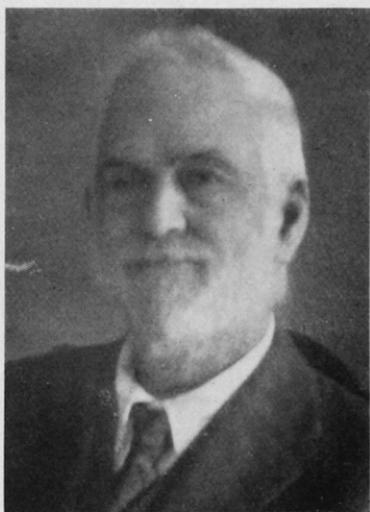


ARIZONA BEGINS LAW-MAKING

(By HON. EDW. D. TUTTLE)

The writer was elected a member of the First Arizona Territorial legislature from the second district at the election held July 18, 1864, under the proclamation of Governor John N. Goodwin issued by virtue of the Act of Congress approved February 24, 1863. The second district included the entire western part of Arizona. At that time the only settlements in that district were along the Colorado river at Yuma, La Paz, Mohave, Hardyville and a few isolated mining camps and a few roving prospectors. The first information we had, at Mohave, of an election was brought by Charles D. Poston, who was Indian agent at that time for the territory. He came on horseback from Prescott over a trail, there being no wagon road at that time. We were quite surprised to learn that the Governor's party had selected Prescott as the territorial capital. Colonel Poston announced his candidacy for the office of Delegate to Congress and gave us a copy of the Governor's proclamation. We at once got into communication with the people of La Paz and Yuma and without any political party organization, by mutual consent, apportioned the number of members to which the district was entitled. Between the different portions of the district. Mohave was to have two members of the lower legislative branch (The House). La Paz, Yuma and lower river points were assigned two members of the upper branch (The Council) and three members of the House. When the people had selected their nominees a general notice was given so that tickets could be prepared and polling places fixed.

Soon after Colonel Poston visited us, one Augustus P. Hall came from Prescott and announced the candidacy of Dr. Lieb, of Prescott, for delegate for Congress. Also David Bradshaw visited us enroute from Prescott to La Paz. He talked to the voters, announcing himself as a candidate for Delegate to Congress, saying he had served as lieutenant in



HON. EDW. D. TUTTLE

Company D of Colonel Doniphan's regiment of Missouri Volunteers in the Mexican War.

Colonel Poston wanted me to go to El Dorado Canyon, a mining camp sixty miles above Mohave, on the west side of the river, to see that the polls were opened on election day and also to promote his candidacy. I, accordingly, in company with Mr. Shoemaker, went to that place, arriving in time for the election. The people there seemed to have no interest and it required a good bit of urging to have the polls organized. Quite a vote was polled and I carried the returns to Mohave and saw to their transmittal to the Secretary of the territory at Prescott.

The address of Secretary Richard C. McCormick at the opening of the first legislative session was a notable one. He especially cautioned us to drop all sectional animosities and local or political prejudices. He emphasized the importance of unity and necessity for economy and enlarged upon the mineral resources, offering to capital opportunity for investment when life and property were made safe.

Secretary McCormick was of Irish blood and brim full of Celtic fire, of medium height and slim build, well formed and with dark complexion, nervous temperament, and of quick decisive action. He had represented a New York district in Congress and been librarian of the Congressional library in Washington. His interest in Arizona had been aroused by reading the work of Prescott, the historian, and that suggested the name adopted for the capital.

The Governor, John N. Goodwin, was a large man, of a florid complexion, fine physique, and was easily the handsomest man around at that time. He made no speeches that I recall now and seldom appeared at our sessions, but met with committees at his residence. Almon Gage, attorney general, was on hand at all times.

The Legislative candidates from Mohave were John Moss, discoverer of the Moss Gold Mine; William Walter, recorder of the San Francisco mining district, and myself. Walter and I were elected. As there was some danger from roaming bands of Navajos, Apache, Mohave and Wallapai Indians

on the trail, Mr. Walter and myself accompanied Lieutenant Baldwin's mounted troop of the First California Cavalry, who were going to their post at Fort Whipple from Mohave. Mr. John Rountree was with Lieutenant Baldwin, of the firm of Rountree & Alsap, Prescott, both prominent in Arizona development. Jake Miller and his brother had a ranch fenced just out of Prescott, where we left our horses during the time of our legislative service. They had a fine location; it included the only large body of pine timber there, scattering trees being the rule.

