Clifton. Along the Gila River near Solomonsville were a number of farms.¹⁴

Maricopa county had the second largest population of any of the counties. Its fertility of soil and its water supply made it the most important agricultural center in the Territory; in 1910 it embraced about five-sevenths¹⁵ of all the cultivated land in the Territory. Maricopa county is fortunate in that it has the great Salt River Valley within its area. The Salt River is a chief tributary of the Gila River; it receives the rainfall of the White Mountains and the southern slope of the rim of the plateau.¹⁶ The people who live in this county are, for the most part, small farmers. There was one mine in the county that employed only a few men.¹⁷ A railroad ran through Phoenix but there were no shops there. In the larger towns of the county labor was organized into trade unions but the bulk of the laborers--the farm help--were unorganized.¹⁸

13. De Long, S. R., op. cit., pp. 111-115.

14. Thornber, John, Personal Interview.

15. See Chart of industries.

16. Irish, F. M., Arizona, p. 12.

17. Tenney, J. B., Personal Interview. (Connected with the Bureau of the United States Mines, University of Arizona)

18. McClusky, H. S., Personal Interview.

In 1910 Tucson had a population of 13,193, which was more than half of the total population of Pima county.¹⁹ Tucson was the base of supply for a large number of the mines and did much wholesale and jobbing business. The Southern Pacific shops were the largest in the Territory.²⁰ There was a little agricultural development along the Santa Cruz River.²¹ Stock raising was one of the chief industries.²² There were four producing mines in the county at that time; two located in the Silverbell district, one in the Helvetia district, and one in the Pima district.²³

In Santa Cruz county farming was carried on to some extent along the Santa Cruz River and the Babacónri Creek. There were several large cattle ranches around Patagonia and the Mexican border.²⁴ The old silver mines were not productive any more.²⁵

Yavapai county was also principally a mining country; the chief mines were near Congress, Jerome, Humbolt, and Meyer. Stock raising was the second most important industry, while agricultural pursuits were of third importance.²⁶

Nearly the total population of Yuma county

19. Thirteenth Census of the United States, 1910, Abstract with supplement for Arizona, p. 568.

20. Ibid.

21. Thornber, John, Personal Interview.

22. DeLong, S. R., op. cit., p. 138.

23. Report of the Governor of Arizona to the Secretary of the Interior, June 1910, p. 32.

24. Thornber, John, Personal interview.

25. See Chart of Industries.

26. De Long. S. R., Ibid., pp. 167-176.

was located in or near the town of Yuma which was a shipping point for the mining and agricultural regions. Water from the Colorado River was used to irrigate a strip of land extending along the river from Yuma to the Mexican border.²⁷ There were three producing mines in the county; two in the King of Arizona district, and one in the Pedmosa district. These mines were not very large but they furnished work for a considerable number of the population.²⁸

In Pinal county the chief occupations were cattle raising, farming, and mining. The farms were located in the fertile valley of the Gila River.²⁹ There were only three producing mines in the county and their output was small.³⁰ A railroad ran through the county but there were no railroad shops or terminals.³¹

Many of the people who lived in Mohave county were dependent either directly or indirectly on the mines.³² There was also considerable cattle raising, but practically no farming.³³

The industries of the different counties of the Territory have just been given. By looking at the following table of the total assessed value of the Territory in 1910, a comparison of the various industries may be made:

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27. Thornber, John, Personal Interview.
 28. Tenney, J. B., Personal Interview.
 29. De Long, S. R. Ibid., p. 130.
 30. Tenney, J. B., Personal Interview.
 31. McCluskey, H. S., Personal Interview.
 - 32.
 33. Thornber. John. Personal Interview.

TOTAL ASSESSED VALUE OF PROPERTY 1910 ³⁴

Town and city lots and improvements	\$24,957,637
All mining property	19,714,592
Railroads	13,324,292
Land and improvements	12,624,760
All live stock	7,480,050
All other property	9,912,049
<hr/>	
Total	\$87,913,371

By these figures it is seen what industries owned the most wealth within the Territory, and also at which occupations most of the laborers would be employed. This would mean that in the counties where these industries were of greatest importance there would be a contest between capital and labor to elect the men to represent their respective interests at the convention. The outcome of this would depend to a great extent upon the organization of labor. Corporations, with their money to control newspapers, with their control over the men they employ by telling them that they will lose their jobs unless a certain man is elected, always have the upper hand over labor unless labor is well organized.³⁵

34. Report of the Governor of Arizona to the Secretary of the Interior, June, 1910, p. 30.

35. Hunt, G. W. P., Personal interview.

The growth of organized labor in Arizona has been very slow. Before the twentieth century there were no organizations with the exception of a few local mining organizations. Even the organization of miners had not become widespread until about 1905. By 1909 the Western Federation of Miners ^{was} ~~were~~ organized in the Territory, and there were several other trade unions within the Territory, but there was no Territorial Federation of Labor or any sort of central organization. This meant that labor was organized only in certain parts of the Territory. Men who work for large corporations that have a great number of men on their payrolls always organize more readily than a small group of men, for they have learned by experience that they can better wages and laboring conditions by collective bargaining more easily than they can by individual bargaining.³⁶

There were few strikes during Territorial days and those that were attempted were unsuccessful. In 1903 there was a miners' strike of short duration, though accompanied by a good deal of violence. The operators frequently affirmed the right of the men to organize

36. McClusky, H. S., Personal Interview.

but refused to deal with their workers through any labor organization.³⁷ The organizations were determined that they should have collective bargaining and if the manager refused their demands the only thing left for them to do was to strike. After the organizations became more powerful, the workers began to demand improvement of working conditions and a greater degree of comfort and safety. This movement led to strikes in 1906 and 1907 in Bisbee, Morenci, and other camps. The strike failed, partly because of the panic of 1907, and partly because the laborers' organization was not strong enough to keep the strikers from re-³⁸turning to work before their objectives were accomplished. In 1909 the Old Dominion Mine of Globe closed down "following the action of a walking delegate who entered the shaft house and pulled a non-union miner from the cage as it was about to drop with him to his station. The other large mines of the camp joined in silent protest and about³⁹ 2000 men were paid off."

When the managers of the mines saw that there was to be organized resistance against them, they struck back by using the blacklist. If a man^{was} discharged after participating in a strike, his name, age, and physical characteristics were sent to other managers. The

37. Conditions and events connected with labor strikes in Globe-Miami mining districts, p. 2-3.

38. McClusky, H. S., Personal Interview.

39. McClintock, J. H., Arizona: The Youngest State, Vol. II, p. 590.

same thing was done by the railroads. To obtain jobs, men had to go under assumed names, and if found out in one camp they had to move on to another one. The black-list was one of the things that organized labor disliked⁴⁰ above all else.

Organized labor had never had any influence over politics because it did not have Territorial unity. In the Territorial Legislatures advocates of labor reform had introduced bills which if passed, would have benefited labor; but the corporation interests had always defeated these bills.

Labor leaders foresaw the possibility of making the status of the laborer better by sending men to the constitutional convention who would work for labor interests. To do this, labor must have a political organization.⁴¹

The leaders of labor first thought that they would organize a Labor party. Invitations were sent out by W. E. Stewart, Secretary of the Bisbee Miners' Union, to the various labor organizations of the Territory to meet in Phoenix on July 11, 1910. The purpose of this conference was to outline certain provisions which labor wanted

40. McClusky, H. S., Personal Interview.

41. Hunt, G. W. P., Personal Interview.

in the constitution. "All organizations," he said, "are urged to be present at this conference. The working class, if it only utilizes it, has the power to make this constitution to its own liking, and if it is properly drafted, our economic struggles of the future will be greatly simplified and our opportunities of bettering our conditions rendered much easier." The basis of representation was to "be one vote for each fifty or major faction thereof in good standing in the locals on July 1, 1910"⁴²

The call was heeded, for on July 11, 1910, the representatives of unions from all parts of the Territory appeared in Phoenix; these included miners, carpenters, barbers, pressmen, electrical workers, blacksmiths, plasterers, printer, steam engineers, hod carriers, machinists, and bricklayers. Chairman Prevost gave a stirring speech which made those present feel that they were the chosen ones to make Arizona safe for organized labor. In part, his speech was:

"I see in this gathering the representatives of labor grasping one of the greatest opportunities which has ever been offered to the working class to conduct the government of their commonwealth in their own interests. Therefore let us be united to the end that Arizona may receive through our efforts the grandest and most just constitution ever written for any state in the union."

42. Arizona Daily Star, July 8, 1910. p.8.

These delegates proceeded to form a list of things they wished incorporated in the constitution; included in this list were equal suffrage for both men and women, referendum, initiative, recall, anti-injunction law, election of U. S. Senators by popular vote, an employer's liability act, abolishment of the fee system in all the courts, the state to have a right to seize property of any corporation of person refusing to comply with the law, the state to defray the expense of the defense as well as the prosecution of criminals, no private police to arrest or give testimony in court, a two year term for all state officials, the state to have a right to engage in industrial pursuits, and the constitution to be amended by the majority vote of the electors on the initiative either of the legislature or the people.⁴³ By August 24, the Brotherhood of Railroad Trainmen had met and added a request for an eight hour working day, and a provision which would make the master responsible for⁴⁴ the actions of his employees.

Before the organization of this Labor party, the Democratic and Republican parties had been the only parties in the Territory. The laboring class had usually voted the Democratic ticket, hence the Democratic power would be greatly reduced if a Labor party had separate

43. Ibid., July 13, 1910, p.1

44. Ibid., August 30, 1910, p.3.

candidates. This third party was just the thing the Republicans had desired; for with their opposition in two different camps their chances for success would be greater. Labor leaders soon realized that the Democrats spoke the truth when they said that the Republicans desired a Labor party to fool labor and hurt the Democrats. Labor had little or no chance of winning a majority of delegates to the convention; its only chance lay in forming a coalition with the Democrats. This situation was set forth by a local newspaper:

"The labor party formed here bears the ear marks of a ruse put forward by the republican bosses to take away strength from the democratic party in the territory and at the same time insure the defeat of those measures which the workmen are contending for... there is not a ghost of a show for a labor party to win in the election for delegates to the constitutional convention." 45

Leaders of the Labor party and of the Democratic party met and entered into an agreement whereby the Labor party was to withdraw from politics and the Democratic party was to incorporate the Labor platform into its platform. 46 G. W. P. Hunt was influential in bringing this about in that he issued a statement that he favored the initiative, referendum, recall and other measures favored by the Labor party. It is said that he submitted a signed

45. Ibid., July 15, 1910, Sec. 2, p. 1.

46. McClusky, H. S., Personal Interview.

pledge to labor leaders stating that he would favor measures desired by labor.⁴⁷ When the Democratic party met it not only incorporated the platform of the Labor party into its own but it also added other items which were as radical as those the Labor party had fostered. Some of these radical provisions were:

"We insist that fundamental rules and strictures be placed in the constitution guaranteeing the people security against the dominance of corporate and corrupt control of public affairs;... the payment of a just and fair proportion of taxes by all corporations;... no exclusive franchises, extension or renewal of same except by a general law, and then for a term not to exceed twenty years,"⁴⁸

taxation for roads ought to be assessed against property and paid by the people and corporations who are fortunate enough to own the property within the county.⁴⁹

The newspapers of the period show that the campaign for the election was an exciting one. Both parties tried to secure votes by talking against the corporations. A man can appeal to the general populace by saying that he is against monopolies.

