

Arizona History Lesson: Arizona Statehood and Judicial Recalls

Question: What feature of the Arizona Constitution caused President William Howard Taft to block statehood?

- A. The fact that it creates a Corporation Commission.
- B. The fact it allows direct citizen lawmaking through the initiative.
- C. The fact it allows citizens to recall governors and legislators.
- D. The fact it allows citizens to recall judges.**

Background

When Congress drafted the resolutions that would admit Arizona and New Mexico as the final contiguous states, it notably gave President William Howard Taft the authority to reject those states' constitutions—which he did in the case of Arizona.

Taft, who served as president while Arizona sought statehood, had some progressive sympathies—he was an aggressive trustbuster, far more so than his predecessor Theodore Roosevelt—but on constitutional matters, the former judge tended to be quite conservative in generally favoring the constitutional structure built by James Madison and others at the 1787 convention.

During that era, several innovations making the system more directly accountable to voters were being adopted in the constitutions of both new states such as Oklahoma, as well as older states, especially Wisconsin, Oregon, and California. These included a direct role for citizens in lawmaking through the initiative and referendum process, political primaries to let voters directly choose party nominees, much easier amendment processes, and the ability to recall elected officials—to remove them in a special election called by the voters. The spirit of direct democracy behind such reforms often resembled those of several Founding era state constitutions, which had used a much weaker version of the separation of powers and gave voters much tighter control over elected officials than did the US Constitution and most subsequent state constitutions.

Taft had openly criticized the Oklahoma constitution, which embodied many of these features, and warned Arizonans not to imitate it. At the constitutional convention, Arizonans not only accepted pretty much all of them, but they went a step further: they would allow the recall not just of elected lawmakers and executive officials, but of judges as well.

For Taft, a former federal circuit judge who dreamed of joining the Supreme Court after his presidency (which he did), this was unconscionable. Judges, Taft believed, should be free to faithfully do their work applying the law, regardless of the popularity of their decisions; making them scared to do their duty, lest they lose their jobs to the wrath of an angry mob, was unacceptable. Taft clearly signaled his disapproval of the recall that

Arizonans were considering, which caused many in Arizona to fear the constitutional convention was jeopardizing statehood altogether.

Arizonans contended that the power would be used scarcely, as beginning the process required the signatures of onequarter of the number of citizens who voted for that office in the last election, a significant hurdle, far harder to achieve than the initiative, referenda, or constitutional amendment. They went ahead and left the recall in.

Taft responded by vetoing statehood, issuing a long message in which he decried the recall as “**legalized terrorism**” against judges. Taft was not a great fan of judicial elections but argued that elections plus impeachment served as a sufficient alternative for what Arizonans hoped to achieve.

Arizonans agreed to remove the recall as a condition of statehood. Taft’s veto message acknowledged they could and probably would put it back—statehood couldn’t be revoked once granted— and he recognized it would alienate him from the state’s voters, but he felt he had the obligation to educate the voters and defend constitutional rights where he could.

As Taft predicted, Arizonans immediately reinserted the recall with the first bills proposed in both the House and the Senate, one of which even called Taft out by name: Senate Bill 1, by H.R. Wood of Yavapai: “An Act to Amend Sec 1 of Article VIII of the Constitution of the State of Arizona as adopted under coercion, (directed by William Howard Taft, President of the United States).” (The House’s version, basically equivalent but for its lack of provocative symbolism, was advanced by the legislature into a constitutional amendment).

That proposed amendment was approved at the next election by an almost 50 to 1 ratio—with Taft, the sitting president, running in fourth in Arizona, losing not only to Wilson and Roosevelt but even the Socialist candidate Eugene Debs.

