HOUSE OF REPRESENTATIVES.

SATURDAY, *May 20, 1911.*

The House met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. Henry N. Couden, D. D., as follows:

We bless Thee, Our Father in heaven, for the preservation of our lives, the sanctity of our homes, the stability of our Republic, and for that spirit which is ever leading us onward and upward to larger attainments. Strengthen us for the duties of the hour that we may go about our Father's business, doing whatsoever we find to do. In the spirit of the Lord Jesus Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

ARIZONA AND NEW MEXICO.

Mr. FLOOD of Virginia. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of House joint resolution 14, approving the constitutions of New Mexico and Arizona as amended.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. GARRETT in the chair.

Mr. FLOOD of Virginia. Mr. Chairman, I yield one hour to the gentleman from Texas [Mr. HARDY]. [Applause.]

Mr. HARDY. Mr. Chairman, I had hoped that this might not be a political question, but somehow it seems to me that it has drifted into that. I can not understand the strenuous position of the other side with reference to Arizona, demanding that by our present action we adopt a course which would deny admission of that Territory into the Union as a State because it may have some provision which they do not as individuals approve, when they admit that Arizona may come in as a State without that provision, and as soon as it is a State adopt the very provision that they now object to. The reason, the obscuring reason given for their position is, that gentlemen do not wish to be placed in the attitude of approving a certain provision of that constitution. To obviate that tender, conscientious objection, the majority have provided that the passage of this bill will not be an approval of any provision in either constitution but, as a whole, both constitutions are in effect disapproved so that no tender conscience may be offended. It reminds me, if you will pardon me a little light allusion, of a parent very seriously objecting to the wedding ceremony of his daughter with some unlikely suitor, and saying to that daughter, "You shall not wed in my house and under my rooftree, but you may run away and marry him if you please." For my part, I would rather the child would marry under my own roof and shelter, even though I did not approve the groom, than to tell her, "All right, my daughter, chase away and marry by the light of the moon." That is the attitude these gentlemen place themselves in. They all agree that if Arizona is admitted as a State, with no provision in her constitution for the recall of judges, she may as soon as she becomes a State amend her constitution, and make her judges subject to recall. I am told that some strong opponents of the recall have even advised her to that course. Such action with such advice seems to me too puerile for serious men to consider.

Gentlemen, had this debate been conducted on the usual planes, without such frequent interruptions as have been indulged in, it would have been a memorable debate in the annals of Congress, because it has called for the discussion of great fundamental principles of government. Great questions are involved, and we find represented here two different schools of thought—or citizenship, if you please.

One of these schools represents stability without progress or change. It represents that class of our citizens that point always to precedent and never to present conditions. They stand for stability and for consistency; for constancy and for continuity; for unchangingly following the ways and the paths our fathers trod, whatever may be the altered conditions under which we may live. One of these schools, I say, stands for stability without progress or change. Its followers run in a rut. They want the same methods; they want the old law of fellow-servant's liability as to corporations; they want no public schools.

In my early boyhood days I remember hearing it stated that under the Democratic teaching you had no right to tax one man for the purpose of schooling the children of another. But, thank God, Democrats and Republicans and all citizens have gone beyond that point and have recognized that the public has an interest in the education and training of the children of the land. In my early days it was declared that the parent had the right to dispose of the labor, and almost of the life, of the child, and we had no child-labor laws; and a hundred years of struggle were required in England to raise that great people out of the old rut under which children were made worse than slaves in the great factories of the old mother country.

In the olden times the judges of courts wore gowns, and the ermine enshrouded the person of the judge to add to his dignity and to insure him the respect of the populace, whether he was inherently entitled to it or not. In that day we had the law of primogeniture, by which the oldest son inherited all the estates of his father as a necessity for the preservation of the institutions and great estates of old England, a liberty-loving country always.

From following the mere rut-like routine there came a day when our fathers became revolutionists. They were not like some of us—bound by eternal precedents—but they had an initiative of their own, and stood out [applause on the Democratic side], and did something. Suppose they had said that all the past is sacred and no change can be made without destruction of our fundamental institutions? [Applause on the Democratic side.]

There is, however, along that line not a little of human nature. Our fathers saw fit to make changes for themselves, but they, too, like their fathers before them, sought to bind posterity a little bit more than posterity is willing to be bound. Consequently when our fathers established this great Federal Government and all the original State governments they put fetters upon the wrists of their posterity that ought to be stricken off, and if we have the initiative and the manhood that our fathers had we will do as they did. We will strike off the shackles. We live in a broader light than they. We will do not as they did, but we will strike the shackles from ourselves and from our children also. [Applause on the Democratic side.]

There were peculiar reasons that induced the founders of the Federal Government to make a hidebound and unchangeable Constitution. There were the great dividing interests of the slaveholding and the nonslaveholding communities. There was also the fact of the existence of small States and large States. The question of State's sovereignty was also involved and the jealous effort to guard the rights of the little individual States. Little Rhode Island hung out for years after the rest of the States had ratified the Constitution and had come into the Union. North Carolina, always jealous of her liberty and prerogatives, waited long before she entered the door from which it might be there would be no exit. To preserve the sovereignty of the States, to forever render it impossible to deprive them of that sovereignty, our fathers made an iron Constitution and said that it should not be altered, except, first, by an amendment supported by a two-thirds vote of each House of this Congress, one of them being the Senate, in which the littlest State in the Union had a representation as big as the largest, and the other the House, representing all the people.

Then they said that for the further guarding of the sovereignty of the States, and in order to show these States that we are not seeking to take away their individuality, we will not permit any amendment to become effective to this constitution until three-fourths of all the individual States have severally ratified the amendment; and the Constitution of the United States is presented as an analogy and the only one in history for difficulty of amendment to the constitution of New Mexico. The Constitution of the United States was made almost impossible of amendment, because it embodies the spirit and the design and the purpose of its framers when they built it to protect the sovereignty and the individuality and independence of the several States.

Is it a fair example? Is it an apt illustration? Is it a just comparison? Are we willing to take it in our own States as the guide of our own action and conduct?

Sir, there is another school of thought that advocates progress and change without reference to stability, and that school of thought is anarchy. It is the school of thought that regards nothing as sacred; that would not refer to a former decision of a court; or, in the language of some popular leader of the day, would take all our court records and decisions and burn them in one great holocaust in order that we might start anew without the light of history or precedent.

There is a third school—to which I hope I belong—that believes in stability, but also believes in progress. We may advance in agriculture, and we have in the appliances and in the various methods and in the knowledge with which we pursue that great branch of industry. We have advanced in the great art of transportation; we have advanced in science. Why not advance in governmental methods, and yet preserve

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stability in harmony with the eternal march of an upward aspiring civilization toward nobler forms, better methods, and higher ideals? [Applause.]

It has been well said here that as to our Federal Constitution we have practically had but one amendment of it since its inception. The first 12 amendments were adopted almost coeval with its adoption, and it was fairly well understood they would be adopted when the Constitution itself was adopted, so that the original Federal organic law and the first 12 amendments were part and parcel of the great Revolution that gave us our freedom from the mother country, and we have had to that great instrument only three other amendments, which were the outgrowth and result of a revolution that shook this country to its center and filled a million graves on the south and north sides of the great dividing line. Shall those who themselves are unable to lift themselves out of a rut bind their posterity in such a manner, by such a constitution that they can only escape from its fetters by revolution? This country has been ripe and anxious now for 10 years, yea more, to amend our Federal Constitution so as to give us an election of Senators by the direct vote of the people, but we can not do it. [Applause.] Our wrists are bound, the chains are about our necks. We have been anxious for lo these many years to adopt a constitutional amendment to permit direct taxation, in order to support the great expenditures of this Government, to place its burdens in part on the shoulders of the strong and powerful, and in part to do away with a system that is corrupting in its influence, but we can not do it. We have an amendment submitted, but God only knows whether the requisite number of States will yet come to the rescue and enable us to adopt that amendment giving us the right to tax wealth instead of poverty.

Shall we follow that example in the establishment of a constitution for a single State, inhabited by a single people? Why, these men who refer to this ancient precedent would, if it were in their power, make even a county government or city charter incapable of alteration if they followed the logic of their own position.

No; the world moves, and if we are men of our time we move with it. I want to say that I favor progress; I want to say that there may come a time—while I myself individually think it impolitic and do not believe it is desirable—when we may reach female suffrage. What man here would say that any State had no right to bestow it?

There are thousands of problems arising, and incidentally let me say that if this age can not achieve something more than our fathers achieved in a less enlightened age then we are degenerate sons of noble sires.

I believe that the time will come when honest labor may always win honest bread. Just how it will be provided I do not know, but humanity's cry will be heard. Once I did not think that the Government had any right, to interfere with the right of private contract; I thought if by the power of your position you could grind me down until I must work for a pittance and starve for a living, provided you wrought under the semblance of free contract, it was your business and mine, and if a parent ground his pitiful children's bones into the dust it was all right. No, no; we have reached a higher plane than that. [Applause.] This world must progress, and as the leading Nation of the earth we should set it an example in the walks of freedom and the march of upward civilization. [Applause.]

Gentlemen, there are two constitutions before us. The so-called conservatives object to one, and the so-called progressives object to the other. The objectors to one of these constitutions fear the people, and the objectors to the other constitution fear the special and corrupt interests. [Applause.] The objectors to one fear that under it the people are given too much power; the objectors to the other fear that under it the people are bound by unbreakable chains.

Let me read you, right here, from a gentleman who is filling some space in the eyes of the public. Mr. Wilson says:

> What we are witnessing now is not so much a conflict of parties as a contest of ideals. * * *
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> We generally sum up what we mean by the reactionary forces by speaking of them as embodied in the interests. By that we do not mean the legitimate but the illegitimate interests.

Mr. Wilson places over against the reactionary forces the forces that strive to check and control the great illegitimate interests. In the struggle over these two constitutions we are witnessing this contest of ideals. That would be perfectly clear but for the unfortunate fact that one of these about-to-be States is likely to be Republican and the other is likely to be Democratic in its political complexion; but for that fact, on that side of the aisle as well as on this side of the aisle, the effort, by those who favor progress, would have been to admit both States and to free them from chains of corporate power.

Mr. Wilson continues:

> Let us ask ourselves very frankly what it is that needs to be corrected. To sum it all up in one sentence, it is the control of politics and of our life by great combinations of wealth. Everybody knows, also, that some of the men who control wealth and have built up the industry of the country seek to control politics, and also to dominate the lives of common men in a way which no man should be permitted to dominate.
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> In the first place, there is the notorious operation of the bipartisan political machine. I mean the machine which does not represent party principle of any kind, but which is willing to enter into any combination, with whatever group of persons or of politicians, to control the offices of localities and of States and of the Nation itself in order to maintain the power of those who direct it.

And before I get through, if I fail not to do as I intend, I will show that the bipartisan machine was operating in the creation of one of these constitutions. Lest I forget it, I will say that the leading genius in the formation of the New Mexico constitution himself laid the foundation of his own election in his own county by saying that they were not going to allow it to be a party question, and that he would not be a candidate for delegate if party politics was to be involved. It was supposed to be a convention of nonpartisan or bipartisan delegates.

That recalls to me the saying of one of the Goulds, that in Texas he was a Democrat and in New York he was a Republican.

Says Mr. Wilson:

> This machine is supplied with its funds by the men who use it in order to protect themselves against legislation which they do not desire, and in order to obtain the legislation which is necessary for the prosecution of their purposes.

While I am referring to that, I want to call your attention to a brief extract from an article in the Saturday Evening Post, under the title of the "Barred door," which discusses the efforts of New Mexico for the last 40 or 60 years to get into the sisterhood of States.

Referring to a visit of the President to New Mexico and his being entertained by the people, the writer of that article says:

> Among the inevitable speakers was the only A. B. Fall. Ever hear of Fall—Fall, of New Mexico—cowboy, miner, lawyer, judge, gun fighter, able editor, roughrider, farmer, private, chevalier, and brevet captain of industry? Well, you will; in fact, you shall.

And, by the way, I want to say that if there was a master mind connected with the formation of the constitution of New Mexico, it was that of A. B. Fall. I said "if," when I should have said there was a master mind. That is perfectly apparent. It is clear from his own statements and from the statements of all the others that he was busy at work in the committee rooms of his own committee and of all of the other committees all day long and far into the night. When this matter came before your committee Judge Fall was the genius that presided over the hopes of those who sought to have New Mexico enter this galaxy of States without the dotting of an "i" or the crossing of a "t" or the permitting of people to cross a "t" or dot an "i" in that constitution. The article continues:

> Fall is unique in one respect. He can, with equal ease and nonchalance, carry a safe Republican county for the Democrats, or a safe Democratic county for the Republicans, and then do it all over again. From this you will see he is not a bigoted partisan.

Mr. McCALL. Mr. Chairman, from what is the gentleman reading?

Mr. HARDY. From an article in the Saturday Evening Post of May 6, 1911; and I will say to the gentleman that I read that for convenience and terseness of expression, rather than anything else, because it expresses the idea that I think nearly every member of our committee on the hearings formed of the great ability, the wonderful ability and versatility of Judge A. B. Fall. I may quote more with reference to that from our hearings. To my mind it was clear from our hearings that in the framing of that constitution there were powerful forces moving outside of and above party politics. They were the forces of the interests.

But, sir, I want to discuss these constitutions. I want to discuss them in the light of present-day ideals. Let us take up the Arizona constitution and the question of the recall. I want to say to some of the gentlemen who have attacked Arizona's constitution that, given a sufficient latitude as to aptness, history may be drawn upon to support the failing cause of any position on almost any question, and it amused me to hear a very eloquent speaker the other day cite as a reason against the doctrine of the recall the fact that Socrates, the great philosopher of the heathen world, was put to death because of his great teachings. The gentleman conveyed the idea that Socrates died at the hands of the common multitude, the people. The gentleman forgot that Socrates was put to death by the Athenian judicial court [applause on the Democratic side]; that he was put to death

after an argument for days by a close vote of a body who were supposed to be representatives and to represent the wisdom of Athens. He was put to death not by the people, but by those representatives, and he was put to death on a religious question, which does not stir the blood for a moment only, but divests men of reason when its agitation has reached the point of fervid heat. What has that to do with the doctrine of recall by popular election? He sought to impress us that Aristides the Just was banished by the people because he was just. Why, you can take history and story and legend, and by being a little inaccurate in your facts and subtracting a little here or adding a little there from your fancy weave a web of illustration and analogy to damn or defend any theory. My reading has induced the conclusion that Aristides was one of those fellows who was always spoken of as the great, the just, and the people, so some cynic has said, became impatient that a man should be so paraded, and perhaps so insist on his own virtues, and they did not like it, and they had a popular election. Aristides, a very just man, was not successful in the election; and in those days the man who was successful generally drove out the man who was not successful.

This was no question of recall at all; but if it has any application to our system of government, it is against our whole theory of popular elections. The same thing occurred in Rome. Oh, yes, Rome had her consuls elected every year for the greater part of her growing and progressive existence, but when great men through corrupt means began to overawe the populace then your Sulla and Marius rose, and when Sulla was elected he drove out Marius, and when Marius was elected he drove out Sulla, and that led on to the wars of Cæsar and Pompey. During the days when Rome loved freedom she resorted frequently to the mass of the people, but when finally the reference back to the people was blotted out, when Cæsar was recalled, as you remember, from across the Alps—recalled by the decree of the senate, the representatives of the people, to quiet citizenship, but refused to obey—then he wiped out the doctrine of recall when he crossed the Rubicon with sword in hand; and in wiping out the doctrine of recall he wiped out the liberties of ancient Rome, and for a thousand years Rome knew no recall and knew no freedom. Rome had the initiative, referendum, and recall prior to Cæsar's day; after that, for a thousand years, tyranny and corruption reveled in unbridled and unrestrained license, while the people groveled in chains.

Now, let me say to those who are fighting the doctrine of initiative, referendum, and recall that there is not a State in this Union which has ever been without the doctrine of initiative and referendum. What constitution of any State has been adopted within 50 years without the application of the initiative? What constitution has ever been adopted without the referendum? The people initiate our constitutions, and they are referred to the people, and with the greatest measures of our political existence we practice and we teach the doctrine of initiative and referendum. Everywhere in all this land at the present time the doctrine is extending. It used to be, and what man does not remember the time, when bonds were fixed upon his district or county, or his town, not by the vote and voice of the people but by miscalled representatives of the people. They piled upon us in the South millions of indebtedness by irresponsible so-called representatives, the debts never being referred to our people for ratification or for authorization. As a result you have had in many States an effort at repudiation. Whatever be the fate of any State, God save it from repudiation. But when irresponsible, dishonest representatives beyond the reach of the people put bonds of eternal indebtedness upon the body of the people, the temptation to repudiate is great indeed. In a thousand ways we have had the referendum, and it is only a question among practical statesmen as to what kind of laws are of sufficient importance to justify the people in requiring—what kind of laws are of sufficient importance that the people ought to demand—that they be referred to them. Who should judge of the conditions of a State, of the surroundings of the people, of the importance of the questions, but the people themselves in determining whether this kind of law or that kind of law be referred to them? In my State we refer as little a thing as the stock law to the people of as small a territory as a district, a justice's precinct, or a cut-out district that they mark by boundaries. In my State every county and every precinct may have referred to its people the question of local option. In my State to-day there is a great referendum on the question of State-wide prohibition. What laws shall be referred to the people? Will you stand, as some of you gentlemen do, and say that no law shall be instituted by the initiative of the people or referred to them for ratification or adoption? That is the attitude of the conservatives, who stand for no change from things that were from time immemorial. Why, the doctrine of initiative is nothing more than the perfection of the old right of petition that our fathers in Revolutionary days said was inherent in all free peoples—the eternal right, or the inalienable right, of petition. [Applause.] As to the doctrine of recall, the two years' term of office, with the privilege of reelection—where the discharge of the duties to be performed while holding the office for two years determines the reelection or defeat of the officeholder, what is that but a recall? The faithful servant is retained, the unfaithful is recalled.

There has been a great deal of talk about distinction between a pure democracy and a pure representative government, and to the effect that our fathers in the beginning established a wonderful new thing in representative government. Now, just wipe that cobweb from your mind. There never was an ancient Greek republic, a Roman republic, or Swiss republic, or republic along the coast of the Adriatic Sea or in the marshes where Venice dwells, that was a pure democracy, because no people can perform the multitudinous functions of government in person. No people ever tried to do it. Neither was there ever a pure and unalloyed representative government, except one, and that is the government of an absolute monarchy. The monarch does not look to the people. He rules by divine right, like the "Little Father," the Czar of Russia, who rules for the people, represents them, and with paternal beneficence and deific supremacy and omniscience rules them as their supreme, independent representative. A republic can not be only representative. No republic ever was only representative. In the very act of selecting agents the people act and must act. And in all that the people can act they may act. But between those lines of pure democracy, direct rule by the people, without agents or representatives, and absolute autocracy or monarchy, which is rule by irresponsible masters, lies the ideal republic.

In such a republic the people act directly in many small and large matters—in matters, it may be, of intimate and personal but general concern, and in matters of vital and final importance to the republic. But in such a republic, also, the people must act in many matters of intricate detail and, in many matters of great importance impossible of transaction by the multitude, by and through their agents and representatives; and because they must have them, so much the more important is it that these agents and representatives be true, loyal servants, and that the people retain the power to keep them so.

My philosophy tells me that the more perfectly you can blend direct and representative government, the more perfect your government—a government not lame and futile from cumbrous incapacity, nor yet false and faithless; but true, faithful, and strong, meeting the highest hopes of patriotism and humanity. Such a government only, can be a government of the people, by the people, and for the people.

Now, let me answer some of the arguments we have had with reference to Arizona. As I said, there are two schools of thought, and they are not divided by party lines. I find that an advocate of one of those schools [Mr. LEGARE] steps out on this side of the aisle and speaks with a boldness and bluntness not equaled by any on that side of the aisle. This school fears the people, as was illustrated most forcibly by the Representative from South Carolina in an hour's talk on the question of the judiciary. The other school trusts the people, and to that school I belong. One says, as said by the gentleman from South Carolina, that you must not give to the people power lest they destroy liberty. The other says that all power is given by the people themselves; that it is theirs without bestowal. One says the legislator, the judge, and the executive must think and act for the people and rule the people. The other says the people must frame the laws for their own government, and the people's representatives, judicial, executive, and legislative, must be faithful exponents of the combined will of the people and must serve rather than rule them. [Applause.]

The gentleman said that the people are always crying for power. "Of course," he said, "they are always crying for power, for more power." Has not that a strange sound from this side of the aisle? He said to give them power meant ruin; to give them power would be to drive the ship of state upon the rocks. Bums, cutthroats, and thieves, he declared, if the power of recall were given the people, would recall the officers and judges elected by the people. The judges and sheriffs would sit in terror, cowering before the popular clamor.

Let me tell the gentleman and those who listened and applauded—and I am frank to say that his applause was liberal, but thankful also to say that it was from the other side of the House—let me say to him and to you, who have an elective judiciary in your States, that every argument made by him against the recall applies with equal force and has been made with equally thundering voice against the election of judges. We have in my State the county judges that have large power

over the welfare of our county and people, and those judges are elected every two years. We have our county and district attorneys who have in hand the administration of the criminal laws of the State and the enforcement of those laws, and they are elected every two years. We have district judges elected every four years. Every argument made by the gentleman would tend to make it appear that our judges and prosecuting officers and sheriffs stand in fear and trembling and dare not do their duty when election time is near.

Let me tell you how these officers stand in the light of practical experience. We have had an appointive judiciary as well as the elective in my State. I know them both. I want to tell you that there never was a more fearless set of officials—judges, prosecuting attorneys, and sheriffs—in any State than occupy these positions to-day in the State of Texas. [Applause.] Furthermore, I want to tell you that if you find a judge or a sheriff or a district attorney who hews to the line regardless of where the chips may fall, who does his duty though the heavens fall, that man is the hardest man to beat before our people, and the thieves and thugs and cutthroats do not dare to raise their voice against him. [Applause.]

I know what I am talking about, for I was eight years a prosecuting attorney and eight years a district judge, and I know that in the full and fearless discharge of duty was the strongest argument for my reelection and the strongest appeal I could make for public favor. I sought public approval, and that knowledge gave me power and strength I would not have had had I been merely the creature of some powerful influence. I believe in the people, and believe they will stand behind a brave, true man. I am not exceptional in my belief. Among the strong men that come up from Texas you will find many that filled the positions of prosecuting officers—the attorneys for the county and the district attorneys—who prosecuted fearlessly all thieves and thugs and lawbreakers, and so you can go into all the other States for the same lesson. Where do you find the rise of Folk, of Hughes, and of countless others? It is an unjust indictment of the people to say that a just and fearless judge will be condemned by them.

No; I have no patience with the man who tells me he fears the people; that he fears to submit his ambition to thieves, bums, and cutthroats. Let me tell you, I have heard that argument against elective judges, and I think you will find that the men on this side that oppose the initiative and referendum and oppose absolutely the recall of judges are at heart opposed to the election of judges.

We have nearly everywhere adopted the system of primary elections for nominations. What does it mean? It means that in conventions the people have found they were doing one thing by representatives they could better do for themselves. It means that conventions had come to be the means of corrupt trading and corrupt influences and a method for the service of corrupt bosses. Oh, these gentlemen say they have no patience with the muckraker and the demagogue who denounces everything as corrupt. Neither have I. I hate a liar. But I have no patience with the man who shuts his eyes tightly and says, "There is no corruption in this country, either on the bench or in the executive departments or in the legislative bodies."

How can a man deny the right of recall in the face of recent indictments against members of the Legislature of Ohio and against the members of the legislature of another State, and the conviction from time to time of faithless public officials?

No. I tell you what the primary did in my State, almost—it has not quite done it yet, but it will. It is driving the boss from his seat of power. I very well remember the occasion when an old gentleman came to me and told me that he ran for a county office in my county, and that he went out to a certain part of the county where a very elegant gentleman, with the title of captain, had formerly been in the habit of casting the vote of his whole precinct in the convention. He said to that elegant gentleman, "I would like to have your support for my nomination," and the elegant gentleman assured him that he would have it. But it was a primary election, and when the vote came up, my friend, who trusted in the captain, got only two votes in the precinct.

Your bosses do not go very well with the primary election. That is one effect of more power in the people. If you have the recall, if legislators know that after outraging the wishes of the people by the passage of an iniquitous bill they will have to go before the people again, and if the bill itself may be referred to the people before it becomes a law, they will see the futility of attempting to enact corrupt legislation. What will be the use in attempting to pass infamous bills if the legislator and the law both have to go before the people to be approved by the people? Oh, no. Your referendum and recall may be a great weapon in the hands of the people to protect them against corrupt measures.

Like the primary election, they have the tendency to do away with boss rule, ring rule, and corrupt rule, and to do away with the devotion of so-called representatives to the service of crooked masters and corrupt interests.

In olden times vast interests were not like vampires always ready to suck the lifeblood of the people through their governmental veins. To-day they keep sleepless vigil, and every weapon of defense is needed by the people to protect themselves against greed and corruption.

Those who fear the people say they want the judges appointed and not elected, for fear they will bow and try to please the people. We, on the other side, say we want them elected, so that they will try to please the people.

I do not believe in an appointive judiciary, and I will tell you why. Twenty years ago the then judge in my judicial district, while I was district attorney, died suddenly, and before I had any news of his death I found most of the members of the bar in three counties of the district were arranging plans for filling his unexpired term. As I got off the train to attend a meeting of the court, in ignorance of my friend's death, I was met by a member of the bar already assembled at the courthouse of the county where the court had been in session. They were holding a meeting to get the governor to appoint a member of that bar for the unexpired term, and I was asked to attend. I declined to do so, and when I went into the grand jury room I found the grand jury in conference and consultation. The bar was pushing the appointment of one man, the grand jury was urging the appointment of somebody else, and while these two bodies in one county were making plans, friends of another aspirant in another county got up a petition to the governor and got the judge of their selection appointed. How it happened I do not know. Somebody was better known to the governor; somebody had his kindly ear. There was nothing improper about it, but your appointive judges are selected in that way. I said to myself in the shadow of the death of one of my longest and best friends, "If appointment comes in this unseemly way, where aspirants must begin the scramble to take the shoes of the departed before he is laid in his grave, I want no more appointments." Appointments to the judiciary and the appointive system generally mean that those men prosper best who have learned "to crook the pregnant hinges of the knee that thrift may follow fawning." [Applause on the Democratic side.]

But popular election! No man feels humiliated in the least when he stands before his countrymen and says, "I am before you; I ask you for your votes. If I am worthy, give them to me; if not, give them to a worthier man." Oh, no. There is no humiliation about that. But before I would step with pallid brow and faltering tongue to the seat of power and pray for favor, I would stay without the pale of office; and but for the custom that has made it respectable all other independent men would do likewise.

Whom shall our judges please? It is current belief that sometimes in some places judges have been appointed at the solicitation of men interested in certain crooked deals and certain grasping interests. For one I had rather see the honest judge strive to please a great people than to please the petted interests or the power behind the throne. Yes; and I want to say that the judge who does his duty will strive to please not the toughs and bums but the good citizens, and he will strive to do right in order to please them. Where have your corrupt judges been found? In every instance, almost, you will find the corrupt judges either where they have been appointed by legal authority or where they have been foisted on the people through the rule of a corrupt ring or boss. Go to New York or anywhere else, and if you find a judge elected by the free vote of the people, untrammeled by bossism and without corrupt use of money, you will find a good man. The people may sometimes be fooled, but in 99 out of 100 cases you will find the judges so elected to be good men; and the man who does his duty may trust his people for a vindication.

Now I want to call your attention to another thing. My friend from South Carolina [Mr. LEGARE] indulged in very touching heroics about the stain that would be cast upon a man by a recall from office. I want to tell him that a recall from office is no stain upon the man who is recalled unless there was some ignoble act that caused him to be recalled. Strange indeed was the sound, of a voice in the name of Democracy from the State of South Carolina, in terror of the people and in denunciation of a free people who might dare to assert their right of recall to recall a faithless agent or servant. Would the gentleman from South Carolina dare to recall an agent or

servant of his own if that agent failed to do his bidding or became faithless to his trust? Oh, yes; he recognizes that the private individual has the right to recall a faithless agent or an incompetent one or one who takes the bit in his mouth and refuses to obey; but we are demagogues if we differ with him and say that the people ought to have the same right of control over their agents and representatives. It is a rut that the gentleman is in. He simply has not lifted himself out of it. I admire his fearlessness in the bold, blunt utterances that he makes, but he has not the spirit of the democracy that believes in the people while he utters these sentences of denunciation and distrust of the people. [Applause on the Democratic side.]

One gentleman, a Democrat, Mr. HUMPHREYS of Mississippi, said he had heard the judiciary as a whole denounced wildly by demagogues. Now, I never heard such a thing, and I think if the gentleman will revise his memory he probably never heard anybody denounce the whole judiciary. He may have heard somebody make some rather broad charges, and I want to say that about the broadest and gravest criticisms I have ever read came, I think, from Thomas Jefferson, whose disciples we profess to be and are to some extent.

Mr. SIMS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN (Mr. HOWARD). Does the gentleman yield?

Mr. HARDY. Certainly.

Mr. SIMS. If I catch the gentleman's position, it is that it is no more dangerous to vacate a judicial office by popular election than it is to fill it by popular election.

Mr. HARDY. No; not a bit. It is the same principle. One may be more practicable, but the principle is the same. If a man is elected to office for two years, and he is defeated at the end of that time when he runs for reelection, it is the same principle as if you defeat him before the end of the two years.

But my friend from South Carolina [Mr. LEGARE] took occasion to say that the judiciary must be free to hold the mob straight, that the judiciary must be free to hold the legislative branch of the Government straight, that the judiciary must be free and independent to hold the executive straight and prevent it oppressing the people. In God's name, I ask him, if the judiciary usurps, if the judiciary oppresses or is faithless, who, if the people are powerless, will hold the judge straight? All during the Sixtieth Congress Democrats were trying to restrain the Federal judiciary and prevent its oppressive practices, its abuses of power. Doubtless the gentleman thinks we were wrong. Mr. Jefferson feared the Federal judiciary, and to some extent the judiciary generally. He wrote:

* * * As, for the safety of society, we commit honest maniacs to bedlam, so judges should be withdrawn from their bench whose erroneous biases are leading us to dissolution. It may, indeed, injure them in fame or in fortune, but it saves the Republic, which is the first and supreme law.

