

## **Territorial Government and Political Independence** *A Review Essay by Mark Lynn Johnson*

Gould, Lewis L. *Wyoming: A Political History, 1868-1896*. New Haven: Yale University Press, 1968.

Lamar, Howard Roberts. *Dakota Territory, 1861-1889: A Study of Frontier Politics*. New Haven: Yale University Press, 1956.

Morrison, David R. *The Politics of the Yukon Territory, 1898-1909*. Toronto: University of Toronto Press, 1968.

Pomeroy, Earl S. *The Territories and the United States, 1861-1890*. Seattle: University of Washington Press, 1969.

Spence, Clark C. *Territorial Politics and Government in Montana, 1864-89*. Urbana: University of Illinois Press, 1975.

The expansion of the North American frontier in the nineteenth century presented the societies, economies, and governments of the United States and Canada with a series of challenges: military protection, transportation needs, laws to govern land claims and transfers, water rights, and the creation of a social order. As settlers moved westward, they found in the regions of the Great Plains and the Rocky Mountains an economic and physical climate which demanded new modes of organizing social, business, and political activity. However, as Walter Prescott Webb observed, the task of adapting institutions to meet the needs of the frontier was slow in developing, and proceeded not as a series of planned events, but in an uneven pattern of recognition, failed attempts, re-reliance on old patterns, and unexpected breakthroughs which eventually became the basis for new modes of living.

Early on in this period of settlement and expansion (even prior to the War of Independence), statesmen and political leaders of the Atlantic Coast recognized the

need for government institutions in the frontier regions. In the United States, the territorial government was the tool used to provide services to the settlers and citizens of the new regions, but it also served as a primary means of permanently attaching those regions to the Union, with the ultimate goal of forging territorial administrations into sovereign state governments.

This process of transitioning political institutions from the status of dependent territory into fully-integrated sovereign entities caught the attention of several of the leading historians of the Great Plains and the nineteenth century in the years just following World War II. These themes of institutional transition and the overwhelming need to meet new economic and environmental realities are present in the work of all of these historians. However, while some emphasized the role of the federal government and Eastern politicians in analyzing and influencing the transition from territory to statehood, others focused on the territorial politicians themselves as they tried to lead their frontier societies out of economic and political dependency. Still others concentrated their attention on nascent populist movements and other expressions of political protest on the part of the citizenry.

Earl S. Pomeroy's *The Territories and the United States, 1861-1890* was one of the first major attempts to look at territorial administration as a transitional phase: Pomeroy did not see, as many scholars of an earlier generation did, a parallel between territorial government and colonial administration; rather, he presented the administration of the territories by the federal authorities in Washington as a unique type. Originally written as a dissertation in 1942, and first published in 1947, Pomeroy's

work stands as one of the more influential studies on the relationship between the federal government and the territorial entities.

Pomeroy's major claim is that the territorial system of the post-Civil War era did not differ in any significant way from the administrative structure of earlier territories, at least as it existed as early as 1830. Although the regions of the Great Plains and Rocky Mountain areas maintained their territorial status for much longer periods of time than did the states of the Great Lakes and Ohio Valley, and the federal officials of the post-Civil War period found themselves with a larger number of territories to provide for than did their earlier counterparts, Pomeroy finds no fundamental difference in the statutory framework governing territorial affairs. This consistency in the legal arena stretched from the Ordinance of 1787 up to the end of the nineteenth century. For example, when comparing the various Organic Acts which created new territories, Pomeroy finds that after 1836, every new charter copied almost the exact language of the Wisconsin Act, with only the legal boundaries of each new territory being filled in anew (3). Indeed, according to Pomeroy, the only significant change in legal practice occurred when Congress, at the urging of President Grant and Secretary of State Fish, moved federal responsibility for territorial governance from the Department of State to the Interior Department in 1873 (15).

When Pomeroy moves from legal structures to actual political practices, he turns his focus more to the question of development and change during the thirty years following the opening of the Civil War, rather than as a comparison between the earlier and latter eras. He gives extensive consideration in particular to the two major issues which appear again and again as major themes in the literature on territorial politics: the

qualifications (or lack thereof) of federally-appointed officers, and the inadequacy of federal subsidies for territorial finances. On the appointment issue, Pomeroy addresses the perpetual complaint (which appears again and again in the literature) that the (mostly) Eastern politicians who were appointed as territorial Governors, Secretaries, and Judges were, as Senator William Stewart of Nevada put it, “young men or men out of employment, who would not be assigned to like positions in the States, or broken-down politicians” (63). Although one of Pomeroy’s own analyses of appointments suggests that every President in the period in question (with the exception of Cleveland) heavily favored non-residents (73), a further breakdown of the recommendations for Governors and Secretaries shows that, with the exception of the first Grant Administration, every President was just as likely to appoint an officer preferred by territorial officials or interest groups than one recommended by an Eastern politician (63). Although acknowledging the extremely short tenures and high turnover rates of territorial officers, Pomeroy points primarily to the difficulty of communications and the lack of efficient financial administration, rather than the lack of qualifications of the appointees themselves, for this phenomenon.