"Private conscience will not admit that it owes any obligation to a corporate personality. The attitude of the common mind toward every industrial corporation is one of inherent antagonism When the lion and the mouse are brought within the same arena, no one bestows any sympathy upon the lion." ⁵⁰

47. Tucson Citizen, July 18, 1910, p.1

48. Arizona Daily Star, August 16, 1910, p.3

49. Ibid., August 28, 1910, p.2

50. Kass, N. B. "The Attitude of Public Conscience toward Corporation Right", Political Science Quarterly, Vol. 25, p. 5, March, 1910.

The Democrats said that the Republicans had always been on the same side of the fence that the corporations were. Such attacks as the following were typical:

"Epes Randolph, a high official of the Southern Pacific railroad ... has said that the Democrats must be defeated The corporations do not want the initiative and referendum in the constitution because they want to continue to deal with small bodies They are getting more than they are entitled to and do not want to stop." 51

The Republicans of Pima county had an opportunity to say that Mr. Ives, the Democratic candidate, favored the corporations. He was one of the big corporation lawyers of the Territory and had joined forces with "big business". As a member of a territorial legislature had had favored the limiting to \$5,000 the amount of damages to be paid for a human life in an accident. When asked if he favored removing the limit he said "No". He claimed not to be connected with any corporation: "I say it without respect to the fact that I have been a representative of a corporation and although they are banded against us in the election, they cannot beat us." 52

The Democrats charged the corporations with attempting to force their men to vote the Republican ticket by telling them that if they did not do so they would lose their jobs. This threat was often times successful.

51. Arizona Daily Star, September 11, 1910, p. 8.

52. Ibid., September 11, 1910, p.1.

It was especially so if the men did not belong to labor unions and had not been educated in this matter.⁵³

The chief argument of the Republican party was that men should be elected who would make a "safe and sane" constitution. This meant that the initiative, referendum, and recall should not be in the constitution. With these and other radical measures they claimed there was no assurance that Congress and the President would approve of the proposed constitution; while on the other hand, a constitution without them was certain of success.⁵⁴ The Democratic answer was that the people of Arizona would and would write their own constitution; that when it was written neither the President or Congress would "dare veto it and face the wrath of the great American people."⁵⁵

The final election returns revealed that the Democrats with labor support had elected forty one of the fifty two delegates. The following chart, together with an explanation of the interests of the more important men, will enable the reader to determine what influence labor was apt to have in the convention. The chosen delegates were from all ranks of life, including miners, lawyers, merchants, bankers, railroad men, cattlemen, a minister, a clerk, a butcher, and a saloon keeper. The private life of these men had a great influence in their view point and the way in which they voted in the convention.

53. Hunt, G. W. P., Personal Interview.

54. Daily Arizona Silver Belt, September 4, 1910, p.1.

55. Arizona Daily Star, September 11, 1910, p.8.

DELEGATES TO THE CONSTITUTIONAL CONVENTION 56

County	Name	Party	Occupation	Residence
Apache	Colter, F.T.	(D)	Cattleman	Edgar
Cochise	Bolan, John	(D)	Miner	Bisbee
	Brander, S.B.	(D)	Switchman	Benson
	Connelly, P.F.	(D)	Railroad Engineer	Douglas
	Cunningham, D.L.	(D)	Lawyer	Tombstone
	Ellinwood, E.E.	(D)	Lawyer	Bisbee
	Feeney, Thomas	(D)	Machinist	Bisbee
	Parsons, A.F.	(D)	Lawyer	Douglas
	Roberts, C.M.	(D)	Miner	Dos Cabazas
	Sims, R.B.	(D)	Plumber	Douglas
	Tovrea, E.A.	(D)	Butcher	Lowell
Coconino	Doe, Edward M.	(R)	Lawyer	Flagstaff
	Hutchinson, C.C.	(R)	Cattleman	Flagstaff
Gila	Hunt, G.W.P.	(D)	Merchant	Globe
	Keegan, J.J.	(D)	Saloon keeper	Globe
	Kinney, Alfred	(D)	Capitalist	Globe
	Langdon, John	(R)	Machinist	Globe
	Weinberger, Jacob	(D)	Lawyer	Globe
Graham	Cobb, Lamar	(D)	Mining Engineer	Clifton
	Lynch, A.R.	(D)	Lawyer	Safford
	Simms, Mit	(D)	Farmer	Solomonville
	Tuthill, A.M.	(D)	Doctor	Morenci
	Webb, W.T.	(D)	Farmer	Pima
Maricopa	Baker, A.C.	(D)	Lawyer	Phoenix
	Cassidy, Lysander	(D)	Lawyer	Phoenix
	Crutchfield, J.E.	(D)	Minister	Phoenix
	Franklin, Alfred	(D)	Lawyer	Phoenix
	Jones, F.A.	(D)	Traffic expert	Phoenix
	Moeur, B.B.	(D)	Doctor	Tempe
	Orme, John P.	(D)	Farmer	Osborn
	Orrin, Standage	(D)	Farmer	Mesa
	Osborn, S.P.	(D)	Clerk	Phoenix
	Mohave	Lovin, Henry	(D)	Mining Man

County	Name	Party	Occupation	Residence
Navajo	Morgan, Wm.	(D)	Cattleman	Lakeside
	Scott, James	(R)	Cattleman	Pinedale
Pima	Cooper, W.F.	(R)	Lawyer	Tucson
	Jacome, C.C.	(R)	Merchant	Tucson
	Kingan, S.L.	(R)	Lawyer	Tucson
	Pusch, George	(R)	Cattleman	Tucson
	White, J.C.	(R)	Railroad Man	Tucson
Pinal	Coker, E.W.	(D)	Lawyer	Florence
	Wills, T.N.	(D)	Cattleman	Mommouth
Santa Cruz	Curtis, Bracey	(R)	Banker	Nogales
Yuma	Ingraham, F.L.	(D)	Lawyer	Yuma
	Short, E.L.	(D)	Merchant	Bouse
	Winsor, Mulford	(D)	Newspaper Man	Yuma
Yavapai	Cunniff, M.G.	(D)	Merchant	Crown King
	Goldwater, M.	(D)	Banker	Prescott
	Jones, M.	(D)	Sheepman	Seligman
	Moore, A.A.	(D)	Ranchman	Walnut Grove
	Wells, Ed. W.	(R)	Lawyer	Prescott
	Wood, H.R.	(D)	Mining Man	Prescott

Of the above group of delegates, there were several who were known definitely to favor labor, either because of their membership in labor unions, because of their occupations, or because of their attitude toward labor in the past. Others were just as definitely against labor. It is necessary, then, to know a few facts in addition to those given in the chart about those delegates who played the leading parts in the convention.

Geo. W. P. Hunt of Gila County was one of the best known and most influential men in the convention. He arrived in Globe, Arizona in 1881 with neither money nor friends. Between the years of 1881 and 1910 he worked in a restaurant, was delivery boy for the Old Dominion Mercantile Company, became president of that company, and was a member⁵⁷ of the Territorial Legislature for a period of eight years. During the time he served in the Legislature, he introduced⁵⁸ bills, which, if passed, would have benefited organized labor. Labor men had, however, little likelihood of success in such a matter, for the mining and railroad interests had always controlled legislation. Because of this the railroads were often exempted from taxation and their rates were excessively high; it was only natural for Hunt, a merchant, to be interested in cheap freight rates. At one time he introduced and succeeded in getting through the Legislature a bill for a railroad commission. This commission did not reduce rates, however, for the Governor appointed railroad men to serve on⁵⁹ it. Hunt, by 1910, was considered by labor groups to be a guardian of their interests. They also knew that when he⁶⁰ promised to do a thing he would not go back on his word.

Both labor and capital were represented among the delegates from Cochise County. Labor was able to

57. Lockwood, F. B., Arizona Characters, pp. 194-99.

58. Daily Arizona Silver Belt, September 18, 1910, p. 2.

59. Hunt, Geo. W. P., Personal Interview.

60. McClusky, H. S., Personal Interview.

elect men who would represent its interests because the miners formed a large part of the population, and labor was fairly well organized. The two extremes of this delegation were Thomas Feeney and E. E. Ellinwood. Feeney was probably the most radical labor man in the convention; he had been employed by the Copper Queen Mining Company of Bisbee since 1904.⁶¹ Ellinwood, also from Bisbee, had been the "General Attorney for the El Paso and Southwestern System and Phelps, Dodge and Co. interests in Arizona."⁶² He was rightly considered to be one of labor's worst enemies.

61. "Delegates at the Convention", Arizona, Vol. I, No 14, December, 1910, p. 12.

62. Arizona Daily Star, February 4, 1911, p.1.

CHAPTER III.

ORGANIZATION OF THE CONSTITUTIONAL CONVENTION

The convention was called to order October 19, 1910, by A. C. Baker, delegate-elect from Maricopa county. Mr. Baker was elected temporary chairman and A. W. Cole of Douglas was elected temporary secretary. On the motion of W. F. Webb of Graham county, a committee on credentials was appointed.¹ The committee on credentials reported that all the delegates who had been elected were entitled to seats. The report was accepted and all the delegates were sworn into office.²

The most important work of the organization of the convention was the election of the president. For several weeks the papers had predicted that G. W. P. Hunt would be chosen president of the convention. At first the candidates for president were Judge Franklin of Maricopa county, W. T. Webb of Graham county, D. M. Cunningham of Cochise county, M. Winsor of Yuma county, and M. Goldwater of Yavapai county. G. W. P. Hunt of Gila county was in a

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1. Minutes of the Constitutional Convention of the Territory of Arizona, 1910, p. 5-6. The committee consisted of A. M. Jones, Colter, Ingraham, Curtis, Tovrea, Loin, Morgan, Coker, Hutchinson, Orme, Kinney, Webb.
 2. Ibid., p. 7-8. The members of the convention were seated by drawing slips with seat numbers. However, Mr. Winsor had suggested that the Republican members should be seated by themselves in order to be "free from association with the unwashed Democratic majority."
 3. Murdock, J. R., Constitutional Development of Arizona, p.19.

receptive mood throughout but was not at first a candidate. Webb said that Hunt had promised not to become a candidate and that it was on this promise that he became a candidate.

"Mr. Hunt did state positively to Mr. Webb in the presence of W. W. Pace, George A. Olney, J. J. Keegan, Judge Hickman and Al Kinney that he was not a candidate for the president of the convention; that he would support Mr. Winsor as long as he had a chance and in the case Mr. Winsor should not be elected, he would support Mr. Webb. Mr. Hunt further stated that he would not accept the position if tendered him unless Mr. Webb and his friends were satisfied that Mr. Webb could not be elected." 4

Hunt's story of the affair was much different from this:

"After Mr. Winsor had announced himself as a candidate for the presidency Mr. Webb of Graham came to me and asked me who I was going to support. I said, 'I will support Mr. Winsor'. He asked me my second choice and I said that I had none." 5

Webb must have confused Hunt's statement that he was not an active candidate with the one that he was a receptive one.