While recall of other officials has been a credible threat in removing them from office (either directly or in forcing a resignation), and may have affected how judges behave, the judicial recall has never removed an appellate judge and only once in Arizona history been successfully wielded against a superior court judge. In 1924, during its brief period of influence here, the Ku Klux Klan used the recall to remove Superior Court Judge Stephen Abbey, whom its members deemed to be soft on crime (specifically, soft on prohibition). The Klan members gathering the petition signatures claimed Judge Abbey was violent, hallucinatory, abusive of government officials, and brought a gun to the bench—which he indeed openly did because he’d been threatened by coworkers who were Klan members.

(For more on that incident, consult Sue Wilson Abbey, THE KU KLUX KLAN IN ARIZONA, 1921-1925; *Journal of Arizona History*, Vol. 14, No. 1 (Spring 1973), pp. 212-4)

Middle Grades:

Vocabulary List:

1. Resolution – A special kind of declaration decision made by a group, like Congress, to solve a problem or express an opinionmake a plan.
2. Constitution – A set of important rules about how a government works.
3. President – The leader of the United States government.
4. Veto – When a president or leader rejects a proposed law or decision.
5. Judge – A person in charge of a court who makes decisions based on the law.
6. Recall – A process where citizens can vote to remove a government official from their job before a normal election.
7. Election – A time when people vote to choose leaders or make decisions.
8. Initiative – A way for people to create laws by voting on them directly.
9. Amendment – A change or addition to a law or constitution.
10. Referendum – A vote where people decide on a specific issue or law.

When Arizona wanted to become a state, Congress made a plan, called a resolution, to admit it and New Mexico as the 47th and 48th final two states that connect to each other. But President William Howard Taft had the power to accept or reject Arizona's Constitution, and he chose to reject it!

Taft was known for some progressive ideas, like fighting big businesses that had too much control, but when it came to the Constitution, he was more conservative. He liked how the Founding Fathers set up the U.S. Constitution back in 1787, especially the way it separated powers among different branches of government.

During the early 1900s, many states were changing their constitutions to give more power to the people. These changes included things like allowing voters to create laws through initiatives and referendums, having political primaries where people could pick party nominees, and making it easier to remove officials from office through a recall. Some states even made it possible to remove judges this way!

Taft wasn't a fan of these changes, especially when it came to judges. He believed judges should be able to do their jobs of faithfully applying the law without worrying about losing their positions if people didn't like the resultsir decisions. So, when Arizona

included a rule to recall judges in their Constitution, Taft didn't approve and used his power to veto statehood.

Arizona didn't want to lose its chance at becoming a state, so they agreed to remove the rule about recalling judges. But as soon as Arizona became a state, they put the rule back! President Taft knew this would happen, and even though it upset him, he understood that once Arizona became a state, it could make its own decisions.

In the next election, Arizonans overwhelmingly voted to add the recall back into their Constitution. Even though Taft was still the president, he didn't do very well in Arizona during the next election. People there were upset with him for opposing their ideas about recall.

While Arizona has used the recall to remove some officials from office, it has rarely been used on judges. The only time it successfully removed a judge was in 1924, when the Ku Klux Klan used the recall to get rid of a judge they thought wasn't strict enough on enforcing laws, especially prohibition. However, the judge had faced threats from Klan members, which made the situation even more complicated.

What do you think about the idea of letting people vote to remove judges or other officials? Should judges be protected from being removed, or should voters have the power to recall them if they disagree with their decisions?

Elementary School:

Vocabulary List:

1. Resolution – A plan or decision made by a group, like Congress.
2. Constitution – A set of rules for how a government works.
3. President – The leader of the United States.
4. Veto – When a president says "no" to a plan or law.
5. Judge – A person who decides cases in court based on the law.
6. Recall – An extra way for people to vote to remove a leader or official from their job.
7. Election – A time when people vote to choose leaders or make decisions.
8. Amendment – A change or addition to a law or constitution.
9. Referendum – A vote where people decide on a specific issue or law.

When Arizona wanted to become a state, there was a plan, called a resolution, made by Congress to let Arizona and New Mexico become the 47th and 48th final states that are connected to each other. But President William Howard Taft had the power to accept or reject Arizona's Constitution, and he chose to reject it!