It is when addressing this lack of financial support and efficient administration and disbursement of funds where Pomeroy comes closest to providing pointed criticism of the federal approach to territorial governance. He points to the constant variation and inconsistency of salary levels in the 1870s as a particularly difficult burden to overcome, as well as the failure on the part of federal policymakers to take into account the extremely high costs of living in the Western regions (35-36). Pomeroy notes that the Treasury Department, which he finds the most aggressive in fulfilling its duties vis-à-vis

the West, tried to maintain strict controls over spending for items like public printing, construction and maintenance of public buildings, and miscellaneous expenses such as office furnishings and supplies. However, while the Treasury Department tried to maintain its strict control over these types of expenditures, Administration officials (especially under Lincoln and Grant) and Radical Republican Congressmen saw those very same expenditures as opportunities for patronage and to forge ties between the new territories and the Republican Party. This inconsistency in both the messages emanating from Washington and the actual disbursement of funds, according to Pomeroy, represented one of the larger failures of the federal government in territorial administration. In response, he notes, territorial governments supplemented federal spending, often contributing as much as ninety percent of the actual costs of administration. However, constant attempts by the national government to limit such extra expenditures (such as the banning of supplemental pay to federal appointees by territorial legislatures) led to a high degree of agitation amongst both territorial subjects and the local politicians who tried to lead them.

The importance of the territorial politician is one of the key themes of Lewis Gould's *Wyoming: A Political History, 1868-1896*. Like Pomeroy, Gould finds a Western territory not overrun with radical political movements and mass rallies, but instead sees in Wyoming a cadre of young politicians who would gradually increase their influence over time, and then use that power to gently coax concessions and new privileges from the federal government. Writing about Francis Warren, who served from 1873-1923 in various offices (Territorial Senate President, Mayor of Cheyenne, Territorial Treasurer and Governor, State Governor, and U.S. Senator), Gould writes:

In Wyoming, settlers were more concerned with economic development than with social protest and as a result favored policies designed to increase their stake in society. They saw the federal government as a potential source for the promotion of their prosperity, and they tailored their actions to speed the flow of government monies to their state. For this reason, issues like land reform, irrigation, the location of military posts, and conservation were not peripheral and inconsequential, but constituted the heart of western politics. This symbiotic relationship between the national government and the West put a premium on conservatism and stability, and residents of Wyoming found Warren's program readily acceptable (ix).

What was that program? According to Gould, Warren, as well as other local politicians of his era (particularly Joseph Carey, Territorial Delegate and future U.S. Senator, and Willis Van Devanter, Territorial Chief Justice and future Associate Justice on the U.S. Supreme Court), saw the building of seniority and a party machine as the best avenue by which Wyoming could convince federal politicians to provide financial subsidies, and then eventually elevate the territory to full statehood. After the disastrous tenure of Governor John Campbell (a Grant appointee) from 1869-1875, Gould sees the rise of Warren, Carey, and other "old settlers"<sup>1</sup> in the next decade as indicative of a shift away from the dominance of outside business interests (particularly the Union Pacific Railroad) towards domestic industries such as cattle-raising. However, this change in focus did not provide Wyoming enough economic power to demand greater independence from Washington; instead, Gould sees, particularly in the 1880s, the building of a coalition between local political leaders and national political and economic interests, with benefits for all parties. Warren's use of patronage, his

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<sup>1</sup> As Gould uses it the term, "old settlers" indicates a native of the East who had come West in the first few years of settlement, as opposed to those who had arrived after the establishment of rudimentary social, economic, and political structures. Warren, a Civil War veteran from Massachusetts, came to Wyoming in 1868 to engage in ranching. Carey, a native of Delaware, was appointed U.S. Attorney a year later, but also established extensive business interests, such as ranching and a construction firm, early on in his tenure. Most of the literature on Western politics from this era makes similar distinctions, although the terminology used varies from author to author.

ability to keep the local Republican party united, and his ties to both the Union Pacific (representing the economic influence of the East) and the Wyoming Stock Growers Association are held up as examples of his keen political sense, which kept radical political movements from flaring up and causing damage to the subsidy or statehood causes.