Hunt had stated:

"I am a receptive candidate for the position but I am not an active one. When I arrive in Phoenix I will look over the situation and if my friends in this convention want me to preside I shall allow my name to go before the caucus. I have made no campaign for the honor, nor do I intend to." 6

By this time he and other Democratic leaders knew that his chances were as good or better than other candidates. In fact, as early as July 18, a Globe paper predicted that Hunt would be the Democratic nominee.⁷

4. Arizona Daily Star, October 8, 1910, p.1.

5. Hunt, G. W. P., Personal Interview, March 1929.

6. Daily Arizona Silver Belt, October 9, 1910, p.3.

7. Daily Globe, July 18, 1910, p.1.

At first the delegates were pledged to certain men because of geographical lines but it was known that the ultimate division would be between the interests of capital and labor. Roberts, a representative of Cochise county, expressed the sentiments of the labor delegates when he said,

"As far as a President is concerned ... we are waiting to be shown which man is best to secure the things for which we are fighting ... It is largely a question of principles, not man ... The man whose election seems to best insure the incorporation of these measures in the constitution will get our support." 8

As the radical Democrats were in the majority, it was predicted that the president would be someone who favored organized labor.

On the first day of the convention Hunt was chosen president. Webb and Cunningham withdrew and four ballots were taken before the decision was final.⁹ On the first ballot Hunt received forty-one votes to Webb's eleven. The victory for the radical element was expected but it was not known whether Hunt or Winsor would be elected. Winsor had been Hunt's choice from the first. The conservative

8. Arizona Daily Star, October 9, 1910. Recommendations made by the Executive Council of the American Federation of Labor in 1916 were still alive. (1) Defeat all of those who have been hostile or indifferent to the demands of labor, (2) men who have shown themselves friendly to labor should be supported.: Great, G. G., Organization of Labor in America, p. 37.

9. Ibid., October 11, p.1. Other candidates were Winsor, Franklin, and Goldwater.

10. Minutes of the Constitutional Convention of the Territory of Arizona 1910, p.8. The vote was on strict party lines.

Democrats and the Republicans voted for their candidates throughout.¹¹ It was fortunate for the radical Democrats that the Republicans held strictly to party lines for if they had joined with the conservative Democrats the radical Democrats would have been defeated.

Cunningham and Wells escorted to the chair the new presiding officer who seemed a bit agitated over the honor not unexpectedly thrust upon him. "I sincerely return to you my thanks", said Mr. Hunt, "for the selection of myself as presiding officer of this convention, the election to which office I have not been seeking." What we do must be done for the good of the people of Arizona and it must be done wisely."^{12.}

As president of the convention, Mr. Hunt used a powerful influence in favor of labor. His keen mind never lost an opportunity to make the best of a situation. He favored this group by appointing labor men on, and as chairman of, important committees, by recognizing labor men in preference to others, and by ruling in favor of labor. Parsons was always given the floor when he arose for he was a forceful speaker and usually spoke for labor.¹³ It was

11. Arizona Daily Star, October 12, 1910, p.1.

12. Arizona Republican, October 11, 1910, p.1.

13. Hunt, G. W. F., Personal Interview, March 1929.

Hunt's policy to delay the announcement of a vote for a few moments to see if anyone would change his vote to the side of labor.

As soon as Hunt took the president's chair he announced the convention organized and ready to transact business. In order to carry on the work of the convention, it was necessary to choose a permanent secretary, clerks, stenographers, pages, doorkeepers, and other employees. On the opening day of the convention the capital was filled with people wishing positions, many of whom had been promised favors by delegates. Labor stood for a large staff of employees and high salaries.

A. W. Cole, a labor candidate, was chosen as permanent secretary. Motions were then carried that a committee on rules and procedure and a committee of one from each county to suggest the standing committees for the convention be appointed. The president also appointed a committee on finance, and a committee on employees.

The report made by the Committee on Standing committees was accepted. This report stated that to do the committee work adequately it was necessary to have twenty-

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14. Minutes of the Constitutional Convention of the Territory of Arizona 1910, p.9. Parsons nominated Cole He said that "between 300 and 400 employees of the smelters and railroad shops of Douglas ... would receive with gladness the news of the elevation of Mr. A. W. Cole to the office of permanent secretary." Journal of the Arizona Constitutional Convention, p.4.

four standing committees, having a membership of one hundred forty-seven.¹⁵

There was a considerable discussion over the report of the Committee on employees. Some of the members objected to five and six dollars per day as a salary for all employees. Goldwater caused laughter in the convention when he suggested that he resign as a delegate drawing four dollars a day and be hired as a page at five dollars a day. Winsor's motion that the chaplain's salary be reduced to two dollars was not passed. Baker, a representative from Phoenix, the home of the chaplain, said that he did not believe in "cutting down expenses of the convention at the expense of Heaven."¹⁶

The first work of Hunt which was to have an influence on the Constitution was the appointment of committees. In every case he appointed chairmen who would, as far as possible, abide by the platform which had given them the labor vote. It seems hardly necessary to make the statement that none of the eleven Republicans received chairmanships. The only Democrat fortunate to receive two chairmanships was Winsor of Yuma county. Such men as Franklin and Baker of Maricopa county, Ellinwood of Cochise were not honored with chairmanships.

A. A. Cohen, private secretary to the President, was the author of a statement in a Globe paper¹⁷

15. Ibid., pp. 9-13.

16. Verbatim Report Arizona Constitutional Convention, Vol.1, October 12, 1910.

17. Daily Globe, October 18, 1910, p.1.

which brought forth protests from the conservative Democrats who did not receive chairmanships. The article stated that such men as Baker and Franklin were "soreheads" because Hunt felt the convention would accomplish more without having them as the heads of committees. Baker arose in the convention hall and challenged this:

"I accord the President the privilege and right to appoint anyone his private secretary, but I do deny and assert that when the private secretary of the President will use terms to members in this sort of way without anything to support it, it is unseemly, uncalled for and unjustifiable."

Franklin joined in the protest: "It is an atrocious and unfounded insinuation and ought not come from this hall."

The president realized that it was necessary to make some statement of his position. He arose in the convention and said:

"I, too, deplore this matter. Some of the Republican members of the Territory have said that I have shown preference in selecting the chairmen of the committees, but each and every gentleman knows that I asked each of them what committee they preferred to be on. Mr. Baker told me he was physically unable to take care of a committee. . . . I trust that the article in the Globe paper will be retracted in a gracious manner." 18

The Globe paper evidently did not feel the need of retracting anything that it had printed, but instead, it continued to print the same type of material. The editor knew that politicians do not say what they mean in all circumstances.

18. Verbatim Report Arizona Constitutional Convention, Vol. 1, October 20, 1910.

The following Standing Committees were appointed by the president:

For conducting Convention:

1. Rules and Procedure. (5) Chairman Winsor, Bolan, Franklin, Goldwater, Doe.
2. Finance, Accounts and Expense. (3) Chair Wood, Cobb, Jones, Maricopa.
3. Printing and Clerks. (3) Chairman Short, Jones (Maricopa), Cooper.

For Constitution Making:

1. Preamble and Declaration of Rights. (3) Chairman Crutchfield, Connelly, Morgan.
2. Legislative Department, Distribution of Powers and Apportionment. (13) Chairman Winsor, Cassidy, Baker, Cunniff, Coker, Colter, Feeney, Morgan, Roberts, Simms, (Graham), Webb, Weinberger, Curtis.
3. Executive, Impeachment and Removal from office: (9) Chairman Weinberger, Cassidy, Cunningham, Franklin, Short, Sims (Cochise), Bradner, Wood, Jones (Yavapai).
4. Judiciary. (13) Chairman Cunningham, Baker, Ingraham, Ellinwood, Weinberger, Lynch, Franklin, Crutchfield, Parsons, Goldwater, Wood, Doe, Kingan.
5. Suffrage and Elections. (11) Chairman Jones, (Yavapai), Orme, Cobb, Osborn, Kinney, Ingraham, Lovin, Moeur, Tovrea, Langdon, Scott.
6. Counties and Municipalities. (5) Chairman Sims (Cochise), Colter, Baker, Feeney, Moore.
7. Education and Public Institutions. (5) Chairman Moeur, Bolan, Kinney, Hutchinson, White.
8. State and School Lands. (5) Chairman Coker, Jones (Yavapai), Simms, (Graham), Orme, Cunningham.
9. Public Service Corporations other than Railroads. (9) Chairman Ingraham, Parsons, Jones (Maricopa), Kinney, Lynch, Moeur, Wills, Langdon, Pusch.

10. Private Corporations and Banks. (9) Chairman Roberts, Keegan, Goldwater, Ellinwood, Tuthill, Tovrea, Winsor, Curtis, Wells.
11. Railroads. (7) Chairman Jones (Maricop), Cunniff, Ellinwood, Bradner, Connelly, Short, Jacome.
12. Agriculture, Irrigation and Water Rights. (5) Chairman Orme, Colter, Coker, Moore, Simms (Graham)
13. Mines and Mining. (5) Chairman Cobb, Cunniff, Feeny, Lovin, Short.
14. Federal Relations. (3) Chairman Parsons, Standage, Wells.
15. Militia and Public Defense. (3) Chairman Tuthill, Osborn, Standage.
16. Public Debt, Revenue and Taxation. (13) Chairman Keegan, Wills, Webb, Wood, Ellinwood, Osborn, Moore, Lovin, Roberts, Standage, Pusch, Scott, White.
17. Labor. (5) Chairman Bolan, Bradner, Morgan, Feeny, Cooper.
18. Schedule, Mode of Amending and Miscellaneous. (5) Chairman Colter, Connelly, Tuthill, Kingan, Jacome.
19. Ordinance. (3) Chairman Goldwater, Crotchfield, Hutchinson.
20. Matters for Separate Submission. (5) Chairman Wills, Franklin, Webb, Tovrea, Keegan.
21. Style, Revision and Compilation. (5) Chairman Cunniff, Ingraham, Cassidy, Lynch, Weinberger. 19

It can be noted that from the first day of the convention labor had a great influence in the organization; in fact it was the predominant factor. Labor was

19. Minutes of the Constitutional Convention of the Territory of Arizona 1910, pp. 22-24.

able to put a labor man in office as president; the attaches of the convention were for the most part friends of the labor delegates, and received a comparatively high salary; and the president appointed men on the important committees who favored labor and who would have a powerful influence over their committees and over the convention as a whole when measures came before it.

CHAPTER IV

INITIATIVE, REFERENDUM, AND RECALL

The most important principles which the labor leaders desired to be incorporated in the Constitution were the initiative, referendum, and recall. The Democratic platform in the various counties had made provisions for these issues, and with this in mind, nearly all of the elected delegates had promised to vote for such propositions.¹

"Initiative, referendum, and recall," were usually spoken of together by the people; but as direct legislation is altogether different from the recall, and was taken up at a different time in the convention, it is necessary to treat them separately. Direct legislation will be taken up first.