In view of the discussion here it seems as if with prophetic eye, looking down the coming of a hundred years, Jefferson saw the very conditions that arise to-day, and his utterance of a hundred years ago is paralleled by the warnings of a member of the Supreme Court to-day, which I will read later.

Again, he wrote:

One single object, if your provision [in the Louisiana Code] attains it, will entitle you to the endless gratitude of society—that of restraining judges from usurping legislation. And with no body of men is this restraint more wanting than with the judges of what is commonly called our General Government. (To Edward Livingston, vii, 403.)

And, again:

We already see the power installed for life, responsible to no authority—for impeachment is not even a scarecrow—advancing with a noiseless and steady pace to the great object of consolidation. * * * That there should be public functionaries independent of the nation whatever may be their demerit, is a solecism in a republic of the first order of absurdity and inconsistency. (To Wm. T. Barry, vii, 256.)

Judiciary curbing: Impeachment, therefore, is a bugbear which they fear not at all. But they would be under some awe of the canvass of their conduct, which would be open to both Houses regularly every sixth year. It is a misnomer to call a government republican in which a branch of the supreme power is independent of the nation. (To James A. Pleasants, Ford ed., x, 198.)

Jefferson was progressive. He was leading the way from darkness to light. It was a great thing in his day to have achieved the removal of the judiciary from a life tenure to a six-year term and to recall them every sixth year. But Jefferson died and Federal judges still hold office for life, with no power to recall them. In his autobiography we find him again saying:

* * * There was another amendment [to the Federal Constitution] of which none of us thought at the time [when the Constitution was framed] and in the omission of which lurks the germ that is to destroy this happy combination of national powers in the General Government for matters of national concern, and independent powers in the States, for what concerns the States severally. In England it was a great point gained at the Revolution that the commission of the judges, which had hitherto been during pleasure, should thenceforth be made during good behavior. A judiciary dependent on the will of the King had proved itself the most oppressive of all tools in the hands of that magistrate. Nothing, then, could be more salutary than a change there to the tenure of good behavior, and the question of good behavior left to the vote of a simple majority in the two Houses of Parliament. Before the Revolution we were all good English Whigs, cordial in their free principles and in their jealousies of their Executive Magistrate. These jealousies are very apparent in all our State constitutions and in the General Government. In this instance we have gone even beyond the English caution by requiring a vote of two-thirds in one of the Houses for removing a judge, a vote so impossible where any defense is made before men of ordinary prejudices and passions that our judges are effectually independent of the Nation. But this ought not to be. (Autobiography, i, 80, Ford ed., i, 111.)

The CHAIRMAN. The time of the gentleman has expired.

Mr. HARDY. Mr. Chairman, I am very anxious to get through, but though curtailing my remarks I really have not reached the one particular thing that I desire to discuss.

Mr. FLOOD of Virginia. How much time does the gentleman wish?

Mr. HARDY. I would like to have 40 minutes at least.

Mr. FLOOD of Virginia. I yield 40 minutes more to the gentleman.

Mr. HARDY. To continue my quotations from Jefferson:

Sappers and miners: A judiciary independent of an executive or king alone is a good thing, but independence of the will of the nation is a solecism, at least in a republican government. (To Thomas Richie, vii, 192. Ford, ed., x, 170.)

* * * This member of the Government was considered at first as the most harmless and helpless of all its organs, but it has proved that its power of declaring what the law is, ad libitum, by sapping and mining, slyly and without alarm, the foundations of the Constitution, can do what open force would not dare to attempt. (To Edward Livingstone, vii, 404.)

I want to say right here that it must be understood that I do not regard the recall of officers of any kind as any light or trifling thing, but I say that the right of a people to be represented by servants who are faithful to them, and who are the servants of their choice, the right of the initiative and the referendum and the recall, in order to be secure in true and faithful agents, servants, and officers of all kinds, is as inalienable a right existing in every people as the right of life, liberty, and the pursuit of happiness, and it is for them to say what limitations or restrictions they will put upon the exercise of that right.

How they shall recall, whether by elections every two years or by petitions to recall, whether they shall give a Representative a two-year, a four-year, or a six-year term, unless recalled, the method does not affect the principle of it. It is for them to say how and when they will terminate the services of a servant who is unfaithful or does not please them. It may be, as one of Shakespeare's characters says, that the only objection is "his face belikes me not." The faith of our party of our day is to trust the people, and he who to-day refuses to trust the people must learn that the moss is on his back and that he belongs to a dead and gone generation. [Applause.] Gentlemen, a recall is no stain, unless the cause of the recall be a stain; but impeachment blackens the character of the man impeached for all time. I have seen jury trials where, were I on the panel, I would render the Scotch verdict of "guilty, but not proven," and I would acquit the defendant, but would not keep him in my employ. And so we have cases where you can not properly impeach, where you can not get the evidence to impeach, where through the courts full inquiry is blocked, where the servant is so powerful he can prevent full investigation; in such case must we keep the servant?

Mr. Chairman, this is no new doctrine. It is an old maxim, "Qui facit per alium, facit per se." The doctrine of some gentlemen here is that you may do things through others, but you can not do them yourself; that the principal is not to act through his agent, but can only act as his agent wills, a strange perversion of the doctrine of principal and agent, of master and servant. The agent directs the principal; the servant rules the master.

I have many further quotations from Jefferson, all bearing out the views I have expressed, but I omit them, and ask to read some sentences from the opinion of Justice Harlan of the Supreme Court, just delivered by him in the Standard Oil case.

In that opinion Justice Harlan, among other things, says:

In the now not a very short life that I have passed in this capital and the public service of the country, the most alarming tendency of this day, in my judgment, so far as the safety and integrity of our institutions are concerned, is the tendency to judicial legislation, so that, when men having vast interests are concerned, and they can not get the lawmaking power of the country which controls it to pass the legislation they desire, the next thing they do is to raise the question in some case, to get the court to so construe the Constitution or the statutes as to mean what they want it to mean. That has not been our practice.

* * * * * * *

The court, in the opinion of this case, says that this act of Congress means and embraces only unreasonable restraint of trade in flat contradiction to what this court has said 15 years ago that Congress did not intend.

* * * * * * *

Practically the decision to-day—I do not mean the judgment—but parts of the opinion, are to the effect, practically, that the courts may, by mere judicial construction, amend the Constitution of the United States or an act of Congress. That, it strikes me, is mischievous; and that is the part of the opinion that I especially object to.

Mr. Chairman and fellow Members, I have listened with some anxiety to see if any man who objected to Arizona's exercise of the right of recall had any criticism to make of the constitution of New Mexico. It is a rather strange coincidence, but if I remember aright, not a man who is denouncing Arizona's constitution has had a word of criticism of that remarkable instrument submitted to us and known as the New Mexico constitution. And yet there was a mountain of testimony before us and almost a confession, that it was made by corporations, of corporations, and for corporations. And it was so wonderfully made that the chairman of the convention that framed it is reported to have said when he ceased from his labors that they had fixed it so that it could not be altered in 99 years.

Strangely, no man on that side, and no man on our side, who criticizes Arizona has yet had a word of criticism for that constitution.

In the beginning I said something of Judge A. B. Fall, the man who was the genius of the New Mexico constitution. I should, perhaps, read from our hearings, but I will not have time to do so. I want to tell you that the testimony before us shows that he was a Democrat up to 1898, that then he changed his affiliations, that he was elected, I believe, from a Democratic county, to that constitutional convention as a bipartisan. It shows, without controversy, that he went there pledged to the doctrine of initiative and referendum. It shows that that convention had a majority of its representatives pledged to the doctrine of initiative and referendum—52 out of the 78 or 79, I believe. It shows that in that convention he was one of the prime movers, going from committee to committee, working all day and far into the night, counseling and advising. And when confronted with the charge that he had caused the elimination of the initiative and referendum feature from the constitution his reply was, "You do me too much honor." The good things of that constitution were like Burns's Pleasures:

> But pleasures are like poppies spread:
> You seize the flow'r, its bloom is shed;
> Or like the snow falls in the river,
> A moment white—then melts forever.

It was so with the initiative and referendum. Not only is the good lacking and the evil abounding, as we think, in this constitution, but those who wish it to remain as it stands declared they had made it hard to amend purposely.

Now, I want to call your attention to another fact showing corporation earmarks, to my mind. When the first hearings were had before our committee it seemed to us as if the pro and con side, the for and against that constitution, were about to agree on terms acceptable to all; that those favoring that constitution would agree that the people of New Mexico might be permitted to vote again upon that section authorizing amendments; and, if they chose, to adopt a section making amendments less difficult. That was all the other side insisted on.

For a good while our hearings went along on that idea, that maybe the opposing parties could agree; and the great genius of that constitution, Judge Fall, by his language and expressions before us seemed ready to agree. Gov. Curry, of that Territory, was before us, and declared the constitution was not what he wanted; that it had objectionable features; that he would change it if it were left to him. But when we got down to the point and finally sought an agreement some overshadowing impulse or feeling or influence seemed to pervade those who were there for the constitution, and Fall, Curry, and others wanted it as it is, without the dotting of an "i" or the crossing of a "t," although Mr. Fall himself had denounced certain features of it; and they wanted to cling to the provision that rendered it impossible of amendment.

Now, without reading them, I want to give you the substance of the two provisions that make this constitution the instrument of corrupt influences in New Mexico. The first is the provision with reference to the regulation and control of railroads, article 11, section 7. This provision absolutely takes away from the Legislature of New Mexico all power to do anything to control, to limit, or to restrain the railroads of that Territory. The constitution vests all lawmaking power in the legislature, except as "herein limited," and then by article 11, section 7, it creates a commission and vests absolutely in that commission these powers:

SEC. 7. The commission shall have power and be charged with the duty of fixing, determining, supervising, regulating, and controlling all charges and rates of railway, express, telegraph, telephone, sleeping-car, and other transportation and transmission companies and common carriers within the State; to require railway companies to provide and maintain adequate depots, stock pens, station buildings, agents, and facilities for the accommodation of passengers and for receiving and delivering freight and express; and to provide and maintain necessary crossings, culverts, and sidings upon and alongside of their roadbeds whenever, in the judgment of the commission, the public interests demand and as may be reasonable and just. The commission shall also have power and be charged with the duty to make and enforce reasonable and just rules requiring the supplying of cars and equipment for the use of shippers and passengers, and to require all intrastate railways, transportation companies, or common carriers to provide such reasonable safety appliances in connection with all equipment as may be necessary and proper for the safety of its employees and the public and as are now or may be required by the Federal laws, rules, and regulations governing interstate commerce. The commission shall have power to change or alter such rates, to change, alter, or amend its orders, rules, regulations, or determinations, and to enforce the same in the manner prescribed herein: *Provided*, That in the matter of fixing rates of telephone and telegraph companies due consideration shall be given to the earnings, investment, and expenditure as a whole within the State. The commission shall have power to subpœna witnesses and enforce their attendance before the commission, *through any district court or the supreme court of the State, and through such court to punish for contempt;* and it shall have power, upon a hearing, to determine and decide any question given to it herein, *and in case of failure or refusal of any person, company, or corporation to comply with any order within the time limit therein*, unless an order of removal shall have been taken from such order by the company or corporation to the supreme court of this State, *it shall immediately become the duty of the commission to remove such order, with the evidence adduced upon the hearing, with the documents in the case, to the supreme court of this State.* Any company, corporation, or common carrier which does not comply with the order of the commission within the time limited therefor may file with the commission a petition to remove such cause to the supreme court, and in the event of such removal by the company, corporation, or common carrier, *or other party to such hearing*, the supreme court may, upon application, in its direction or of its own motion, require or authorize additional evidence to be taken in such cause; but in the event of removal by the commission, upon failure of the company, corporation, or common carrier, no additional evidence shall be allowed. *The supreme court, for the consideration of such causes arising thereunder, shall be in session at all times and shall give precedence to such causes.* Any party to such hearing before the commission shall have the same right to remove the order entered therein to the supreme court of the State, as given under the provisions hereof to the company or corporations against which such order is directed.

By this section railway companies need not appeal (but other parties must) if they would set aside the acts of the commission.

Having vested the commission with this power, the legislature is shorn——

Mr. BARTLETT. Will the gentleman from Texas yield?

The CHAIRMAN (Mr. GARRETT). Does the gentleman from Texas yield to the gentleman from Georgia?

Mr. HARDY. Certainly.

Mr. BARTLETT. These railroad commissioners, as you call them, are selected how? Are they elected by the people?

Mr. HARDY. They are elected by the people for six years.

Mr. BARTLETT. And are they given power to grant charters and say what kind of bonds and stocks shall be issued by railroad corporations?

Mr. HARDY. I confess I have not investigated that.

Mr. BARTLETT. The granting of charters to railroads is reserved to the legislature, is it?

Mr. HARDY. I think that would possibly still be in the legislature, although I am not sure about that. But let us grant that that is so.

Mr. BARTLETT. Does the gentleman think it a very safe thing to grant to a subordinate body in the State the power to grant a charter, where those to whom it is granted will exercise the power of eminent domain, unless the State reserves to itself the right to grant charters as other States do, where the party that receives the charter exercises the right of eminent domain?

Mr. HARDY. I think as the gentleman does, and I am willing to go a good deal further. I believe that the legislature of a State which undertakes to exercise power over great interests should retain that power to itself, and the giving of that power to another body means, in my judgment, that some secret influence is back of the granting of that power to another body in the constitution of that Territory. I do not believe that any State should be bound by its constitution so that it can not by its legislature control any creature made by itself, living and inhabiting within its borders. But that is what this constitution does.

Mr. BARTLETT. The gentleman understands that there is a wide distinction with reference to power and policy as between banking corporations and other corporations which could not exercise the power of condemnation and eminent domain and railroad corporations which could exercise those powers, if those powers were granted; and it occurs to me that it is rather mingling the powers, or surrendering legislative power, when any subordinate branch of the State government is authorized to grant charters where the right of eminent domain is given to the corporation so chartered.

Mr. HARDY. I think I will go along on that line, but not exactly in those terms. A republic might divide its lawmak-

ing power. I think it is a question of policy whether the Government will clothe an independent body with legislative and executive powers. But it would be contrary to the genius of our Government to make one body embrace all those powers.

Judge Fall, answering a question by myself, said that it was the purpose of this constitution to take away all this power enumerated in section 7 of article 11—take it away from the legislature and bar the legislature from ever exercising it until that constitution was amended.

He said their reason for doing it was that the railroads had corrupted their Territorial legislatures; and for fear they would corrupt them again, they wanted to put these powers into the hands of an incorruptible commission. Wonderful reasoning, it seemed to me. Later he let it out that in these stirring days, these piping times of peace, agitation was shaking that country, corruption was being driven from its stronghold, and it looked to me a little bit as though the legislature was being awakened by the people, and it was time for the railroads to get out of the house where they had been taken care of before, to find some new quarters where they might be protected. So they, by this constitution, provide double protection. They take these powers away from the legislature and nominally put them in the commission; but when you read that section fully, you find they have this strangest of all features, that when the commission makes a ruling, if the railroad does not like the ruling it can at once file a petition and carry it up to the supreme court of the State. If they do that, they can then introduce more testimony and have a rehearing, and take their time for the rehearing; but that is not all.

The railroads have the right of appeal, but they are not required to appeal. They may simply ignore the ruling of the commission. No injunction is necessary. All they have to do is just to ignore what the commission has done, and then, whenever the commission finds out they have ignored it, and it may be weeks or months before they find it out, the commission then must subserviently bundle up the papers and send them to the supreme court; and then the supreme court in the course of time takes hold of the case and hears it on the record and says that it either does or does not sustain the commission. How long this may be after the ruling is made by the commission, who can tell?

Mr. SISSON. I do not want to interrupt the gentleman in the course of his argument——

Mr. HARDY. Certainly.

Mr. SISSON. Section 6, under article 11, gives this commission, under such rules and regulations as may be prescribed by the legislature, the power to issue all charters for domestic corporations, and amendments or extensions thereof, and to license foreign corporations to do business in the State, to which shall be carried out all the provisions of this constitution relative to corporations and laws made in pursuance thereof, not only with reference to railroads, but all corporations.

Mr. HARDY. I thank the gentleman very much for that interruption, and I want to preface an apology by saying that I have become so obsessed with the iniquity of section 7 of that article that I had neglected all the rest, for in that was the rotten core of the whole proposition of this constitution.

Section 7, following section 6, is the damnable iniquity of the whole thing. The legislature is stripped of all power. The legislature becomes an absolutely useless branch of the government as to the management of these great bodies corporate. Then this corporation commission is clothed apparently with the power to do these things, and each commissioner is given a six year's term of office. This is the first refuge of the railroads, express companies, and so forth. In addition to that, when the commission acts, if the railroads see proper to obey, all well and good. If they are not then satisfied with the evidence they have introduced, if they want to introduce more evidence they will appeal to the supreme court; but if the case stands on the record as they want it, they just ignore the order of the commission, and in the course of time it goes before the court. The court is the second refuge of the railroads. The judges of this court are elected for eight years.

Mr. BARTLETT. May I ask the gentleman, Does the constitution provide for the election of all these commissioners at one time for six years, or do they go out one at a time?

Mr. HARDY. At first they are all elected, and then they draw for the longer and shorter terms—that is, terms of two, four, and six years—and after that every two years one man is elected and one goes out. Now, the point is this: You get your commission order, and it goes before the supreme court, and the supreme court hears evidence, or not, as the case may be, and then the court either confirms or annuls the action of the commission. Everything comes before that court, and that court is the commission at last, and not the three commissioners themselves. The office of the commission seems to be merely that of an outpost of defense for the corporation. The court is their last shelter. Neither of these bodies can at any time have more than one member who is fresh from the people, and both these bodies must act affirmatively against the railroads before relief is even initiated.

Not only so, but this section 7 takes the judicial branch of the government and inserts it into the legislative branch and concentrates all lawmaking and judicial power as to railroads in the supreme court. Doubtless that court may be composed of honorable men, but courts, it has been declared, are always reaching out for more power. This constitution places in the hands of the court absolute control, for weal or woe, of the most stupendous interests and enterprises in that State. The State's governor may chafe, her legislature may fret, her people may curse, but the court sits steady; her power is single and supreme. Is such a situation consonant with the genius or spirit of our day and generation? No.

Mr. JACKSON. Will the gentleman yield?

Mr. HARDY. I will.

Mr. JACKSON. I do not interrupt the gentleman with any desire to interfere in his speech, for I am in sympathy with the report of the committee. But I want to ask the gentleman if it is not true that the very reason for giving the supreme court this power was to prevent the Federal courts from interfering with the regulations by the local power, and if that is not approved by the Supreme Court of the United States in the case of Prentice against the Atlantic Seaboard?

Mr. HARDY. I am glad the gentleman interrupted me, because it leads me to say something that I did not think of. That is the reason they have given for this clause in the constitution. They say it would prevent your commission from being enjoined. It is true this commission can not be enjoined, because it never does anything to be enjoined. The difference between this commission and the commission in other States is that in other States the orders of the commission are subject to be killed by injunction, but the orders of this commission are not subject to be killled, for they are born dead. [Laughter.]

Mr. JACKSON. The gentleman does not refer to the orders of the supreme court being dead?

Mr. HARDY. No; I was coming to that. I do not doubt for one minute when the supreme court begin to issue their orders the Federal courts will hold, when it comes to orders, that they are not judicial, and they will enjoin the execution of these orders on the ground that these acts and orders of the court are legislative and executive rather than judicial, and the same grounds for injunction will lie, as may lie, in the case of orders of any other State commission.

Mr. JACKSON. No doubt about that.

Mr. HARDY. Then what steps have these gentlemen made toward obviating the delay; have they made a step in advance obviating delay? Have they not all of the means of delay left and this—that is, the delay in getting from the commission to the supreme court—in addition?

Mr. JACKSON. I think not; but that is only my opinion.

Mr. HARDY. I know that the gentleman is disposed to look at this in the light of reason. If he will give it careful attention he will come to the conclusion that I am right—that this is only a greater delay added to a great delay.

Now, I want to say that it was urged by members in the convention that there should be submitted to the people along with the constitution an independent proposition, to become a part of the constitution, that would give the legislature the right at a later date to increase the powers of that commission and alter or affect the rules of the commission. Some of the delegates thought the commission as made would be of no value to the people. But the framers of the constitution, who had some purpose in mind too big to allow it to be interfered with, said "No; we will not submit with the constitution a proposition to clothe the legislature with the power of further enlarging the sphere of the commission. No; we want it just like it is; no other way."

Now, that brings me to the closing feature of what I shall have to say. The second provision that makes this constitution the instrument of the corrupt influences in New Mexico is article 19. That article provides for amendment of this constitution. The framers of this constitution having fastened their chains and double-locked them, with the key thrown away, some of these people bound in chains came to a Democratic committee and said, "Give us a chance to find the key." They said, "Look at this constitution. Suppose all that we say is not true, why, then, what harm is done by giving us the power to amend it? On the other hand, suppose all we say is true, what then? If these gentlemen represented by Judge Fall are right, and this constitution works right, we will not want to amend it, but if we find that the fetters are grinding into

the flesh and grinding the life out of the body politic, and the corporations are enthroned in power, let us, for God's sake, have a way to change it." [Applause.]

What man on that side or this will tell the people that you shall not have a right to amend your fundamental law? If corporations have crept in and fixed and framed their constitution, will you not give them a chance to amend it? This is all that Fergusson, McGill, and others, representing the Democrats and many Republicans in that Territory, have asked. For doing this they have been held up to public obloquy and charged with attempting to delay the admission of New Mexico by the public press of New Mexico; I had almost said the venal press of that Territory. I do not say it is a venal press, though it seems hard to believe it an honest press when they make such charges in the face of the fact that every opponent of the New Mexico constitution who came before us from that Territory declared, always, his opposition to any delay of its admission under any condition, and urged us to do nothing that could delay admission, but to do all we could for the relief of the people that could be done without delaying their statehood.

A fair sample of New Mexico press literature is the following. After charging that Fergusson and others were trying to delay statehood, one paper says:

> The statement, made by whomsoever, *that the constitution is not amendable by the people is a bald, glaring, transparent falsehood. The gentlemen who are making this statement know it to be a falsehood, which is refuted by the wording of the constitution so plainly that a schoolboy can see it.* The spectacle of four alleged Democrats who have been repudiated by the rank and file of the New Mexico Democracy assuming to decide as to the possibility of early admission, and assuming to say what changes shall be made in a constitution ratified by the whole people, is one that has disgusted people of all parties all over New Mexico.

And this paper says that in the face of the facts that show that this constitution is almost impossible of amendment as it stands now. Speaking in broad terms, they have a constitution that requires two-thirds of the members elected to each house to vote for the submission of an amendment, and then it requires that a majority of all of the votes cast on that amendment shall be cast for it in the whole State. That is well enough. But then it requires that that majority shall be equal to at least 40 per cent of the whole vote in the whole State cast on all questions at that election. Now, we know that constitutional amendments are not understood by everybody, are not of interest to everybody, and that frequently men not knowing or caring will vote neither for nor against a proposed amendment. A vote on a constitutional amendment, unless it is one that stirs the whole country, rarely ever amounts to over 60 per cent of the total vote. If that be the standard that will prevail in such elections, it will require two-thirds of the votes cast on the amendment—two-thirds of 60 being 40—in order to get 40 per cent of the total vote to pass it. Ah, that is bad enough, but that is no worse than in most of the States. I want to admit that most constitutions are too hard to amend. I want to admit that the idea of stability has carried weight—and I am not criticizing the men who sometimes want to go slow—but the iniquity of this amendment provision comes after. Not only does it require 40 per cent of all the votes cast at the election in the entire State, but it requires that 40 per cent of the vote cast must be in favor of the amendment in at least 50 per cent of all the counties in that State. New Mexico is like other States and has large and small counties. If you can persuade a lot of little counties to ignore an amendment submitted to the people at large, or if in the remoteness of their regions they have not been taught what the amendment involved, and they ignore it—if you can get 50 per cent of those little counties to fail to cast 40 per cent of their total vote for the amendment, either by getting them to vote against it or not vote at all on it, your amendment is defeated. Four-fifths of the popular vote in the State might be for the amendment and still the amendment fail.

My countrymen, the advocates of that constitution ransacked the pages of constitutional literature to find a constitution like it, and could find nowhere under the ægis of the American flag a sovereign State which has such a provision. But our friends who are afraid of the people, even those on this side of the aisle, never criticize that at all. The only analogy found, or the only illustration of a somewhat equivalent difficulty to amend that was found, in all of the annals of constitutional history brought before our committee was the Constitution of the United States, framed under the conditions and with the views that I have attempted to outline to this body. But here in the light of the beginning of the twentieth century, when science is advancing, when art is moving, when the science of government is marching, when human liberty is lighting the torch of freedom everywhere in all the world, we find a constitution framed to put shackles upon the body of a young and growing giant, and they tell us in boastfulness that 99 years will be required to break the shackles; that it might possibly be done sooner, but that it would take a revolution to do it. Sir, this constitution is framed not so much in the interest of any party as it is in the interest of great corporations.

Mr. Chairman, my purpose is ended. I want to ask before I close why any man should object, and I ask this in all seriousness—why any man on that side should object to allowing the people of New Mexico a free opportunity, unmenaced by threats, uninfluenced by fears, unbiased by interests, why he should object to letting them vote deliberately and solely upon the question of whether they would make their constitution more easy of amendment? Yea, Judge Fall and all the rest denounce some of the features of that constitution as an outrage and an indignity upon part of their people, but when it comes to giving them the opportunity freely to express their will as to whether they would enable themselves to amend their constitution or not they fall back, and through some invisible power somewhere they say, "No; we do not want to touch the sacred thing." [Applause on Democratic side.]

I ask you if any man on that side can give a reason for not being willing to let these people, unbiased, uninfluenced, untrammeled, unmenaced, say whether they want the privilege of amendment? When they voted on this constitution they were compelled to vote for it or lose statehood. They would have voted for almost anything to obtain statehood.

Mr. SISSON. Mr. Chairman, will the gentleman yield?

Mr. HARDY. Certainly.

Mr. SISSON. The gentleman talks as if he were going to close on this question, and I would like to have him explain to the House what he thinks of section 2, the 25-year limitation in reference to calling a constitutional convention.

Does not this constitution for 25 years practically deprive the people of the right of calling a constitutional convention?

Mr. HARDY. It is the corporation section that the framers of this constitution wish to guard, to keep; and for that reason it provides that a three-fourths vote of each house before 25 years and a two-thirds vote of each house after that, be required in each legislature to call a convention. They could take any number of little counties and prevent that; but, better still, it is clearly shown that about four counties in the State, where the corporations are strongest, have the absolute power under the apportionment made to control more than a third of the senate. And that apportionment must remain till some means is found to amend this constitution. So with your corporate power controlling those counties there is no possibility of a constitutional convention. They have done this in their apportionment by first giving each of these corporation counties a senator, and then tacking onto it another county and giving it a second senator, and then tacking onto it a third county and giving it a third senator. Judge Fall himself, in effect, says that New Mexico has been practically corporation ridden and corporation debauched heretofore. He said the legislature has been so debauched that they wanted to take power away from it. With that kind of a statement, with the grasping of the corporations, and with three or four counties given power to control, you never can get a convention under that constitution.

Mr. SISSON. I want to call the gentleman's attention to this, in section 2, article 19: It provides that after this call for a constitutional convention shall be passed by the legislature, it is then submitted to the people, and then a majority of the people in at least 50 per cent of the counties is required. Now, under that provision, would it not be possible for 75, yea, in an extreme case, 90 per cent of the people to demand a constitutional convention and yet not be able to get a majority of the counties, because the small counties might be the counties that would be opposed to it?

Mr. HARDY. That is exactly the argument I have been attempting to make, that this constitution is without a parallel in history. That it could be prevented from being amended, although 90 per cent of the whole people might desire it, and these conditions were put there with the purpose that it should not be amended, and it was brutally stated that it was almost impossible to amend it.

Now, I will close by asking any lover of freedom, and there are some on the other side of the aisle, if he believes it wrong to let those people, unmenaced, untrammeled, uninfluenced, unthreatened, vote freely on the proposition as to whether they might not more easily amend their constitution? That is what the majority report asks you to do, and I ask you to vote on that proposition only. There may be some here who do not wish these people to be free to strike the chains of corporation dominion from their wrists. To such an one I make no appeal. "Ephraim is joined to idols; let him alone." [Loud applause.]

Mr. LANGHAM. Mr. Chairman, I yield one hour to the gentleman from Illinois [Mr. MANN].

Mr. MANN. Mr. Chairman, last year in the consideration of the judiciary title revision bill there came incidentally before the House the question of the power of Congress to require a State to insert an inviolable provision in its constitution as to the location of the capital of Oklahoma for a period of years, which brings, in a way, for the consideration of the public, the question as to the power of Congress in the admission of new States into the Union, and it is my purpose this morning, somewhat apart from the discussion which has so far taken place in the House as to the admission of New Mexico and Arizona, to present a legal argument on the subject of the power of Congress in regard to the admission of States.

The only provision of the Federal Constitution respecting this is section 3 of Article IV:

New States may be admitted by the Congress into this Union, but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned, as well as of the Congress.

There is no provision as to the mode in which, or the terms or conditions upon which, Congress is to exercise this power.

The only provision of the Constitution which has reference to the domestic institutions of the States is section 4 of Article IV:

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion and, on application of the legislature, or of the executive (when the legislature can not be convened), against domestic violence.

There are numerous provisions imposing limitations upon the powers of the States.

Section 10 of Article I provides:

No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports or exports shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

Sections 1 and 2 of Article IV may also be said to impose limitations upon the powers of the States, inasmuch as what they require of the States may not be denied by them. They are:

SECTION 1. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

SEC. 2. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

A person charged in any State with treason, felony, or other crime, who shall flee from justice and be found in another State, shall on demand of the executive authority of the State from which he fled be delivered up, to be removed to the State having jurisdiction of the crime.

Articles IX and X of the amendments, as they are limitations upon the Federal power, necessarily affect the power of the States. They are:

ARTICLE IX.

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people.

Articles XIII, XIV, and XV of the amendments all contain limitations upon the powers of the States. They are:

ARTICLE XIII.

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

SEC. 2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV.

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof is denied to any of the male inhabitants of such State being 21 years of age and citizens of the United States, or in any way abridge, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State.

SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a Member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV.

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

In addition to the express limitations upon the powers of the States are those necessarily implied by and resulting from the grant of powers to the General Government.

The Constitution makes no distinction in terms between the original States of the Union and those subsequently admitted. Neither does it in terms provide that new States shall be admitted upon an equal footing with the old. The question was the subject of much consideration in the Federal Convention, and it is a great question of present interest, as to whether Congress has the power, in the admission of new States, to make a distinction between the powers which can be exercised by the new State admitted and the powers which may be exercised by the original States. The question of the admission of new States was one of much consideration, as I said, in the Federal Constitutional Convention.

The Virginia plan, presented by Mr. Randolph, provided in the tenth resolution as follows:

Resolved, That provision ought to be made for the admission of States lawfully arising within the limits of the United States, whether from a voluntary junction of government and territory or otherwise, with the consent of a number of voices in the National Legislature less than the whole (p. 128).

This quotation and all following are from Elliot's Debates, volume 5, edition of 1845.

Pinckney's plan provided in Article XIV (p. 132):

The Legislature shall have power to admit new States into the Union on the same terms with the original States, provided that two-thirds of the Members present in both Houses agree.

Randolph's general proposition, set out above, was agreed to (pp. 156 and 157).

On June 13, 1787, the committee reported a general plan of government, including Randolph's proposition as to new States (p. 190).

The effect of the admission of new States was considered.

Gouverneur Morris thought—

the rule of representation ought to be so fixed as to secure to the Atlantic States a prevalence in the national councils.

That almost makes us smile to-day.

Col. Mason thought that if new States were—

made a part of the Union, they ought to be subject to no unfavorable discriminations.

Mr. Randolph concurred with this.

It was proposed at one time to apportion representation among the States "upon the principles of their wealth and number of inhabitants." This was, however, not adopted.

Madison "was clear and firm in opinion that no unfavorable distinctions were admissible, either in point of justice or policy" with regard to the Western States.

Gerry "thought it necessary to limit the number of new States to be admitted into the Union in such a manner that they should never be able to outnumber the Atlantic States," and moved—

that, in order to secure the liberties of the States already confederated, the number of Representatives in the first branch, of the States which shall hereafter be established, shall never exceed in number the Representatives from such of the States as shall accede to this confederation.

King seconded this. Sherman opposed. Gerry's motion was lost.

August 6 Rutledge presented the report of the committee, which contained Article XVII:

New States lawfully constituted or established within the limits of the United States may be admitted by the legislature into this Government; but to such admission the consent of two-thirds of the Members

present in each House shall be necessary. If a new State shall arise within the limits of any of the present States, the consent of the legislatures of such States shall be also necessary to its admission. If the admission be consented to, the new States shall be admitted on the same terms with the original States. But the legislature may make conditions with the new States concerning the public debt which shall be then subsisting.

When this article came up for consideration Gouverneur Morris moved to strike out:

If the admission be consented to, the new States shall be admitted on the same terms with the original States. But the Legislature may make conditions with the new States concerning the public debt which shall be then subsisting.

Madison, Mason, and Sherman opposed the motion. Langdon favored it. Williamson was for leaving Congress free. Motion carried. Nine States, aye; Maryland and Virginia, no.

Morris moved as substitute for Article XVII that—

New States may be admitted by the Legislature into the Union; but no new States shall be erected within the limits of any of the present States without the consent of the legislature of such State as well as of the General Legislature.

This was agreed to down to the word "Union"; that is:

New States may be admitted by the Legislature into the Union.

That was unanimously agreed to, and Morris's motion to substitute was agreed to.

Various amendments were offered and considerable discussion was had, and Morris's substitute as amended was adopted, 8 to 3. This was:

New States may be admitted by the Legislature into the Union; but no new State shall be hereafter formed or erected within the jurisdiction of any of the present States without the consent of the legislature of such State as well as of the General Legislature (p. 496).

Dickinson moved, and it was agreed, to add:

Nor shall any State be formed by the junction of two or more States, or parts thereof, without the consent of the legislature of such States as well as of the Legislature of the United States.

These two provisions taken together, it will be seen, are in effect the same as section 3 of Article IV of the Constitution. The verbal changes were made by the committee of style, which, through Dr. Johnson, reported on September 12 the Constitution in its present form, saving some immaterial alterations.

That gives the history of the provision in the convention as adopted, and I come now to discuss the practice which Congress has exercised in admitting new States under this provision of the Constitution.

All of the enabling acts and resolutions admitting States to the Union in some form have declared the status of the State when admitted.

Kentucky and Vermont were each—

received and admitted into this Union as a new and entire member of the United States of America.

Tennessee, Indiana, Louisiana, Mississippi, Illinois, Alabama, Maine, Missouri, Michigan, Arkansas, Texas, Wisconsin, California, Minnesota, Kansas, West Virginia, Nevada, Idaho, and Wyoming were each "admitted into the Union on an equal footing with the original States in all respects whatever."

Ohio was "admitted into the Union upon the same footing with the original States in all respects whatever."

Florida, Iowa, Nebraska, and Colorado were each "admitted into the Union on an equal footing with the original States in all respects whatsoever."

Oregon was "received into the Union on an equal footing with the other States in all respects whatever."

North Dakota, South Dakota, Montana, Washington, Utah, and Oklahoma were admitted "on an equal footing with the original States."

CONDITIONS IMPOSED.

The enabling act for Ohio provided that the constitution should be republican in form and not repugnant to the ordinance of 1787. There was also a grant of lands to the State on certain conditions.

It was required also of Indiana and Illinois that their constitutions should be in conformity with the ordinance of 1787.

As to Louisiana, the constitution must be republican, consistent with the Constitution of the United States, contain the fundamental principles of civil and religious liberty, and secure to the citizen the trial by jury in all criminal cases and the privilege of the writ of habeas corpus, conformably to the Constitution of the United States; and after admission its laws, records, and legislative and judicial proceedings must be in English; no discrimination in taxation of lands between resident and nonresident citizens; and the Mississippi River and navigable waters leading into it and into the Gulf of Mexico to be common highways and forever free.

Mississippi must have a republican form of government; freedom of navigable waters leading into the Mississippi, and so forth, and no discrimination between resident and nonresident citizens in taxation of lands.

Alabama is substantially the same as Mississippi.

Missouri was admitted on the fundamental condition that a provision of her constitution which made it the duty of the legislature—

to pass laws to prevent free negroes and mulattoes from coming to and settling in the State under any pretext whatever * * * shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto, by which any citizen of either of the States of this Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States.

The legislature of the State was required to give assent to this condition by solemn act, and this was done.

The enabling act itself required that the government should be republican in form and not repugnant to the Federal Constitution. The State must not interfere with the primary disposal of the soil by the United States, must not tax lands of the United States, nor discriminate in taxation of lands between resident and nonresident proprietors.

Arkansas: No interference with primary disposal of public lands, and lands of the United States not to be taxed.

The enabling act for Texas provided that the State should consent to have questions of boundaries determined by the United States with other Governments; that its constitution should be laid before Congress for final action; the fortifications should be conceded to the United States; that new States might be created with the consent of Texas not exceeding four in number, with or without slavery, south of 36° 30′ north latitude; and that in States formed out of territory north of Missouri compromise there should be no slavery.

Mr. STEPHENS of Texas. Will the gentleman yield as to the boundary of Texas?

Mr. MANN. No; not on the boundary of Texas.

Mr. STEPHENS of Texas. I just want to say that there was good reason for that.

Mr. MANN. I understand that.

Mr. STEPHENS of Texas. It brought on the Mexican War.

Mr. MANN. Every student of history is aware of that fact.

The conditions imposed upon Iowa were made in consideration of land granted, and provided for noninterference by the State with the primary disposal of the soil within the same by the United States; for regulations by Congress for securing the title in such soil to bona fide purchasers thereof; for the nontaxation of United States property; for the nontaxation of nonresident proprietors at a higher rate than resident proprietors; for the nontaxation, for a limited period of time, of certain bounty land granted for military services.

The enabling act for Wisconsin provided for the freedom of navigable waters leading into the Mississippi from toll. It also provided for the giving of land to Wisconsin upon the condition that it should never interfere with the primary disposal of the soil, and so forth, and not to tax nonresident proprietors at a higher rate than resident proprietors.

The act admitting California declared the State admitted into the Union upon express condition of noninterference with the primary disposal of the public lands, and so forth, and the nontaxation of nonresident proprietors at a higher rate than resident proprietors, and for the freedom of navigable waters within the State.

The Minnesota act contained provisions for the grant of land by the United States (quite common in the Western States) upon the usual conditions as to primary disposal of the soil, and so forth, and the nontaxation of nonresident proprietors at a higher rate than resident proprietors. On May 11, 1858 (11 Stat., 285), Congress declared Minnesota admitted into the Union.

The Oregon act of admission provided that all navigable waters of the State should be free from toll. It also provided for the grant of land to Oregon upon the usual conditions.

The Kansas act of admission provided that nothing contained in the Constitution should be construed to impair the rights of person or property now pertaining to Indians so long as such rights shall remain unextinguished by treaty between the United States and such Indians.

The West Virginia act provided for its admission by proclamation when it should have amended its constitution, as its convention had expressed a desire to do, so as to limit the existence of slavery therein. The constitution was so amended and the State admitted.

The enabling acts for Nevada, Colorado, and Nebraska, all passed in 1864, were much the same. They provided for a constitution which was republican, and so forth, which should prohibit slavery and secure religious liberty. There were the usual provisions concerning public lands and the taxation of

lands. Each act provided as to the convention elected to frame the constitution for the State—

That the members of the convention, thus elected, shall meet at the capital of said Territory on the first Monday in July next, and, after organization, shall declare, on behalf of the people of said Territory, that they adopt the Constitution of the United States. Whereupon the said convention shall be, and it is hereby, authorized to form a constitution and State government for said Territory.

The two Dakotas, Montana, and Washington were all four admitted by the same act. It provided for constitutions republican in form; for "no distinction in civil or political rights on account of race or color * * *"; for an irrevocable ordinance as to religious freedom; as to the nontaxation of Indian lands except where the Indian has severed his tribal relations; for the assumption of certain debts; for the establishment and maintenance of systems of public schools, which shall be open to all the children of such States and free from sectarian control. It provided that the States would be declared admitted by proclamation when they had complied with the enabling act.

In Idaho no conditions except as to the use and disposal of lands granted to the State.

The act admitting Wyoming contained no conditions except some like those of Idaho.

The act for Utah provided that the convention should declare in behalf of the people of the proposed State "that they adopt the Constitution of the United States." It also provided that the State should be republican in form; make no distinction between civil and political rights on account of race or color; not be repugnant to the Constitution of the United States nor the principles of the Declaration of Independence; that there shall be perfect religious toleration; and that polygamous or plural marriages are forever prohibited.

The enabling act for Oklahoma provided that nothing contained in the constitution should be construed to limit or impair the rights of persons or property pertaining to the Indians of said Territory; that the convention shall declare that it adopts the Constitution of the the United States; that the constitution shall be republican in form, make no distinction between civil or political rights on account of race or color, not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence; that there be perfect religious toleration; that there shall be no sale, barter, giving away of liquor, and so forth, within those parts of the State now known as the Indian Territory, and so forth, for 21 years from the date of the admission of the State into the Union, and thereafter until the constitution of the State shall be amended; that provision shall be made for the establishment and maintenance of a system of public schools, open to all the children of the State, free from sectarian control, provided this shall not be construed to prevent the establishment and maintenance of separate schools for white and colored children; that the State shall never enact any law restricting the rights of suffrage on account of race, color, or previous condition of servitude; that the capital of the State shall be located at Guthrie until 1913.

The enabling act providing for the admission of New Mexico and Arizona contains various provisions requiring the insertion in the constitutions of various propositions. Among others, that perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship; and that polygamous or plural marriages, or polygamous cohabitation, and the sale, barter, or giving of intoxicating liquors to Indians, and the introduction of liquors into Indian country are forever prohibited; that the lands and other property belonging to citizens of the United States residing without the said State shall never be taxed at a higher rate than the lands and other property belonging to residents thereof; and various other provisions, including that provisions shall be made for the establishment and maintenance of a system of public schools which shall be open to all the children of said State and free from sectarian control, and that said schools shall always be conducted in English; that said State shall never enact any law restricting or abridging the right of suffrage on account of race, color, or previous condition of servitude, and that ability to read, write, speak, and understand the English language sufficiently well to conduct the duties of the office without the aid of an interpreter shall be a necessary qualification for all State officers and members of the State legislature; that the capital of said State shall, until changed by the electors voting at an election provided for by the legislature of said State for that purpose, be at the city of Phoenix, but no election shall be called or provided for prior to the 31st day of December, 1925.

All of which ordinance described in this section shall, by proper reference, be made a part of any constitution that shall be formed hereunder, in such terms as shall positively preclude the making by any future constitutional amendment of any change or abrogation of the said ordinance in whole or in part without the consent of Congress.

It will be seen that early in the history of the Government Congress prescribed certain conditions to be inserted in the constitutions of the proposed States before those States could be admitted into the Union. And the question arises, first, what power Congress has over the admission of a State before it is admitted; second, what power it has over the constitution of a State after the State is admitted.

Mr. RAKER. Has the gentleman found any place in any of the States that have been admitted where the constitution has not been approved by the President?

Mr. MANN. Oh, yes. The constitution of the State of California was not approved by the President.

Mr. RAKER. It was admitted without the approval of the President?

Mr. MANN. Yes. I think this is the first enabling act that ever required approval either by the President or by Congress, except the one I quoted a while ago. And I may say to the gentleman from California [Mr. RAKER], who was not in the last House, I think no one believes the sum of all wisdom is included in the enabling act——

Mr. RAKER. That is right.

Mr. MANN (continuing). Which in its present form did not originate in this House; but how far it differs from the form which did originate in this House I do not undertake to say.

I wish to discuss for a short time the decision of the court with reference to what Congress has endeavored to do and has done concerning provisions which Congress has required to be inserted in the constitutions of States as they were admitted into the Union.

JUDICIAL DECISIONS AS TO EFFECT OF RESTRICTIONS OR LIMITATIONS IMPOSED BY CONGRESS UPON A STATE AT THE TIME OF ITS ADMISSION.

In the case of Pollard's Lessee *v.* Hagan et al (3 How., 212) it was insisted that the provision in the act of Congress of March 2, 1819, admitting Alabama to the Union, and which prescribed—

that all navigable waters within the said State shall forever remain public highways, free to the citizens of said State and of the United States, without any tax, duty, impost, or toll therefor imposed by said State—

limited the power of Alabama over the navigable waters within her limits.

The court held that this provision was nothing more than the exercise of the power which Congress possessed as to all the States, under the Federal Constitution, "to regulate commerce with foreign nations and among the several States." If the provision went beyond this, the court held that it would be void, saying (p. 223):

When Alabama was admitted into the Union on an equal footing with the original States she succeeded to all the rights of sovereignty, jurisdiction, and eminent domain which Georgia possessed at the date of the cession, except so far as this right was diminished by the public lands remaining in the possession and under the control of the United States for the temporary purposes provided for in the deed of cession and the legislative acts connected with it. Nothing remained to the United States, according to the terms of the agreement, but the public lands. And if any express stipulation had been inserted in the agreement granting the municipal rights of sovereignty and eminent domain to the United States, such stipulation would have been void and inoperative, because the United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain within the limits of a State or elsewhere except in the cases in which it is expressly granted.

In the case of Permoli *v.* First Municipality (3 How., 589) was involved the validity of an ordinance of the city of New Orleans which forbade the celebration of funerals in the Catholic churches of the municipality.

It was insisted that the ordinance violated the Constitution of the United States, the provision of the enabling act for Louisiana, which prescribed that the constitution of the State should contain the fundamental principles of civil and religious liberty, and also the ordinance of 1787. The court said (pp. 609, 610):

The ordinances complained of must violate the Constitution or laws of the United States or some authority exercised under them. If they do not, we have no power by the twenty-fifth section of the judiciary act to interfere. The Constitution makes no provision for protecting the citizens of the respective States in their religious liberties. This is left to the State constitutions and laws; nor is there any inhibition imposed by the Constitution of the United States in this respect on the States. We must therefore look beyond the Constitution for the laws that are supposed to be violated and on which our jurisdiction can be founded. These are the following enabling acts of Congress: That of February 20, 1811, authorized the people of the territory of Orleans to form a constitution and State government; by section 3 certain restrictions were imposed in the form of instructions to the convention that might frame the constitution, such as that it should be republican, consistent with the Constitution of the United States; that it should contain the fundamental principles of civil and religious liberty; that it should secure the right of trial by jury in criminal cases and the writ of habeas corpus; that the laws of the State should be published, and legislative and judicial proceedings be written and recorded in the

language of the Constitution of the United States. Then follows, by a second proviso, a stipulation reserving to the United States the property in the public lands and their exemption from State taxation, with a declaration that the navigation of the Mississippi and its waters shall be common highways, etc.

By the act of April 8, 1812, Louisiana was admitted according to the mode prescribed by the act of 1811. Congress declared it should be on the conditions and terms contained in the third section of that act, which should be considered, deemed, and taken as fundamental conditions and terms upon which the State was incorporated in the Union.

All Congress intended was to declare in advance to the people of the territory the fundamental principles their constitution should contain. This was every way proper under the circumstances; the instrument having been duly formed and presented, it was for the National Legislature to judge whether it contained the proper principles, and to accept it if it did or reject it if it did not. Having accepted the constitution and admitted the States "on an equal footing with the original States in all respects whatever," in express terms, by the act of 1812, Congress was concluded from assuming that the instructions contained in the act of 1811 had not been complied with. No fundamental principles could be added by way of amendment, as this would have been making part of the State constitution. If Congress could make it in part, it might, in the form of amendment, make it entire. The conditions and terms referred to in the act of 1812 could only relate to the stipulation contained in the second proviso of the act of 1811 involving rights of property and navigation, and in our opinion were not otherwise intended.

The principal stress of the argument for the plaintiffs in error proceeded on the ordinance of 1787. The act of 1805, chapter 83, having provided that from and after the establishment of the government of the Orleans territory the inhabitants of the same should be entitled to enjoy all the rights, privileges, and advantages secured by said ordinance and then enjoyed by the people of the Mississippi territory. It was also made the frame of government with modifications.

In the ordinance there are terms of compact declared to be thereby established between the original States and the people in the States afterwards to be formed northwest of the Ohio, unalterable, unless by common consent, one of which stipulations is that "no person demeaning himself in a peaceable manner shall ever be molested on account of his mode of worship or religious sentiments in the said territory." For this provision is claimed the sanction of an unalterable law of Congress, and it is insisted that the city ordinances above have violated it; and what the force of the ordinance is north of the Ohio we do not pretend to say, as it is unnecessary for the purposes of this case. But as regards the State of Louisiana it had no further force after the adoption of the State constitution than other acts of Congress organizing in part the territorial government of Orleans and standing in connection with the ordinance of 1787. So far as they conferred political rights and secured civil and religious liberties—which are political rights—the laws of Congress were all superseded by the State constitution; nor is any part of them in force unless they were adopted by the constitution of Louisiana as laws of the State. It is not possible to maintain that the United States hold in trust by force of the ordinance for the people of Louisiana all the great elemental principles or any one of them contained in the ordinance and secured to the people of the Orleans territory during its existence. It follows no repugnance could arise between the ordinance of 1787 and an act of the Legislature of Louisiana or a city regulation founded on such act, and therefore this court has no jurisdiction on the last ground assumed more than on the preceding ones. In our judgment the question presented by the record is exclusively of State cognizance, and equally so in the old States and the new ones, and that the writ of error must be dismissed.

The case of Strader et al. *v.* Graham (10 How., 82) came from Kentucky and involved the question—

whether slaves who had been permitted by their master to pass occasionally from Kentucky into Ohio acquired thereby a right to freedom after their return to Kentucky.

It was held that this was to be determined exclusively under the laws of Kentucky, and that the ordinance of 1787, as such, was without force after the adoption of the Federal Constitution. The court said (pp. 96, 97):

It is undoubtedly true that most of the material provisions and principles of these six articles, not inconsistent with the Constitution of the United States, have been the established law within this territory ever since the ordinance was passed, and hence the ordinance itself is sometimes spoken of as still in force. But these provisions owed their legal validity and force, after the Constitution was adopted and while the Territorial government continued, to the act of Congress of August 7, 1789, which adopted and continued the ordinance of 1787 and carried its provisions into execution, with some modifications which were necessary to adapt its form of government to the new constitution. And in the States since formed in the territory these provisions, so far as they have been preserved, owe their validity and authority to the Constitution of the United States and the constitution and laws of the respective States, and not to the authority of the ordinance of the old Confederation. As we have already said, it ceased to be in force upon the adoption of the constitution and can not now be the source of jurisdiction of any description in this court.

DRED SCOTT V. SANFORD (19 HOW., 393).

Among other matters considered in this case was the right of Congress by its act to exclude the institution of slavery from a proposed new State, and this involved the power of Congress to determine the domestic institutions of a new State.

In his opinion Justice Daniel approvingly quotes the letter of Madison to Robert Walsh on November 27, 1819, thus (pp. 491, 492):

* * * As to the power of admitting new States into the Federal compact, the questions offering themselves are whether Congress can attach conditions, or the new States concur in conditions, which after admission would abridge or enlarge the constitutional rights of legislation common to other States; whether Congress can, by a compact with a new State, take power either to or from itself, or place the new member above or below the equal rank and rights possessed by the others; whether all such stipulations expressed or implied would not be nullities and be so pronounced when brought to a practical test. It falls within the scope of your inquiry to state the fact that there was a proposition in the convention to discriminate between the old and the new States by an article in the Constitution. The proposition, happily, was rejected. The effect of such a discrimination is sufficiently evident.

Justice Campbell said (p. 508):

The sentiment is now general, if not universal, that Congress had no constitutional power to impose the restriction.

He says further (p. 509):

This claim to impose a restriction upon the people of Missouri involved a denial of the constitutional relations between the people of the States and Congress and affirmed a concurrent right for the latter, with their people, to constitute the social and political system of the new States. A successful maintenance of this claim would have altered the basis of the Constitution. The new States would have become members of a Union defined in part by the Constitution and in part by Congress. They would not have been admitted to "this Union." Their sovereignty would have been restricted by Congress as well as the Constitution.

Justice Curtis, in his dissenting opinion, said (pp. 587, 588):

In the legislative debates which preceded the admission of the State of Missouri into the Union this question was agitated. Its result is found in the resolution of Congress, of March 5, 1821, for the admission of that State into the Union. The constitution of Missouri, under which that State applied for admission into the Union, provided that it should be the duty of the legislature "to pass laws to prevent free negroes and mulattoes from coming to and settling in the State, under any pretext whatever." One ground of objection to the admission of the State under this constitution was that it would require the legislature to exclude free persons of color, who would be entitled, under the second section of the fourth article of the constitution, not only to come within the State, but to enjoy there the privileges and immunities of citizens. The resolution of Congress admitting the State was upon the fundamental condition "that the constitution of Missouri shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto by which any citizen of either of the States of this Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States." It is true that neither this legislative declaration, nor anything in the constitution or laws of Missouri, could confer or take away any privilege or immunity granted by the Constitution. But it is also true that it expresses the then conviction of the legislative power of the United States, that free negroes, as citizens of some of the States, might be entitled to the privileges and immunities of citizens in all the States.

In Withers *v.* Buckley et al. (20 How., 84) was challenged a law of Mississippi for improving the navigation of one of its inland rivers as violating the provision of the enabling act which guaranteed the free navigation of the Mississippi River. The court held that there was no conflict between the statute of the State and the enabling act, and further said (p. 93):

But for argument let it be conceded that this derelict channel of the Mississippi, called Old River, is in truth a navigable river leading or flowing into the Mississippi; it would by no means follow that a diversion into the Buffalo bayou of waters, in whole or in part, which pass from Homochitto into Old River, would be a violation of the act of Congress of March 1, 1817, in its letter or its spirit, or of any condition which Congress had power to impose on the admission of the new State. It can not be imputed to Congress that they ever designed to forbid or to withhold from the State of Mississippi the power of improving the interior of that State by means either of roads or canals, or by regulating the rivers within its territorial limits, although a plan of improvement to be adopted might embrace or affect the course or the flow of rivers situated within the interior of the State. Could such an intention be ascribed to Congress, the right to enforce it may be confidently denied. Clearly Congress could exact of the new State the surrender of no attribute inherent in her character as a sovereign independent State, or indispensable to her equality with her sister States, necessarily implied and guaranteed by the very nature of the Federal compact. Obviously, and it may be said primarily, among the incidents of that equality, is the right to make improvements in the rivers, water courses, and highways situated within the State.

THE CASE OF THE KANSAS INDIANS (5 WALL., 737).

The Kansas enabling act admitted the State on condition that the Indian rights should remain unimpaired and the General Government at liberty to make any regulations respecting them which it might make if Kansas had not been admitted to the Union. The State, in violation of treaty stipulations, sought to tax Indian lands, and it was held this could not be done. The court said (pp. 755–757):

* * * If the tribal organization of the Shawnees is preserved intact and recognized by the political department of the Government as existing, then they are a "people distinct from others," capable of making treaties, separated from the jurisdiction of Kansas, and to be governed exclusively by the Government of the Union. If under the control of Congress, from necessity there can be no divided authority. If they have outlived many things, they have not outlived the protection afforded by the Constitution, treaties, and laws of Congress. It may be that they can not exist much longer as a distinct people in the presence of the civilization of Kansas, "but until they are clothed with the rights and bound to all the duties of citizens" they enjoy the privilege of total immunity from State taxation. There can be no question of State sovereignty in the case, as Kansas accepted her admission into the family of States on condition that the Indian rights should remain unimpaired and the General Government at liberty to make any regulation respecting them, their lands, property, or other rights which it would have been competent to make if Kansas had not been admitted into the Union. The treaty of 1854 left the Shawnee people a united tribe, with a declaration of their dependence upon the National Government for protection and the vindication of their rights. Ever since this their tribal organization has remained as it was before. They have elective chiefs and an elective council, meeting at stated periods, keeping a record of their proceedings, with powers regulated by custom, by which they punish offenses, adjust differences, and exercise a general oversight over the affairs of the nation. These people have their own customs and laws by which they are governed. Because some of those

customs have been abandoned, owing to the proximity of their white neighbors, may be an evidence of the superior influence of our race, but does not tend to prove that their tribal organization is not preserved. There is no evidence in the record to show that the Indians with separate estates have not the same rights in the tribe as those whose estates are held in common. Their machinery of government, though simple, is adapted to their intelligence and wants and effective, with faithful agents to watch over them. If broken into, it is the natural result of Shawnees and whites owning adjoining plantations and living and trafficking together as neighbors and friends. But the action of the political department of the Government settles beyond controversy that the Shawnees are as yet a distinct people, with a perfect tribal organization. Within a very recent period their headmen negotiated a treaty with the United States, which, for some reason not explained in the record, was either not sent to the Senate or, if sent, not ratified, and they are under the charge of an agent, who constantly resides with them. While the General Government has a superintending care over their interests and continues to treat with them as a nation, the State of Kansas is estopped from denying their title to it. She accepted this status when she accepted the act admitting her into the Union. Conferring rights and privileges on these Indians can not affect their situation, which can only be changed by treaty stipulation or a voluntary abandonment of their tribal organization. As long as the United States recognizes their national character they are under the protection of treaties and the laws of Congress, and their property is withdrawn from the operation of State laws.

ESCANABA CO. V. CHICAGO (107 U. S., 678).

The enabling act for Illinois required that its constitution should be in conformity with the ordinance of 1787, and this provided that—

The navigable waters leading into the Mississippi and St. Lawrence and the carrying places between them shall be common highways and forever free, as well to the inhabitants of the said Territory as to the *citizens of the United States* and those of any other States that may be admitted into the Confederacy, without any tax, impost, or duty therefor (p. 688).

One question in the case was as to the effect of this condition of the enabling act upon the rights and powers of the State after admission to the Union. The court said (pp. 688, 689):

The ordinance was passed July 13, 1787, one year and nearly eight months before the Constitution took effect; and, although it appears to have been treated afterwards as in force in the Territory, except as modified by Congress and by the act of May 7, 1800, chapter 41, creating the Territory of Indiana, and by the act of February 3, 1809, chapter 13, creating the Territory of Illinois, the rights and privileges granted by the ordinance are expressly secured to the inhabitants of those Territories; and, although the act of April 18, 1818, chapter 67, enabling the people of Illinois Territory to form a constitution and State government, and the resolution of Congress of December 3, 1818, declaring the admission of the State into the Union refer to the principles of the ordinance according to which the constitution was to be formed, its provisions could not control the authority and powers of the State after her admission. Whatever the limitation upon her powers as a government whilst in a Territorial condition, whether from the ordinance of 1787 or the legislation of Congress, it ceased to have any operative force, except as voluntarily adopted by her, after she became a State of the Union. On her admission she at once became entitled to and possessed of all the rights of dominion and sovereignty which belonged to the original States. She was admitted, and could be admitted, only on the same footing with them. The language of the resolution admitting her is "on an equal footing with the original States in all respects whatever." (3 Stat., 536.) Equality of constitutional right and power is the condition of all the States of the Union, old and new. Illinois, therefore, as was well observed by counsel, could afterwards exercise the same power over rivers within her limits that Delaware exercised over Black Bird Creek and Pennsylvania over the Schuylkill River.

The case of Cardwell *v.* American Bridge Co. (113 U. S., 205) was like the preceding case, and involved the effect of the provision of the enabling act for California, that "all the navigable waters within the said State shall be common highways and forever free," and so forth.

After reviewing a number of authorities as to the powers of a State over the navigable waters, the court said (p. 210):

These cases illustrate the general doctrine, now fully recognized, that the commercial power of Congress is exclusive of State authority only when the subjects upon which it is exerted are national in their character and admit and require uniformity of regulations affecting alike all the States; and that when the subjects within that power are local in their nature or operation, or constitute mere aids to commerce, the States may provide for their regulation and management until Congress intervenes and supersedes their action.