Clark Spence, in his *Territorial Politics and Government in Montana, 1864-89*, finds the influence of popular local political leaders to also be a key element in the move away from political and economic dependence and towards full state sovereignty. However, while Gould saw in Francis Warren a Western statesman who could fuse the interests of the national Republican party with those of himself and his constituents, Spence sees in Montana not a coalition between East and West, but a pattern of political leaders with personal followings who discovered an ability to bypass or ignore the influence of federal politicians. Following Kenneth Owens' typology of the Western territorial governments as "one-party", "two-party", and "no-party", Spence finds in Montana a solid representation of the "no-party" category: politics in the late nineteenth century in that region was marked not by dominance of one party, or of conflict between two organized coalitions, but was instead dominated by a loose coalition of the personal followers of three key politicians. Spence notes that while Warren and Carey used their alliance with the business community to dominate Wyoming politics on behalf of the Republican Party, a loose consortium of businessman (and Democratic National Committeeman) Sam Hauser, Democratic Delegate Martin Maginnis, and Republican Governor Benjamin Potts provided political leadership for their Montana constituents, often in opposition to the wishes of Eastern politicians.

Governor Potts, in particular, earns high praise from Spence for his ability to navigate the difficult political waters facing him throughout much of his career in Montana politics. Appointed by President Grant in 1869 to succeed the unpopular and unskilled James Ashley<sup>2</sup>, Potts was a protégé of General William Sherman and a close political ally of Ohio politicians Rutherford Hayes and James Garfield. Although he faced the constant threat of an inter-party split (Potts was subject to ongoing criticism by Radical newspaper publisher Robert Fisk, owner of the *Helena Daily Herald*, throughout his tenure) and a Democratic-dominated Legislature, Potts found his best avenue of response to be an emphasis on efficient administration, with less attention paid to the benefits or losses endured by political party organizations.

This is not to say that Potts was non-partisan: Spence makes it clear that he was a Republican, and he took pains to only appoint and promote Republicans to lower offices. However, as the ongoing controversy over appointments of auditor and treasurer during 1871-1874 demonstrates, Potts' approach was not to force Radical Republicans down the throats of the Democratic Legislature (a course of action preferred by Fisk and his allies amongst Grant's subordinates), but to appoint compromise candidates whose professional credentials could overcome Democratic uneasiness (90-91). Potts' ability to work with Maginnis, particularly in their joint battle with Fisk on the awarding and payment of printing contracts (a constant source of agitation in Montana during the territorial period), is also held out as an example of his political prowess, as well as evidence of his willingness to take a realistic approach

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<sup>2</sup> Ashley, Congressman from Ohio and Chair of the Territories Committee, had been defeated for reelection in 1868 by his Toledo constituency. President Grant then appointed the Radical Republican as Governor of Montana, which did not sit well with the Montana Legislature, dominated as it was for much of the territorial period by Democrats who represented independent miners and liquor interests.

towards cooperation with the Democrats who dominated local politics. Spence writes: "It is a tribute to Potts that, despite a split in the ranks of his own party and invariably confronted with legislatures dominated by the opposite party, over the long run he survived controversy and fashioned a program that redounded to both his and the territory's credit" (98).

Howard Roberts Lamar, in *Dakota Territory, 1861-1889: A Study of Frontier Politics*, finds no such statesmen in his survey of the single territory which would eventually be admitted in 1889 as two separate states. Lamar, in contrast to Pomeroy, Gould, and Spence, finds in Dakota not a conservative and gradual assimilation from territorial founding to statehood, but instead a federal model which could neither understand nor accommodate the needs and demands of western settlers. Of the four authors reviewed here who dealt with American territories, Lamar follows most closely the thesis of Webb, finding in particular the Homestead Act of 1862 to be inadequate to satisfy the economic needs of the Dakota settler (25-26).

When exploring the federal appointees sent to Dakota, Lamar finds several examples of the model lamented in Senator Stewart's "young men", "unemployed men", and "broken-down politicians". For example, Governor William Jayne, the first administrator of the territory, found himself appointed by Lincoln at the age of thirty-six primarily because he had been the President's personal physician in Springfield. Philemon Bliss, an ex-abolitionist Congressman from Ohio, used influence with former colleagues to attempt to revive his political career by securing the Chief Judgeship of the new territory. Captain J.B.S. Todd, a cousin of the first lady, was thought to be a logical choice for Governor in 1861, given his personal experience as both an Indian

fighter and resident of the frontier, but his Democratic allegiance and Lincoln's fear of accusations of nepotism caused the President to look elsewhere (67-70). Thus, although an "old settler" like Todd might have fulfilled a role similar to Warren or Potts, Lamar finds instead an appointment process focused so uniformly on partisan interests as to create an unstable relationship between the territorial and federal governments.