The groups in Arizona who wished direct legislation provisions in the constitution looked to the constitutions of other states for a model.² Organized labor

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1. Hunt, G. W. P., Personal Interview, March 1929. "The term 'initiative' is employed to designate a proposal of legislation by popular petition, coupled with the obligation that such proposal shall be considered by the legislative body or submitted directly to a popular vote." Dodd, W. F.; State Government, p.524. "The referendum is a popular vote, either required or optional, upon a measure before the measure becomes finally effective." Ibid, p.523. The recall is "a special election to determine whether an official shall be suspended before the ordinary expiration of his term." Ibid, p.553.
 2. For a chart of the states which had direct legislation, see Dodd, W. F., State Government, p.536. The initiative and referendum provisions of these different states can be found in Beard, C. A., and Shult, B. E., Documents on the Initiative, Referendum, And Recall.

decided that the Oregon system would function best for its interests. During the campaign for the election of delegates, labor platforms definitely provided for the Oregon initiative and referendum.³

Just why did labor groups in Arizona want direct legislation provisions like Oregon's? The answer is that organized labor of the latter State had been one of the important factions in the struggle to get this amendment to their constitution, and that direct legislation had been used as a club by labor in that State to fight the corporations and other big interests.

In the early eighties, when the reform movement for direct legislation began in Oregon, the power that selected the States' representatives "was made up of corporations--the street railway, the gas and electric light companies, the banks, and the railroads. With these had developed a kind of feudal aristocracy--the first families of Portland--which habitually used public power for private ends."⁴ One of the foremost leaders for the reform was William U'Ren, a farmer, who asked radical friends to come to his home and discuss labor union circulars on the initiative and referendum. This group of men invited the Portland Federated Trades, the Portland Central Labor Council, the Oregon Knights of Labor, the State Grange, and the Portland

3. Hunt, G. W. P., Personal interview, March, 1929.

4. Hendrick, J. B., "The Initiative and Referendum and How Oregon Got Them," McClure, Vol.37, June 1911, p.240.

Chamber of Commerce to send delegates to discuss ways and means of getting the initiative and referendum. All accepted but the latter group. By joint action, these organizations were able to force a resolution through the legislature to submit the initiative and referendum amendment to the people for their approval. The people voted on, and accepted the amendment in 1902.⁵

Many people in Arizona were influenced toward the Oregon system by speeches of and articles by its United States Senator, Jonathan Bourne, Jr. He delivered several speeches in the Senate which were published in, or commented on, by, various newspapers in the Territory.⁶ Later they were also published in magazines of wide circulation.⁷ In a speech delivered on May 5, 1910, he gave instances where direct legislation had been effective in curbing the powers of big business. "For the purpose of securing a more equitable distribution of the burden of taxation, the State Grange, proceeding under the initiative, proposed a law levying a gross-earning tax of three per cent on sleeping-car, refrigerator-car, and oil-car companies, which measure was adopted by a vote of 69, 635 to 6,441. The Grange also proposed a similar law levying a gross-earning tax of three per cent on express and two per cent on telephone and telegraph compaines, and it was adopted by a vote of 70,872 to

5. Ibid, pp. 234-41.

6. Arizona Republican, May 8, 1910, p.1.

7. Bourne, Jonathan, Jr., "intiative, Referendum, and Recall," Atlantic Monthly, June 1912, pp.122-133.

6,360. Each of these gross-earning tax laws applied only to intrastate business."⁸

Many Republicans in Arizona were shocked at the idea of direct legislation. Mr. Sloan, the governor of the Territory, was one of its strongest opponents, and one of the first to give arguments against the Oregon system:

"Under the Oregon plan, and this is the plan which is proposed shall be followed in making our constitution, eight per cent of the legal voters of the state, by merely filing a petition and lodging it with the Secretary of the State, may compel the submission of any law, however unwise, obscure, badly framed, or even vicious, to the vote of the people ... Experience has also shown that only ten per cent of the whole can be induced to even vote upon such legislation ... Only those, therefore, who have a personal motive, or who may be especially interested, or who may be well situated to allow them to give attention to the study of such acts, may be expected to vote thereon."

The argument most persistently used, by other Republicans as well as Sloan, was that direct legislation provisions would be disapproved of by Congress and the President, and therefore statehood would be defeated. Governor Sloan said that the President was a student of the United States Constitution and thought that it should be a model for the states.⁹

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8. Bourne, Jonathan Jr., "Popular Versus Delegated Government, and Its Effect Upon Legislation," Senate Document No. 524. (Senate Documents, Vol.60), serial number 5659, 61st Congress., 2nd session, p.6.
 9. Sloan, R. E., A letter from Governor Sloan to Judge Wells, September, 3, 1910. Found in a collection of documents and papers on Statehood Vol.21, Compiled by George H. Kelly, and now deposited in the office of the State Historian, Phoenix, Arizona.

These arguments against direct legislation did not make organized labor waver in its decision in favor of the Oregon system. Without a doubt the miners, the railroad workers, and other organized groups thought it would be an important step to put them in control of affairs. The above mentioned groups had been able to send several delegates to the convention. Labor was also favored by other conditions: The representatives of farmers wanted an initiative and referendum; the president of the convention was a strong labor man; and the majority of the Committee of Legislative Department, Distribution of Powers and Appointment, to which direct legislation propositions would be referred, favored the Oregon plan. From these facts it can be concluded that some kind of initiative and referendum would find its way into the constitution. It was up to the labor representatives to use their skill to get what they wanted.

In regard to direct legislation, the Convention was divided into three main groups: A majority of the Republicans who were opposed to direct legislation in any form; the radical Democrats who favored the Oregon provisions; and the conservative Democrats who wished more restrictive measures than the Oregon plan. It should be noted that not all of the Republicans were opposed to direct legislation, and that men in the radical group allied them-

selves with the conservative group on other questions. Cooper and Doe were the chief spokesmen for the Republicans; Baker, Parsons, Webb and Wood were the speakers for the second group; and Ellinwood spoke for the last group.

The Republicans in the convention used the argument of unconstitutionality more than any other one. They knew that it had been used effectively by speakers on other occasions. In part, one of Cooper's speeches was as follows:

"I distinctly understand and fully realize that at present I am not lined up on the popular side of this measure. I wish to say, however, that I am not seeking popularity, but I am seeking to satisfy my own conscience and to carry out by my conduct what I consistently believe to be the best method, and the only method at present, of securing what we have struggled for so long--statehood for Arizona. I want to say that I do not oppose the very broadest and fullest measure of the rights of the people to govern themselves ... I do not intend to discuss the merits or demerits of the initiative and referendum ... but shall confine myself to remarks to what, to my humble judgment, will be its effect if incorporated in our Constitution, upon our chances for early admission to statehood ... Adopted as amendments to the Constitution of Oregon, the initiative and referendum have resulted in the appeal from the Supreme Court of that state to the Court of highest appeal in the United States, and that appeal is now on ... Does any gentleman present believe that the President of these United States, eminent constitutional lawyer that he is, will approve our constitution, if it contains these measures, before the Supreme Court has determined this constitutional question?... Can we not patiently bear for a little longer the 'ills we have' rather than take a single chance of destroying this first and only opportunity we have ever had."

Doe, another Republican, said that the people had demonstrated during the recent campaign that

they wanted the initiative and referendum, but were not aware of the probable unconstitutionality of these measures. He suggested that if they were made aware of the situation as it really existed, they would release the instructed delegates from their instructions in regard to this matter.

A letter was read in the convention by H. R. Wood of Yavapai which showed that the people of his county did not wish to release their representatives from their campaign pledges:

"You do not need any props to hold you steady, but you will be pleased, I am sure, to learn that the people of Yavapai County know that you are honest and can be depended upon under all circumstances to stand by your platform, regardless of all adverse criticisms that may be offered by Republicans or Republican newspapers. You know why you and the rest of this legislature were chosen to represent the great majority of the people of the Territory. You will live up to your pledges to the letter, and if any greater reward than the satisfaction of duty well done is yours, this will be amply sufficient."

Similar letters to these were received by other delegates. These letters made good material for effective speeches, but most of the Democrats probably had already decided that the matter would not be referred to the people.

Baker of Maricopa was opposed to a per centum which was higher than that of Oregon's for he realized that it would be difficult for the scattered farming population of his county to get a larger per centage of signatures on a petition. When some of the members objected to the Oregon plan because the per centum was too low, he said that a higher requirement would favor the corporations; he

begged them "to trust in the people and not in corporations." He insinuated that the manager of a Southern Pacific shop could easily get a high per centum on a petition by requiring the men working for him to sign it. This, however, would not be possible for the people at large.

A. F. Parsons of Cochise County, one of the radical Democrats, read a portion of the platform upon which he was elected:

"Believing in the ability and discretion of the people that they are capable of self-government, and the closer the law making power is in the people, the better the results, the safer the government;;we pledge our candidates for the Constitutional Convention to use their utmost endeavor to place in the constitution self-executing provisions for the initiative and referendum on all laws and on all amendments to the constitution substantially according to what is known as the Oregon plan."

W. T. Webb of Graham County and R. H. Wood of Yavapai County also said that their delegates were pledged to the Oregon plan.¹⁰

Ellinwood of Cochise County had pledged to vote for the initiative and referendum but wished the provisions as conservative as possible. In a speech of his concerning the power of the legislature to refer a matter to the people, he said that such a power was bad. After the legislature had acted on a question, "why refer it to the people?" If such questions are referred to the people, the legislature evades responsibility. He further stated that the people could take care of themselves by using the

10. Verbatim Report Arizona Constitutional Convention, Vol. 4, Nov., 1910.

initiative if they considered a law passed by the legislature unwise. Ingraham of Yuma pointed out that it was an absurdity to say that the legislature could not have the same powers as five per cent of the people.¹¹

The direct legislation provision finally decided upon much the same as those of the Oregon Constitution but not quite as liberal. In both states the legislature or five per cent of the qualified electors could order the submission of any measure passed by the legislature to the people. The percentage of electors necessary to submit an initiative measure was eight per cent in Oregon and ten per cent in Arizona.¹² The labor group had tried to get the eight per cent instead of ten but had not been successful.¹³ The main difference between the two constitutions was the basis on which the number of qualified electors required to sign initiative and referendum petitions should be computed. The Oregon basis was on the total number of votes cast for all candidates for the election of the justice of the Supreme Court at the last election; the Arizona basis was on the total number of votes cast for all candidates for Governor at last election. Both of the states gave local governing

11. Ibid, November 5, 1910.

12. See (1) Arizona Constitution, Art. IV. (2) Oregon's Initiative and Referendum Amendment in Beard, C. A. and Shultz, B. E., Documents on the Initiative, Referendum and Recall, p.80

13. Minutes of the Constitutional Convention of the Territory of Arizona, 1910.

bodies power to use the initiative and referendum.¹⁴ The Arizona provisions were accepted by a vote of thirty-six to six.¹⁵

Organized labor in Arizona favored the recall of all elected office holders. The principle upon which the recall is based is that "officers are the agents of popular will and that the electors should have an opportunity at all times to pass upon the conduct of their representatives."¹⁶ One reason for this point of view is that many of the officers of the state have catered to the wishes and whims of the rich and powerful.¹⁷

Labor especially felt the oppression of the officers of the courts. Judicial power has steadily increased in the United States, and this power has, to a large extent, been used against labor in the interest of capital. The judicial veto has been invoked against labor laws more than any other class of measures.¹⁸ Organized labor was able to cite dozens of decisions of courts affecting labor, in which labor interests were defeated. Labor in.