As the time for the legislative session to open on September 26th, approached, the delegations from other sections of the territory came in from the south and west. We soon got together and selected appointees to fill the various legislative official positions, so, when the day for organization arrived, Ex-Governor Bashford of Tucson, had no opposition for President of the Council and William Claude Jones, also of Tucson, was the unanimous choice for Speaker of the House. No time was lost in organization.

Territorial Secretary McCormick had been quite busy for several days with the contractors getting the Capitol building ready for housing the members. It was a log structure of three rooms, the interstices between the logs chinked with clay. It was comfortable and such as most of us were used to and quite in keeping with the new town. There were no saw mills near to cut lumber. The Lount Brothers just then were bringing in a steam-power saw mill, but had not yet got it in operation. The tables, benches and desks in the legislative halls were of the crudest description. In fact, the whole "ensemble," as well as the town, resembled a California mining camp in 1849. But the people all were full of energy and alive to the great development just ahead and proud to be taking a part in it.

The families of Mr. John Osborn, Mr. Ehle, Mr. Boblett, Mr. Jackson, Dr. Leib and others added to the social advantages. The Reverend Harry Reed gave the citizens religious instruction and was also postmaster. Goldwater Brothers and Wormser had merchandise for sale. N. P. Appel,

a member of the house from Tucson, of the firm of Tully & Ochoa, combined business with his official duties and brought a load of flour, showing very commendable discretion in providing against a famine.

Most of the members seemed to be bachelors, or were to become so, as two of them, if my memory is correct, were divorced as a result of some of the first acts passed. The town population appeared to be composed of mostly unmarried men.

Hezekiah Brooks was Probate Judge and John Howard was an attorney; Bill Bradshaw, after whom was named the Bradshaw range of mountains, a miner, relieved the tedium of the hours after adjournment with stories of happenings in his old home town in North Carolina. We had a marriage celebration—John Dixon and a bonnie daughter of Mr. Efile, who ran the hotel.

Judge Allyn convened the United States District court and the grand and petit jury brought in from the surrounding mountains and valleys of his jurisdiction, stalwart men to support law and order and give protection to those pushing civilization into the last stronghold of savagery in the great southwest.

With the Governor's entourage came the printing press and type for a newspaper, brought by Secretary McCormick, who stood sponsor for the Arizona Miner, when that paper made its bow to the public. The Miner has survived all these years as a valuable help to progress. The late John Marion, afterwards owner and editor of the Prescott Courier, was the principal editor of the Miner during the first days of its existence, and the late A. F. Banta was the printer responsible for the typographical appearance of the first copy of the Miner. In the Miner was printed the Journal of the legislative proceedings. I remember the Miner office did not have a lower case z, so they turned an N. half way around as a substitute; anyone having a copy of that Journal will confirm my statement. One typo on the Miner was named Bentley, later killed by the Indians.

Just below the capitol on Granite Creek, was Fort Whipple. It was garrisoned by a troop of the First California Cavalry,

Lieutenant E. C. Baldwin in command; a company of the Fifth United States infantry, Captain A. L. Anderson, Lieutenants Barr and Curtis. The assistant surgeon was Lieutenant Elliott Cones. Surgeon Cones was divorced by us from a wife who was in Washington at the time; probably no notice of the action was ever served on her. Lieutenant Cones was the author of a standard work on Ornithology, now a text book in our schools. Captain Anderson, who was a nephew of Major Anderson, of Fort Sumpter, S. C., when the first shot of the Civil War was fired, was also a cousin of Nicholas Longworth, of Ohio, member of Congress and Speaker. Anderson became Colonel of the Eighth California Cavalry on March 7, 1865, and died a few years ago at the soldier's home at Sawtelle, California.

The legislature, when it passed an act authorizing a territorial seal, called on Captain Anderson to suggest and make a copy for the engravers, which he did and it was adopted, but I think it was never used as a succeeding legislature adopted the present one. Lieutenant Curtis had a bad limp from a wound received at Antietam. Lieutenant Baldwin's troop had just returned from Texas, where it took the prisoners captured at the battle with Colonel Sibley's command (Texans) on the Rio Grande.

There was a Union League in Prescott.

Major E. B. Willis, First California Cavalry, selected the site of Fort Whipple, which was established as a protection to the capital and surrounding country. Several of the legislative members had their sleeping quarters at Wormser's Store on the counters and other soft places, myself among the number.