The complainant, however, contends that Congress has intervened and expressed its will on this subject by a clause in the act of September 9, 1850 (9 Stat., 452), admitting California as a State into the Union, which declares "that all the navigable waters within the said State shall be common highways and forever free, as well to the inhabitants of said State as to the citizens of the United States, without any tax, impost, or duty therefor." (9 Stat., 453.) This declaration is similar to that contained in the ordinance of 1787, for the government of the territory of the United States northwest of the Ohio River, so far as the latter relates to the navigable waters flowing into the Mississippi and the St. Lawrence. And in Escanaba Co. *v.* Chicago we held, with respect to the State of Illinois, that the clause was superseded by her admission into the Union, for she then became entitled to and possessed of all the rights of domain and sovereignty which belonged to the original States. The language of the resolution admitting her declared that it was on "an equal footing with the original States in all respects whatever;" so that, after her admission, she possessed the same power over rivers within her limits that Delaware exercised over Blackbird Creek and Pennsylvania over Schuylkill River.

The two preceding cases are expressly affirmed in Huse *v.* Glover (119 U. S., 543); Sands *v.* Manistee, etc., Co. (123 U. S., 288); and Willamette, etc., Co. *v.* Hatch (125 U. S., 1).

Most of the cases hereinbefore cited were reviewed and reaffirmed in Ward *v.* Race Horse (163 U. S., 504). This case came up from Wyoming, and involved the effect of a treaty with the Bannock Indians. The enabling act for that State, however, contained no reservation in favor of Indians.

THE CASE OF BOLLN V. NEBRASKA (176 U. S., 83).

The enabling act for Nebraska provided for a constitutional convention, and required that—

the members of the convention * * * shall declare, on behalf of the people of said Territory, that they adopt the Constitution of the United States.

Thereupon they were authorized to form a constitution and State government. The subsequent act admitting the State into the Union, admitted it—

upon an equal footing with the original States in all respects whatsoever.

It was contended that the effect of the enabling act was to make the first eight amendments to the Federal Constitution part of the constitution of Nebraska, not subject to change by her people.

The crime charged in the case was a felony, and the prosecution was by information, and this, it was contended, was in violation of the fifth amendment to the Federal Constitution, which prescribed that "no person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury."

After reciting the enabling act and the act admitting Nebraska into the Union, the court said (pp. 87–89):

The argument of the plaintiff in error in this connection is that by these acts the people of Nebraska adopted the Constitution of the United States, and thereby the first eight amendments containing the Bill of Rights became incorporated in the constitution of the State, and that the right to proceed for felonies, other than by an indictment of a grand jury (as required by the fifth amendment), was taken away from such State.

But conceding all that can be claimed in this connection and that the State of Nebraska did enter the Union under the condition of the enabling act, and that it adopted the Constitution of the United States as its fundamental law, all that was meant by these words was that the State acknowledged, as every other State has done, the supremacy of the Federal Constitution. The first section of the act of 1867 admitting the State into the Union declared "that it is hereby admitted into the Union upon an equal footing with the original States in all respects whatsoever." It is impossible to suppose that by such indefinite language as was used in the enabling act Congress intended to differentiate Nebraska from her sister States, even if it had the power to do so, and attempt to impose more onerous conditions upon her than upon them, or that in cases arising in Nebraska a different construction should be given to her constitution from that given to the constitutions of other States. But this court has held in many cases that whatever be the limitations upon the power of a Territorial government they cease to have any operative force, except as voluntarily adopted after such Territory has become a State of the Union. Upon the admission of a State it becomes entitled to and possesses all the rights of dominion and sovereignty which belonged to the original States, and, in the language of the act of 1867 admitting the State of Nebraska, it stands "upon an equal footing with the original States in all respects whatsoever." (Escanaba Co., *v.* Chicago, 107 U. S., 678; Cardwell *v.* American Bridge Co., 113 U. S., 205; Willamette Iron Bridge Co. *v.* Hatch, 125 U. S., 1; Ward *v.* Race Horse, 163 U. S., 504.) Indeed, the legislation of Congress connected with the admission of Nebraska into the Union, so far as it bore upon the question of citizenship, was fully considered by this court in the case of Boyd *v.* Thayer (143 U. S., 135), and the conclusion reached that upon its admission into the Union the citizens of what had been the Territory became the citizens of the United States and of the State.

This court has also repeatedly held that the first eight amendments to the Constitution applied only to the Federal courts, and it certainly could never have been intended that these amendments should be imposed upon Nebraska, and thereby a hard and fast rule made for that State that would forever preclude amendments inconsistent with the Bill of Rights of the Federal Constitution and which this court has held to be applicable only to Federal courts. As we have repeatedly held, the fourteenth amendment was not intended to curtail the powers of the States to so amend their laws as to make them conform to the wishes of their citizens to changed views of administration, or to the exigencies of their social life. It may be readily supposed that the inhabitants of each State understand perfectly their own local needs and interests, and with the facilities with which the constitutions of the several States may be amended it is scarcely possible that any evil which might be occasioned by an improvident amendment would not be readily redressed. Not only did Congress in the act of 1867 declare that Nebraska was admitted upon an equal footing with the original States, but the whole Federal system is based upon the fundamental principle of the equality of the States under the Constitution. The idea that one State is debarred while the others are granted the privilege of amending their organic laws to conform to the wishes of their inhabitants is so repugnant to the theory of their equality under the Constitution that it can not be entertained even if Congress had power to make such discrimination. We are therefore of opinion that the provision of the constitution of Nebraska, permitting prosecutions for felony by information, does not conflict with the fourteenth amendment to the Constitution of the United States.

In the case of Stearns *v.* Minnesota (179 U. S., 223) the domestic institutions of the State were not involved, but only the effect of a grant of lands made by the United States to the State of Minnesota in the enabling act upon the conditions accepted by the State in its constitution. The conditions are set out in the extract from the opinion of the court, viz (pp. 243–245):

When Minnesota was admitted into the Union, and admitted on the basis of full equality with all other States, there was within its limits

a large amount of lands belonging to the National Government. The enabling act, February 26, 1857 (11 Stat., 166), authorizing the inhabitants of Minnesota to form a constitution and a State government tendered certain propositions to the people of the Territory, coupled in section 5 with this proviso (11 Stat., 167):

"The foregoing propositions herein offered are on the condition that the said convention which shall form the constitution of said State shall provide, by a clause in said constitution or an ordinance irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same by the United States or with any regulations Congress may find necessary for securing the title in said soil to bona fide purchasers thereof; and that no tax shall be imposed on lands belonging to the United States, and that in no case shall nonresident proprietors be taxed higher than residents."

And article 2, section 3, of the constitution, passed by virtue of this enabling act, reads as follows (Gen. Stat., Minn., 1894, p. 74):

"The propositions contained in the act of Congress entitled 'An act to authorize the people of the Territory of Minnesota to form a constitution and State government preparatory to their admission into the Union on an equal footing with the original States,' are hereby accepted, ratified, and confirmed and shall remain irrevocable without the consent of the United States; and it is hereby ordained that this State shall never interfere with the primary disposal of the soil within the same by the United States or with any regulations Congress may find necessary for securing the title to said soil to bona fide purchasers thereof; and no tax shall be imposed on lands belonging to the United States, and in no case shall nonresident proprietors be taxed higher than residents."

That these provisions of the enabling act and the constitution, in form at least, made a compact between the United States and the State, is evident. In an inquiry as to the validity of such a compact this distinction must at the outset be noticed. There may be agreements or compacts attempted to be entered into between two States, or between a State and the Nation, in reference to political rights and obligations, and there may be those solely in reference to property belonging to one or the other. That different considerations may underlie the question as to the validity of these two kinds of compacts or agreements is obvious. It has often been said that a State admitted into the Union enters therein in full equality with all the others, and such equality may forbid any agreement or compact limiting or qualifying political rights and obligations; whereas, on the other hand, a mere agreement in reference to property involves no question of equality of status, but only of the power of a State to deal with the Nation or with any other State in reference to such property. The case before us is one involving simply an agreement as to the property between a State and the Nation.

In the case of Mobile, etc., Co. *v.* Mobile (187 U. S., 479), Pollard's lessee *v.* Hagan, cited above, is approved. So also in Kansas *v.* Colorado (206 U. S., 46).

The treaty of 1859 reserved to the Yakima Indians certain rights of taking fish.

It was contended in United States *v.* Winans (198 U. S., 371) that this right of the Indians became subordinate to the powers of the State of Washington upon its admission into the Union "upon an equal footing with the original States."

The court, citing Shively *v.* Bowlby (152 U. S., 1), held that Congress had the power to make grants of land below high-water mark of navigable waters in any Territory of the United States whenever necessary to perform international obligations, to improve the lands, promote foreign and interstate commerce, or carry out other public purposes appropriate to the objects for which the United States held the Territory. Coming to the case in hand, the court said (p. 384):

The extinguishment of the Indian title, opening the land for settlement and preparing the way for future States, was appropriate to the objects for which the United States held the territory. And surely it was within the competency of the Nation to secure to the Indians such a remnant of the great rights they possessed as "taking fish at all usual and accustomed places." Nor does it restrain the State unreasonably, if at all, in the regulation of the right. It only fixes in the land such easements as enables the right to be exercised.

In the case of Dick *v.* United States (208 U. S., 340) it was held that the United States, under an agreement made with the Nez Perce Indians in 1893, retained control over lands in Idaho to which the Indian title had been extinguished for the purpose of controlling the use of liquor therein after Idaho had been admitted as a State. The period for which control was reserved was 25 years. The court said (p. 359):

We go no further in this case than to say that the requirement, in the agreement of 1893, that the Federal liquor statutes protecting the Indian country against the introduction of intoxicants into it should, for the limited period of 25 years, be the law for the lands ceded and retained by, as well as the lands allotted to, the Nez Perce Indians, was a valid regulation based upon the treaty-making power of the United States and upon the power of Congress to regulate commerce with those Indians, and was not inconsistent, in any substantial sense, with the constitutional principle that a new State comes into the Union upon entire equality with the original States.

CONCLUSIONS AS TO POWER OF CONGRESS.

What has been stated shows that the States of the Union, new and old, stand upon the same footing of right, power, and sovereignty. Congress, as it has the sole power to admit new States, and as this power is in nowise qualified or circumscribed by the Constitution, may refuse to admit a Territory as a State for a good reason or bad, or for no reason at all. It may, therefore, prescribe conditions of admission and may determine the constitution which shall be adopted; but when the State is in the Union its sovereignty is as full and unimpaired as that of the other States.

Conditions imposed will be binding upon the State if their subject matter is one over which, as to all the States, the Constitution of the United States has conferred paramount authority upon Congress, and also if their subject matter is property and the conditions imposed are in the nature of a property contract between the State and the United States.

A condition, however, which relates to the government of the State (provided only that government be republican in form), or to its domestic institutions or policies, or the mode of amending its constitution and the tenure of its officials, no matter in what manner imposed, nor how solemnly assented to by the people of the proposed State, nevertheless, upon the admission of the State into the Union, and by virtue of that fact, loses all its force alike as an enactment of Congress and as a compact between the State and the United States, and has validity thereafter only if and because it was adopted by the people of the State, and then only so long as it is assented to by them and remains unchanged by them.

Mr. Chairman, it is quite within the power of Congress to prescribe the constitution which shall be adopted by New Mexico or Arizona. We may require them to put in any provision within our sweet will. I have often questioned the desirability of requiring them to insert in their constitution provisions which are already binding upon them by reason of the Constitution of the United States, or requiring them to insert other provisions in their constitution. But whether they do or not, so long as these Territories shall be admitted as States in the Union, our power over them and their constitution as to the domestic institutions of their States has passed from us and is within their control.

I notice for instance, and I have no criticism of it, in the substitute resolution presented by the committee it is proposed to amend the enabling act as to that part of it that requires the officials of New Mexico to be able to speak English. That provision is already in the constitution of New Mexico as presented to us. I do not propose at this time to discuss the desirability of its being there, although I have grave doubt about it. But it could do no possible good, and probably no possible harm, to now amend the enabling act as proposed by the resolution, which resolution if adopted will admit New Mexico as a State in the Union, with that provision in her constitution which we do not propose now to amend but only propose to amend the enabling act. That can be of no possible benefit, because as soon as the State is admitted into the Union, that provision in the enabling act is as dead as a doornail, and no longer has any force or validity. The provision has no force except as included in the constitution which is adopted when the State is brought in. We have the power to keep out Territories, and we have the power to admit them.

The enabling act provided for the approval of the constitutions by the President and by Congress under certain conditions. That we have the power to do. The joint resolution disregards that provision of the enabling act entirely, and proposes to admit the Territories as States into the Union. That we have full power to do. We are not bound by the enabling act as to the admission of these Territories into the Union. We have the same power to disregard the enabling act that we have any other law when we pass a new law, and while the joint resolution, for convenience sake, recognizes certain things in the enabling act, it is not proposed under the joint resolution to bring the States into the Union under the enabling act, nor is it at all necessary to do so. We could pass a law admitting Arizona and New Mexico into the Union and providing only that they should assemble a convention to adopt a new constitution without our approving it in any respect whatever.

It is true that the Constitution says that the United States shall guarantee to each State in the Union a republican form of government. But no one knows what that means, or, if they do, how it could be enforced. It does not provide for putting out of the Union a State. There is no such authority. Neither Congress nor the State can put a State out of the Union, as we discovered a few years ago.

Mr. GRAHAM. They might suspend its right to representation in the Congress.

Mr. MANN. I do not think they could suspend its right to representation in Congress at all.

Mr. GRAHAM. At least that is as far as they could go, if they could go that far.

Mr. MANN. Yes. It is possible that if a monarchy should be set up in one of the States of the Union Congress might pass a resolution declaring that that was not a republican form of government, and that the court might be able to hold under the provision of the Constitution or the resolution, or perhaps without the resolution, that the laws of that State were violative and unconstitutional, and that the Supreme Court could enter an

order which would cause the President of the United States to send an army into a State to enforce the orders of the court. But that question probably will never arise. Let us hope not.

Mr. RAKER. Will the gentleman yield for a question?

Mr. MANN. Certainly.

Mr. RAKER. Is it not, as a matter of fact, that the joint resolution or substitute carried into the present one all the provisions of the original enabling act, and therefore that the President must, if the enabling act must be complied with, still approve the constitution of Arizona?

Mr. MANN. I should say, clearly not. We have in the resolution—and there is no reason why we should not—entirely disregarded the enabling act so far as the question of admission is concerned. The enabling act provides that the States shall be admitted when certain events take place. It is provided by the joint resolution that the States shall be admitted upon entirely different events taking place, and that is wholly within the power of Congress to do as they please about it. Of course the joint resolution, being a joint resolution, must be submitted to the President for his approval or disapproval under the Constitution. If the President approves it, it may be said in a way that he approves the constitution, he approves the joint resolution; but if he disapproves it, it is returned to Congress, and if Congress passes the joint resolution over the President's veto Arizona and New Mexico would be admitted into the Union, no matter what the opinion of the President might be on the subject of the constitution.

Mr. RAKER. Let us see whether that is the fact or not. On line 6, page 3, of the joint resolution it is provided as follows:

> That the Territories of New Mexico and Arizona are hereby admitted into the Union upon an equal footing with the original States—

Now, if it stopped there there would be no question on earth, but it says further—

> in accordance with the terms of the enabling act approved June 20, 1910.

Does that not carry in all of the provisions of the enabling act, unless hereafter in this joint resolution they are in direct conflict therewith?

Mr. MANN. I have no hesitation whatever in answering that—that refers to the enabling act, as I stated before, as a mere matter of convenience in reference to the terms, such as the terms in reference to lands, property——

Mr. GRAHAM. The gentleman's whole argument has been an answer to it.

Mr. MANN. And things of that sort, and that our power to admit under the Constitution is what this resolution is offered under. Of course its admission comes only after the proclamation of the President, but the President is required in a certain event to issue a proclamation after an election is held in Arizona and New Mexico. Nor do those Territories have any control over the question whether such an election shall be held or not under the terms of the resolution. The election is held by reason of the passage of the joint resolution, if it passes.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MANN. I would like about 10 minutes more.

Mr. LANGHAM. I yield 10 minutes additional to the gentleman.

Mr. MANN. I have said what I did because myself and some others became somewhat interested in the subject, and one other gentleman helped me prepare the brief which I have presented to the House, and I thought it might be desirable to print it, as it was interesting to me.

I now wish to say a word or two, however, on the subject of the recall.

Mr. Chairman, the Arizona constitution brings before us some propositions which have been widely discussed in various parts of the country, but which so far no one, I believe, has proposed shall be enacted into national laws. I refer especially to the initiative, referendum, and recall.

I am particularly opposed to the recall of judges. A free, independent, and honest judiciary is at the bottom of our system of government. Legislators are supposed to be directly influenced and controlled more or less by popular sentiment and the passing craze of the hour. The legislature may pass a law to-day and repeal it to-morrow, because it is the duty of the legislature to make law, not to determine what the law already is.

The judge, however, finds what the law is and he can not find that the law is one thing to-day and another thing to-morrow if no legislative change has been made. It is the duty of the judge to determine what the law is, not what he may fancy it ought to be. In determining what the law is, the judge ought not to be controlled by passing passion or hysterical opinion.

To hold over every judge the threat that if he does not render a popular opinion of the law he shall be subjected to a campaign before the people to hold his office is to largely destroy his independence and his usefulness.

The Arizona constitution provides that upon petition of 25 per cent of the voters an election shall be held to determine whether a public official shall be recalled or, in other words, removed. To apply this to judges is destructive of a fair judiciary.

We undertake now to provide an unbiased judge and an unbiased jury. We provide a method by which a change of venue can be taken from a judge who is believed to have undue bias for or against one of the parties to a suit or criminal prosecution, and yet the recall system would render every judge biased either for or against the popular side of a great case where the public had become aroused.

No one claims that judges are perfect or that judicial decisions are always correct. Judges are often ignorant of the law and sometimes are swayed by passion or improper considerations. But the remedy proposed would be far worse than any evil now existing.

I am opposed to admitting Arizona as a State unless she amends her constitution so that the recall of public officers shall not apply to judges.

I do not specially favor the initiative, the referendum, or the recall of public officers, but I should not vote to refuse Arizona admission as a State because she has those idiosyncrasies in her constitution. In my opinion, the initiative and referendum and recall will be tried by various States of the Union, and will in the end be practically abandoned. These propositions will break down of their own weight.

I have been in legislative bodies now for many years. The difficulty with legislation is not in enunciating general principles, but it is in applying those principles in detail to all cases alike. But the details of legislation are the important parts of legislation. For instance, everyone is in favor of conservation of national resources, as a general proposition, but when it comes to the application of that proposition in detail, I have never seen anyone yet who was prepared to answer some of the simple questions which arise. Such propositions can be worked out in detail only by experienced legislators and experienced administrators of the law. To submit the general proposition to a vote of the people does no good, and often will permit the legislator to avoid the necessity of really working out the particular problem. To submit the details of such legislation to a popular vote of the people is to ask them to judge of something about which it is impossible for them to know, and such a system would permit the legislator to rely upon the popular vote and to escape the necessity of thorough examination of the subject himself.

Many a bond issue has been voted by the people which was wholly unjustified by the situation. The legislator votes to submit the bond issue to a vote of the people without full knowledge of the subject himself and without taking the trouble to carefully study the subject himself. Instead of learning everything there is to know about the matter and determining it upon his own responsibility in the interest of what he believes to be the good of the people, he will give it only casual examination, and say "Let the people decide," hiding his own responsibility behind the proposition to submit the matter to the people. And often the people have voted for a bond issue because they innocently believed that the legislative body would not submit the proposition to them unless it had been carefully weighed and found to be to their interest.

It will be so about most legislative propositions which would be submitted on a referendum or the initiative. General propositions may be indorsed, but the details will not be studied carefully or worked out with thoroughness. The initiative and the referendum are the boon of the lazy legislator. [Laughter.] They enable him to escape the necessity of study or thought. He avoids responsibility by putting it on somebody else. But the proper system of legislation, it seems to me, is for the people, in their wisdom, to select competent men to represent them in the legislative bodies, to require those men on their peril to study the subjects of legislation, and to enact on their responsibility legislation which will be judged by the people by its results.

Mr. GRAHAM. Will the gentleman submit to a question there?

Mr. MANN. Certainly.

Mr. GRAHAM. So far as shirking or evading the responsibility of the legislator is concerned, will the establishment of the referendum add to the difficulty that now exists because of our Supreme Court plan? Do not the legislators to-day evade their responsibility on the theory that if a law is not sound the Supreme Court will say so, and it does not matter whether they investigate that question or not?

Mr. MANN. I have often thought that when I have seen bills come before the House, and have frequently expressed that view.

Mr. GRAHAM. And not only the House but the State legislatures.

Mr. MANN. Everybody avoids responsibility sometimes, when he can. But does anybody think that under the law and the Constitution, as it now is, when Congress sometimes shirks responsibilities about laws—as to their constitutionality—because they can be passed upon by the Supreme Court, it will aid any by giving another excuse of passing everything on to the people without taking the responsibility which Members ought to take, to know and investigate on their own responsibility? [Applause on the Republican side.]

The CHAIRMAN (Mr. OLDFIELD). The time of the gentleman has expired.

Mr. LANGHAM. Mr. Chairman, I yield to the gentleman five minutes more.

Mr. MANN. If the body of electors are not able to select competent men to represent them, what reason is there to believe that they will be wiser in determining the legislative propositions which may be submitted to them? If the voters are unable to wisely choose their representatives in the legislative body, how will they with greater wisdom pass upon the numerous legislative propositions submitted to them, about which it will often be impossible for them to be well informed, if they have any other duties to perform?

Mr. Chairman, Members of Congress are elected for a term of two years. They practically experience a recall every two years. I believe it is the consensus of opinion that if the Constitution were to be rewritten in this particular the term of a Member of Congress would now be made longer than two years. The reelection or recall every two years—and I measure my words when I say it—destroys half of the usefulness of half the Members of this House. I do not believe it makes them any more responsive to the will of the people.

My own district has been very kind to me. I believe that the voters who have sent me here for many years believe it is my duty to become informed upon the public questions of the day, both by consultation with them and by other study of the subjects, and that they expect when I have reached an honest conclusion, based upon intelligent study, I will express that honest opinion by my acts and votes.

I have always endeavored to know the beliefs and wishes of my constituents and have tried to ascertain whether those beliefs were fundamental or based upon passing excitement. But I do not believe that my constituents would honor me if they thought that my votes in this House were based, not upon honest and considered judgment, but upon a mere estimate of popular excitement or agitation at home.

Mr. Chairman, it seems to me that many of the popular reform movements of the country are too often based only upon propositions to change merely the methods of legislation or merely the methods of accomplishing results. After all, the important thing about government and about legislation is the accomplishment of the result. New problems are constantly arising in every government and in every land—problems that require for their solution the best-applied genius and the most arduous study of our greatest men and women. And those people who fondly believe they are in the van of reform movements because they are urging different methods of selecting legislators or different methods of enacting legislation are, after all, dealing only with the nonessentials and have not yet engaged upon a study of the great essentials of government, which are not form, but substance; not methods, but results. [Applause.]

Mr. LANGHAM. I yield one hour to the gentleman from Pennsylvania [Mr. OLMSTED].

Mr. OLMSTED. Mr. Chairman, before beginning, I ask unanimous consent to revise and extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent to revise and extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. OLMSTED. Mr. Chairman, there is no power conferred by the Federal Constitution upon Congress which requires to be exercised with more care than the power to admit new States into this Union. The addition of a new star to the flag—the admission of a new member into the sisterhood of States, upon an equal footing with all the others—is a matter which may well command our sober, serious consideration. And so it is that for days we have been listening to exceedingly able and eloquent speeches upon the republican form of government, upon State governments, State constitutions, and constitutions generally. It is not my purpose to enter very far into that wide field of discussion, interesting and important though it is. I shall endeavor to confine myself more closely to the matter immediately before us, requiring our careful consideration and treatment, in the disposition of the pending resolution.

It is entitled "Joint resolution approving the constitutions formed by the constitutional conventions of the Territories of New Mexico and Arizona." So it was in its original form, but as it is proposed—by the majority of the Committee on Territories—to be amended, it disapproves both those constitutions and provides for their amendment.

The last Congress passed and, on June 20, 1910, the President approved—

> An act to enable the people of New Mexico to form a constitution and State government and be admitted into the Union on an equal footing with the original States, and to enable the people of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States.

These Territories have been for a long time clamoring for admission. For 60 years the people of New Mexico have been knocking at the door of Congress. It is related that once, 36 or 37 years ago, they came so close that it was merely as the result of an extraneous incident, so to speak—the shaking of hands between two gentlemen upon this floor—that they were not admitted to statehood then. A Member had made a speech commenting in very severe and unkind terms upon a large section of this country. At its conclusion the then Delegate from New Mexico walked across the Hall and, by way of congratulation, shook hands with him, thus offending enough Members from that section to bring about the defeat of the proposition to admit New Mexico as a State.

But, now, in pursuance of this enabling act, passed by this Congress one year ago, a constitutional convention has been called in New Mexico; the delegates were elected by the people of New Mexico; they assembled as required by this enabling act; they framed a constitution; they submitted that constitution to the people. The enabling act provided that they might submit a constitution as a whole to be voted upon as a whole, and also separate provisions to be voted upon separately.

The people voted. They ratified the constitution so proposed by the constitutional convention, by a majority of 18,000, in that State whose total vote is just about that of a congressional district in Pennsylvania, thus showing a great degree of unanimity in the adoption of their constitution. The enabling act provided that in the event of its rejection by the people a second constitutional convention should be called which should frame a new constitution to be in like manner submitted to the people. But the first constitution submitted was adopted by an overwhelming majority.

Under the enabling act of 1910, when the constitution so adopted was certified to the President of the United States, he was in turn to certify it to Congress. If he approved it and Congress approved it, New Mexico was to become immediately a State. Should the President approve it and Congress fail to disapprove, then, at the end of the next regular session of Congress, New Mexico was to become immediately a State. The constitution adopted by the people of New Mexico was duly certified to the President, who in turn forwarded it to Congress on the 24th of February, 1911, with a message, in which he said, "I have given my formal approval; I recommend the approval of the same by Congress." The House did approve it, and sent it over to the Senate. I have never heard that there was any objection there to the constitution, but the session was nearly ended and the matter was not reached for action.

Now, if nothing is done by this Congress, then, at the end of the next regular session, New Mexico becomes a State by the terms of the enabling act. But this resolution proposes to do something. In its original form it approved the New Mexico constitution, but in its amended form it disapproves of that constitution, and the adoption of the resolution would cause delay in the admission of that Territory as a State. So far as New Mexico is concerned, it were better that we take no action at all.

To require any change at all is to disapprove the constitution in its present form, and disapproval by Congress delays statehood. The change suggested is not worth that delay. The only thing proposed to be changed is the nineteenth article, upon the subject of amendments. Gentlemen have argued at great length here that in its present form this is a horrible constitution, impossible of amendment under its present terms, and that it ought to be amended so as to make it more easily subject to amendment by the people of the State.

The principal provisions which the gentlemen who appeared before the Committee on Territories thought they might desire to amend hereafter were those touching railroads, which were declared "drastic and nugatory"; some suggestion was made on the subject of taxation, and one of them said "the proposition for recall was never before us, but we did want the initiative and referendum."

I am not going to discuss the initiative and referendum. If the people of New Mexico want them, I am willing that they shall have them. I am not here to say that with those features in the constitution they would not still have a republican form of government. They can, when they become a State, amend their constitution to secure the initiative and referendum, but we ought not to delay statehood. I am going to call your attention and theirs to a high Democratic authority. You have all heard of Woodrow Wilson, recently elected and now serving as governor of New Jersey. He is a prominent man, very much in the limelight at the present time. A newspaper correspondent, writing from Washington the other day, said that four-fifths of the Members on that side of the Chamber—the Democratic side—were in favor of his nomination for the Presidency.

I do not agree with that. I believe that four-fifths of you on that side favor the nomination of the distinguished Speaker of this House, the honorable CHAMP CLARK. [Applause.] I believe that if we were to have a Democratic President next time, which God forbid, four-fifths of the Members on this side of the House would rather see CHAMP CLARK occupy that high position than any other Democrat. [Applause.]

Mr. GRAHAM. If you wanted us to join the applause you should have left out the "God forbid." [Laughter.]

Mr. OLMSTED. Mr. Wilson is an eminent writer and a very distinguished man. I wish to call the attention of gentlemen on that side of the Chamber particularly to what Mr. Wilson has said in his very justly celebrated work entitled "The State," published in 1898, when he was not in the whirlpool of politics, and had nothing to disturb the calm reflection of his great mind and brain. I am not going to read all that he has written. He discusses at length the operation of the initiative and referendum in Switzerland, which he very truly says is unusually well adapted to their use because of the smallness of the cantons and because the people so live in close proximity to each other that they can readily get together to consult about matters of government. I read from page 309 of his book:

Although the people have delegated their legislative powers to representative chambers in all the Cantons except those which still retain their primitive Landsgemeinden, they have, nevertheless, kept in their own hands more than the mere right to elect representatives. The largest of the Cantons (Berne) has but a little more than half a million inhabitants; the majority of the Cantons have less than 100,000 apiece; and the average population, taking big and little Cantons together, is only about 120,000. Their average area scarcely reaches 640 square miles. The people of such communities stand, as it were, in the midst of affairs. They are in a sense always at hand to judge of the conduct of the public business. Their feelings and their interests are homogeneous, and there is the less necessity to part with their powers to representatives. In seven of the German Cantons a certain number of citizens (the number varies from one to twelve thousands) can demand a popular vote upon the question whether the Great Council shall be dissolved or not; and, if the vote goes in the affirmative, the chamber's term is ended and a new election takes place at once. If this method of control is no longer used it is because more effective methods have been substituted. In almost all the Cantons the question of constitutional revision can be brought to popular vote upon petition, and the revision, if undertaken, may go any length in changing or reversing the processes of legislation.

And then on page 311 he sums up the matter with reference to the initiative as follows:

The initiative has been very little used, having given place in practice, for the most part, to the referendum. Where it has been employed it has not promised either progress or enlightenment, leading rather to doubtful experiments and to reactionary displays of prejudice than to really useful legislation.

In both of the great Cantons of Zurich and Berne, the most populous and influential in the Confederation, it has been used to abolish compulsory vaccination. It was established for the Confederation only six years ago (1891), and has been used in Federal legislation only to aim a blow at the Jews under, the disguise of a law, forbidding the slaughtering of animals by bleeding.