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14. See: (1) Arizona Constitution, Art. IV; (2) Oregon's Initiative and Referendum Amendment, in Beard, C. A. and Shultz, B. E. op. cit.
15. Minutes of the Constitutional Convention of the Territory of Arizona, 1910, p. 342.
16. Beard, C. A. and Shultz, B. E., Documents on the Initiative, Referendum, and Recall, p. 52.
17. McClusky, H. S. Personal Interview, March, 1929.
18. Haines, C. G., American Doctrine of Judicial Supremacy, pp. 328-331.

Arizona favored the Oregon recall for practically the same reasons she wanted the Oregon initiative and referendum.

Most of the Democrats at the convention were pledged to vote for the recall, including the recall of judges. During the campaign for the election of the delegates to the convention, G. W. P. Hunt made the statement that all who aspired to become delegates to the convention should be requested to make a written pledge to the voters that they would support a measure for the recall of all public officers, including recall of judges.²⁰

Ellinwood openly stated in a speech which he gave in Bisbee during the campaign that he was opposed to the recall of judges unless the provision was made so conservative that it would be there in theory only. "The judge," said he, "has no constituent, and by his oath is precluded from representing anyone. It is his duty to declare the law fearlessly and impartially regardless of sentiment. The recall is in effect a direct impeachment without a judicial hearing, and is largely influenced by heresay testimony; in my opinion, should be made operative by a two-thirds vote."²¹ The opinion of the conservative democrats was further expressed by the editor of a local newspaper who said:

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19. Bureau of Labor Bulletin, Vol.20. Nov. 86-88, 1910. "Decisions of Courts Affecting Labor".
 20. Daily Globe, Globe Arizona, August 6, 1910, p.1.
 21. Arizona Daily Star, Tucson Arizona, August 28, 1910. P.2.

"The people of Arizona want statehood a great deal more than they want the recall ... This thing of flying in the face of President Taft with a constitution more radical and filled with more issues and more freaks than the Oklahoma constitution means defeat of statehood for which our people have prayed and fought for twenty-five years ... If the radicals in this convention who seem to have only one idea, and that to ride the back of labor into office, " they will lose statehood for Arizona.²²

Everyone knew that the Republicans were opposed to the recall, especially the recall of judges. However Langdon of Gila County signed the finished constitution which contained the recall of all officers including the judge.²³

The majority report of the Committee on Executive Impeachment and Removal from Office on recall pro-²⁴ position was in many respects like the Oregon provision²⁵ but differed in others. It included the recall of every elective officer, the basis of the petition to be twenty-five per cent of the whole number of votes cast at the preceding general election for the candidates for the office held by such officer. The Oregon Constitution provided that as high as twenty five per cent could be required to sign a petition for removal and the basis for said petition would be the votes cast at the preceding election for justice of the Supreme Court. This shows that the majority

23. Minutes of the Constitutional Convention of the Territory of Arizona, 1910, p. 435.

24. The majority report favored Substitute Proposition No. 18. Collection of Propositions introduced into the Arizona Constitutional Convention, 1910. Compiled by Jacob Weinberger and now in his private library, San Diego, California.

report was less radical than the Oregon recall. The Oregon percentage requirement had a maximum but not a minimum and its basis was lower. For instance, if a governor of Arizona were to be recalled the basis for the percentage for his recall would be the total number of votes cast for all candidates for governor, while in Oregon it would be on the total number of votes cast for the justice of the Supreme Court. The votes for governor are usually heavier than those for judges. The majority report also stated that one of the signers of each sheet of the petitions must take an oath before an officer that "the statements therein made are true."²⁶

Most of the labor representatives in the Convention preferred the majority report, but were opposed to the part which stated "that the statements herein made are true. They probably feared that some of the names on labor petitions might be thrown out because it could not be proven that they were true. A motion made that those words be changed to "that the signatures are genuine" was²⁷ passed.

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25. Beard, C. A. and Shultz, B. E. op. cit., p. 242-243.
 26. Substitute Proposition No. 18, Collection of Propositions introduced into the Arizona Constitutional Convention, 1910, Beard, C. A. and Shultz, B. E. op. cit., 242-243
 27. Minutes of the Constitutional Convention of the Territory of Arizona, 1910, p. 156. The vote was twenty-seven to twenty-one.

Although the conservatives must have realized that the cards were stacked against them, they used every effort to exclude the recall of judges from the constitution. Orme and Ellinwood moved to amend that the Supreme and Superior Court judges be excluded from the recall. This was defeated by a vote of eighteen to thirty.²⁸ Soon afterwards Ellinwood again moved to amend that Supreme and Superior Court judges should not be recalled. Chairman Winsor sustained the point of order raised by Ingraham; the matter was not taken up again.²⁹

Cassidy moved to amend that the recall of judges be submitted to the people separately so as to give them a chance to say whether they wanted it or not. Those who wanted the recall made it clear that they were not in favor of a submission to the people for the people had already given them instructions.

28. Ibid., p. 155.

Ayes: Baker, Cassidy, Colter, Cooper, Curtis, Ellinwood, Franklin, Hutchinson, Jacome, Jones, F. A., Kingan, Langdon, Orme, Scott, Standage, Tuthill, Wells. Total 18.

Nays: Bolan, Brander, Cobb, Coker, Connelly, Crutchfield, Cunniff, Cunningham, Feeney, Goldwater, Ingraham, Jones, A. M., Keegan, Lovin, Lynch, Moeur, Moore, Morgan, Osborn, Parsons, Roberts, Short, Sims, R. B., Simms, Mit., Tovrea, Webb, Weinberger, Winsor, Wood, Mr. President. Total 30.

29. Ibid.

Parsons:

The people still want the recall. The Maricopa Club met and voted for the recall. "If the Constitutional Convention, the Maricopa delegation, or any member thereof sees fit to alter in any degree the plain and well defined wishes of the people upon this subject ... that such a member or delegation will make the mistake of his or it's political life." The laboring men who elected us say "Stand by your colors."

Ingraham:

In Yuma County "the question of recall was thrashed out on the stump, so the people understand the situation." The Democratic vote there was much stronger than it usually was.

Weinberger:

"I will say as far as Gila County is concerned the people did not send us here to refer this matter back to them. They sent us here to put it in the constitution." 30

Several others gave statements that they were pledged to direct legislation. The amendment to refer the measure to the people was lost by a vote of eleven-thirty six. The majority report as amended was passed by a vote of thirty-five to eleven.

30. Verbatim Report Arizona Constitutional Convention, Vol.4, December 1, 1910.

31. Minutes of the Constitutional Convention of the Territory of Arizona, 1910, p. 342.

Ayes: Cassidy, Cobb, Cunningham, Curtis, Langdon, Orme, Scott, Simms, Mit, Standage, Tuthill, Webb, Total 11.

Nays: Bolan, Bradner, Coker, Colter, Connelly, Cooper, Crutchfield, Cunniff, Ellinwood, Feeny, Goldwater, Ingraham, Jones, A. M., Jones, F. A., Keegan, Kingan, Kinney, Lovin, Lynch, Moeur, Moore, Morgan, Osborn, Parsons, Pusch, Roberts, Short, Sims, R. B., Tovrea, Weinberger, White, Well, Wills, Winsor, Wood, Mr. President.

32. Ibid, p.342.

Ayes: 35.

Nays: Cooper, Curtis, Ellinwood, Kingan, Langdon, Orme, Pusch, Scott, Tuthill, White, Wells. Total 11.

Chapter V.
Labor Propositions in the Convention

By its strength in numbers, and by the ability of its leaders, organized labor was able to incorporate in the constitution many things which directly favored its interests. However, the labor group was not able to secure the passage of all the propositions it introduced.

This chapter will include the measures which labor was able to embody in the constitution, though often times much altered from their original content; and those which were voted down by the opposition. Articles XVIII and XIX, which include the laws directly favoring labor, will be taken up first.

Article XVIII provides for an eight hour labor law, on public works, a child labor law, a law prohibiting the release of liability for personal injury as condition of employment, a law that the fellow servant doctrine be abrogated, a law that the assumption of risk shall be a question of fact, a law that the amount of damages is not to be limited, an Employer's Liability Law, a Workmen's Compensation Law, a law against the use of a labor "black-list", and a law that the State must employ citizens in public works. Article XIX provides for a State Mine Inspector.¹ Some of these measures were adopted

1. Arizona Constitution, Articles 18 and 19

easily, while other barely escaped defeat. Each of the measures, as introduced, will now be considered.

A measure was introduced by Cunniff which stated that eight hours work should constitute a lawful day in all employment by the state or any of its political subdivisions.² The Committee on Labor, to which it was referred, recommended that it pass.³ When the proposition was brought up before the Committee of the Whole, Cunniff moved to amend by inserting the words "and no more" after the word "work".⁴ Replying to a statement of Baker's that the original proposition was all right, Feeney said that it had been necessary in other states to go to court to get the proper construction on like provisions.⁵ The amendment was passed without a roll call.⁶ The final vote on the proposition was unanimous.⁷

A measure was introduced by Keegan to prevent children under fifteen years of age from working

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3. Minutes of the Constitutional Convention of the Territory of Arizona, 1910, p. 202
 4. Ibid, p. 212
 2. Proposition 9, Collection of propositions introduced into the Arizona Constitutional Convention 1910. Compiled by Jacob Weinberger and now in his private library in San Diego, California.
 5. Verbatim Report Arizona Constitutional Convention, Vol. II, November 18, 1910
 6. Minutes of the Constitutional Convention of the Territory of Arizona, p. 212
 7. Ibid, p. 354

in any mine, factory, mill or manufacturing plant.⁸ The motion of Jones of Yavapai to insert after the word "in" the words "or about" carried.⁹ A motion was passed to insert the words "or ore reduction works."¹⁰ Ingraham demanded a roll call on this measure for he wanted the men to go on record as favoring or opposed to child labor laws. Colter said that he was against the proposition as it stood. He wanted "more George Washingtons", some more good business men, some more good professors in the United States," and thought that would be impossible if children could not work before they were fifteen.

Earlier in the day someone had objected to the original provision as they thought "manufacturing plant" was too broad a term. No one spoke directly against child labor laws as such, but said they were opposed to certain restrictions. Feeney practically told them that they need not try to cover up their real motives for voting against the proposition. He said that it was strange that

8. Proposition No. 141, Collection of Propositions introduced into the Arizona Constitutional Convention, 1910

9. Minutes of the Constitutional Convention of the Territory of Arizona, 1910, p. 212

10. Ibid, p. 213

Ayes--Baker, Bolan, Brander, Cobb, Coker, Connelly, Crutchfield, Cunniff, Cunningham, Ellinwood, Feeney, Goldwater, Ingraham, Jones, A. M; Keegan, Langdon, Lovin, Moore, Morgan, Parsons, Roberts, Sims, R. B; Tovrea, Weinberger, Winsor, Wood, Mr. President. Total 27.