I must relate an incident told me by Captain A. S. Grant, Fourth California Infantry, in which Mr. Wormser played a dangerous and important part: Sergeant Bell of Grant's Company, in command of a soldier escort to Wormser's freight train from Ehrenburg to Prescott, was attacked by Indians in a canyon out a way from the river. In the rush Wormser, mounted on a mule, received an arrow through the fleshy part of his anatomy nearest the saddle. Wormser hit

the road for Prescott and did not stop until he got there and raised a posse to save his train. The soldiers got into the rocks, drove off the Indians and finally saved the train. They were commended by General Mason in General Orders.

Such occurrences were not uncommon in those days. The descendents of these same redskins are now doing the hard work on the various dam projects constructed on Arizona streams, and tourists drive over the same country in safety without a thought of the pioneer who marked the trail with his blood.

The townsite of Prescott was located and entered under the United States Townsite Law. Robert Groom, Civil Engineer, surveyed and platted it. Mr. Groom was a member of the Council. R. C. McCormick, Van Smith and Brooks, I think, were the Commissioners. The lots were sold at public auction by the Commissioners while that first legislature was in session. I was a buyer of about a dozen of what I thought the best located ones. As the patent had not been yet issued to the Probate Judge, trustee, the purchasers were only required to pay down 10% of the price and received from the Commissioners a certificate of purchase; the balance to be paid when patent was received and the Probate Judge could give a deed. Soon after my return home to Mohave, some reprobate stole my valise containing the certificates and other personal effects, which I never recovered. I never made any effort to perfect my title. A few years ago I passed through Prescott on the Santa Fe train. I stepped down and employed the few minutes of the stop in a glance at the city of Prescott, now a bustling hive of business and fine blocks of modern buildings. I could locate what was once my lots, now right in the center of traffic and covered by fine buildings.

I tried to find the old Capitol log structure but, like the title to my lots, it had passed away, and joined the blasted hopes of those who constructed it and thought it was to be the seat of government for all time. After a vacillating and unstable life for a few years, it finally found a congenial home in the beautiful valley of the Rio Solado—Salt River—just where the honorable Speaker of the House in 1864—Hon.

Claude Jones—wanted to place it as a compromise when the Tucson delegation failed to move the Capital to the old Spanish town. The northern and western members beat the move by a tie vote. Jones' amendment tacked the name "Aztlan" on to his proposition—a very good name—but I like the present name better. I saw Phoenix for the first time in February, 1869. I, on that occasion, followed some of the old abandoned canals (prehistoric), mute evidence of the dense population that once filled the land. I then felt the thrill that Speaker Jones had felt as he passed through the valley on his way to that legislature in 1864. William Claude Jones, the Speaker, was a lawyer of ability, a native of Ohio who went to Missouri and contested with the Honorable Thomas H. Benton for a seat in Congress, being defeated. I met Jones in 1865 on the Steamer Senator bound from San Diego to San Francisco. He told me he was enroute to Honolulu, Hawaii.

I will now attempt to take up such knowledge as I have of the personal life of a few of the members of that first legislature, in order that their memory may pass on to the future. I must first say that although the country was engaged in a fratricidal and bloody war, with doubtless conflicting ideas as to the merits of the causes and issues at stake, I never heard a single word spoken in debate or at any time by the members that could be construed as offensive by any one or in criticism of the opposing elements in the contest. We were just a happy family, only anxious to give Arizona the very best start in its new life and at the least expense of time and money. I believe we did more work in less time than any deliberative body in the history of the formation of this republic. There was no graft; if anyone had an axe to grind, he soon found a seat way back in the corner.

The Governor, John N. Goodwin, who had been in Congress from Maine previous to his appointment, as well as Senator Richard C. McCormick, were ever ready to co-operate and assist in every possible way at every stage of the session. The Governor, when the judiciary committee was considering the Howell Code, section by section, as presented by

Judge Howell, who had been commissioned to prepare the draft, in readiness for the consideration of the legislature, met regularly with the committee (I was a member) and gave us the benefit of his knowledge and experience as a lawyer and law maker. It was his foresight that provided us, through Judge Howell, the means by which a complete code of laws was enacted for the territory, both civil and criminal, to take the place of the crude common law of New Mexico, of which we had formerly been a part; in fact, military law was in force previously. Jesus M. Elias, of the house, and Francisco S. Leon, of the council, spoke only Spanish. Speaker Jones for the House, acted as interpreter, being competent. No other was employed. The journal clerk of the house, James Anderson, a lawyer and a veteran of the war with Mexico; a native of Erie, Pennsylvania; a resident of California since 1849; once a member of the California legislature from Placer County, came to Arizona with William H. Hardy, when he built Hardyville in 1864, gave us in the journal of that session an example worthy to be followed in concise and complete journalism.