In an earlier work published in 1893 and entitled "Character of Democracy in the United States" Prof. Wilson had already said:

Questions of government are infinitely complex questions, and no multitude can of themselves form clear-cut, comprehensive, consistent conclusions touching them. Yet without such conclusions, without single and prompt purposes, government can not be carried on. Neither legislation nor administration can be done at the ballot box. The people can only accept the governing act of representatives.

And again in the same work he said:

Every one now knows familiarly enough how we accomplished the wide aggregations of self-government characteristic of the modern time; how we have articulated governments as vast and yet as whole as continents like our own. The instrumentality has been representation, of which the ancient world knew nothing, and lacking which it always lacked national integration. Because of representation and the railroads to carry representatives to distant capitals, we have been able to rear colossal structures like the Government of the United States as easily as the ancients gave political organization to a city, and our great building is as stout as was their little one.

I quote again from Prof. Wilson's work "The State" upon the subject of referendum. At pages 312–313 he says:

Origin of the referendum: The term referendum is as old as the sixteenth century, and contains a reminiscence of the strictly federal beginnings of government in two of the present cantons of the confederation—Graubunden, mainly, and Valais. These cantons were not at that time members of the confederation, but merely districts allied to it (zugewandete orte). Within themselves they constituted very loose confederacies of communes (in Graubunden, 3; in Valais, 12). The delegates whom the communes sent to the federal assembly of the district had to report every question of importance to their constitutents and crave instruction as to how they should vote upon it. This was the original referendum. It had a partial counterpart in the constitution of the confederation down to the formation of the present forms of government in 1848. Before that date the members of the central council of the confederation acted always under instructions from their respective cantons, and upon questions not covered by their instructions, as well as upon all matters of unusual importance, it was their duty to seek special direction from the home governments. They were said to be commissioned ad audiendum et referendum. The referendum as now adopted by almost all the cantons bears the radically changed character of legislation by the people. Only its name now gives testimony as to its origin.

658. Its origin: In respect of constitutional changes the use of the referendum is not peculiar to Switzerland. In that field its use in this country is older than its use in Switzerland. And in its application to ordinary laws it is modern even in Switzerland. Its earliest adoption was in 1852, and it was not until the decade 1864–1874 that it won its way into the constitutional practice of the greater Cantons. Its use, therefore, is everywhere new, and the experience by which we must judge of it is recent and partial. It is still tested only in part. It has led in most cases to the rejection of radical legislation, even to the rejection of radical labor legislation, such as the ordinary voter might be expected to accept with avidity. The Swiss population, being homogeneous and deeply conservative, have resisted as perhaps no other people have the infection of modern radical opinion. They have shown themselves apt to reject, also, complicated measures which they do not fully comprehend and measures involving expense which seems to them unnecessary.

And yet they have shown themselves not a little indifferent, too. The vote upon most measures submitted to the ballot is usually very light; there is not much popular discussion, and the referendum by no means creates that quick interest in affairs which its originators had hoped to see it excite. It has dulled the sense of responsibility among legislators without, in fact, quickening the people to the exercise of any real control in affairs.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. OLMSTED. Yes.

Mr. BUCHANAN. I would ask the gentleman what time it was that Mr. Wilson made that statement?

Mr. OLMSTED. The book is dated 1898.

Mr. BUCHANAN. He may have become converted by this time.

Mr. OLMSTED. In order to do exact justice to him, I was about to call attention to the fact that, according to this morning's New York Sun, Prof. Wilson, in an address delivered at Portland, Oreg., yesterday spoke approvingly of the initiative and referendum and direct primary as used in that State. Without having his speech before us, we can not, of course, tell to what extent, if any, he has modified his opinions, so clearly set forth in his writings, as I have shown you. In the same speech he opposed the recall as applied to judges.

I am not opposing the initiative and referendum. The people of New Mexico can readily secure them by amending this constitution which they have already adopted. I am merely trying to show that there is nothing about the initiative and referendum proposition which would justify us in delaying statehood to these people, nor making it important to make the constitution they have already adopted more easily amendable by themselves after they have been admitted as a State. As a matter of fact, as anybody may see by reference to the fourth article of this constitution of New Mexico, the referendum is already provided.

REFERENDUM ALREADY PROVIDED FOR.

It is in article 4 expressly specified that—

The people reserve the power to disapprove, suspend, and annul any law enacted by the legislature, except general appropriation laws—

and certain other laws therein specified. And it further provides that—

Petitions disapproving any law other than those above excepted, enacted at the last preceding session of the legislature, shall be filed with the secretary of state not less than four months prior to the next general election. Such petitions shall be signed by not less than 10 per cent of the qualified electors of each of three-fourths of the counties and in the aggregate by not less than 10 per cent of the qualified electors of the State, as shown by the total number of votes cast at the last preceding general election.

The question of the approval or rejection of such law shall be submitted by the secretary of state to the electorate at the next general election; and if a majority of the legal votes cast thereon, and not less than 40 per cent of the total number of legal votes cast at such general election be cast for the rejection of such law, it shall be an-

nulled and thereby repealed with the same effect as if the legislature had then repealed it, and such repeal shall revive any law repealed by the act so annulled; otherwise it shall remain in force unless subsequently repealed by the legislature. If such petition or petitions be signed by not less than 25 per cent of the qualified electors under each of the foregoing conditions, and be filed with the secretary of state within 90 days after the adjournment of the session of the legislature at which such law was enacted, the operation thereof shall be thereupon suspended and the question of its approval or rejection shall be likewise submitted to a vote at the next ensuing general election. If a majority of the votes cast thereon and not less than 40 per cent of the total number of votes cast at such general election be cast for its rejection, it shall be thereby annulled; otherwise it shall go into effect upon publication of the certificate of the secretary of state declaring the result of the vote thereon. It shall be a felony for any person to sign any such petition with any name other than his own, or to sign his name more than once for the same measure, or to sign such petition when he is not a qualified elector in the county specified in such petition: *Provided*, that nothing herein shall be construed to prohibit the writing thereon of the name of any person who can not write, and who signs the same with his mark. The legislature shall enact laws necessary for the effective exercise of the power hereby reserved.

Briefly stated, on petition of 10 per cent of the qualified voters of the State any law not of the excepted class must be submitted to the people for their approval or rejection. If 25 per cent sign, the law is instantly suspended until after the people shall have voted thereon. This is the referendum clearly provided for in the constitution as it now stands. There is no occasion to delay statehood on that account.

INITIATIVE ALSO PROVIDED FOR.

Then, over in section 3 of article 19 we find this:

If this constitution be in any way so amended as to allow laws to be enacted by direct vote of the electors, the laws which may be so enacted shall be only such as might be enacted by the legislature under the provisions of this constitution.

That contemplates that the constitution may be so amended by the people as to provide for the initiative. There is no occasion for the delay of statehood on that account.

A GOOD CONSTITUTION.

I shall presently show you that the constitution of New Mexico, already adopted, is not so difficult of amendment as we have been told, but before proceeding to that I shall show you that the constitution already adopted by the people of that Territory is a very good constitution as it now stands, and that it is not subject to the objections which have been urged against it. Mr. H. D. Fergusson, who appeared before the Committee on Territories, complained that the provisions as to railroads were "drastic and nugatory." They certainly are drastic; but if they are nugatory, I have failed to discover the fact.

Mr. GRAHAM. How could it be nugatory if it was too drastic?

Mr. OLMSTED. I do not know; but that is the objection he stated.

Mr. FLOOD of Virginia. It is drastic in its provisions, but nugatory in the fact that the commission had no power to carry it out. That is the idea I understand.

Mr. OLMSTED. I think I shall be able to show you that it has more power than the railroad commission of any other State in the Union.

Mr. STEPHENS of Texas. Does not the gentleman think the compensation allowed the commissioners is out of all reason for the amount of work they are expected to do? Is it not a fact that you pay your district judges $4,500 and pay these men only $1,500? My State would reverse that. I think the commissioners ought to be paid as much as a Federal judge. You pay your supreme judges there under this constitution $6,000 and pay your commissioners the magnificent sum of one-half that.

Mr. OLMSTED. The question of salary is a question for the people of New Mexico. I think myself that the salary is small, but it is a new State, and it is a highly honorable position. A great many men are willing to serve for honor, just as we do in Congress. As a matter of fact, however, the salary is $3,000.

Then Mr. W. R. McGill told the Committee on Territories, as his chief reason why the constitution should be made more easily amendable before statehood is granted, that—

New Mexico is the worst corporation-ridden country and political-machine country that there is to-day in this American Union. I want to say to you, sirs, that for the last 12 years or more, possibly, the public affairs of this country have been run entirely by gang politicians and corporation interests, and consequently that same gang or that same crowd that have run that country have also formulated this constitution and presented it to our people. I need not tell you that it was done by these gang politicians and corporation interests when you read this constitution.

Now he wants to submit amendments to this same corporation-ridden, gang-controlled people. What kind of amendments would he probably get? I submit, Mr. Chairman, that as everybody there—all kinds of people, and the corporations and gang politicians as well—wanted statehood, they all united and put their best foot forward to get a constitution that they believed would be approved by the President and by Congress. Under those conditions they made a better constitution than they would be likely to make after they have acquired statehood and are no longer subject to Congress or the approval of the President, particularly if they are so bound down, so ridden, and so controlled as gentlemen would have us believe.

But let us see if this constitution does bear evidence of corrupt or improper influence.

In the first place it contains a splendid declaration of rights. It declares, among other things, that—

SEC. 2. All political power is vested in and derived from the people; all government of right originates with the people, is founded upon their will, and is instituted solely for their good.

SEC. 3. The people of the State have the sole and exclusive right to govern themselves as a free, sovereign, and independent State.

There are 22 express declarations of rights of the people, and then a provision that—

The enumeration in this constitution of certain rights shall not be construed to deny, impair, or disparage others retained by the people.

Here is a provision upon the subject of elections:

All elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Here is another:

The legislature shall have the power to require the registration of the qualified electors as a requisite for voting, and shall regulate the manner, time, and places of voting. The legislature shall enact such laws as will secure the secrecy of the ballot, the purity of elections, and guard against the abuse of the elective franchise. Not more than two members of the board of registration and not more than two judges of election shall belong to the same political party at the time of their appointment.

Those provisions do not appear to have been written for the special benefit of gang politicians. And there are many others of like import to be found herein.

Now, as to corporations, here is this provision in section 26 of article 4:

The legislature shall not grant to any corporation or person any rights, franchises, privileges, immunities, or exemptions which shall not, upon the same terms and under like conditions, inure equally to all persons or corporations; no exclusive right, franchise, privilege, or immunity shall be granted by the legislature or any municipality in this State.

And then in section 37:

It shall not be lawful for a member of the legislature to use a pass or to purchase or receive transportation over any railroad upon terms not open to the general public, and a violation of this section shall work a forfeiture of the office.

And then in section 38 it provides that—

The legislature shall enact laws to prevent trusts, monopolies, and combinations in restraint of trade.

It does not say whether reasonable or unreasonable.

Mr. GRAHAM. That was written before the Supreme Court amended the law.

Mr. OLMSTED. And again, in sections 13 and 14 of article 11, we find this:

SEC. 13. The legislature shall provide for the organization of corporations by general law. All laws relating to corporations may be altered, amended, or repealed by the legislature at any time, when necessary for the public good and general welfare, and all corporations doing business in this State may, as to such business, be regulated, limited, or restrained by laws not in conflict with the Constitution of the United States or of this constitution.

SEC. 14. The police power of this State is supreme over all corporations as well as individuals.

And again, in section 18:

SEC. 18. The right of eminent domain shall never be so abridged or construed as to prevent the legislature from taking the property and franchises of incorporated companies and subjecting them to the public use the same as the property of individuals.

And so all the way through this constitution we find provisions regulating and controlling corporations, more drastic, I may say, than can be found in the existing constitution of any State in this Union. Now, as to railroads.

Mr. FLOOD of Virginia. I will say to the gentleman that the claim is put forward by its advocates as to the corporation provision in this constitution that it was framed after the Virginia constitutional article on the same subject.

Mr. OLMSTED. I have not yet reached the railroad provision. I am about to take that up. It has been condemned loudly by several gentlemen who have spoken upon the subject. Now, what is it? Here is a State corporation commission to be chosen at the first election for State officers. There are to be six members. Those chosen at the first election are to hold office

for different terms. They are to retire one at a time, so that there is to be an election each year for one State corporation commissioner. No officer, agent, or employee of or person financially interested in any railway, express, or other kind of corporation can be a member of that commission. Section 6 of article 11 says:

Subject to the provisions of this constitution, and of such requirements, rules, and regulations as may be prescribed by law, the State corporation commission shall be the department of government through which shall be issued all charters for domestic corporations and amendments or extensions thereof.

No powers are to be taken away from the legislature. The commission is to operate under the law as enacted by the legislature and under the powers thereby given.

Section 7 says:

The commission shall have power and be charged with the duty of fixing, determining, supervising, regulating, and controlling all charges and rates of railway, express, telegraph, telephone, sleeping-car, and other transportation and transmission companies and common carriers within the State; to require railway companies to provide and maintain adequate depots, stock pens, station buildings, agents, and facilities for the accommodation of passengers and for receiving and delivering freight and express; and to provide and maintain necessary crossings, culverts, and sidings upon and alongside of their roadbeds whenever, in the judgment of the commission, the public interests demand and as may be reasonable and just.

It also enumerates a good many other powers, to change or alter rates, and so forth, which I will not stop to read. The commission is given power to subpœna witnesses and enforce their attendance.

The commission shall have power to subpœna witnesses and enforce their attendance before the commission, through any district court or the supreme court of the State, and through such court to punish for contempt, etc.

That is just as the Interstate Commerce Commission was in the first instance authorized to enforce its subpœnas. Then, when this commission has made an order, either side can appeal to the court. Why should anyone object to that? Why should there not be an appeal to the court? Then that section continues:

The supreme court, for the consideration of such causes, arising hereunder, shall be in session at all times, and shall give precedence to such causes. Any party to such hearing before the commission shall have the same right to remove the order entered therein to the supreme court of the State, as given under the provisions hereof, to the company or corporation against which such order is directed.

It is a very elaborate provision. Very elaborate and definite powers are conferred upon this commission for the thorough and complete regulation of all these corporations. It is idle to contend that corporations are responsible for these provisions; it is more likely that they were inserted by anticorporationists.

But my friend from Missouri [Mr. BOOHER] said yesterday that they all ought to have been left to the legislature. How could the legislature sit and take testimony and determine what would be reasonable rates in particular cases? The Legislature of Pennsylvania tried the fixing of rates arbitrarily, and the court held it to be unconstitutional. The legislature, without evidence before it, could not determine whether rates were reasonable or unreasonable.

The court declared in substance that the reasonableness or unreasonableness of a rate must depend upon the circumstances of each particular case.

This constitution of New Mexico provides for that State just such machinery as Congress provided for interstate railroads by creating a commission to determine these matters. The commission is given full and complete powers over such corporations. No other State constitution provides for their more complete regulation. One gentleman who appeared before the committee complained that "as it was first proposed" the constitution provided that 1,000,000 acres of land underlaid with coal should be taxed as grazing land. We need not concern ourselves about what may have been "at first proposed" if it did not finally get into the constitution. There is nothing of the kind in it. I am certain nobody wants it amended in that way now. Its provisions upon the subject of taxation are all that any fair-minded man could desire.

In article 8, section 1, it is provided that—

The rate of taxation shall be equal and uniform upon all subjects of taxation.

In section 8 of that article it is expressly provided that—

The power to license and tax corporations and corporate property shall not be relinquished by the State or any subdivision thereof.

In section 9 it is provided that—

All property within the territorial limits of the authority levying the tax and subject to taxation shall be taxed therein for State, county, municipal, and other purposes: *Provided*, That the State board of equalization shall determine the value of all property of railroad, express, sleeping-car, telegraph, telephone, and other transportation or transmission companies, used by such companies in the operation of their railroad, express, sleeping-car, telegraph, or telephone lines, or other transportation or transmission lines, and shall certify the value thereof as so determined to the county and municipal taxing authorities.

Sections 11 and 12 provide as follows:

SEC. 11. The legislature may exempt from taxation property of each head of a family to the amount of $200.

SEC. 12. Lands held in large tracts shall not be assessed for taxation at any lower value per acre than lands of the same character or quality and similarly situated held in smaller tracts. The plowing of land shall not be considered as adding value thereto for the purpose of taxation.

These are only a few of the elaborate provisions guarding against any discrimination in the matter of taxation.

Upon the whole, the careful and impartial student will find that this constitution of New Mexico is a better constitution, more restrictive of the rights and privileges of corporations, and more calculated to secure fair and free elections, than most of the State constitutions now in force. There is no urgent need for amendment in any particular and certainly no such urgent need as to require that the constitution shall be sent back to the people of New Mexico before the benefits of statehood shall be conferred upon them.

THE NEW MEXICO CONSTITUTION IN ITS PRESENT FORM IS NOT UNUSUALLY DIFFICULT OF AMENDMENT.

The excuse for disapproving of this constitution at the present time and thus deferring statehood is that the constitution ought to be sent back so that the people of New Mexico may vote for or against a provision making it more easily amendable hereafter than it would be should it go into effect in its present form. A little examination will show that it is as easily amended now as the constitutions of most of the States. The principal objection is that it requires a two-thirds vote in each house of the legislature to submit amendments for the vote of the people. The gentleman from Texas [Mr. HARDY], who opened the discussion this morning, was vociferous and almost violent in his denunciation. I am sorry that he has stepped out of the Chamber for a moment, for I wanted to call his attention to the much greater difficulty of amending the constitution of his own State of Texas.

Section 50 of the constitution of Texas, of 1869, provided that—

The legislature, whenever two-thirds of each house shall deem it necessary——

Mr. STEPHENS of Texas. Will the gentleman permit a correction on that?

Mr. OLMSTED. I will yield to the gentleman, but he can not correct me, because I am reading from the official document which I now hold in my hand.

Mr. STEPHENS of Texas. The constitution of 1869 was a Republican constitution. The constitution we are now living under, under which our present laws are made, was made in 1876 by the Democrats.

Mr. OLMSTED. The constitution of 1869, like that of 1876, was adopted by the people of Texas. I am going to read them both. The constitution of 1869 provided that—

SEC. 50. The legislature, whenever two-thirds of each house shall deem it necessary, may propose amendments to this constitution; which proposed amendments shall be duly published in the public prints of this State at least three months before the next general election of representatives, for the consideration of the people; and it shall be the duty of the several returning officers at the next general election which shall be thus holden, to open a poll for and make a return to the secretary of state of the names of all those voting for representatives who have voted on such proposed amendments; and if thereupon it shall appear that a majority of those voting upon the proposed amendments have voted in favor of such proposed amendments, and two-thirds of each house of the next legislature shall, after such election, ratify the same amendments by yeas and nays, they shall be valid to all intents and purposes as parts of this constitution: *Provided*, that the said proposed amendments shall, at each of the said sessions, have been read on three several days in each house.

You will note that it required a two-thirds vote in each house in two different legislatures.

Mr. GRAHAM. That was only seven years afterwards?

Mr. STEPHENS of Texas. Yes.

Mr. GRAHAM. Is there any presumption that if the people of New Mexico do not like their constitution they can do as Texas did?

Mr. FLOOD of Virginia. I will say to the gentleman that it will take three-fourths of the legislature to authorize the people to vote on the constitution of New Mexico. They have got to carry a majority of all the votes and a majority of half the counties.

Mr. GRAHAM. If the people want to do it, they can. They always find a way. It is for the people of New Mexico to determine this question and not for us. We have no right to legislate for them.

Mr. FLOOD of Virginia. But when the State of New Mexico has been so apportioned that the voice of the people will not be heard upon these things, then it is for us to give them an

opportunity to get from under that constitution by some amendment.

Mr. GRAHAM. Has there been any fraud alleged or shown with reference to the adoption of the present constitution in New Mexico? If there has not been, then, in the absence of fraud, and if a majority of the people of that Territory have indorsed the present constitution, what right or what power have we to butt in?

Mr. FLOOD of Virginia. A great deal of fraud has been alleged. We did not feel, however, it was necessary to go into this, because the number of fraudulent votes alleged were not sufficient to change the result.

The reason that the people swallowed the constitution was their great desire for statehood, and, besides, they were misled by the statement, constantly asserted in the newspapers and by stump orators, that this constitution was easy of amendment and the people were deceived in that particular.

Mr. GRAHAM. If the people of New Mexico want statehood, and offer us a constitution that provides for a republican form of government, why should they not have it?

Mr. FLOOD of Virginia. And why should we not say to the people of New Mexico: "If you desire to go to the polls when you elect your State and county officers and members of the legislature and Representative in Congress, and at that time vote upon an amendment to your constitution, you may do so." Why should we not allow them to do it, and let them come in, regardless of the fact of whether they adopt that amendment or reject it? What objection can there be?

Mr. OLMSTED. Mr. Chairman, I think I should like to proceed.

Mr. FLOOD of Virginia. What objection can there be to permitting the people to vote upon that amendment?

Mr. GRAHAM. The gentleman's answer——

The CHAIRMAN. The gentleman from Pennsylvania, who is entitled to the floor, declines to yield.

Mr. GRAHAM. If the gentleman will yield to me one-half a minute——

Mr. OLMSTED. One-half minute.

Mr. GRAHAM. The statement of the gentleman from Virginia [Mr. FLOOD] is, I think, entirely confusing. He proposes to force his views upon the people of New Mexico.

Mr. FLOOD of Virginia. No; not at all; the gentleman is mistaken about that. We simply propose to submit our views to the people, to be adopted or rejected, as they see fit.

Mr. OLMSTED. Mr. Chairman, there was not a scintilla of evidence before the Committee on Territories of any fraud or attempted fraud in the adoption of this constitution; simply general statements that that country was corporation-ridden and gang-politician controlled.

Mr. FLOOD of Virginia. There was a hearing before the Committee on the Territories in the Sixty-first Congress, in which there were numerous charges of fraud and a good deal of proof to that effect, but I will say that we did not deem it necessary or wise to go into that proposition.

Mr. ANDREWS. There were no charges in the Sixty-first Congress.

Mr. FLOOD of Virginia. Oh, but there were.

Mr. OLMSTED. There was no evidence submitted of any fraud. There were general charges, just as there always are.

Now, I have shown you that the Texas constitution of 1869 was, upon its face, much more difficult of amendment than this constitution of New Mexico; but they had no difficulty at all in amending it in 1876. The constitution of 1876, which my friend [Mr. STEPHENS of Texas] tells me is a Democratic constitution, in the very first line of article 17, provides that—

> The legislature at any biennial session, by a vote of two-thirds of all the members elect of the house—

Just exactly what you have in the New Mexico constitution. Where is the difference? Why should the gentleman from Texas [Mr. HARDY] complain of this constitution of New Mexico? In his own State amendments to the constitution can be submitted to the people only once in two years, and then only upon the votes of two-thirds of the members elected to each house.

Mr. STEPHENS of Texas. The difference between that and the Republican constitution of 1869——

Mr. OLMSTED. I am talking about the difference between the present constitution, the Democratic constitution of Texas, and that of New Mexico.

The gentleman from Georgia [Mr. BARTLETT] had something to say along the same line. The constitution of his State provides, in article 13, that—

> Any amendment or amendments may be proposed in the senate or house of representatives; and if the same shall be agreed to by two-thirds of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon—

and then in due time submitted for the vote of the people. In other words, Georgia has precisely the same two-thirds provision as is found in the New Mexico constitution.

Now I come to the constitution of Mississippi. My friend the gentleman from Mississippi [Mr. SISSON] talked about the constitution of his State in condemning this New Mexico amendment provision. Here is the constitution of his State, article 15, section 273:

> Whenever two-thirds of each house of the legislature shall deem any change, alteration, or amendment necessary to the constitution, such proposed change, alteration, or amendment shall be read and passed by a two-thirds vote of each house, respectively, on each day for three several days.

In other words, it is just three times as hard to amend the Mississippi constitution as it is to amend the New Mexico constitution. It is more easily amendable than the constitution of my own State of Pennsylvania, which requires that an amendment be approved by two successive legislatures before it can be submitted to the people.

Those people of New Mexico have sent us up a constitution which the President has approved, and to which there can be no serious objection. It is a good constitution. I contend that under the present provision for amendment there is no difficulty at all in securing any amendment which the people of New Mexico may desire and within a reasonable time. It is true that it requires a two-thirds vote in each house for the first two years, but at the expiration of that time a majority at any regular session may propose amendments. It is far more liberal than the provision contained in many States whose constitutions I have read, and more liberal than in at least 30 States of this Union to-day. Why, then, should this constitution not be approved? Why should it be sent back to them to amend? Why this delay? Why not approve the constitution at once, as provided in the resolution as originally offered by the gentleman from Virginia, and let them become a State at once?

Mr. FLOOD of Virginia. May I ask the gentleman a question?

Mr. OLMSTED. Yes.

Mr. FLOOD of Virginia. I would like him to explain how there can be any delay if the resolution reported by the committee is adopted. How would it delay the admission of New Mexico one day?

Mr. OLMSTED. This resolution, in its amended form, requires the people of New Mexico to vote upon an amendment to their constitution, after which it provides that they shall be admitted into the Union on an equal footing with the original States "in accordance with the terms of the enabling act." That would require an amendment to the constitution to be certified back to, and approved by, the President of the United States, and approved and acted on by Congress, or, if not acted on, to wait until the end of the next regular session. At all events, it bears that construction, and it would tend to the utmost confusion. I say that to turn down this constitution at this time will work inexplicable confusion and delay and uncertainty in the admission of that Territory as a State.

Mr. FLOOD of Virginia. I would like to call the gentleman's attention to the fact that there can not be any delay, because if this resolution is adopted, or the one introduced by me on the first day of the session, the President has to certify that to the governor of New Mexico, and he is to order an election for the State and other officers, and the Territory could not become a State until after the election of those officers.

The vote upon this amendment takes place on the very day that the officers are elected. Whether the people reject or adopt it, they come into the Union. It is to be done on the day that the election of officers takes place, and they have to have that election before they can be admitted. These are the facts. Then how can the resolution as amended cause any delay in the admission of New Mexico as a State?

Mr. OLMSTED. They are to come into the Union in accordance with the terms of the enabling act. The constitution, as amended or without amendment, if voted on again, would have to be certified up here again to the President and to Congress for approval. If not approved, the people of New Mexico would have a set of State officers without being a State. What is the occasion for taking any chances of confusion or delay? They can amend the State constitution after being admitted more easily than almost any other State. For my part I do not think that a constitution ought to be easily amended. I do not think that a State ought to amend its constitution as easily and as often as a man may change his shirt. It is not the purpose of a State constitution to be a vehicle for State legislation through

the medium of amendment. The constitution is the chart by which the ship may sail, but it does not lay down all the details for the construction and operation of the ship. It is the instrument which defines the government and distributes its powers, but it is not expected to be a whole code of legislation within itself, nor to be amended from year to year. It is not intended to be the vehicle of annual or biennial legislation. That is left for the legislature or for the people, if they adopt the initiative.

Much has been said during this debate upon the subject of "a republican form of government," as if the whole matter were to be determined by arriving at the proper definition of that term. I do not so consider it.

Section 4 of Article IV of the Constitution of the United States provides that—

> The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature can not be convened), against domestic violence.

That section has no particular reference to new States nor to the admission of new States. It applies equally to all of the States, no matter when they were admitted. It applies to the original 13 States as well as to the newest State.

No one has yet been able to give a full, complete, and satisfactory definition of the term. One writer has said that, as the 13 original States were all taken into the Union without question as to their form of government, it must be presumed that *when the Constitution* referred to a republican form it must have had reference to the constitutions of some or all of those States.

Madison defined it briefly as "a representative democracy." There are those who hold that the initiative in lessening, if not entirely taking away, the powers and privileges of the Representative, affords something less than a representative form of government. But I do not think that we need dwell upon that proposition.

The provision for the admission of new States is found in section 3 of the same article of the Federal Constitution, and it declares very simply but very definitely that "new States may be admitted by the Congress into this Union." It is within the power of Congress to admit a State on sight, without consideration of its constitution at all, but leaving that to be made by the people after statehood has been conferred. We do not require that the proposed constitution of an intending State shall be submitted to the President and Congress merely that we may determine whether or not that constitution provides a republican form of government, but also that we may determine whether its proposed principles of government are such as to commend it for admission into our glorious family of States. It would be almost a fraud to submit to Congress one constitution or frame of government so satisfactory as to secure the passage of the necessary act of admission, and then after admission immediately amend it in many important particulars, so as to make it an entirely different constitution and one under which Congress might not have been willing to admit the Territory to statehood at all. Therefore it is desirable that a constitution so submitted for the purpose of securing statehood shall be somewhat permanent in character and not susceptible of immediate change. Indeed, it is not desirable that any State shall change its constitution too often. The oftener it is amended, or sought to be amended, the less reverence will be entertained for it by the people.

The constitution already adopted by New Mexico is a most excellent constitution, justly entitled to a certain degree of permanence. It is undoubtedly true that when a State has been admitted into the Union it has the same right as that possessed by any of the older States to change its constitution with or without the consent of Congress, but it is only fair to Congress, which admits it as a State, that the constitution submitted to it for the purpose of securing that admission and which has been approved by Congress at least shall have a fair trial before it is radically changed.

We require the submission of the constitution to us because in the exercise of the power to admit a new State we must exercise a very wise discretion. Before we admit a State we ought to be convinced of the worthiness of that State and its people to be admitted, and one test of such worthiness is the form of government under which they propose to live, or, at least, to commence their statehood existence.

Mr. GRAHAM. Will the gentleman submit to a question?

Mr. OLMSTED. Certainly.

Mr. GRAHAM. Have we any right, any legal right, to go into that question any further than to determine whether the proposed constitution provides for a republican form of government?

Mr. OLMSTED. Why, certainly, we have the right to consider it in every detail, to inform our judgment as to whether that State ought to be admitted.

Mr. GRAHAM. Have we any right to keep a State out for doing that which it would have the power to do after it came in—any legal or moral right?

Mr. OLMSTED. We have a legal right to keep it out. We have a right to keep it out for any legal or any moral reason or for no legal reason or moral reason. We are under no moral or legal obligation to admit any State.

Mr. GRAHAM. Would Congress have the moral right to permit one Territory to come into this Union with Mormonism as a recognized practice, and the moral right, at the same time, to deny another admission on the same ground?