Nays--Colter, Franklin, Hutchinson, Jones, F. A; Kinney, Moeur, Orme, Osborn, Pusch, Scott, Short, Simms, Mit; Webb, White. Total 14.

they all pretended to favor child labor laws but would let a little factory, a printing establishment, or some other concern which wanted to hire a child before it was fifteen, prevent them from voting for the proposition.¹¹

After several other amendments and much discussion the motion was passed that all of the proposition be stricken out and the following be inserted:

"No child under fourteen years of age shall be employed in any gainful occupation at any time during which the public schools of the district in which the child resides are in session; nor shall any child under sixteen years of age be employed underground in mines, or in any occupation injurious to health or morals, or hazardous to life or limb; nor in any occupation at night, or for more than eight hours in any one day." 12

On the third reading the amended proposition passed by a unanimous vote.¹³

11. Verbatim Report Arizona Constitutional Convention, Vol. 2, November 18, 1910.

12. Minutes of the Constitutional Convention of the Territory of Arizona, 1910, p. 286

Ayes--Baker, Cobb, Coker, Colter, Curtis, Hutchinson, Jones, F. A; Keegan, Kinney, Moeur, Orme, Osborn, Parsons, Pusch, Scott, Short, Simms, Mit; Webb, Weinberger, Wells, Winsor, Mr. President. Total 22.

Nays--Bolan, Bfander, Connelly, Crutchfield, Cunniff, Cunningham, Ellinwood, Feeney, Franklin, Goldwater, Ingraham, Jones, A. M; Langdon, Lovin, Moore, Morgan, Roberts; Sims, R. B; White, Wood.

13. Ibid, p. 345

Parsons introduced a proposition stating that an employer could not make an agreement with his employees whereby they would be released from damages in case the employees were injured during the hours of employment.¹⁴ After the proposition had been referred to several committees, it was passed by a vote of thirty-two to twelve.¹⁵

Cunniff introduced a measure stating that (1) The legislature shall enact an employer's liability law in which the employer is liable for all injury which was not caused wholly by the negligence of the employee killed or injured. (2) No law shall be enacted whereby the defense of "fellow servant, or the defense of assumption of risk" shall be recognized in actions to recover damages, any defense of "contributory negligence shall be a matter of determination by jury, and when this defense is set up the presumption shall be that there was no contributory negligence on the part of the plaintiff; the burden of proof of the asserted contributory negligence shall be upon the defendant. (3) "No waiver by contract of right to recover damages under this Article shall be void." (5) "There shall be no statutory limitation of the amount recoverable as damages."¹⁶

14. Proposition No. 47, Collection of propositions introduced
15. Minutes of the Constitutional Convention of the Territory
of Arizona 1910, p. 289
16. Proposition No. 88, Collection of propositions introduced
into the Arizona Constitutional Convention 1910

The majority report of the Committee on Judiciary recommended that the proposition be amended to read as follows: "The legislature or the people shall enact an equitable and sufficient employer's liability law or laws for the protection and safety of employees in all hazardous occupations." The minority report ~~report~~ recommended that sections one and two should be adopted but that three and five were covered by other provisions.¹⁷ The motion made to accept the minority report was amended to accept the majority report. The amendment lost by a vote of nine to thirty-¹⁸seven. The motion was then lost, by a tie vote, that sec-¹⁹tion one be struck out. The motion was carried that section two be amended to read: "The defense of contributory negligence or assumption or risk shall, in all cases whatsoever, be a question of fact, and shall at all times be left to a jury." The opposition was not able to strike out the whole of section one but they were able to have "wholly" eliminated. The motion was made and passed that "the right of action to recover damages for injuries shall never be subject to any statutory limitation; carried. The proposition, as amended was read the third time and passed by a²⁰ vote of forty-five to three.

17. Minutes of the Constitutional Convention of the Territory of Arizona 1910, p. 227.

18. Ibid, p. 247

19. Ibid, p. 250-3

20. Ibid, p. 382-3

Ellinwood introduced a proposition for a Workmen's Compulsory Compensation law. It stated that "the Legislature shall enact a Workmen's Compulsory Compensation law applicable to workmen engaged in manual or mechancial labor in such employment as the Legislature" shall deem especially dangerous, and the employer must pay compulsory compensation of an employee is injured during employment "by a necessary risk or danger of such employment".²¹

Ellinwood introduced this proposition because he knew it to be to the interests of corporations to settle disputes outside of courts. He said that the court and jury system of determining responsibility was not satisfactory because (1) a tedious and costly lawsuit was necessary, (2) the court had power "(sometimes wrongfully executed) to non-suit the plaintiff, (3) even in the case of recovery, one half of the amount will be taken for expense, which deters many workmen from bringing suit." He also said that he favored legislation "without regard to negligence, for the reason that no other scheme of employer's liability act is economically sound, or ethically just."

Organized labor's only opposition to the

21. Proposition No. 72. Collection of propositions introduced into the Arizona Constitutional Convention, 1910.

proposition was that the injured employee would have to accept certain compensation as prescribed by the legislature whether he wanted to or not.²² To satisfy that objection the amendment was added that the injured employee could accept the compensation or sue the employer. Upon the final reading the proposition as amended was passed by a large majority.²³

The labor groups of Arizona were especially desirous of a constitutional provision against the use of a "black list". Employers had, for several years, used the "black list" very effectively against labor.²⁴ Therefore, a labor representative introduced into the convention a proposition that "the exchange, solicitation, or giving out of any labor "black list" is hereby prohibited, and suitable legislation shall be enacted to carry this provision into effect."²⁵ Someone in the assembly said that he did not know what was meant by "black list". Feeney, when asked to enlighten them on the subject, arose, and said, "Yes, I know what it means. I am on several

22. Verbatim Report Arizona Constitutional Convention, Vol. 3, November 22, 1910.

23. Minutes of the Constitutional Convention of the Territory of Arizona, 1910, p. 383.

Ayes: Total 38

Nays: Curtis, Hutchinson, Ingraham, Jacome, Kingan, Pusch, White, Wells, Winsor, Total 9.

24. McClusky, H. S., Personal Interview, March, 1929.

25. Substitute Proposition No. 137. Collection of Propositions introduced into the Arizona Constitutional Convention.

of them myself The blacklist is a list exchanged between corporations especially, ... listing a man for violating certain ethics of corporations It is done for the purpose of preventing their employment." Short and Bolan also spoke for labor. Short said that division superintendents of railroad corporations made a record of all men discharged by them, together with the reason for such discharge and sent it to all division superintendents. Bolan said that the idea of a "black list" bill was simply to prevent a former employer from injuring a man by influencing other men against him.²⁶

The Labor Committee, to which the proposition was referred, recommended that it pass.²⁷ After the Committee of the Whole recommended that it pass, it was referred to the Committee on Style, Revision, and Compilation. This committee recommended that "legislation" be struck out and "laws" be inserted; that "carry" be struck out and "put" be inserted. This change was accepted by the Convention. Ellinwood then made the motion that the word "labor" be struck out. This amendment lost, and the proposition, as amended, passed by a vote of forty six to three.²⁸ One of

26. Verbatim Report Arizona Constitutional Convention, Vol. 4, December 2, 1910.
27. Minutes of the Constitutional Convention of the Territory of Arizona, 1910, p. 273.
28. Ibid, p. 256.

the three men who voted against it was Ellinwood. He explained his vote on the basis that he would not vote for a measure which did not give equal protection to everyone: "This is a proposition I wanted to vote for", he said, "but with the word labor retained, if it means anything, it is the grossest kind of legislation, and I regret exceedingly that I cannot support the proposition."²⁹

A proposition was introduced by Parsons that no person who was not a citizen, or who had not declared his intention to become a citizen, could be employed in any state, county, or municipal work.³⁰ Organized labor wished this proposition in the constitution to prevent Mexicans from being hired for road work instead of union men.

There was much opposition to this proposition and it nearly failed; in fact it was defeated once but was reconsidered. Those who opposed it said that it would prevent Indians from working, that it would prevent the working of prisoners, that Arizona needed Mexicans to do the road work, and also, the most used argument in the Convention, that it would be unconstitutional.

Hunt said that Gila County had many Indians who worked on the roads and did not come into con-

29. Verbatim Report Arizona Constitutional Convention, Vol. 4, December 2, 1910.

30. Proposition No. 48, Collection of Propositions introduced into the Arizona Constitutional Convention, 1910.

flict with organized labor at all. This gave Webb of Graham, who seemed to have a special dislike for Indians, a chance to speak. He told of the wonderful opportunities that the United States government had given to the Indians, large reservations, livestock, and provided for them in every respect; but they make desert land out of what should be a garden, and take nntcare whatsoever of their cattle. He ended by saying that he was opposed to being placed on an equality with them. Hunt's objection was sustained and the word "ward" was inserted. Hunt was also one of the men who helped get the amendment that the prisoners could be used to work on roads.

Some of the delegates felt that the Mexican laborer was needed to do the road work. Colter of Apache County said that it was impossible to get road work done unless the Mexicans were used. Representatives of labor told him that Americans could be easily gotten if the State or local government would pay high enough wages. They also said that the provision was not intended as a measure to prevent Mexicans from working, but if they wanted public work they should declare their intentions of becoming citizens.

The argument of unconstitutionality was used often by the opposition. Baker of Maricopa was one of

the men who argued that would be depriving corporations of the right of contract, but he was not clever enough to conceal that his real reason was that it would be impossible to secure American labor for such work. Cunniff questioned the belief that it would be unconstitutional, to protect American labor.³¹

After being read for the third time and placed on final passage, the proposition was lost by a vote of twenty two to twenty five. That same day, however, after a few hours intermission, Sims of Cochise moved that the Convention reconsider the proposition. The measure was reconsidered and passed by a vote of twenty seven to twenty two.³²

Article eighteen of the Arizona Constitution states that the office of Mine Inspector is created, and all inspectors, after the first one, are to be elected by the people and serve for two years.³³ The original proposition introduced by labor had specified that the mine inspector must have had five years actual experience in mines.³⁴ The labor leaders contended that it was as necessary to have an expert as mine inspector, the opposition was strong enough

31. Verbatim Report Arizona Constitutional Convention, Vol. 2, November 18, 1910.

32. Minutes of the Arizona Constitutional Convention of the Territory of Arizona, 1910, pp. 356-7. The men who changed their votes on the second roll call were: Coker, Lovin, Sims, R.B., Tovrea.

33. Arizona Constitution, Article XVIII.

34. Proposition No. 64, Collection of Propositions introduced into the Arizona Constitutional Convention.

to leave the matter up to the legislature.³⁵

The provisions in the constitution directly favoring labor have just been considered. Now the measures which were introduced by labor but which were defeated altogether will be taken up. Most of these measures were defeated because they were too radical to secure the support of the moderate Democrats.