All other employees performed their duties with zeal and efficiency. I must speak especially of our watchman, whose name I now cannot recall. It is sufficient to say he was a genuine, good feeling, musical Irishman; when off duty he would regale us with a concert of those Irish ballads, rendered in a voice so rich in melody that it would put a mocking bird out of tune. His rendering of "The Wake of Poor Old Teddy Moore" would bring the tears to us hardened sinners.

When bills were to be engrossed for final approval, every member who could write a good legible hand would take a hand and thus save clerk hire and time. I even gave my poor services along that line. Nobody thought of soaking the territorial treasury for such service. One member had enough sand in his craw to introduce or propose a "Stay Law," to prevent creditors who lived outside the territory from bringing an action against debtors residing in the territory for a year after the enactment of the law. It never got

to its first reading. We were poor, but would never have it published to the world we were dishonest.

The running branding iron had not been adopted in Arizona at that date. The 13th legislature hadn't arrived.

As the interest of the reader may be bored somewhat, I'll take a side trail for diversion and relate a story told me by Harte, one of the House members; I will not vouch for its truth. All interested parties, I believe, are now beyond any evil effect by the telling: Dr. Leib, an old and respected citizen of Prescott, was a former influential citizen of Illinois; a friend of President Lincoln; loyal and anxious to help the Government in its effort to save the Union. He was commissioned as a Captain-Quartermaster in the United States Volunteers and went on duty with the Army operating in West Virginia. He equipped and supplied the new companies of Ohio Volunteers that were to confront and rout the Confederates in the Shenandoah Valley. He was entirely without experience in the methods of accounting for the public property invoiced and charged to his account as disbursing officer; his clerks were equally inexperienced; his depot was filled with everything required for the arriving companies and regiments and no delay was tolerated in supplying them; sometimes receipts were taken and other times that formality was impossible. Monthly returns had to be made to Washington; there was scant time to do it; finally a demand came from Washington for his returns with the information his pay was stopped. In his quandary, the Captain filled a barrel with his receipts and such vouchers as he had; headed up the barrel and marked it, "Respectfully Referred to the Secretary of War, Washington, D. C.". The following mail brought an order of dismissal; Mr. Harte was his clerk. Comment! Almost anybody after such an experience, would want to go west and grow up with the country!

The Doctor gave us a lecture which was a torrent of criticism of the Goodwin-McCormick governmental party from its start at Cincinnati to its arrival at Prescott. Mrs. Leib, a very lovely and polished woman, after the Doctor's demise, became Mrs. Judge Brooks.

The Doctor's experience was that of many volunteer officers in that war, who were honest and deserved better treatment. Somebody has said governments have no conscience or gratitude. At the close of the war an omnibus bill had to be enacted to balance the books to relieve such cases—a just and proper relief.

During my sojourn at Prescott, I heard of no disorder or breach of the peace, except in one case, and that involved a member of the Council, Bob Groom. I was not present at the commencement of the controversy. J. H. Lount and Groom were in the post-office. Just as I entered it, Lount picked up a loaded carbine from a corner and from a distance of less than six feet aimed at Groom. Mr. Holaday, a member from La Paz, struck up the gun as it was fired, the bullet passing just over Groom's head. Bystanders prevented any further demonstrations and Holaday's prompt act saved Groom's life and a murder.

Jack Swilling sometimes came in and made lively talks, airing his opinions as to the War in a loud and noisy harangue. He had been a lieutenant in Captain Baylor's company of Sibly's command of Confederates, which had been defeated on the Rio Grande by Chivington's Colorado Volunteers. No one took any exception to Jack's raving. He had his good qualities and was enterprising. He settled in the Salt River Valley at Phoenix and built the first irrigating canal there.

I saw no drunkenness even. It was the most orderly town in my experience.

William H. Kirkland, of Kirkland Valley, was a member of that first grand jury in Judge Allyn's court, and can be truly called a "pioneer of the pioneers". He was a native of Virginia, raised in Missouri; a Forty-niner in California and drove Butterfield's stages and was among the first in every new settlement in Arizona. I knew him as a neighbor in Safford, Graham County. He relinquished his claim to the quarter section entered as Safford Town Site and received an interest in some town lots. Mrs. Lizzie Steel, prominent at Pioneer meetings as the oldest native daughter, is Kirkland's daughter.

Pauline Weaver, one of the old trappers of the southwest, came in one day on his mule. He brought the Governor a can of sorghum syrup, produced on his ranch on the Hassayampa. Weaver Hill gold diggings, bears his name; once the richest placer in the world, now exhausted.