Mr. OLMSTED. The question of moral right is one thing and the question of the constitutional power——

Mr. GRAHAM. But the gentleman mentioned moral rights.

Mr. OLMSTED (continuing). Is another matter.

Mr. GRAHAM. I ask the question because the gentleman mentioned the moral right.

Mr. OLMSTED. I think the gentleman himself first mentioned moral rights. Of course Porto Rico, with 10 times the population, and Hawaii might claim that they have just as good a moral right to be admitted to statehood as either of these Territories now applying.

Mr. MANN. If the gentleman will pardon me, did he notice that there was presented to the House and to the Senate the other day a memorial from the Legislature of the Territory of Hawaii insisting upon their right to be admitted as a State of the Union?

Mr. OLMSTED. There was such a petition, and it is the great ambition of the people of Porto Rico to be admitted to statehood, but we are not bound to admit them.

Mr. GRAHAM. I want to distinguish between the right and the power. I concede we have the power to keep any Territory out of the Union, however well qualified it may be for statehood, but have we the moral right when any Territory otherwise qualified presents to us a charter or constitution which clearly provides for a republican form of government?

Mr. OLMSTED. I think we have a moral right to inform ourselves in any way we please as to the worthiness of the people applying to be admitted to statehood, and one of the tests would be the form of government under which they propose to live, whether republican or otherwise.

Mr. GRAHAM. Does that not imply the right to distinguish between applicants and to refuse one and admit another, both of which are equally qualified for admission?

Mr. OLMSTED. We have that absolute right, and nobody can deny it.

Mr. GRAHAM. Does the gentleman think we ought to exercise it?

Mr. OLMSTED. It is a question for us to consider.

Mr. GRAHAM. We have the right to do a wrong, in other words.

Mr. MANN. Will the gentleman yield?

Mr. OLMSTED. Yes.

Mr. MANN. Will the gentleman pardon a suggestion right there which is raised by my colleague from Illinois [Mr. GRAHAM] as to the difference between the moral right and the power? I assume that no one would contend that Congress had the moral right to keep the State of Illinois, for instance, if it were not now in the Union, out of the Union under present conditions, or to have kept the State of Oklahoma out of the Union with the population that she has now, only a few years ago, or to keep another part of the continental confines of the United States, the original territory, not including Alaska, out of the Union when she became sufficiently populated to ordinarily entitle her to admission as a State. We have the power, but we have no moral right to do it.

Mr. OLMSTED. We have the power, and it is not so much a question of right, moral or legal, as it is a question of discretion and judgment and wisdom whether we shall admit a particular State or not.

Now, I assume that my friend from Illinois [Mr. GRAHAM] agrees with me that as this constitution does provide a republican form of government and is in every respect a good constitution we ought to approve it and admit that State at once.

Mr. GRAHAM. Providing you at the same time admit every other applicant that stands on the same ground.

Mr. OLMSTED. Would you exclude one because somebody else is opposed to another?

Mr. GRAHAM. I would not stand by and see two cases exactly alike discriminated between. I would say both or none.

Mr. OLMSTED. Then you would do two wrongs rather than that one should be done?

Mr. GRAHAM. That would be consistent, at least.

Mr. OLMSTED. Consistently wrong. Now, I have already said I do not think constitutions ought to be too easily amended. When a constitution is submitted to us as a basis of admission to statehood it ought, at least, to have some little degree of permanence, otherwise it might merely "keep the word of promise to the ear but break it to the hope." For two years only they must have two-thirds of the legislature, and after that a majority can amend with greater ease than almost any State in the Union.

Mr. FLOOD of Virginia. My friend from Pennsylvania is mistaken about that. In two years they can amend by a majority; then for eight years it takes two-thirds. Then at one session of the legislature a majority, and then for eight years it takes two-thirds, and so on.

Mr. OLMSTED. Well, they can do what amending they want in two years. There is not any two-thirds after two years. It is a majority every time.

Mr. FLOOD of Virginia. Will the gentleman read it?

Mr. OLMSTED. I have read it.

Mr. FLOOD of Virginia. Let me read it to the gentleman:

Any amendment or amendments to this constitution may be proposed in either house of the legislature at any regular session thereof, and if two-thirds of all members elected to each of the two houses, voting separately, shall vote in favor thereof, such proposed amendment or amendments shall be entered on their respective journals with the yeas and nays thereon.

Then there is a provision that an amendment——

Mr. OLMSTED. Go on.

Mr. FLOOD of Virginia. I will read further:

Or any amendment or amendments to this constitution may be proposed at the first regular session of the legislature held after the expiration of two years from the time this constitution goes into effect, or at the regular session of the legislature convening each eighth year thereafter, and if a majority of all the members elected to each of the two houses, voting separately, at said sessions shall vote in favor thereof, such proposed amendment or amendments shall be entered in their respective journals with the yeas and nays thereon.

Mr. OLMSTED. A majority.

Mr. FLOOD of Virginia. A majority.

Mr. OLMSTED. That is just exactly what I said.

Mr. FLOOD of Virginia. An amendment at the end of two years and then two-thirds for eight years and then eight years before a majority can again amend the constitution. I will say to the gentleman that no person from New Mexico who participated in making that constitution and who appeared before our committee took the position that he takes. They concede, and the Delegate [Mr. ANDREWS] here concedes, that the statement I make in reference to it is correct.

Mr. OLMSTED. At the end of two years the majority can change.

Mr. FLOOD of Virginia. For that one session of the legislature.

Mr. OLMSTED. That is enough.

I propose to vote for the approval of this constitution and the admission of New Mexico as a State. So far as Arizona is concerned——

Mr. FLOOD of Virginia. Before the gentleman passes further I would like to ask him a question, because he has discussed the constitution more fully, and to me more interestingly, than anybody who has spoken upon it. He says any change we make would be a disapproval of the constitution of New Mexico. In that I agree with him. That was the gentleman's statement?

Mr. OLMSTED. Yes.

Mr. FLOOD of Virginia. I agree with him in that. Now, the constitutional convention of New Mexico fixed an erroneous boundary line between New Mexico and the State of Texas, and it was necessary for Congress to change the boundary line as fixed by the constitutional convention in accordance with the facts and acts of Congress and acts of the Legislature of Texas, and this change is made in this resolution. Does the gentleman think the change in the boundary line would be a disapproval of the constitution of New Mexico?

Mr. OLMSTED. If Congress changes the boundary line, it will not be a disapproval of the constitution.

ARIZONA.

I have not so carefully examined the constitution of Arizona, but I have examined it sufficiently to see that it is not, in all its details, so perfect and so complete a constitution as that of New Mexico. But I prefer to accept it, initiative, referendum, recall, and all, leaving it to the good judgment of those people to dispose of those questions afterwards as they see fit, except so far as relates to the recall of judges. My vote will never be cast for the approval of any constitution containing such a provision for the recall of judges. I can not say that I favor the recall as applied to any office, but if the people of Arizona want it I am not going to object. I am not going to say that, as applied to other offices, it would be obnoxious to a republican form of government. But as applied to the judicial office, as the Arizona constitution now stands it certainly would be destructive of those principles upon which our Government is founded, and would weaken and impair that great bulwark upon which all our liberties depend—a courageous, free, and independent judiciary.

The provision is that at any time after he shall have been six months in office 25 per cent of the voters may file a petition for the recall of a judge. He is allowed the poor privilege of resigning within five days, in which event an election is held to determine who shall fill the vacancy. If he shall not resign, the election is held anyway. His name is placed upon the ballot with that of the candidate, or candidates, to run against him, and whoever is elected gets the office. The petitioners may print upon the ballot 200 words showing the reasons for his recall, and the only defense which the judge is permitted to make against this humiliation and disgrace—the only hearing allowed him—is found in the contemptible provision that he may within the limits of 200 words give his reasons why the judicial ermine shall not be snatched from his shoulders.

The fathers of our country, the founders of our Government, provided with great care for the means of impeachment of public Federal officials, including the judiciary, and most or all of the States have similar provisions. They involve the making of specific charges and a trial in which the accused may meet his accusers face to face, produce his witnesses, and make his defense. Such a provision is found in the Arizona constitution, but this power of recall is an added feature. It denies to the judge the privilege allowed to the lowest and meanest criminal, who has a hearing and a fair trial before he is condemned. Here his defense is limited to 200 printed words.

I have known a most learned, upright, and just judge at one term of license court to incur the enmity of the liquor men because he did not grant all the licenses they desired, and at the same time the opposition of the Prohibitionists, because he did not refuse all license applications. Both sides would readily have signed for his recall. I have known a judge whose recall would have been almost certain because he signed and addressed to the board of pardons a letter recommending the commutation of a death sentence to imprisonment for life.

We have been told during this debate of a mayor who was recalled, the real reason being that he had refused to permit a prize fight to take place. If out in that country the corporations and gang politicians are so all-powerful, as we are told, it would be absolutely unsafe for a judge to render a decision contrary to their interests. He would be subject to the humiliation of a petition for recall and plunged into a campaign for reelection, unless he should resign within five days.

Think of it! He is humiliated and disgraced, and subjected to impeachment practically. Is he given the right to appear with his witnesses? No. Is he given the right to face the witnesses of his accusers? No. Is he given a hearing? No. He is given only the privilege of stating in 200 printed words on the ballot his "justification of his course in office." He is not allowed the privilege that would be given to the lowest and vilest criminal in the land.

My vote shall never be cast in favor of a proposition to set the judicial boat afloat upon the sea of politics or to permit that a judge after six months in office may be put in a position where he must either resign or be plunged again into the political vortex to secure a reelection. This country is, and ever has been, blessed with judges not only learned and capable, but also pure and incorruptible and with absolute courage and independence to decide according to their honest convictions.

Mr. Chairman, from the day when the first judge of Israel received from the Ruler of the Universe the command: "Thou shalt not respect the person of the poor nor honor the person of the mighty, but in righteousness shalt thou judge thy neighbor" down to the present moment of time there has not been nor can there ever be any office within the power of man to confer upon man holding more of human interest than the office of judge. It represents the wisdom, the beneficence, the protection, the dignity, the awful majesty and the vast power of the law. It touches, or may touch, us in almost every relation of life—in our rights, our properties, our liberties, our reputations, or even our lives. Clothed as it is with such vast and varied responsibilities, duties, and powers, the requisite qualification

for this high office include great legal learning, wide legal experience, quick and keen legal perception, a high order of executive ability, unwearying patience, unceasing industry, a warm and gentle heart, yet cold and stern impartiality, rigid honesty, great strength of character, and, above all, an overpowering determination to do equal and exact justice between man and man, without fear, favor, or hope of reward. Inscribed upon the corporate seal of the State Bar Association of the great Commonwealth from which I come is the motto, "Justice is the great interest of mankind on earth," and such should be the actuating, moving, guiding sentiment inscribed upon the heart and conscience of every judge.

Blackstone tells us that the "lucubrations of 20 years" are hardly sufficient to qualify a man for that great office. When we have found a man with all these qualifications, he may, after six months in office, if he render an unpopular decision, be recalled, disgraced, impeached, having been allowed the defense of 200 printed words in justification of his course in office. How could a man fit for the position be found to accept it under such conditions?

As defined by Socrates, the attributes of judgeship are "to hear courteously, answer wisely, consider soberly, decide impartially." Happily, we have in this country judges in whom those attributes are exemplified in the highest degree. We have all seen many instances where courageous judges have rendered just decrees in the face of great popular opposition. We have seen the judges of the supreme court of Kentucky render an opinion commanding a new trial in that most sensational case wherein a Member of this present Congress was a party, and when those judges knew that the State was worked up to a white heat about the matter and that their decision would render them, temporarily, at least, exceedingly unpopular. We have all seen within the past few days nine justices of the Supreme Court of the United States unite in a decree rending, tearing apart, and dissolving one of the greatest and most powerful corporations the world has ever known.

No judge shall ever by my vote be placed in a position where, in order to save himself from humiliation and disgrace, he must trim his sail to every political or popular breeze that blows, or consider the wishes of corporate managers or political bosses, or in rendering his decision take into consideration the probable effect upon his own position.

When the Arizona constitution is amended in that one particular I shall vote for its approval. But let us leave each judge in a position where, without injury or embarrassment to himself, he may render equal and exact justice according to his understanding, and with the firm step of conscious strength go forward, unmoved by public clamor, without reference to any possible effect upon his own reputation or popularity, absolutely free to

> Poise the cause in justice's equal scale,
> Whose beam stands sure.

[Applause.]

Mr. FLOOD of Virginia. I yield 30 minutes to the gentleman from Louisiana [Mr. DUPRE].

Mr. DUPRE. Mr. Chairman, in the first place I desire to thank the gentleman from Virginia [Mr. FLOOD], who controls the time of the majority, for allowing me, with the fine courtesy that belongs to him as a son of the Old Dominion, an opportunity to participate in this discussion. In the second place, I desire to assure the committee that I shall not inject the American farmer into this debate. I have no doubt that he, in common with every good citizen, is intensely interested in the proper disposition of the pending resolution, and I am quite sure that there are eloquent and ingenious statesmen on both sides of this Chamber who, given the opportunity, would and could prove conclusively that his whole future welfare is dependent on the passage or defeat of this measure. I shall eliminate the farmer, however, from no feeling of hostility or indifference, but, on the contrary, from a feeling of friendship for and sympathy with him; for I believe that since the 4th of April last he has been worked "overtime" in this House and that he is entitled to a rest—if not a rest, at least an opportunity to pursue his avocation undisturbed by the "applause," the "loud applause," and the "loud and prolonged applause" that have greeted every allusion to him on this floor. If he lives in far-away Dakota, where the snow is beginning to melt—it was falling yesterday in Wyoming—give him a chance to sow his fields. If by good fortune he lives in Louisiana, where he can raise four crops a year, give him a chance to reap his harvest and to plant another crop. [Applause.]

Certainly the farmer can not justly complain that he has been neglected or overlooked in this extra session, for the RECORD teems with praises of him; of his patriotism; of his industry; his energy; his pluck; his progressiveness; with exultant joy at his prosperity, and tearful lamentation at his adversity. Always he has held the center of the stage, with light of every hue known to the spectrum playing artistically and effectively on his sturdy form and noble brow.

The majority and the minority are equally his friends. Leaders and followers, veterans and recruits, standpatters and insurgents, gentlemen from every section, of every style of oratory, of every degree of personal pulchritude, and of every sartorial taste, have testified to their affection for him and their tender solicitude for his welfare. The gentleman from Birmingham [Mr. UNDERWOOD] loves him no less than the gentleman from that lesser Birmingham, Pittsburg [Mr. DALZELL]. The gentleman from Michigan [Mr. FORDNEY], though he would sell him his lumber at the highest possible price, thinks as much of him as does my silver-tongued and silver-haired friend from the Cotton Belt, the gentleman from Alabama [Mr. HEFLIN]. That king of globe trotters, with the inevitable diary in hand, the gentleman from Connecticut [Mr. HILL], is no more his friend than is the gentleman from Mississippi [Mr. CANDLER], who prefers the beauties of the Tombigbee to the castled banks of the Rhine. [Laughter and applause.] It would be as hard to decide who has the farmer's interests most at heart—whether the Sage of Danville [Mr. CANNON] or the Giant from Marion [Mr. JAMES]—as it was to decide the memorable debate at the Press Club the other night on the relative merits and demerits of hirsute ornamentation. The Apostle of Precedents, the gentleman from Maine [Mr. HINDS], in his philosophic tribute to "The Man with the Hoe," was not less solicitous than the poet-statesman from California [Mr. KENT], who made "Dunc" McKinlay famous by defeating him. The gentleman from Washington [Mr. LA FOLLETTE], who lives so near Saskatchewan that he can see the frolicsome sheep play hide and seek across the Canadian border, has no advantage in his love for the farmer over the gentleman from Texas [Mr. DIES], who, from his Beaumont home, can hear the turbulent roar of the Mexic Sea. By such as these has the farmer been glorified within the past month, and by a host of others, including the distinguished leader of the minority, the gentleman from Illinois [Mr. MANN], whose quondam incisiveness and blithe spontaneity and "near" omniscience are not so conspicuous now as in the good old days when his desk was connected with the Speaker's chair by a wireless apparatus and he could always send or receive the danger signal—S. O. S. [Laughter.]

No, the farmer has not been forgotten. Rather let us pray that, under such a shower of oratorical affection, he will not grow cynical and begin to wonder if we are all sincere. Let us hope that the farmer's daughter, now a student at Vassar or Smith or Newcomb, as a result of and because of Republican legislation, may not suggest to her fond parent the familiar Shakespearean line, "Methinks the lady doth protest too much."

Let us trust that the same farmer's son, driven from the ancestral farm as a result of and because of the same Republican legislation, and now a refugee in some great urban center of wickedness and depravity, may not quote to his revered sire the immortal words of Chimmie Fadden, with apologies to the gentleman from New Jersey [Mr. TOWNSEND], "Dad, I t'ink de 'hole bunch is stringin' yer." [Laughter.]

Mr. Chairman, having thus far strictly adhered to my promise not to embroil the American farmer in this discussion, I address myself to the pending measure. It undertakes to admit two worthy postulants to membership in our sisterhood of States. They have served a long and strenuous novitiate. More than once have they asked to take their final vows. Always objection has come; oftenest when the future seemed serenest. I fear, Mr. Chairman, that they have largely been the football of politics, but at last both the Democratic and Republican Parties have risen to a loftier appreciation of duty and, discarding all political advantage, have by their last platforms bound their followers to immediate admission into the Union of Arizona and New Mexico. The Democratic platform of 1908 says:

> The national Democratic Party has for the last 16 years labored for the admission of Arizona and New Mexico as separate States of the Union, and recognizing that each possesses every qualification successfully to maintain separate State governments, we favor the immediate admission of the Territories of New Mexico and Arizona as separate States of the Union.

The Republican platform of 1908 reads as follows:

> We favor the immediate admission of the Territories of New Mexico and Arizona as separate States in the Union.

The Democratic platform is the more consistent, as since 1892, and every four years thereafter, it has been favoring the immediate and separate admission of these Territories as States, the platform of 1892 declaring as follows:

> We approve the action of the present House of Representatives in passing bills for the admission into the Union as States of the Territories of New Mexico and Arizona.

For a while the Republican Party sought to force their admission as one State. Its then leader, President Roosevelt, in his message of December, 1905, to the Fifty-ninth Congress urged that—

New Mexico and Arizona be admitted as one State. There is no obligation upon us to treat territorial subdivisions, which are matters of convenience only, as binding us on the question of admission to statehood.

But when legislation in accordance with his recommendation was enacted, the Territories refused to enter as Siamese twins, a proposition to that effect having been rejected by a vote of the people. The same Chief Executive in 1908, in accordance with his party's platform and in view of the express will of the people of the Territories, then made this recommendation to the Sixtieth Congress:

I advocate the immediate admission of New Mexico and Arizona as States. This should be done at the present session of Congress. The people of the two Territories have made it evident by their votes that they will not come in as one State. The only alternative is to admit them as two, and I trust that this will be done without delay.

In his message to the first regular session of the Sixty-first Congress, President Taft in December, 1909, used the following language:

The successful party in the last election in its national platform declared in favor of the admission as separate States of New Mexico and Arizona, and I recommend that legislation appropriate to this end be adopted.

But he added the following:

I urge, however, that care be exercised in the preparation of the legislation affecting each Territory to secure deliberation in the selection of persons as members of the convention to draft a constitution for the incoming State, and I earnestly advise that such constitution after adoption by the convention shall be submitted to the people of the Territory for their approval at an election in which the sole issue shall be the merits of the proposed constitution, and if the constitution is defeated by popular vote means shall be provided in the enabling act for a new convention and the drafting of a new constitution.

Thereafter a bill was passed on June 20, 1910, carrying his views into effect, the said bill being in truth "an enabling act," wherein the admission of the States separately was made dependent on their framing constitutions which conformed to the restrictions of the enabling act, and must be ratified by popular vote and thereafter receive the approval of the President and Congress. The exact provision of the law in so far as action by Congress and the President is required reads as follows:

If Congress and the President approve said constitution and the said separate provisions thereof, or if the President approves the same and Congress fails to disapprove the same during the next regular session thereof, then and in that event the President shall certify said facts to the governor, who shall within 30 days after the receipt of said notification from the President of the United States issue his proclamation for the election of the State and county officers, the members of the State legislature, and Representatives in Congress, and all other officers provided for in said constitution, all as hereinafter provided, etc.

The provision is exactly the same for both Territories.

The constitutions were duly framed and ratified by the people, and the President, on February 24, 1911, advised Congress that he had approved the constitution of New Mexico. A resolution giving the approval of Congress passed this House at its last session, but failed in the Senate. No message emanated from the President with regard to Arizona and no resolution of approval was submitted to either House of Congress in so far as I know; the explanation being that the necessary certificate from the governor, chief justice, and secretary of state was not received in time, or, if received, was not in due form. It is generally understood, however, that the President will not give his approval to the constitution of Arizona, as one of its provisions is repugnant to him.

The present resolution undertakes to give the formal approval of Congress to the admission of both States, substantially under the constitutions framed and ratified by their electorate. It comes from the Committee on the Territories, reported by substitute, which provides that the people of Arizona and New Mexico shall vote on certain additional propositions the effect of which will be to give them an opportunity to reiterate or repudiate certain clauses in their proposed constitutions.

I shall not discuss the amendments proposed in the substitute resolution, as they are immaterial from my viewpoint of this question. The naked proposition, as I see it, is, Shall we, or shall we not, admit Arizona and New Mexico into the Union? Both parties favor such action. The people of the Territories are clamoring, even pleading, for it. That they are satisfied with their organic laws is shown by the fact that the constitution of New Mexico was ratified by a vote of 31,742 to 13,999, a majority of 17,743 votes; that of Arizona was approved by a vote of 12,186 to 3,822, a majority of 8,364. The size and extent of the Territories, the number of their inhabitants, the character of the people and their fitness for statehood all measure up to the criterion heretofore established for the admission of other Territories to statehood.

Indeed, all such preliminary questions are concluded, are put beyond the pale of present discussion by the passage of the enabling act in June last, which recognized the fitness of these States for admission. The only test now to be applied is that requirement to be found in section 4 of Article IV of the Constitution of the United States, which reads as follows:

The United States shall guarantee to every State in this Union a republican form of government.

I have read with care the constitutions of Arizona and New Mexico, and in my judgment they, when put into operation, will ordain within the borders of those future States a republican form of government, no matter whether the suggested amendments to these constitutions are adopted or rejected.

In so far as that of New Mexico is concerned, a former Ohio judge, a former Solicitor General of the United States, and an ex-judge of the United States circuit court, whose high professional attainments men without regard to party gladly recognize—William Howard Taft—is of opinion, as shown by his executive approval of February last, that under its constitution a republican form of government will be guaranteed to its people. As far as the constitution of Arizona is concerned, no man can doubt that it, too, guarantees a republican form of government, who reads the illuminating argument of the junior Senator from Oregon [Mr. CHAMBERLAIN], delivered in the Senate of the United States on the 17th of last April. He establishes the proposition by an historical analysis of Article IV of the Constitution of the United States, by a philosophic review of the origin and development of republican government in this country, and by numerous and convincing references to judicial decisions by the courts of a number of States as well as by the Supreme Court of the United States. As I read his speech, I was glad to think of him as a typical American, born in the State of Mississippi, educated in the State of Virginia at the great university immortalized by the names of Washington and Lee, and now representing the State of Oregon in the Senate of the United States, where he stands for the best thought and highest ideals of the Great Northwest.

While time does not permit me to dissect them or refer to them in extenso on this occasion, as I said before, I think that both constitutions are constitutional. I am, however, free to say that neither meets my ideal of a State constitution. There are from my standpoint grave imperfections in both.

For that matter, so are there in the constitution of my own State of Louisiana, which I have sworn to protect and uphold. That of New Mexico is too hidebound, too inelastic. It reeks with cunningly devised schemes to prevent amendment or change. Its provisions with regard to corporate control are transparently nugatory, palpably in the interest of corporations, in spite of the ingenious explanations of these provisions given at the committee hearing by their author, Judge Fall. As one reads the constitution it is easy to see how a Delegate from New Mexico, in the Forty-third and Forty-fourth Congresses, could with ease develop into a Republican Senator from West Virginia. The spirit of the constitution is, in a word, reactionary, out of touch with present-day ideas, and out of line with the enlightened thought of the best men in all parties and in no party.

The constitution of Arizona is too radical. It contains many provisions with which I am not in sympathy, but in spite of its circumstantiality of details, its crudities, its excesses, and its shortcomings, it errs in the right direction. If I had to cast my lot in either one of these new States, and had to live under either of these projected constitutions, I for one would prefer to intrust my life, liberty, and happiness to the organic law of Arizona rather than to that of New Mexico, and I make so bold as to say that a better and more American civilization will develop more quickly in Arizona than in New Mexico, unless the people of the latter State soon cast off the shackles which they, in their almost pathetic eagerness to enter this Union, have suffered to be imposed on them.

Among other provisions occurring in the Arizona constitution is one recognizing and making operative the initiative, referendum, and recall. I take occasion to say that I do not favor any one of those provisions, and I do not believe that they really make for the best interests of any State or of our country as a whole. I see no need of the initiative. There is no law that the people, if a majority of them really want it, can not secure through the present ordinary channels of legislation. Certainly their Representatives are not slow in suggesting or initiating laws for them. In the Sixty-first Congress some 45,000 bills were introduced in the two Houses, one bill for each 2,000 of our people. In this extra session, barely a month old, more than 12,000 bills have been dropped in the respective hoppers. They are bills of every character and description and represent every imaginable theory of legislative relief, including the abolition of the United States Senate.

If the people want any of these bills passed, will it be questioned that their passage can be accomplished without resort to the initiative? Just here, I may say that I for one agree with the Attorney General in the view expressed by him in his recent Princeton speech, that what the people want is not more laws but more efficient enforcement of existing laws. The situation calls more for men than for measures. [Applause.] But because I do not happen to believe in the initiative is no reason why I should call it unrepublican, when it has never been so held by any court, though it exists in Oregon, Oklahoma, Missouri, Arkansas, and other States.

In the same way I see no need for the referendum. As the people can now compel their Representatives to adopt such legislation as they desire, so can they compel them to repeal or modify existing laws when they find them unjust or unsatisfactory. Is there a better evidence of this reserve power in the hands of the people than that public opinion forced a Republican President to call an extra session in 1909 to revise the tariff, and that when the law enacted at that session was practically subjected to a referendum in November, 1910, the people refused to validate the action of their faithless Representatives and repudiated the Payne-Aldrich law in unmistakable tones. [Applause on the Democratic side.] Less than six months thereafter we find the Representatives of the people, through the Democratic majority, responding to the views expressed at the recent referendum and taking steps to initiate and enact legislation in accordance therewith. [Applause on the Democratic side.] I say that there is no real need to incorporate the referendum in a State constitution, and yet I am sure that such a clause does not conflict with a republican form of government within the meaning of the constitutional guaranty.

If the people of Arizona want it in their organic law, I for one, say, let them have it. Let them try it, and if experience demonstrates its unwisdom, they, unlike New Mexico, have left themselves foot-loose and can eliminate it.

I do not favor, because I see no necessity therefor, the insertion of an express recall provision in our scheme of Government. It is there already—an unwritten law, if you please—but one that the people have an unpleasant way of invoking.

For instance, when I came to this House in December last there were approximately 219 Republican Members. To-day the Republicans have dwindled to 160—some 59 of these patriotic gentlemen having been "recalled" by unappreciative constituencies. Is there a more perfect proof of the actual, if latent, existence of the power of recall under our Government than the spectacle of the picturesque gentleman from Illinois, who for eight years occupied the Speaker's rostrum until the 4th of March last, now recalled from that high elevation to a modest seat in the Fifth Row Back? [Laughter on the Democratic side.] And so I say that the underlying idea of the recall and its practical operation are actualities with us to-day. But I would not favor its crystallization in any statute or any extension of it by express law. As a rule, terms of office are short—distressingly so for the occupants of seats in this House—and the people can easily await the expiration of these terms "to turn the rascals out" without suffering serious damage to themselves or to our institutions. A provision that puts the officeholder at the weekly, monthly, semiannual, or annual mercy of a people's recall can not, in my conception of things, make for the stability of our Government nor for the courage or greater honesty of those charged with the enactment or enforcement of the law.

But, after all, it is the people who make the law, who create the office, who define its term, who choose its incumbent. Why, then, from a legal standpoint, can not they elect the official subject to such limitation as to his tenure as they may have previously imposed? Why can not they say, "We will give you a two-year tenure of office, but if you do not measure up to its responsibilities and do not satisfactorily discharge its duties, we reserve the right to turn you out even before the expiration of your term—whenever a majority so decides"? Is there anything antagonistic to a republican form of government in such a reservation of power in the people? If there is, I can not see wherein it lies.

But it is objected that the recall provision in the Arizona constitution will extend even to the judiciary. So it will, but what of it from the angle of whether there is to be a republican form of government in Arizona under its proposed constitution? Is there any difference between the judiciary and the other officers of the Government in the last analysis? Are not judges themselves subject to the supreme control of the people who instituted this Government and who ordained a judiciary to dispense justice therein? Can not the proper authority make the judiciary elective or appointive, extend or reduce their jurisdiction, increase or diminish the emoluments of their offices, and exercise other attributes of creatorship? Why, from the constitutional standpoint, is it permissible to make a governor of Arizona subject to recall but illegal to make the same apply to a judge?

I am a humble follower of the law. For 15 years I have practiced the profession, with the usual average of success and failure. When the day comes—may it be remote—and the people of my district, with the ingratitude with which republics have been accused, retire me from their service, I expect to resume its practice. I love the ideals of the profession; I honor its great names, whether of the past or of the present; I revere its noble exponents on and off the bench, but I never have been one to believe that any "divinity doth hedge" a judge. [Applause on the Democratic side.] There are good and learned judges as there are good and worthy lawmakers. The percentage of good over bad, I am proud to say, is overwhelmingly predominant; but there have been, are, and will be corrupt judges as well as legislators and the one should be made to feel as well as the other the scorn and contempt of his associates and the damning judgment of his fellow citizens.