A proposition which was intended to curb the injunction powers of the courts was introduced by Cunniff. "No court authorized by this Constitution shall have the power to issue any writ of injunction, which shall forbid any person or persons, association or associations from doing anything which" they "have a legal right to do under the guarantee of the Constitution of the United States or of this Constitution; and if any judge of any court ... shall violate this article and shall, further, enforce any writ of injunction or any part of any writ of injunction by this article ... or shall further punish any person or persons, association or associations ... he shall be guilty of malfeasance in office and shall be subject to the impeachment and trial of judges; and if on impeachment and trial such judge be found guilty of violation of this article, he shall forfeit his office."³⁶ 7

35. Verbatim Report Arizona Constitutional Convention, Vol. 2, November 18, 1910.

36. Proposition No 63, Collection of Propositions introduced into the Arizona Constitutional Convention, 1910.

This proposition was first referred to the Committee on Executive, Impeachment and Removal from Office, ³⁷ but upon that committee's request it was referred to the Committee on Judiciary. ³⁸ The report of the majority of this committee recommended that it be indefinitely postponed; the minority report recommended that it pass. Cunningham moved that the majority report be adopted. Cunniff moved ~~to~~ amend by substituting the minority report. ³⁹

Most of the discussion in the convention over this proposition was between Cunniff and Cunningham, but occasionally other men gave their assistance when it was needed by their colleagues. Cunniff informed the assembly that there should be a constitutional limit to a judge's powers for there was a growing disposition on their part to usurp powers. Cunningham answered him by saying that the effect of this provision would be to condemn a judge if he issued a writ of injunction to honestly endeavor to enforce the law. He further stated that such a provision would give no defense to the judge, and that the administration of law

37. Minutes of the Constitutional Convention of the Territory of Arizona, 1910, p. 77.

38. Ibid, p. 81.

39. Ibid, pp. 114-5.

would not be effective: "This country is to be governed
by the laws and not by men!"⁴⁰ Cunniff again took the
floor and told the assembly that the whole essence of
Cunningham's arguments was a plea for a special privilege
for the courts. The Republicans could not lose such a
chance as this to show their contempt for the radical ele-
ment in the convention. Lynch, of Graham County, said that
he was perfectly astonished to come into a "convention of
democrats in the Territory of Arizona and find ... members
whose whole aim was to attack the integrity of ... American
Courts. I want to say that over in Graham County I did not
have to run as a delegate on the socialistic platform."⁴¹

The Amendment was lost by a vote of
⁴²
eighteen to thirty two. Upon Cunningham's motion, the prop-
⁴³
osition was indefinitely postponed.

40. Verbatim Report Arizona Constitutional Convention, Vol.
1, November 3, 1910.

41. Journal of the Constitutional Convention, pp. 116-7.

42. Ibid., p. 117.

Ayes: Bolan, Brander, Coker, Connelly, Crutchfield,
Cunniff, Feeney, Goldwater, Jones, A.M., Lovin,
Moeur, Moore, Morgan, Osborn, Roberts, Tovrea,
Wood, Mr. President.

Nays: Cassidy, Cobb, Colter, Cooper, Cunningham, Curtis,
Doe, Ellinwood, Franklin, Hutchinson, Ingraham,
Jacome, Jones, F.A., Keegan, Kingan, Kanney,
Langdon, Lynch, Orme, Parsons, Pusch, Scott,
Short, Sims, R.B., Simms, Mit; Stangage, Tuthill,
Weinberger, White, Wells, Wills, Winsor.

An attempt was made by labor to legalize picketing and boycotting by introducing the following proposition:

"The people shall at all times have the right to organize for the advancement of their interests, to abstain from work for any employer, individually or collectively, for any reason deemed sufficient to them; to attend peacefully in any number about any place of work for the purpose of giving information about pending controversies to any persons, or peaceably persuading any person to abstain from work for any employer. The people shall have the right individually or collectively to abstain from dealing with or patronizing any individual, firm, partnership, association or corporation, and to persuade others to do so by speech or print or in any other peaceable manner." 44

Feeney, who was the chief defender of this proposition, said that labor had suffered by judge-made laws but that now the time had come for labor to prevent this in the future. This was one of the most radical bills introduced, and from the first there was not much hope that it would be passed. Many of the moderate Democrats who would vote on less radical measures would not vote for this one. The proposition was killed in the Committee of the Whole by a vote of twenty seven to sixteen.

A proposition was introduced by Connelly which provided for a Department of Labor to be under the

44. Proposition No. 71, Collection of Propositions introduced into the Arizona Constitutional Convention, 1910.

45. Verbatim Report Arizona Constitutional Convention, Vol. 2, November 12, 1910.

46. Arizona Republican, October 22, 1910, p. 1.

control of a Commissioner of Labor who was to be elected by the people for a term of four years; a Board of Arbitration of which the Commissioner of Labor was to be ex-officio chairman; a State Boiler inspector whose term of office was to be four years and his duties were to be prescribed by law. ⁴⁷ The Labor Committee, to which it was referred, ⁴⁸ recommended that it pass, but labor was not able to rally enough outside support to secure the passage of ⁴⁹ the measure.

A proposition was introduced by Kinney, for the regulation of alien labor. It stated:

"No individual, firm, corporation association shall employ men in underground or other hazardous occupations, who cannot speak the English language. Nor shall any individual, firm, corporation or association employ alien labor to the extent of more than twenty per cent of the entire amount of labor employed by such individual, firm, corporation or association." 50

The majority report of the Committee on Judiciary recommended the proposition if all words after "language" be struck out.

⁵¹ The minority report wanted the whole proposition. Winsor moved that the proposition as amended be passed, with an ⁵² amendment of "intelligently" after "language".

47. Proposition No. 76. Collection of Propositions introduced into Arizona Constitutional Convention, 1910.

48. Minutes of the Constitutional Convention of the Territory of Arizona, p. 201.

49. Ibid, p. 295.

50. Prop. No. 91. Collection of Propositions introduced into Arizona Constitutional Convention, 1910.

51. Minutes of the Constitutional Convention of the Territory of Arizona, 1910, p. 228.

52. See footnotes, next page.

The original proposition had no chance of being passed as the individual farmer, cattleman, or anyone hiring less than five men could not hire Mexicans at all. The purpose of the proposition was to prevent both individuals and corporations who hired men for mines, railroads, carpentry and masonry work, and such industries, from hiring Mexicans who were generally non-union men.

Petitions came into the convention from various parts of the Territory for a provision to limit the number of aliens to be employed. A petition with four hundred signatures was received from Globe, Arizona, stating that: "We, the undersigned, residents of the County of Gila and the Territory of Arizona, hereby unreservedly indorse and approve the proposition presented by the Hon. H. L. Kinney, to incorporate in the Constitution of the State of Arizona, a provision providing that at least eighty per cent of persons employed in hazardous occupations, shall speak and understand the English language, and do humbly petition your Honorable Body to incorporate such a provision in the Constitution."⁵³ A like petition was sent in by residents

52. Ibid., p. 251-2.

Ayes: Baker, Bolan, Brander, Cassidy, Coker, Connelly, Crutchfield, Cunniff, Cunningham, Feeney, Franklih, Goldwater, Ingraham, Jones, A.M., Jones, F.A., Deegan, Kinney, Lovin, Moore, Osborn, Parsons, Roberts, Short, Sims, R.B., Simms, Mit, Standage, Webb, Weinberger, Winsor, Wood, Mr. President.

Nays: Colter, Cooper, Curtis, Ellinwood, Hutchinson, Jacome, Kingan, Langdon, Lynch, Orme, Pusch, Scott, Tuthill, Wells, Wills.

53. Verbatim Report Arizona Constitutional Convention, Vol. 1, November 7, 1910.

of Cochise County.⁵⁴

The mining companies realized what this measure would do to their business. Cobb, a delegate from Graham County, opposed the measure: "The county which I represent produces eight million pounds of copper and is the second largest producer in Arizona, and one-half of the men employed underground cannot speak the English language intelligibly and if this provision is adopted I fear it will close down practically all the mining companies in that district."

Connelly, who spoke for labor, said it was a safety act, but everyone knew though that it was a measure to prevent Mexicans, who were usually non-union men, from getting jobs. Tuthill and Lynch gave speeches to prove that the mines would not be safer by such a measure. "In my town", said Tuthill, "there are at least one thousand Mexicans employed in the mines who do not speak English ... Should this pass, it would absolutely say to them, 'You cannot work' We checked up figures and our percentage of accidents was lowest in the Territory and we employed Mexicans." Lynch continued the same line of argument: "In the town of Morenci the conditions are that probably ninety per cent of the men who work underground are Mexicans and Italians. They are under shift bosses who speak Mexican as well as English."

54. Ibid, October 29, 1910.

Ellinwood and others of the opposition based their arguments upon the unconstitutionality of the provision. They said that it would not provide equal protection of the laws as is provided in the fourteenth amendment of the Constitution of the United States. Wills said he would vote against it because "hazardous occupations" might apply to cowpunchers.⁵⁵ The measure was defeated by a vote of twenty six to nineteen.⁵⁶

Tovrea introduced a measure which provided that labor be paid every two weeks.⁵⁷ Baker brought up the old question of unconstitutionality. He was hushed by Feeney who told him that the courts had held a bill of the New York Legislature constitutional which provided that pay day be semi-monthly.⁵⁸ It was defeated because there were too many interests against it, the final vote being eighteen to twenty three.⁵⁹

Another measure which labor wished was an educational qualification for voting. Brander introduced a proposition which stated that any voter must be able to read the constitution of the state (Arizona) in English and write his name.⁶⁰ Feeney asked the members if they were going to let men go into the voting booth and run the state when they

55. Ibid, Vol. 4, December 1, 1910.
56-60. See footnotes, next page.

could not speak the English language. Parsons said that he had always believed that "no ballot should go in the box that did not register an honest opinion!" The main argument of the Republicans was that it would be rejected by Congress because it did not comply with the Enabling Act. Parsons said that such a contention was ridiculous⁶¹ It is doubtful whether the Senate would have accepted it, though, for it would have meant that Republicans would not have had any chance to send delegates to Congress.

56. Minutes of the Constitutional Convention of the Territory of Arizona, 1910, p. 350.

Ayes: Cassidy, Cobb, Coker, Colter, Cooper, Curits, Ellinwood, Franklin, Goldwater, Hutchinson, Jacome, Jones, F.A., Kingan, Langdon, Lynch, Moeur, Orme, Osborn, Pusch, Scott, Sims, R.B., Simms, Mit, Standage, Tuthill, White, Wells.

Nays: Bolan, Brander, Connelly, Crutchfield, Cunniff, Cunningham, Ingraham, Jones, A.M., Keegan, Kinnery, Lovin, Morgah, Parsons, Roberts, Short, Weinberger, Winsor, Wood, Mr. President.

57. Proposition No. 141, Collection of Propositions introduced into Arizona Constitutional Convention, 1910.

58. Verbatim Report Arizona Constitutional Convention, Vol. 2, November 18, 1910.

59. Minutes of the Constitutional Convention of the Territory of Arizona, 1910.

Ayes: Bolan, Brander, Cobb, Connelly, Crutchfield, Cunningham, Feeney, Ingraham, Keegan, Langdon, Loving, Morgan, Parsons, Roberts, Scott, Sims, R.B., Tovrea, Mr. President.