J. M. Redondo, elected at Yuma as a member of the House, did not attend. Mr. Leihy, a member of the Council from La Paz, was late in coming, also Louis G. Bouchet—all others were in their seats at the opening of the session.

At least two who were members met their death at the hands of the Apaches; Gilbert W. Hopkins, House Member, a civil engineer, an educated man and one of the most capable members, and George W. Leihy, Councilman, who was appointed Indian Agent at the Colorado Indian Reservation and was killed by reservation Indians; also his clerk, whose name I do not recall. This same clerk (a Scotchman) in 1865 saved me from injury by extricating me from under my riding mule, which stumbled and fell on me. I was escorting Mr. Maltby, Indian Agent for California, and a committee of Congressmen inspecting the Indian reservations of Hoopa Valley and No-Me-Lack-ee (Round Valley) in northern California. He was then Maltby's clerk; afterwards became Leihy's clerk. Mr. Leihy was warned but trusted them too much.

Daniel H. Stickney, house member, enlivened proceedings by occasionally referring to the time "He Commanded Fort Yuma." When General James Carleton was in command in Arizona in 1861-62; he arrested some of the citizens of southern California whom he thought too free in their criticisms of the government in its prosecution of the war and placed them in arrest at Fort Yuma. Stickney was one. Sylvester Mowry, who was Lieutenant in the United States Army and resigned just before the war, while stationed at Fort Yuma, was another. Mowry wrote a history of Arizona and Sonora. He owned the Cerro Colorado mine once called the Heintzleman Mine, when owned by General Samuel Heintzleman of the United States Army, of the Civil War days. Stickney

was from Alabama and a native of Massachusetts. Mowry was from Pennsylvania. Probably Carleton was over zealous. Their incarceration at the fort was nothing more than a pleasant outing. I was at the fort just after they were released and heard all about it.

When I got there, one Colonel Lally was enjoying the hospitalities of the officer's mess as guest. He had been superintendent of the Cerro Colorado Mine and was on his way to New York. He was always commending Bourbon as a sovereign remedy for the malaria so prevalent in Southern Arizona and seemed to be giving the remedy a thorough trial. Like the summer cloud and the morning dew, he disappeared into the west.

John G. Capron operated the stage line from Tucson to San Diego at one time and had some exciting experiences with the Apaches. He was a native of Ohio. Thomas J. Bidwell served as collector of income tax in 1866.

Richard Gird, a civil engineer, was commissioned to make an official map of the territory. He was part owner in the mines at Tombstone in 1878, and became a millionaire. He went to Southern California and purchased the Chino Ranch, in San Bernardino County, of thirty square leagues, made great improvements and established a beet sugar plant at great cost. It finally passed to an English company and Gird died poor. Tom Bidwell and Gird were partners at that early date, but Bidwell did not share in the Tombstone good luck later.

I must mention the fact that the First Legislature had to worry along on three dollars a day—"Lincoln's skins," as some people derisively termed them, better known as greenbacks. Their value in gold fluctuated according to the war clouds. They sometimes were black as seven midnights. Holiday and I arranged with Mr. and Mrs. Boblett to feed us for the salary and mileage.

Mrs. Boblett was a Kansas girl and handy with a rifle and sometimes helped out the menu with venison steaks of her own killing.

Salaries took a rise as soon as the territory began to levy

taxes and sell bonds, and things looked better when the Treasury began to operate.

It is an unsolved problem whether the service for quality can be judged by the salaries paid. I am satisfied that the First Legislature would not suffer in such a test. The Governor and his Secretary, gave us all, in turn, a diplomatic dinner at their Bachelor Log Casa over across Granite Creek, a lovely site. Secretary McCormick presented me with an autographed copy of his book, entitled, "From St. Paul to Saint Sophia". It went with my town lot certificates, so I have now no souvenirs of that interesting period, but time has not erased from my retina the panoramic view; to the south, dominated by "Thumb Butte" and to the north, Mount San Francisco, with its snow cap. And we who had been sweltering in the more than torrid heats of the Colorado River Valley, gloried in the change to the pure water and cool bracing climate of the central highlands, and stood by Prescott for the Capital.

It has been a source of intense satisfaction that I have had, under a Divine Providence, my life extended to see the territory advance to its present high place as a State in the Union, with a future greater advancement when the rivers have been fully harnessed and their energy applied to the various industries, and have helped to banish or ameliorate many of the handicaps which her citizens have had to endure in their struggle for a place in the sun. And it is an added pleasure to know that I have been on the firing line for nearly forty years of its most interesting history.