In my own State of Louisiana the entire judiciary is elective for varying terms of 4, 8, and 12 years. They are subject to impeachment and removal in differing modes: Judges of the supreme court by trial before the senate on charges preferred by the house; judges of the court of appeals and of the district court, among other ways, by a suit of the attorney general or a district attorney, on written request or information of 25 taxpayers of the circuit or district over which the judge presides, subject to appeal to the supreme court. For any reasonable cause, whether sufficient or not for impeachment, the governor is required to remove any judge on the address of two-thirds of all the members elected to each house of the general assembly. Louisiana is not, and never has been regarded as radical in its ideas or laws, yet these are the provisions in its organic law for the recall of unworthy judges.

I have no doubt that other States contain similar or more advanced provisions along these lines. The members of the profession themselves are constantly invoking the substantial idea of the recall as to judges when in their bar associations they protest against the renomination or reelection of a judge who has proven false to his trust. In the light of such provisions as I have quoted, and of such instances as I have cited, ought you or I or the Chief Executive deny statehood to Arizona because that State goes a step further and puts the power of recall of judges in the hands of the people and permits them to effect such recall before the term of the judge has expired?

Mr. Chairman, I yield to no one in my appreciation of the value—indeed, necessity—of an independent and fearless judiciary. I know how much the permanency of our institutions owes to the great jurists of the past. I know how dependent, especially in this time of upheaval and unrest, our future is on the inculcation of a spirit of respect for law and order and of unquestioning obedience by the people to the decisions of the courts. But I know, too, that coequal in importance with this principle, indeed paramount to it, is the duty of upholding the right of self-government, the right of a community to make rules for its guidance as long as these rules do not conflict with superior authority. [Applause.] I would not by my vote insert the right of recall of a judge in the constitution of Louisiana; but believing, as I do, that the Constitution of the United States does not prohibit a Territory desiring to become a State from incorporating such a provision in its organic law, I will not by my vote prevent the admission to statehood of a Territory that desires such a provision in its constitution. I will not by my vote nullify, because of my personal ideas and convictions, the expressed will of more than two-thirds of those who voted to ratify a constitution containing such a provision. I shall support the committee's amendments, because they may more effectively secure the passage of this measure, but with or without them I am ready to vote for the immediate admission of the Territories of Arizona and New Mexico into this Union of States. [Loud applause.]

Mr. LANGHAM. I yield 30 minutes to the gentleman from Wyoming [Mr. MONDELL].

Mr. MONDELL. Mr. Chairman, the debate on this question has been going on for a week. The mercury has climbed to nearly 100 in the shade. About everything that can possibly be said on the subject has been said; many eloquent speeches have been made; and under these circumstances, late Saturday afternoon, it is somewhat of an embarrassment to attempt to discuss the matter even briefly. Had it not been for some things which have been brought out during the debate, I should not have entered into the discussion at this time.

On the 24th of last February the President of the United States communicated with Congress in the form of a message,

in which he transmitted the proposed constitution of the State of New Mexico and informed us that he had approved the same. On the first day of March following, this House, without division or dissenting vote, approved that constitution. At that time the proposed constitution of the State of Arizona had not reached the Capitol, but it arrived here later, and at the beginning of this session the Committee on Territories very properly took up the consideration of the question of the approval of the proposed constitutions of these two States.

The result of their labors is before us in the resolution now under consideration, in which it is proposed to admit both Territories, but submit to the people of each for their consideration at the time of their first State elections certain proposed amendments to their respective constitutions. The amendment which the people of New Mexico are required to vote upon relates to that portion of their constitution which provides for amendments to that instrument. The proposition presented to the people of Arizona is an opportunity to eliminate from their constitution, if they see fit to do so, the provision for the recall of judges. Both these propositions are in the nature of referendums, and both Territories are to be admitted as States without regard to how their people vote on the propositions presented.

The objection to the constitution of New Mexico, as stated by the majority of the committee, is that its provisions for amendment are such as to make amendment difficult, and all sorts of sinister and unworthy motives are attributed to those who are responsible for that provision. In this condition of affairs it is pertinent to inquire what has occurred since the 1st of March last which has so radically altered the view of the gentlemen on the other side of the aisle touching the proposed constitution of New Mexico. At that time, from anything I have heard to the contrary, that constitution was held to be a most excellent instrument, one under which that new Commonwealth could very properly be admitted into the Union. What has come over the spirit of the dreams of the gentlemen on the other side of the Chamber?

Since that time there has been some criticism of a certain provision in the constitution of Arizona, and I am of the opinion, as I believe many others are, that if it were not for the criticisms that have been made of the provisions of the Arizona constitution touching the recall of judges we never would have heard the philippics hurled from the other side of the aisle against the proposed constitution of New Mexico. But Arizona's constitution has been criticized in one particular, and having been attacked it became necessary for the gentlemen on the other side of the aisle to present a New Mexico Roland for the Arizona Oliver, and so for a week we have heard the Chamber reverberate with most fervid denunciations of this awful instrument, this reactionary constitution of New Mexico, which on the 1st day of March last, according to the vote of the House, was an altogether lovely and proper instrument.

Gentlemen on the other side of the Chamber are much disturbed in regard to this constitution, as to many of its provisions. I have not the time to go over those provisions. I understand that the gentleman from Pennsylvania [Mr. OLMSTED], who preceded me, referred to some of them at length; but having read that constitution with considerable care, it strikes me as being one of the best under which a State has ever proposed to become of the sisterhood of States.

Gentlemen on the other side are particularly disturbed with regard to the provision of the constitution relative to amendment—that is, the provision with regard to amendments to most of the provisions of the constitution. What are those provisions? First, that the legislature shall by two-thirds vote propose amendments. I think 22 of the States of the Union have a similar provision, and some 6 or 7 States of the Union require three-fifths, so that more than a majority of the States of the Union have practically this same provision with regard to the initiation of constitutional amendments. When it comes to the ratification of a constitutional amendment the constitution provides that it shall be by an affirmative majority of the votes cast on the amendment, providing that majority is not less than 40 per cent of all the votes cast, and in half of the counties, and this is the provision that the gentlemen on the other side are particularly disturbed over, forgetful that about a third of the States of the Union have provisions with regard to the ratification of constitutional amendments which render such ratification much more difficult than this provision of the New Mexico constitution. I think there are some eight or nine States which require a majority of all of the votes cast at an election for the ratification of a constitutional amendment, whereas the proposed constitution of New Mexico requires only 40 per cent of all the votes cast.

The constitutions of Iowa and Georgia require for the ratification of a constitutional amendment the affirmative vote of a majority of those qualified to vote for members of the general assembly, which, I assume, means an affirmative vote of a majority of all those registered. No one can deny that these provisions of the constitutions of States of the Union render the amendment of their constitutions much more difficult than the provision of the constitution of New Mexico referred to renders that constitution, and yet against this provision the gentlemen on the other side have thundered, with more eloquence than logic, for a week.

It seems to me it is highly important that the States shall have such constitutional provisions that the fundamental laws can not be amended by a minority vote. The gentleman from Colorado [Mr. MARTIN] opened the debate on this resolution, and I am reminded of the fact that in his State, under a provision by which a constitutional amendment may be adopted by a majority of the votes cast on the question, an important constitutional amendment was adopted several years ago by an affirmative vote of less than 7 per cent of the electors of the State.

The resolution before us which the Democratic majority ask us to support proposes to call upon the people of New Mexico to vote on the question as to whether they shall modify their constitutional provision with regard to general amendments, so that an amendment may be proposed by a bare majority of the legislature and ratified by a bare majority of those who vote on the question. Those who have given any attention to that sort of thing know that in the presence of a noisy, clamorous, and insistent demand, even though it be backed by an infinitesimal minority of the people, a legislature may finally be worn out and working along the line of least resistance prevailed upon to present an amendment for the ratification of the people which a majority of the members do not approve. We also know that it has frequently occurred that amendments thus presented have been adopted, as in the case of the amendment I have referred to in Colorado, by a small minority of the people. Of course, it can be argued that if the proposed amendment is really seriously objectionable the people will take the trouble to vote against it, but this does not necessarily follow. The indifference that often characterizes a vote on a constitutional amendment is quite as likely to arise from the fact that the evils that may lurk in the amendment are not appreciated as from the fact that the amendment is considered innocuous. Certainly there is no crying need for an amendment to the fundamental law of any State the necessity for which is not realized by a majority of those who vote at an election.

Personally I am inclined to favor the Iowa and Georgia provisions, which require that a majority of all those qualified to vote shall give their assent to a constitutional amendment before it shall become part of the organic law. This is but a logical application of the rule of majorities, and those who insist upon what they are pleased to call more liberal provisions with regard to amendments are clamoring not for the rights of the people but for the opportunity of active and possibly ill-advised minorities to write their views into the organic law.

But if the gentlemen on the other side of the aisle were consistent in their demand for the liberalization of the amendment provisions it would be an entirely different matter, but consistency, which is a jewel, shineth not in this report or in the resolution now before us. There are objectionable features in the constitution of New Mexico touching the amendment of four of the articles of the constitution, and this same majority which is so fearful that the people of New Mexico shall not have a right by a minority vote to repeal the bill of rights still leaves the matter of amendment of these articles in such form that if the people of New Mexico want to grant the franchise to women, the better half of mankind, if they want to do away with the teaching of alien language in all the schools of the Commonwealth, they must have the vote of three-fourths of the legislature, three-fourths of the voters, and two-thirds of the electors in every county of the State. And that is the sort of consistency we find in the proposition before us.

If the gentlemen on the other side of the aisle are honest and sincere in their demand that constitutions shall be easily amended, why do they not demand an amendment so that the franchise may be granted to women; that the teaching of Spanish in the schools may some day be dispensed with, and thus a dual civilization and language pass away, without compliance, with requirements which are practically prohibitory?

Article 7, section 1, of the constitution of New Mexico relates to the qualification of electors; section 3 relates to the rights

of citizenship; and section 10 of article 12 provides that the children of Spanish descent shall be granted equal privileges in the schools with other children and that separate schools shall not be established for them. For reasons which seemed good to them the people of New Mexico provided that, so far as these articles were concerned, the constitutional provision relative to amendments should be practically prohibitive.

And gentlemen on the other side, clamorous in their demand that the people of New Mexico shall have the right to amend their fundamental law, leave the provisions of amendment of these sections just as written by the people of New Mexico. Ah, more than that! The gentleman from Colorado [Mr. MARTIN] the other day, when I called his attention to the matter, said, "Well, we did not change that."

Well, that would not have been a very good answer if it had been entirely accurate, but unfortunately it was not entirely accurate. Section 8 of article 12 of the constitution provides for the training of teachers in Spanish in order that the Spanish language may be forever taught in the schools of New Mexico, and thus an alien population permanently maintained there. The people of New Mexico were perfectly content with the provision in their constitution to the effect that an amendment proposed to change this section should only be submitted upon the vote of three-fourths of the legislature, but they were perfectly willing to leave the ratification of that question to the people on the general proposition of ratification of 40 per cent of the electors in half of the counties. But the gentlemen on the other side, claiming to be so anxious to liberalize this constitution, so anxious to give the people of New Mexico an opportunity to amend their constitution by a minority, have in the case of this particular section of article 12 made it much more difficult to amend in their proposed change than was provided in the constitution adopted.

And this is the consistent position which the gentlemen on the other side expect us to follow. If the constitution of New Mexico relative to amendments ought to be amended, it ought to be amended in toto. And yet in regard to those provisions which are practically prohibitive the gentlemen on the other side have either left them as they were, or, as in the case of the article that I have referred to, they have made it more prohibitive than it was before.

Well, I suppose there was some reason for this. In the first place, the Spanish-speaking people of New Mexico are not altogether unacquainted with what the Democratic Party has done to the colored brother in the South, and it would not have done for the Democratic Party to have changed those provisions intended to safeguard the rights of the Spanish-speaking people. Otherwise my friend from Colorado [Mr. MARTIN] could not have made that impassioned appeal in his speech, which sounded like a stump speech to a meeting of his Spanish-speaking constituents, in which he assured them that the Democratic Party did not propose in any way to affect those guaranties which tend to maintain in New Mexico a dual citizenship.

Mr. FLOOD of Virginia. Will the gentleman yield?

The CHAIRMAN. Does the gentleman from Wyoming yield to the gentleman from Virginia?

Mr. MONDELL. I do.

Mr. FLOOD of Virginia. I would like to ask the gentleman if he is comparing the Spanish-speaking citizens of New Mexico and Arizona with the colored people of the South?

Mr. MONDELL. I am not making any comparison. The gentleman himself has made the comparison. I am simply suggesting—and that suggestion came to my mind from the speech of my eloquent friend from Colorado [Mr. MARTIN], when he assured the Spanish-speaking constituents of his State, which borders on New Mexico, that while you as the majority of the House were demanding that a small percentage of the citizens of New Mexico should be given the opportunity to repeal the bill of rights, you were leaving unchanged those provisions that make it practically impossible for the people of New Mexico to dispense with the teaching of Spanish in the schools or further restrict voting or holding office on the ground of inability to speak the English language.

And it was very proper, under the circumstances, that my friend from Colorado, who has the largest Spanish-speaking constituency in the United States outside of New Mexico, should have opened the argument on that side of the Chamber.

I reminded the gentleman at the time that, coming as he did from a woman's-suffrage State and a State where the ladies had had the very good judgment to return him to Congress, it seemed to me that, so long as he was aiding in proposing to amend the constitution of New Mexico it would have been highly logical and proper to have so amended it as to make it possible for the people in New Mexico to grant the franchise to the most intelligent and to the "better half" of mankind. [Laughter.]

But evidently the Democratic Party, while anxious that the good people of New Mexico shall have the right by a minority vote to repeal all of the guarantees, civil and religious, contained in their constitution and adopt every fad and fancy that every change in the political wind may bring to them, does not propose to aid or assist in securing the franchise for women or to lose sight of the hope of electing a Democratic Senator down there by changing one iota a proposition which they fondly imagine appeals to the Spanish-speaking people of the proposed State.

Mr. Chairman, if the Committee on the Territories had simply examined these two constitutions for the purpose of determining whether or not they provided a government republican in form and in harmony with the enabling acts and had reported they had found them such, I should have voted to admit both Arizona and New Mexico into the Union under the constitutions they have adopted without any qualifications or provisions whatever.

I do not believe in the recall of judges. I think that Commonwealth is most unfortunate that shall adopt a provision of that kind. But I realize the right of an American Commonwealth to write into its organic law a provision of that kind, and if the duty of approving or disapproving it had not been presented to us directly, as it has been presented here, I should have been willing to have voted to accept both constitutions. But the gentlemen on the committee saw fit to accept the responsibility of proposing the approval of these constitutions with certain requirements. Their action, then, amounts to an approval of the constitutions after consideration of their provisions with a demand that the people go through the form of again passing on some of their provisions.

Now, we either are for or we are against the proposition of the recall of the judiciary. We have, by the action of a committee of this House, assumed the responsibility of saying whether or no, in our opinion, a provision of that kind should go into a State constitution by approval of Congress; and in that condition of affairs, it seems to me, our duty is perfectly clear, and that is to accept the constitution of New Mexico, a fair and reasonable and just constitution, except as to those particular provisions which the majority do not propose to change, and that, on the contrary, we should demand of the people of Arizona that if they are to receive the approval of the Congress of the United States for their constitution they shall take from it that provision that nine-tenths of the Members of this House believe ought not to be in it. I do not believe there are 10 per cent of the Members of this House who believe in the recall of the judiciary. I firmly believe that a great majority of Members on both sides of the Chamber believe it to be a very unwise and very dangerous provision. We have accepted responsibility, we have gone into the subject, we have laid down certain propositions. We shall not have done our duty until we shall have insisted that, so far as that dangerous provision is concerned, it shall be stricken from the constitution of the State.

In the 15 years that I have been here I have on numerous occasions labored for the admission of these two Territories. I opposed the joint admission of the two as one State, because I believed that the West and the Southwest were entitled to the influence that they will exert more potently as two than as one State. I did not believe that the people occupying that region would have the same influence in the American Congress and in the affairs of the American people as one State, without regard to representation in the Senate, that they will have as two; and so believing, I opposed the proposition of joining the two Territories in a single State.

They are now ready for admission. But one thing stands in the way, the striking from the constitution of Arizona of a provision which is profoundly dangerous. With this done, two more stars from the golden Southwest shall be added to the glorious flag of the Union. [Applause.]

Mr. LANGHAM. Mr. Chairman, I yield 30 minutes to the gentleman from Arizona [Mr. CAMERON].

Mr. CAMERON. Mr. Chairman, at the opening of this debate I had intended to take up the subject quite extensively; but since listening to the able discussions on both sides of this House I do not feel at this late hour that I need take up the time that I had intended to give to this matter, and for that reason I will be very brief in my remarks.

I have the honor to represent what is perhaps one of the most-talked-of Territories that ever asked for admission into the Union. After reading our constitution, some people have erred so far as to intimate that the people of Arizona are not capable

of governing themselves. I wish to say that this is decidedly an erroneous conclusion, and I am going to show that, on the contrary, we have within the confines of the Territory of Arizona the highest type of citizenship of any State within this Union. I am going to make the logic of that claim clear to every one of you. [Applause.] Many of you are familiar with the nature of our citizenship, but for the benefit of those who have never studied the character of the genus Arizonan I will endeavor to make a character sketch of him.

The citizenship of Arizona is made up of people from every State in the Union and from almost every nation on earth. The man in the East who has moved to Arizona and started life anew has of necessity been a man of intelligence, enterprise, and courage. He is of the material of which pioneers are made—men bold and strong in body and courage. The United States has developed the strongest citizenship of any nation on earth, because she has drawn the strong spirits from all the nations of the world. She has displayed her charms to those who were bold enough to throw off the inertia of the ages and strike anew into the unexplored. These pioneers of Europe, the fittest of all her sons, have settled in the older communities of this country and bred sons and daughters. Then the West again began to call, to offer her attractions to those who were again bold enough, strong enough, and intelligent enough to conquer the difficulties that lay in the way of a second migration. Again were the strongest and the fittest taken west.

When these selected, active spirits reached Arizona they found that the country was full of men and women just like them. One man had come from New York, one from Iowa, one from Texas. Each man had brought the ideas of the section from which he came. Each tried out his ideas of farming or mining or cattle raising in the light of his earlier experience. Each compared notes with all his fellows. Each learned toleration. Each constantly broadened his horizon. The life of the West so proved itself a demonstration school of methods, a college for the pushing back of the mental horizon, a nursery for the sons and daughters of the sons and grandsons of selected pioneers.

So, Mr. Chairman, I say to you that the people of Arizona are the results of generations of the fittest men and women that the world has to offer. In no other community has a better opportunity been offered to build up the highest type of the dominant man. The result is the citizenship of Arizona as it exists to-day, which I claim is the highest type of citizenship on earth. The logic of the development of the Territory shows why this statement of mine should not be mere boast, but an actual fact.

Mr. Chairman, I wish to insert into the RECORD some figures from the census of 1910:

Arizona.

	1910	1900
Total population of Territory	204,354	122,931
Native white, native parents	82,472	44,830
Native white, foreign parents	42,161	25,678
Foreign white	46,866	22,395
Negro	2,067	1,848
Chinese	1,230	1,419
Japanese	357	281
Indian	29,201	26,480
Indians taxed	5,072	1,836
Indians not taxed	24,129	24,644

Arizona, 1900. Country of birth:	Foreign-born white persons.
Mexico	13,961
England	1,560
Canada	1,263
Germany	1,243
Ireland	1,155
Italy	699
Scotland	399
Sweden	342
Austria	298
France	253
Denmark	199
Switzerland	199
Wales	136
Norway	123
Russia	107
All other	458
Total	22,395

Mr. Chairman, shortly after I came to Congress I had the pleasure of meeting the late Senator Elkins one day. He had at one time represented the Territory of New Mexico as a Delegate in Congress. He said to me, after I had talked to him for a short time, that a Delegate representing a Territory is simply a political beggar. This I found to be very true. I have been begging ever since I have come to Congress for the admission of Arizona into the Union, and I am here to-day, gentlemen, in that capacity, begging the Democrats and the Republicans on both sides of this House to admit Arizona into the Union, and to do it now.

There has been some discussion on the floor of this House as to Arizona's political faith. I do not think that that question should be taken up here. We are not here asking as Democrats or as Republicans to come into the Union. We are here asking for admission for Arizona and all the people in it, for no clique, nor creed, nor party.

I am here representing the people of Arizona, not the Republican Party, not the Democratic Party, nor the Populist Party, nor any other particular party. I came to Congress as their Representative, and ever since my arrival I have worked in that capacity, and I believe that the Members of this House will bear me out in the statement that I have tried faithfully in every respect to do everything I could for the people whom I represent. [Applause.] I want to say, further, that I am proud to represent Arizona, and I hope that when I retire from Congress the people will have the respect for me which I have for them, and always will have.

Mr. AUSTIN. Mr. Chairman, I will say that we hope to see the gentleman go to the Senate of the United States just as soon as we admit Arizona. [Applause.]

Mr. CAMERON. Mr. Chairman, I want to say as to political faith that everybody knows I am a Republican. I am a Republican because I believe in the Republican doctrine, and I shall believe in it, I know, as long as I live, because I feel it has made and formed one of the greatest Nations that will ever exist. It is not an issue now to be considered who will represent Arizona in Congress after she has been admitted into the Union. I will say to you gentlemen on the other side of the House that if Arizona should elect, to represent her in the Halls of Congress, two Democratic Senators and one Democratic Representative, they will be good men, but if I can help it they will never come here as Democrats. I will do my utmost to see that two Republican Senators and one Republican Representative are sent. But, Mr. Chairman, those are questions which we will fight out at home. All we want now is to have the Members of this House give us an opportunity. Those who come after we are admitted will be capable and efficient men, and a credit to the new State and to the Nation.

Mr. Chairman, it is high time that Arizona be recognized in her efforts to gain a place in the sisterhood of States. I am here in an attempt to remove from her path the last of the obstacles that have for more than a score of years barred her citizens from the privileges that are extended to others of their kind living under the Stars and Stripes.

Mr. Chairman, your Committee on Territories has just reported a resolution for the admission of Arizona and New Mexico. There is a majority and a minority report. The majority report provides that Arizona be admitted and that, following admission, the matter of the recall of judges be voted upon by the people of the proposed State. In other words, it requires that the President shall approve of the constitution of Arizona without knowing whether or not it is to contain the clause that is so objectionable to him.

The minority report, however, takes a different view. It states that Arizona shall be admitted provided she strikes out the recall of judges at the election of her first State officers. It has the effect of virtually striking out the provision for the recall of judges, for Arizona has her choice of striking out this clause or keeping out of the Union. But it has the great advantage of being acceptable to the President. Mr. Taft will, I believe, sign the minority resolution.

Mr. FLOOD of Virginia. Mr. Chairman, I would like to know upon what authority the gentleman says the President will sign the minority resolution; and I suppose he means by that that he would not sign the majority resolution.

Mr. CAMERON. Mr. Chairman, in answer to the gentleman from Virginia, I will state I have said Mr. Taft will, I believe, sign the minority resolution, and I feel that I have excellent reasons for holding that opinion.

Mr. FLOOD of Virginia. Does not the gentleman believe he would sign the majority resolution?

Mr. CAMERON. I will say, if the gentleman will allow me, that I will take up those questions a little later.

Mr. RAKER. Mr. Chairman, just one moment before the gentleman begins. I have understood, and it has been practically conceded on the floor of the House here, that the President would sign this majority resolution if it passed the House. Now, what information has the gentleman contrary to the rest of the statement that he would not sign it?

Mr. CAMERON. I will say to the gentleman from California that these are my personal convictions, and I am solely responsible for them.

Mr. RAKER. Has the gentleman any information on the subject?

Mr. CAMERON. I am not at liberty to answer that question. I have the best of information upon which to base my opinion, and regret that I may not state just what that information is.

Mr. RAKER. Is it not a fact that the committee went to the President to see him?

Mr. WILLIS. Oh, no.

Mr. RAKER. Just a moment. Is it not a fact that the committee went to the President to see him about the matter?

Mr. CAMERON. I am only one of the committee.

Mr. RAKER. That is not the question. The question is, Did not this Committee on Territories send a delegation to the President in regard to these resolutions?

Mr. CAMERON. Mr. Chairman, I feel that I should not yield further to this questioning, as my time is limited in which to conclude my remarks.

Mr. MANN. The gentleman might understand that it is not customary in the House to narrate conversations between a committee and the President.

Mr. FLOOD of Virginia. I will say to the gentleman, Mr. Chairman, what took place between the committee and the President was published in the newspapers, and that certainly there would be no impropriety to state what was so published.

Mr. MANN. We have no objection to the gentleman stating, if he desires to do so.

Mr. FLOOD of Virginia. I do not want to interrupt the Delegate from Arizona until he desires to be interrupted.

Mr. MANN. Everyone knows that the President probably would not sign the resolution.

Mr. HOUSTON. I would like to ask the gentleman a question. Did I understand you to make statement of your opinion on the subject and say it was based upon personal information?

Mr. MANN. I did not.

Mr. HOUSTON. I do not wish to pursue it further, if that is the case. I do not know any authority for the statement of the gentleman from Illinois that the President would not. I do not know what authority the gentleman has.

Mr. MANN. I withdraw it as to the gentleman from Tennessee [Mr. HOUSTON] or anybody on that side of the House. I thought it was generally understood.

Mr. HOUSTON. I will say to the gentleman from Illinois that "the gentleman from Tennessee" and other Members on this side of the House have had as much opportunity to know as the gentleman from Illinois has on this especial matter.

Mr. MANN. I am not questioning that. I am not questioning that wisdom resides on that side of the House.

Mr. HOUSTON. Several Members of this House have had some consultations and interviews on this subject, and have some knowledge, but we do not care, nor is it proper, to discuss what that knowledge is.

Mr. MANN. I think myself it is not proper to discuss conversations had with the President. I have no idea that the President would sign the joint resolution proposed by that side of the House if it ever should go to him.

Mr. HOUSTON. I want to say that I have some ideas on this subject, and they do not concur with the gentleman from Illinois.

Mr. FLOOD of Virginia. I was going to say, Mr. Chairman, that I have no idea the President would fail to sign the resolution reported here by this committee on account of its provision in reference to Arizona.

Mr. WILLIS. If I may be permitted to state, since this matter has come up for general expression of opinion—and I do not think it is proper to discuss in this committee personal conversations had with the President—but I give it to you as my opinion that I have not the slightest idea that the President of the United States, in view of the position he has taken before the country in the past, would sign the resolution reported by the majority of this committee. I want it understood that that is simply my opinion.

Mr. FLOOD of Virginia. With the gentleman's permission——

The CHAIRMAN. Does the gentleman from Arizona [Mr. CAMERON] yield?

Mr. CAMERON. I do.

Mr. FLOOD of Virginia. The newspapers published the fact that a committee from the Committee on Territories, consisting of Mr. HOUSTON of Tennessee, Mr. LEGARE of South Carolina, Mr. GUERNSEY of Maine, and Mr. FLOOD of Virginia, paid the President a visit and consulted with him on this subject.

Mr. CAMERON. Mr. Chairman, I had not any idea that I would precipitate a controversy over this matter. I am trying to make a short statement here of my own. I have not questioned any statement that has been made here during this debate of nearly a week's duration. I have not said one word as to whether these statements were right or wrong, but I now desire to make my position in the matter clear.

So, to get back to the original question, I would say that every indication is that Mr. Taft will not sign the majority resolution. We must have the signature of the President to become a State. We want to take the proper steps to get that signature.

If the minority report is adopted and the measure passes the House, there is every indication that it will pass the Senate also. If it passes the Senate, the President will sign it and the matter will be finally disposed of. If the majority report is adopted, it will meet opposition in the Senate. The bill will come back to this side of the Capitol for further action. If the House finally forced its majority report through the Senate, it would fail of approval by the President and we would be farther from the goal than ever.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LANGHAM. I yield five minutes more to the gentleman.

Mr. CAMERON. Mr. Chairman, it is statehood we want instead of the disfranchisement we have so long suffered. It is definite action we want instead of legislation with a string to it.

It is now two years since President Taft's visit to Arizona. On that occasion he assured the Territory of his friendship and his desire that statehood should soon be granted. The platforms of both parties had declared in favor of statehood. There was apparently no obstacle in the way. In the Congress that followed, Arizona was for the first time in many years represented by a Republican. Congress was Republican. The administration was Republican.

The result of this combination of favorable conditions was that an enabling act was passed, and Arizona lacked only the framing of a suitable constitution to become a State. The President had told our people of the sort of constitution he would approve, and warned them against extremes. But a constitutional convention was called that was entirely dominated by Democrats, and these men framed the very constitution against which the President warned them. The result was that the Territory failed of admission at the last regular session of Congress. The result is that she is still on the outside looking in, while she should even now be holding her election for Senators, Representative, and State officers.

Now, Mr. Chairman, I took the position with the people of Arizona that the right thing for them to do under the enabling act was to frame a constitution under which they might get statehood. Statehood has been the thing nearest the hearts of the people of Arizona for more than two decades. I therefore canvassed the Territory advising that the President's suggestions be followed. I have ever since warned the people whom I represent against extremes in their constitution, for the good and sufficient reason that I knew just what would happen to such a constitution when it came to the President for his signature. The merit or lack of it in the measures proposed has had nothing to do with the advice I gave. I merely pleaded for diplomacy and expediency.

I have known all the time that the President was intensely opposed to such measures as the recall of judges, and that he would refuse to sign a constitution that provided for it. I have insisted that the people of Arizona stand back of me in this matter. I believe they are back of me. There was a time when I was criticized for my stand, but the people have now found out that it is a question of giving over the recall of judges or giving over the hope of statehood, and it is statehood we want. The President very definitely stated his position in the matter in his address before the conference on the reform of criminal law in New York on May 13 last. He said:

> Not content with reducing the position of the judge to one something like that of the moderator in a religious assembly or the presiding officer of a political convention, the judge is to be made still less important and to be put still more on trial and to assume still more the character of a defendant. If his rulings and conduct in court do not suit a small percentage of the electors of his district, he may be compelled to submit the question of his continuance on the bench during the term for which he was elected to an election for recall, in which the reason for his recall is to be included in 200 words and his defense thereto to be equally brief.
>
> It can hardly be said, my friends, that this proposed change, if adopted, will give him greater authority or power for usefulness or constitute a reform in the enforcement of the criminal law of this country. Let us hope that the strong sense of humor of the American people, which has so often saved them from the dangers of demagoguery, will not be lacking in respect to this "nostrum."