Taft didn't like one part of Arizona's Constitution. Arizona wanted to give people the power to vote to remove judges from their jobs if they didn't like their decisions. This process is called a recall. Taft, who had been a judge, thought this was a bad idea because he believed judges needed to make decisions based on the law, not on what people thought was popular. So, he said "no" to Arizona's Constitution and used a veto to stop Arizona from becoming a state right away.

Arizona really wanted to become a state, so they agreed to take out the rule about recalling judges. But once they became a state, Arizona quickly put the recall rule back into their Constitution!

In the next election, people in Arizona voted almost 50 to 1 to keep the recall., even though Taft didn't like it. In fact, Taft didn't do well at all in Arizona during the next election. People in Arizona were upset with him because he didn't agree with their ideas.

Even though Arizona has used the recall to remove some leaders, it has rarely been used to remove judges. One of the only times it worked was in 1924, when a group called the Ku Klux Klan used the recall to remove a judge they didn't like.

Do you think it's a good idea to let people vote to remove judges or other leaders if they don't agree with their decisions? Or do you think judges should be protected so they can make fair choices without worrying about losing their jobs?

Offline Activity

Introduction

In this exercise, students will consider the arguments for and against Taft's veto of statehood; they will imagine they are advisors to President Taft and use the decisionmaking process to help advise him whether to deliver the veto message he has drafted or approve Arizona's proposal for statehood.

Preparation

- Provide each student with Wood's Speech, Taft's Veto and Congressional Debate on SJR57 the day before. (You can do the exercise just with Wood's and Taft's materials, since the congressional debate is more challenging.)
- Provide each group with the DecisionMaking Process and Worksheet (optional)

Required Files

Homer Wood, Speech in Defense of the Judicial Recall (1910)

[Taft's Veto of Arizona Statehood \(1911\)](#)

[Congressional Debate on SJR57 \(1911\)](#)

The Decision Making Process (available at CLC [Question 43](#))

Instructions

1. This activity works well as an individual assignment. However, depending on the age and/or skills level of the students, you may want to have them work in pairs.
 - o If that is the case, divide the class into pairs based on the students' individual levels. Group A is the group that needs some extra support. Group B is the core group that has the core knowledge to complete the activity. Group C is the enrichment group who have mastered the material and are prepared to extend their knowledge. Pair those who need support (Group A) with those who have core knowledge and/or have mastered the material (Groups B and C).
2. Explain to the students that they are playing the roles of advisors to President Taft. A veto message of Arizona statehood has been drafted for his possible use; on the other hand, members of Congress will likely attack Taft's decision, both on grounds that the federal government has no right to dictate a constitution to the aspiring state (provided it doesn't conflict with the US Constitution), and that Taft's fears about the recall are overblown. (You will want to have them do the readings the night before and spend class time debating the bill).
3. They have to determine whether to advise Taft to deliver the veto message or reject it and instead sign Arizona's statehood bill. Some things they might consider:
 - o Does the recall destroy judicial independence as Taft fears? Would that matter? How else could judges in Arizona be controlled?

- o Taft thinks the recall is selfdefeating: like other elements of direct democracy, it will be coopted by special interests rather than a tool used by the people. Is Taft right about this?
 - o Will this hurt President Taft politically? Should that matter in the decision?
4. Circulate throughout the room to help students as needed.
 5. Once the students have made their decision, hold a roundtable discussion as the students explain and debate their decision.

Prompt 1:

Why did William Howard Taft veto Arizona's statehood? Was he right to do that??

Prompt 2:

Taft vetoed the recall during a period when Arizona used elected judges. Today, Arizona generally uses the Missouri Plan, where judges are periodically retained rather than competitively reelected. Does using the Missouri Plan strengthen or weaken the case for judicial recall? Should we have judicial recall today? Use current or past events in your answer.