Nays: Baker, Coker, Colter, Cunniff, Curtis, Ellinwood, Franklin, Goldwater, Hutchinson, Jones, A.M., Jones, F.A., Kinney, Moore, Orme, Osborn, Pusch, Short, Simms, Mit; Webb, Weinberger, White, Wells, Wood.

The motion made that the proposition pass was defeated by a vote of eighteen to twenty three.

60. Proposition No. 41 Collection of propositions introduced into Arizona Constitutional Convention, 1910.

61. Verbatim Report Arizona Constitutional Convention,

CHAPTER VI.

ARIZONA BECOMES A STATE

After the work of the Convention was over, it was somewhat uncertain who would sign the completed constitution. The Republicans had consistently voted against the more radical propositions; also, some of the conservative Democrats had made bitter speeches against some of the propositions passed. Those who wished the honor and prestige of having their names affixed to the document, but didn't wish to formally approve it, interpreted the rules previously adopted as requiring all the members to sign the draft of the Constitution but that those who disapproved could state that they were merely signing a record.¹ Parsons wildly protested against any infringement upon what he styled "the greatest and grandest document since the Declaration of Independence."² It was decided that any signature would designate absolute approval.

Those moments of the signing of the Constitution were dramatic. Moments of perfect silence would be broken with bursts of applause which swept over the convention floor and galleries. A few of the conser-

1. Arizona Daily Star, December 11, 1910.
2. Los Angeles Times, December 10, 1910.

vative Democrats as Orme, Franklin, Tuttle and Baker, signed the document, although they disapproved it, because they did not wish to break with their party. When they affixed their names there was loud applause. The greatest applause during the convention came when Langdon, the lone Republican from Gila, signed the Constitution.³ The other Republicans refused to sign. The only Democrat who refused to sign the constitution was Ellinwood. He based his reason on the fact that he was opposed to the recall of judges.⁴

The Enabling Act provided that the people should vote on the proposed constitution, and if approved by them, it was to be sent to Congress and the President for their approval.⁵ Before the Convention had adjourned, two campaigns were on in the Territory; one for the defeat of the Constitution and one for its adoption. The newspapers of the day were mouthpieces of the two factions.

✓ The strongest argument used by the capitalist interests for the defeat of the Constitution was "Statehood First." They claimed that ratification of

3. Arizona Daily Star, December 11, 1910

4. The Guardian, December 16, 1910.

5. Statutes of the United States of America, 61st Congress, Second Session, Ph. I, Chapter 310.

✓ the proposed Constitution would defer statehood for it would not find favor with Congress or President Taft. Delegate Cameron, Governor Sloan and Postmaster General Hitchcock were the most influential speakers for its rejection. Sloan and Hitchcock were in Washington and claimed to have absolute assurance from the President's own lips that he would not approve the "work of the Phoenix garden of zoological freaks."⁶

Labor Organizations and other who wanted the Constitution ratified could not be bluffed by the "Statehood First" slogan of the capitalistic interests. Labor said that if the President disapproved of the Constitution merely because it contained the initiative, referendum and recall, he would "alienate from his affection every labor leader and every insurgent Republican from Maine to California."⁷

A strong union paper accused Republican officeholders of opposing the ratification because they would lose their jobs when statehood came:

6. San Diego Union, December 20, 1910.

7. Arizona Daily Star, February 8, 1911.

"From Governor Sloan Down to the little Republican officeholder who fears the loss of his job, everything that can be done or said against the Constitution is being carried out for the purpose of having the people vote against the ratification of the Constitution and thus defeat the opportunity for statehood and the adoption of the Constitution that was written in the interests of the people of Arizona."⁸

A letter to the editor of a Phoenix paper reads as follows:

"Many people have known Sloan for a good while. If there is anybody who knows him believes he would be glad to throw up his job with a possibility of getting \$6,000.00 per year, that we might get statehood, I would ask him to hold up his hands."⁹

Labor realized that corporations were behind the movement against ratification, and that they would exert much pressure on the President to get him to turn it down. "They will do this, not alone on the ground which has at various times been mentioned that the Constitution contains the recall of state officers including judges, but that it is unduly anti-corporation."¹⁰

After the Republican leaders in Arizona realized that their "Statehood First" plea was having little effect upon the people, they suggested that a committee be sent to Washington to find out the sentiment there and report back to the people of Arizona. Hunt said there was

8. The Guardian, December 10, 1910.

9. Arizona Gazette, December 10, 1910.

10. San Diego Union, January 31, 1911.

no need for such a delegation. ¹¹ This gave his opponents another chance to criticize him: "All the thinking necessary is done by Hunt and the socialists leaders....
 Nobody dares question his dictatorship." ¹²

The people of Arizona voted on and ratified the Constitution February 27, 1911 by a large majority. The vote by counties was as follows:

<u>COUNTY</u>	<u>FOR</u>	<u>AGAINST</u>	
Apache	208	278	
Cochise	2,143	709	
Coconino	330	122	
Gila	1,334	243	
Graham	649	87	
Greenlee	555	215	
Maricopa	2,642	705	
Mohave	429	57	
Navajo	287	136	
Pinal	336	142	
Pima	948	413	
Santa Cruz	258	77	
Yuma	798	125	
Yavapai	1,240	382	13.

Even before the Constitution had been ratified, a committee of twelve leading citizens, headed by Hunt, had gone to Washington to try and push the Constitution through Congress, and get the President's approval. ¹⁴ Hunt sought

out Senator Bourne of Oregon and consulted with him all one afternoon. ¹⁵ On February 24, 1911 part of the committee went with Secretary Ballinger to see the President about the

possibilities of statehood. The President merely stated that

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11. Arizona Daily Star, December, 8, 1910
 12. San Diego Union, December, 9, 1910
 13. Arizona Daily Star, February 28, 1911
 14. Daily Silver Belt, February 22, 1911
 15. San Diego Union, February 24, 1911

as he had not yet received a copy of the Constitution, he
could not give out any statements. ¹⁶ Their failure to get
anything was cleverly summed up by a newspaper editorial:
"Arizonians may be big men at home but they are not big ¹⁷
enough to amount to anything when they reach Washington."
As nothing was accomplished they went home. However, soon
afterwards another delegation reached Washington. During
the debates in Congress over Arizona's proposed constitution,
many telegrams were sent to Congressmen by different groups
in Arizona; some asked for the Constitution to be accepted
without amendment and others wanted the recall of judges
omitted. ¹⁸

On April 4, 1911 the House Joint Resolu-
tion No. 14, to approve the constitutions formed by the con-
stitutional conventions of the Territories of New Mexico and ¹⁹
Arizona, was introduced into the House of Representatives.
This report was referred to the Committee on Territories.
The report of this committee was submitted to the House on
May 12, 1911. The majority report recommended that the recall

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16. Arizona Daily Star, March 1, 1911
 17. Ibid, March 2, 1911
 18. Hunt, G.W.P. Personal Interview, March 1929
 19. Congressional Record, 62 Cong; 1 sess; Vol. 47, Part 1.
p.18

of judges be submitted to the electors of Arizona for their ratification or rejection; it was not mandatory that they ratify it to become a state. The reason for proposing this change was the objection of the President of the United States to the recall of judges. They believed this provision would meet his objection. The minority report, to which Arizona's delegate, Ralph H. Cameron complied, said that the admission of Arizona as a state should be dependent upon the ratification of the amendment that the recall of officers provision would not apply to the recall of judges.²⁰ On May 23, 1911, the House Joint Resolution Number Fourteen passed the House, as amended. The amendment was practically the same as the²¹ majority report.

From the House, the resolution went to the Senate where it was debated on for four months. Senator Nelson of Minnesota moved to amend that it be made mandatory on the people of Arizona to amend the proposed constitution by eliminating the recall of judges. This amendment was lost by a vote of twenty-six to forty-three. The Senate then passed the bill as it came from the House, except slight

20. House Report No. 33, 62nd Cong; 1sess; p.1-9.

21. Congressional Record, 62nd Cong; 1 sess; Vol 47, Part 2, p. 1528.

amendments, by a vote of fifty-three to eighteen.²² The resolution was sent back to the House and passed by a vote of two-hundred-fourteen to fifty-eight.²³ The resolution was signed by Vice-President Sherman²⁴ and the speaker of the House on August 11, 1911.²⁵ Predictions were fulfilled when the Speaker laid President Taft's veto message before the House on August 15, 1911.²⁶ His main reason for veto was the recall of judges.

The Democrats realized it would be impossible to override the President's veto. During a joint conference of the Senate and House Territorial Committees, it was decided that Arizona be positively required to take the recall of judges out of its constitution.²⁷ This resolution, known as Flood-Smith Resolution, passed the Senate by a vote of fifty-three to nine.²⁸ The resolution passed the House without roll call.²⁹ After the signatures of the Vice-President and the Speaker of the House,³⁰ had been affixed to this resolution, it was sent to President Taft and received his approval on August 22, 1911.³¹

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22. Congressional Record, 62nd Cong; 1 sess; Vol 47. Part 4, p. 3742. The text of House Joint Res. 14 is found on the same page.
23. Ibid, p. 3814.
24. Ibid, p. 3821
25. Ibid, p. 3829
26. Ibid, House Document, No. 106, pp. 3964-3966
27. Ibid, House Joint Res. No. 57, p. 4127
28. Congressional Record, 62nd Cong; 1 sess; Vol 47 Part 5, p. 4242
29. Ibid, p. 4298
30. Ibid, p. 4309
31. Ibid, p. 4381

For several days before December³² 11, 1910, the date set for the people of the Territory to vote on the amendment made by Congress, many of the newspapers in Arizona made appeals for the people to vote in its favor.

✓ The voters know that it was the only thing they could do if statehood were to become a reality; therefore, there³³ was a large vote in the affirmative.

President Taft signed the statehood bill³⁴ on February 14, 1912, and proclaimed Arizona a state.

32. Arizona Daily Star, December 10, 1911.

33. Ibid, December 11, 1911.

34. Ibid, February, 14, 1912.

Conclusion

The study of the influence of organized labor in the Arizona Constitutional Convention leads one neither to criticize nor to idealize its actions, but to consider it only as a force. As such it was neither dominant nor insignificant since there were other powerful and well organized forces such as capital and the agricultural interests. Labor, by the eve of the Convention, was conscious of its own strength and had definite ends toward which it wished to work. Its leaders soon realized that as an organization holding the balance of power, it could accomplish more by working with one of the old parties than by forming a political organization of its own. There were two reasons why it allied with the Democrats instead of the Republicans. In the first place the leaders of labor realized that the capitalistic interests were found mostly in the ranks of the Republican party; secondly, Mr. G.W.P. Hunt, who was openly sympathetic with labor had already gained influence in the Democratic party. It was because of this combination of circumstances that labor was able to write many of its policies into the new constitution. Not only this, but by the strength of this union it was able to control the government under the new constitution, thereby carrying its ideas into execution.

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