This instability, when coupled with the inordinate influence of Eastern economic interests (especially the railroads), contributed to a culture of corruption which Lamar sees as dominant in the Dakota territory, especially in the 1860s and early 70s. He notes, for example, that every member of the 1862 legislature appeared on the list of corporate officers of the Missouri and Niobrara Valley Railroad, a branch of the Union Pacific which was to connect Dubuque and Yankton (129-130). In a similar vein, Governor John Burbank used his influence to convince Congress in 1871 to place a land office and terminus for the Dakota Southern in Springfield, a town in which he had extensive business interests, rather than Bon Homme, which was favored by Yankton businessmen (134-135). Lamar saves his greatest criticisms, however, for the roles that Governor Nehemiah Ordway and Burleigh County Sheriff Alexander McKenzie played in the capital removal controversy of 1883, which he sees as motivated primarily by a desire to benefit the Northern Pacific and its townsites (214-217).

Lamar sees an extension of this instability coupled with personal interest in the last successful statehood movement after 1885, which he terms an "attempted revolution" by the so-called "Yankton oligarchy", a small group of Republican professionals, businessmen, and current and former territorial officials who saw themselves as a dominant and separate class. Whereas Spence saw Governor Potts'

willingness to work professionally with the Democrats who dominated Montana politics as advantageous to the citizens of the territory, Lamar sees ex-Governor Ordway's shift to the Democratic party after 1884 as an impediment to the interests of Dakota citizens, since Ordway's actions after Cleveland's election were focused solely on fighting statehood (which would have hurt the Northern Pacific's influence). Likewise, McKenzie's inattention to organizing his "Bismarck Ring" on a party basis played into the hands of outside economic interests, as many of those business allies jumped ship to the Democratic column once President Cleveland took office in 1885. In the end, the event which ultimately led to the admission of both states was not agitation on the part of local Dakota interests (although Lamar does indicate that increasing public support for admission of the northwestern states, which no doubt was aware of local feelings, did play a part), but the results of the Congressional and Presidential elections of 1888. Only when faced with a clear mandate did Congressional Democrats and President Cleveland yield to local interests (264-265).

This conflict between national and local interests is also a dominant theme of David Morrison's *The Politics of the Yukon Territory, 1898-1909*. The Canadian case does present a unique set of circumstances, not only because of different settlement patterns, but for administrative reasons as well. First, there was no single template, such as the Wisconsin Act of 1836 presented in the American case, which served as a model organic act or constitution on which to build a territorial government. This leads to the second major difference, which was the much stricter control that the federal Parliament exerted over territorial affairs. Not only did the Interior Minister (a federal official) appoint the Commissioner (the equivalent of a Governor in the U.S. system), but

the federal government also appointed all of the Councilors (legislatures), at least initially, and the Canadian parliament also imposed (and enforced) tight fiscal controls over the expenditures of the territorial government. The limitation of these offices to naturalized British subjects also presented a monumental challenge to the locals to advocate for their own interests, since so many of the miners who flocked to the Yukon and Klondike strikes were American citizens.

Morrison's analysis of the local politicians of the Yukon who, after 1898, sought more influence over their own affairs resembles most closely Spence's portrayal of Governor Potts and Delegate Maginnis in Montana. Although he finds extensive evidence of petty personal and party differences, particularly in the vocal opposition of certain Tory businessmen to the Liberal Laurier Administration of the time, Morrison's overall conclusion is that, for the most part, the miners and businessmen of the Yukon understood that in order to obtain even limited political independence from Ottawa, they had to work within the confines of the territorial system imposed on them. The accomplishment of the right to elect half of the Council in July 1900 is seen as the high-water mark of that strategy. However, the rapid decline in population and economic fortune in the first decade of the twentieth century presented a massive challenge which neither Parliament nor Yukon Council could ever adequately address, and Morrison's book (written in 1968) ends with a sense that the business of political sovereignty for northwestern Canada will have to wait until the problems of economic development and stability have been solved.

Historical analysis of the administrative and government systems of the territories which dominated Western politics of the nineteenth century has shown that while the

national system of territorial organization may have been chaotic and ultimately inadequate to meet the challenges of new environments and different economic situations, federal failures did not necessarily lead to stunted political development. The role of the local politician has been shown in particular to be of utmost importance. When he (since almost all were men) placed his focus on effective advocacy for the interests of the local citizenry, progress towards creating a new and more responsive territorial system, while still imperfect, was at least possible. However, when the local politician turned his focus to strictly partisan interests, patronage, or his own relationships with Eastern political and economic influences, then the instability of the territorial system tended to overwhelm the political and social fabric of these new administrative units.