Mr. Chairman, we who really want statehood and who are attempting in an intelligent way to get it want no more of this

attempt to force this matter down the throat of the President. We want to take no more chances. We want to give no further opportunities to those trouble mongers who have already caused us so much embarrassment and have, in so doing, kept us out of statehood and are still endangering our chances. We want this minority report, which virtually cuts the objectionable part of the constitution out and leaves it clear sailing to ultimate passage and the signature of the President.

We want this minority report, because it seems sure of a smooth passage through Congress and sure of the signature of the President. The constitution as framed, even with the elimination of the recall of judges, is sufficiently liberal to please the Democrats and those members of the Republican Party who style themselves "progressives." The regular Republicans are going as far as they may well be expected to go when they accept the initiative, the referendum, and the recall of officials other than judges. There seems to me to be no occasion for insisting upon the retention of this one small thing in the constitution when that thing is almost certain to prevent that statehood for which we have so long fought.

Mr. Chairman, I have a wholesome respect for the judgment of the President of the United States. His performances and accomplishments since he came into office have been epoch making. I predict that the time will come when the passing of years has given events of the present the proper perspective, when history will write the name of William Howard Taft high in the annals of fame, when posterity will give him credit for many things that were in advance of his time. [Applause on the Republican side.]

The steadying hand of the President has been felt in Arizona as elsewhere. Since the first indications were at hand, after the passing of the long Democratic domination in Arizona, that statehood was attainable the President's well-balanced mind laid down for the Territory the fundamental principles for a constitution. The President was right in his advice. But had he been wrong, it would have been the part of wisdom for the people of Arizona to have conformed to his wish, for statehood was impossible without the President's approval.

Long before the President made his positive denouncement of the recall of the judges there was no question of his stand in the matter. Attorney General Wickersham had been sent forth to declare the position of the administration on many occasions, and his utterances had been concise and to the point. At the annual banquet of the State Bar Association of New York, in January, Mr. Wickersham, in speaking of the constitutions of the newer States, said:

> What do you think; what will lawyers anywhere, thoughtful lawyers, think of a constitution which provides for the recall of judges by popular election if they render decisions which do not meet with popular applause? Yet that is the sort of thing which is now being advised by men who are seeking to found a Commonwealth on distrust in their fellow citizens. Neither the government of a State nor the government of a city nor the government of a nation can ever progress except in reliance upon the integrity of the greater mass of mankind. Unless every government is to be a failure and unless government of the people and for the people is to perish from the earth, such conceptions as these must receive the reproach of all the thoughtful, patriotic, law-abiding, trusting citizens of this great land.

Mr. Knox and other members of the President's Cabinet have been no less outspoken. It has been clearly obvious from the beginning that those alleged friends of Arizona who were attempting to force certain measures down the throat of the administration were in reality Arizona's worst enemies. Many of these men had the best intentions in the world. Some of them were merely self-exploiters. The results of the labors of all were the same—to embarrass Arizona.

Now we have this majority report which will further embarrass us in our hopes. The minority report will allow us to reach our goal with greater ease. We would therefore prefer that you remove for all time this troublesome appendix to our constitution and allow us to come into that health and vigor to which we are entitled.

Mr. Chairman, this desire for statehood has become a ruling passion with the people of Arizona. They want statehood as they want nothing else. So long has it been held out to them as a bauble to a child and then withdrawn that they have been driven almost to desperation.

Now, with a citizenship such as I have described to you, deprived of a voice in the government of which it is a part, controlled by governors, secretaries, and supreme court judges in whose selection it has no choice, doing business under that unstable form of government accorded to the Territories, you can well imagine the discontent.

These people want statehood. They are not interested in the splitting of hairs over some particular phase of some minor point in the constitution under which they are admitted. They have made that constitution easy of amendment; and if its provisions are not found to be satisfactory, they may be changed. The people of Arizona want to waive all this bother about small matters and get down to business. They want to be admitted into the Union now. [Applause.]

Therefore I ask you to adopt a resolution that will go through and give us statehood.

There is but one other thing in the mind of the people of Arizona. They have the ambition to become the best governed community on earth. The man of the West is not averse to trying experiments. He is not greatly bound by precedent. He believes in trying things out. If they prove the best things, he adopts them. If they prove unsatisfactory, they are rejected. So it is with Arizona. She wants to be the best-governed community on earth. She is trying some experiments in government. Her judgment as to their merits after trial may be relied upon. There need be no fear of the people of Arizona persevering in any mistake. If they are given the statehood to which they are entitled, the bigger sisters need never fear embarrassment on the part of the baby of them all.

So we want to rally the friends of statehood around this minority report and urge it through to final passage. We want, this fall, to hold an election for State officials and Members of Congress. We want to have a man on this side next winter who can not only speak in behalf of the good people of Arizona, but can vote in their interest. We want men on the Senate side to serve with equal purpose. We believe we know the best way of accomplishing this. We ask you, our friends, to join us and help us out in this final struggle for the goal of our ambition. [Applause on the Republican side.]

Mr. FLOOD of Virginia. Mr. Chairman, I yield 45 minutes to the gentleman from Illinois [Mr. GRAHAM].

The CHAIRMAN (Mr. MAGUIRE of Nebraska). The gentleman from Illinois [Mr. GRAHAM] is recognized for 45 minutes.

Mr. GRAHAM. Mr. Chairman, the discussion of this matter has taken a very wide range. Much of it was relevant, but a good deal of it is, I think, irrelevant. It seems to me that too many of the arguments made and too much of the discussion that we have listened to have been devoted to a comparison of the merits of different State constitutions, and are entirely beside the question. I do not think we have much, if anything, to do with the respective merits of the organic laws of the different States that have been admitted into the Union already. The question before us, as I understand it, is not what constitutional provisions are the best, but the simple question, Do the constitutions offered by these two applicants for admission to the Union provide for governments which are republican in form?

There are but two provisions in the Federal Constitution which relate to this matter. One of them is the third section of the fourth article of the Constitution, which provides that Congress may admit new States into the Union. The word "may" means, no doubt, that Congress has discretionary power in any particular case as to whether it will or will not admit the applicant, but surely it was expected to be a wise and honest discretion. The other constitutional provision and the one discussed so much here is, I think, the one we should devote most of our attention to, namely, that "the United States shall guarantee to each State a republican form of government."

Now, I freely concede that under the first of those constitutional provisions Congress has the power to keep any applicant from coming into the Union; and, as developed in the colloquy between the gentleman from Pennsylvania, my friend Mr. OLMSTED, and myself, I concede that Congress has the power to keep an applicant out of the Union, even though Congress is wrong. Congress can arbitrarily exercise that power if it chooses, but I do not think it has the moral right to do it.

For example, a very bright little boy delivers the evening paper at my office. He is about 10 years old. I have the physical power on the slightest pretext, or no pretext at all, to thrash that boy. But, even if no law prevented, have I the moral right to do it? No one would claim that I have. In that same line Congress has the power to keep either one of these applicants or both of them out of the Union, but has it the right to do it? Has it the moral right to do it, even though it has the power, as I concede it has?

I listened with particular attention this afternoon, and with great interest, to the argument made by my colleague from Illinois [Mr. MANN]. I think, so far as the first branch of the case is concerned, his brief and argument absolutely covered every point that could be raised in regard to the question. I thank him for it. It is conclusive; and I was particularly pleased with it, because it covered vastly better than I could cover it my own line of thought on the subject.

I was reminded during the course of his argument of a historical incident with which you are all familiar. When Gen. Jackson was in New Orleans in 1813 he had occasion to proclaim martial law in that city, and, for reasons which seemed satisfactory to him, he placed Judge Hull under arrest there. Later on the judge got after the General and imposed a fine of $1,000 on him for his interference with the judicial branch of the Government. The fine was paid and retained for a long time. Many years afterwards a distinguished Senator from my State—a man not only of national but of international fame—offered a resolution in the Senate that the fine be remitted, and in a very able argument Senator Stephen A. Douglas explained why Gen. Jackson was justified in his action in the premises. When the General afterwards met Senator Douglas he expressed his gratitude very warmly, and remarked, "I always knew I was right in what I did, but I never could give a reason for it till I read your speech." [Laughter.] I thought frequently during the argument of the gentleman from Illinois [Mr. MANN] of that remark of Gen. Jackson's. I was of the same opinion as my colleague [Mr. MANN], but I confess I could not have given as many and as cogent reasons in support of it as he gave.

Now, I repeat, the question before us here is whether these applicants for admission into the Union offer us a scheme of government which is republican in form. If they do, we have no moral right to keep them out of the Union, while I concede we have the physical power to do it, just as I would have the power to thrash the little boy of whom I spoke. But have we the moral right to exercise that power? I think we have not; and, for my part, I am heartily for the resolution offered, because it merely calls their attention to some matters by way of emphasis, but does not deny either of these applicants the right of admission. It is not for us to make fundamental laws for them. It is very well for us to suggest that it were better for them to do this or that, to make this or the other change in their fundamental law, but it is not for us to say, "You shall put this or that in your charter," although, as you present it now, it does provide for a republican form of government, and thus complies with the constitutional requirement. I say we have no moral right to take that position.

Now, do these constitutions provide for a republican form of government? That is the real question before us. I say they do. I have not given them the careful examination that some other gentleman have, but I have listened to many of the arguments and read others, and so far as I know there has been no argument advanced claiming that they do not now offer us constitutions which provide for a republican form of government. And if they do, then I say, so far as the right of the case is concerned we have but one duty to perform, and that is to admit them.

It is argued that many of the provisions in the constitutions offered us are unwise. But what right have we to enter into the question of the internal public policy of either of these proposed States? In my own State we have in our constitution some things which evidently do not meet the approval of the other States. In our constitution of 1870, which is now in operation, there is a provision for minority representation. I do not know of any State which has borrowed that provision, although it has been in force in Illinois for 40 years. It provides for cumulative voting. We divide the State into 51 senatorial districts, and we elect a senator and three representatives from each district. The voter may cast 1 vote for each of three candidates, or 2 votes for one, and 1 for another, 1½ each for two candidates, or 3 votes for one. He can distribute his 3 votes as he pleases among the three candidates in that senatorial district. So far as I am aware, no other State has adopted this scheme, and if the question were up now whether Illinois should be admitted into the Union with that provision in its constitution, gentlemen might argue with as much force that that provision was not a wise one, that it was not sound policy, as they now argue against the alleged objectionable features of those before us.

But my answer to that would be: "Gentlemen, it is none of your business. It is for the people of Illinois to decide that question." [Applause.] And so here there are some provisions in each of these constitutions which I do not approve and which I would not myself write into the organic law.

Mr. WILLIS. Mr. Chairman, will the gentleman yield?

Mr. GRAHAM. Certainly.

Mr. WILLIS. Mr. Chairman, I am very much interested in what the gentleman says about the constitution of Illinois, and I ask a question entirely for information. How has that provision for cumulative voting worked out? Do the voters, as a matter of fact, generally distribute their votes around, one for each man, or do they follow the cumulative plan?

Mr. GRAHAM. The purpose of it was to enable the minority party in each district to get one representative.

Mr. WILLIS. Does it work out that way?

Mr. GRAHAM. It has worked out that way; but, as far as I know the feelings of the people of Illinois, there is a very strong feeling now that it should be eliminated from the constitution for this reason: That voters from different parties who are not supposed to have a too scrupulous regard for political results can combine and by casting three votes for a particular candidate elect him, although perhaps he should not be elected. In a way it puts a premium on a breach of faith by inducing "plumping" as between two candidates of the same party.

But I am not discussing the merits of it now. I refer to it merely for illustration. I infer from the fact that no other State has adopted it; that it has not met with general approval. I think that is a fair inference, and also that if Illinois were asking admission into the Union here to-day and that provision were in its constitution, gentlemen might object to its admission on that ground. But they would have no right to do it, in my judgment, because such a provision would not deprive Illinois of having a republican form of government, which is the material question and practically the only one before us now.

I listened with very great interest to my friend the gentleman from Ohio [Mr. WILLIS] the other day, and greatly regretted he was not permitted to continue his argument in a consecutive way and without interruption, because, while I did not agree with him, he was presenting the matter in a very concrete and a very logical way. His premises, I think, were unsound, but granting his premises to be sound, the gentleman's mind is so ordered and so orderly that his conclusions will be apt to be sound if his premises are.

Now, the other question is as to the internal public policy of the proposed States, and the one on which he and I disagree. If this question of public policy, of the internal policy of the State is to be considered here, then I repeat that when Illinois, with the provision I referred to in its organic law, came asking for admission, you would probably decide against it because you did not agree with its proposed internal policy. And I am inclined to think the opinion of the majority of the people of Illinois would be in accord with you at this time in saying that it was not the best policy; but again I say you have no right to decide that question for Illinois or for Arizona or New Mexico. You have only the right to decide whether the organic laws offered you here by the people of Arizona and New Mexico present a plan for the government of the future State which is republican in form, and whether the condition of the applicants justifies their admission. Now, that makes acute the question, What is a republican form of government, as intended by the fathers and within the scope and meaning of the language used in the Constitution?

Before taking that up, I want to call attention to the attitude of the minority of the committee here. I have in my hand the "Views of the minority," and I read from it this paragraph:

> We believe that the provision in the Arizona constitution as adopted in that Territory which would authorize 25 per cent of the voters in any judicial district to require an election to be held to see whether some judge who may have rendered an unpopular decision shall be retained in office or ousted from his office is fundamentally destructive of republican form of government.

A main point in that paragraph is the one I emphasize in the reading, "who may have rendered an unpopular decision." Now, that is wholly gratuitous. There is no justification for the insertion of that phrase in the report. Why is that conclusion reached? Who has the right or the power or the wisdom to say whether that would ever happen? I believe that it would not. I firmly believe that it would never happen, but if it did here is the attitude those who take that position put themselves in. They say if that proposition is eliminated—and as public report goes they are in accord with the views of the President of the United States—they say if the judicial recall feature is eliminated they are willing that Arizona shall come in as a State. How would its elimination change the real situation? Would striking that provision out of the constitution make the people of Arizona more fit for statehood? Would striking out that provision under congressional or presidential coercion prove them more capable of self-government? Would they be, in fact, any fitter after than before?

Not in the slightest degree. They are what they are. And whether they come in with the constitution they offer or with the constitution amended as proposed, would in no way affect their capacity for self-government. If they are fit for admission to the sisterhood of States after thus yielding to coercion, they are at least as fit before. Therefore, I say those who signed

the minority report admit that Arizona and New Mexico have every qualification for statehood. Is not that all that is required? Again, I say, the main question is: Do they in these constitutions offer a scheme of government republican in form? Now, what is a republican form of government? Of course, you would not be willing to accept my definition of it, so I will give you the views of wiser men. Some reliable definitions will be found in The Federalist. In Letter 38, written by Mr. Madison, he deals with this provision of the Constitution at great length, and, of course, with great ability. He says:

The first question that offers itself is whether the general form and aspect of the government be strictly republican. It is evident that no other form would be reconcilable with the genius of the people of America, with the fundamental principles of the Revolution, or with their honorable determination, which animates every votary of freedom to rest all political experiments on the capacity of America for self-government. If the plan of the convention, therefore, be found to depart from the republican character, its advocates must abandon it as no longer defensible. What, then, are the distinctive characters of the republican form?

If we resort, for a criterion, to the different principles on which different forms of government are established, we may define a republic to be, or at least may bestow that name on, a government which derives all of its powers directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure, for a limited period, or during good behavior. It is essential to such a government that it be derived from the great body of the society, not from any inconsiderable proportion or a favored class of it; otherwise a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to the rank of republicans and claim for their government the honorable title of "republic."

It is sufficient for such a government that the persons administering it be appointed either directly or indirectly by the people and that they hold their appointments by either of the tenures just specified, otherwise every government in the United States, as well as every other popular government that has been or can be well organized or well executed, would be degraded from the republican character.

This definition clearly indicates that a government whose officers serve during the pleasure of the people or for a limited period may be republican in form. What better way to determine the pleasure of the people than by an election, that is, by the plan known as the recall? In the case of Miner against Happersett the Supreme Court of the United States deals with this same constitutional provision. Chief Justice Chase, speaking for the court, says:

The guaranty is of a republican form of government. No particular government is designated as republican; neither is the exact form to be guaranteed in any manner especially designated. Here, as in other parts of the instrument, we are compelled to resort elsewhere to ascertain what was intended. The guaranty necessarily implies a duty on the part of the States themselves to provide such a government. All the States had governments when the Constitution was adopted. In all, the people participated, to some extent, through their representatives. These governments the Constitution did not change. They were accepted precisely as they were, and it is therefore to be presumed that they were such as it was the duty of the States to provide. Thus we have unmistakable evidence of what was republican in form within the meaning of that term as employed in the Constitution.

In Downes *v.* Bidwell, Mr. Justice Brown said:

A republican form of government is one in which the supreme power resides in the whole body of the people, and is exercised by the representatives elected by them.

And in Duncan *v.* McCall it was held that—

The distinguishing feature of that form is the right of the people to choose their own officers for governmental administration and pass their own laws in virtue of the legislative power reposed in representative bodies whose legitimate acts may be said to be those of the people themselves.

Undoubtedly those who framed the Constitution had existing conditions in their minds; a good test, then, would be to examine those conditions, for it will be admitted that all of the 13 States which constituted the Union in that day had republican forms of government, and that such forms as they did have furnish us criteria by which to judge other applicants for admission into the Union, and that if any proposed State approaches as nearly as may be to the form which any of them had it comes within the field of republican government.

Now, they differed very widely in their charters—very widely, indeed—but the field bounded and described by the words "republican form of government" is a wide field, a very wide one, containing governments differing widely in their details. Some of the New England States, and also the State of Georgia, had direct local legislation; others had the indirect method. Connecticut continued till 1818 under the charter granted by King Charles II in 1662, and Rhode Island operated till 1842 under a charter granted by the same King in 1663. But they were both admitted into the Union as having republican forms of government, although they recognized the sovereignty of the King and his successors.

Justice Wilson passed on the status of Georgia in the case of Chisholm *v.* Georgia (2 Dallas, 419). He says:

As a citizen I know the government of Georgia to be republican, and my short definition of such a government is one constructed on this principle—that the supreme power resides in the body of the people.

Justice James Wilson was one of the framers and one of the ablest expounders of the Constitution.

The field of republican government is a big one, but if a State government enters this field at all it is none of our business what part of the field it occupies.

What was the purpose of the fathers? In order to find out what their purpose was let us apply the ordinary rule for statutory construction—the old Blackstonian rule. When the legislature expresses its purpose in words, it is done. It can not construe its own language. It is for the courts to construe it, and one of the fundamental rules of construction is to first ascertain what was the evil intended to be remedied. What is the thing they want to avoid or prevent? Apply that rule in this case and let us put ourselves in the attitude of the fathers.

The Declaration of Independence tells us broadly what the evils were of which they complained and from which they suffered. Some 25 or 30 specific charges are made against the King. The main evils were monarchy and aristocracy, or oligarchy, if you please. The purpose was to avoid these and to bring the work of government nearer to the people, and to fix it so that neither one man nor a minority of men in any community or State could govern. It was to bring the work of government closer to the whole people. Government by a majority might be said to be their first and their main purpose. They tell us that governments derive their just powers from the consent of the governed. Now, when any Territory or State offering a constitution in accord with that view is presented here, and there are no valid objections, it seems to me there is but one thing for us to consider, and that is whether it adopts a republican form of government.

In determining this we must keep in mind that monarchy and aristocracy or government by less than a majority was the main difficulty to be avoided, and that the original States give us a sure guide as to what is a republican form of government.

Mr. Madison said:

As long, therefore, as the existing republican forms are continued by the States they are guaranteed by the Federal Constitution. The only restriction imposed on them is this, that they shall not exchange republican for antirepublican constitutions, a restriction which, it is presumed, will hardly be considered as a grievance.

This fact is also referred to by Judge Cooley in his Constitutional Limitations, and is further emphasized by reference to the provision against granting any titles of nobility. He says:

The last provisions we shall here notice are that the United States shall guarantee to every State a republican form of government, and that no State shall grant any title of nobility. The purpose of these is to protect a Union, founded on republican principles and composed entirely of republican members, against aristocratic and monarchical innovations.

In his work on the Constitution Judge Story says on this point:

The Federalist has spoken with so much force and propriety upon this subject that it supersedes all further reasoning. "In a confederacy," says that book, "founded on republican principles and composed of republican members, the superintending government ought clearly to possess authority to defend the system against aristocratic or monarchical innovations.

If, then, these "would-be" States have provided for republican form of government, by what right—I mean moral right, I do not mean power—what right have we to exclude them? The only ground such right is put on, so far as I have heard it discussed, is that one of these applicants offers a provision in its constitution for a recall of the judiciary, and for that reason it is contended it should not be admitted into the Union.

Suppose Arizona eliminates this provision as to the recall of judges, and Arizona is admitted. Then what? Has Congress any power to keep it from adopting that provision by way of an amendment to its constitution? Most assuredly it has not. Have we, then, any moral right to say that it shall not come into the Union now because it has a provision in its constitution of which we do not approve, which we concede it can afterwards put into its constitution and still remain in the sisterhood of the Union. Is that consistent? Is there any logic to support such a proposition as that? It is still in the republican field, and if it departs in any way from the usual standard of republican government, it departs in the direction of greater freedom of the people themselves. When you go back to consider the evils which were to be remedied by the adoption of the Federal Constitution and the establishment of this Republic, you find it was an effort to get away from aristocracy and monarchy and get nearer the people. I am not unaware of the fact that some of the able men in the convention, men like Hamilton and possibly Madison and Jay, the joint authors of the articles which constitute the Federalist, and some others who were in sympathy with Hamilton, wanted a government as far removed from the people as possible.

But their ideas did not prevail. The Constitution was a compromise, in the end, between those different forces. But still the fact remains that the constitution tended toward a government by the people, toward a wider range of democracy. That

is the direction in which this provision tends. It is bringing the Government nearer to the people.

Now, would any gentleman here contend that a State would not have the right to pass a constitutional amendment to the effect that the judges in that State should serve for only one year, or for six months, if you please? If a State should adopt such a provision in its constitution, what would you do about it? My friend, the gentleman from Ohio [Mr. WILLIS], the other day had to concede, and did concede, that that might be done. Would a State thereby lose any of its rights in the Federal Union? Not one. As my colleague from Illinois [Mr. MANN] suggested to-day during a colloquy, "How would you force a State out of the Union?" And I suggested then that possibly the State might be denied representation in Congress—in the Senate and the House—but he did not agree with that view. I suggested a denial of representation merely as the ne plus ultra—the worst that could be done. But it could not be expelled from the Union. I know of no way that it could be. Perhaps some of you do know.

Now, if the State could adopt a constitutional amendment the year after it was admitted to the Union providing for the very thing that you now complain of, what is gained? And that it could do so is admitted. There can be no question on that point. It does seem to me, therefore, most illogical and inconsistent that we should now deliberately refuse to admit a State, otherwise qualified in every respect, because in its fundamental law it has incorporated that which you who oppose its admission admit it can subsequently put there and still remain in the Union.

Mr. POWERS. Will the gentleman yield?

The CHAIRMAN (Mr. GARRETT). Does the gentleman from Illinois yield to the gentleman from Kentucky?

Mr. GRAHAM. Certainly.

Mr. POWERS. You have made the argument that Arizona should not be kept out of the Union because of the recall of the judiciary as provided for in her constitution.

Mr. GRAHAM. I have.

Mr. POWERS. And you have based that argument partly on the ground that the 46 States now in the Union could, if they wanted to do it, put in their constitutions and statutes the judicial recall; and that the Federal Government could not for that reason declare them out of the Union, and if that fact is not sufficient to put a State out of the Union it ought not to be sufficient to keep one from coming in?

Mr. GRAHAM. That is my position.

Mr. POWERS. And I want to add, Mr. Chairman, that that is also my position. I am not in favor of the recall of the judiciary. I would not vote for such a provision to be put in the Kentucky constitution.

Mr. GRAHAM. The gentleman's position is exactly mine in that regard. I will curtail my remarks as much as possible and come to that very point. I state now that personally I would not favor this provision were it proposed to put it in the constitution of my State. I would oppose it. I do not think it wise; but again I repeat, when some other State proposes to do that, it is none of my business. It is a question for the people of that State. Those gentlemen who go further and say that the people of Arizona and the people of New Mexico are qualified for statehood, but that there is some provision as to public policy in their fundamental laws of which those gentlemen do not approve, and therefore they will vote to keep them out of the Union, are, I think, taking a most inconsistent and illogical position, and I quite agree with the gentleman from Kentucky that it is not any of my business, or of his, or of anyone else, what public policy they adopt. They do not have to make everything to fit my judgment or yours. They are to be a self-governing, sovereign State, and they have the right to provide the constitutional and legal provisions under which they are to live, providing always they fit up to the standard of a republican form of government.

Mr. WILLIS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. Does the gentleman from Illinois yield to the gentleman from Ohio?

Mr. GRAHAM. I do.

Mr. WILLIS. I am very much interested in what my friend has to say upon this question of public policy. I want to know if one of these Territories provided in its constitution for polygamy, that being a question of policy, would the gentleman then say what he has already said, that we have nothing to do with that, and we therefore ought to vote to admit it?

Mr. GRAHAM. I do not think polygamy is a mere question of public policy. I think it goes far deeper than that. I am one of those cranks who believe that there is a great deal in the Federal Constitution which is not expressed in words. The concrete result of human history is in it between the lines. I believe it rests as fundamentally on the doctrines of the Christian religion, although that is not expressed in it, and probably should not be, as it does on the provisions that are expressed. I think that monogamy, the doctrine of Christian marriage, of one husband and one wife, and the family relation, and those things that go with it, are fundamental and necessary to the perpetuity of the Republic and as much a part of the Constitution as any of the provisions expressed in it; and should we leave monogamy and adopt plural marriages, in my judgment we would sap the foundations of the home and virtually destroy the family, which is the unit of society, the brick of which the building we call society is constructed. I say that is not a mere matter of State policy, but it is a matter that is fundamental to the existence and perpetuity of the Republic.

There are some defects of policy in both of the constitutions now proposed, one possibly going too far in one direction, one in the other direction. It is claimed one goes too far toward centralized power and that the other goes too far toward democratic power. They do not suit the inclination or the judgment of some gentlemen in this House; but that is not the question here. However, if one is to be admitted, then the other ought to be. If there are errors in the proposed constitutions as to matters of public policy, I think they are about equal; or if there is any difference in them, in my opinion the defect is greater in the New Mexico constitution. But that will not prevent me from voting for it. It is republican in form. It suits a majority of the people of the Territory, as shown by an election in which no fraud is shown. And nothing but fraud could vitiate it; and in the absence of fraud I must assume that it is what the people of New Mexico want, and that is enough for me. It is republican in form, and it suits them; and therefore I am ready to vote for it. Here, on the other hand, is Arizona, with a constitution equally republican in form, or more so. She knocks at the door for admission also, and I say to you, so far as my vote is concerned, if one comes in the other must come in also. That may not be perfectly just, but there is a good deal of human nature in it if it is not according to the highest and strictest principles of equity.

The gentleman from Arizona [Mr. CAMERON] a while ago made a point that seems to me to have a good deal of merit in it. He suggested that, after all, experiment in the work of government is not a bad thing. I quite agree with him. Some very eminent man, who wrote on social and historical lines—and if I had a guess I would say it was Buckle, the essayist and historian—said in substance that it is only by practicing the uncustomary that we can find out whether it should become customary. There is a good deal of philosophy and good common sense in that remark. How are we ever going to advance if we never try? How will the child learn to walk if it never takes a second step? And so in this case. I do not know whether this is, in fact, going to be a good thing or not. I am conservative by nature, and if it were proposed in my State I would not be for it, but I think that the recall will prove a very valuable feature in government. Now, whether it should apply to the judiciary, I am not yet convinced one way or the other, but I am perfectly willing that some other State than my own shall make the experiment. [Laughter.] If it is a good thing, then we can get it, and if it is not, then we can avoid it. Now, the people of Arizona are very willing to make that experiment. Why should I object to it? The statement in the minority report, which contains the gratuitous statement I read, particularly mentions, "The judge who may have rendered an unpopular decision." By what authority did the minority of the committee assume or presume that because a judge has rendered an unpopular judgment the people would throw him out of office? Where is the experience which justifies that statement? I have on the floor here again and again during this debate heard that Chief Justice Marshall, after he rendered certain decisions, would have been thrown out of office by virtue of the recall if it had existed. Who knows? That is but their guess, and I put mine against it.

I have known a number of cases in my own judicial district where judges have rendered exceedingly unpopular decisions on the eve of an election. I can recall one which grew out of a certain riot you may have read of, in Springfield, a few years ago. The judge, whose term of office had almost expired, who was then a candidate for reelection, ruled what he deemed to be the law of the case. It was exceedingly unpopular with the people. The people's minds were aflame on the subject. Did it affect his judgment? Not in the slightest degree. He followed where he thought duty and the law led, and he usually thinks right on that line. Now, he was a candidate. He had opposition. What was the effect on him? Why, there was no-

body else in the running. I have known other cases of the same kind. Gentlemen, you who oppose this provision in the Arizona constitution, you lack faith in the honesty, the intelligence, and the sincerity of the common man. He is a bigger fellow than you think he is. He is moved less by prejudice or by passion than you think he is, and he usually rises to the level of the responsibility placed on him. Responsibility is a great thing to make men pause and deliberate.

At the time the Constitution was adopted all judges were appointed. There was no elective judiciary, I think, about 1812, when Georgia broke away from the appointive plan and made its State judiciary elective. If gentlemen who now so much fear the recall of judges had lived then they would have seen all sorts of calamities ahead. But the plan worked very well; so well that every State now has it, and none think of abandoning it.

It was a very much longer stride toward pure democracy than the one proposed now. It was a more radical departure than the one adopted by Arizona, but no question was ever raised as to its being in conformity with republican institutions. And I have faith enough in the people to believe that this provision is not the Pandora's box gentlemen would have us believe.

The gentleman from Illinois [Mr. MANN] argued that a provision like the recall or the referendum would only take responsibility from the legislators and cast it on the people, and therefore the legislators have even less sense of responsibility and exercise a less degree of care than they do now. I do not think that would be the effect of it at all. But even if it did throw less of a burden on the legislators and a greater burden on the people themselves, what of it? Responsibility is one of the greatest things in the world to sober people and make them think, and so it seems to me that this question of the recall would set men to thinking, and that instead of exciting their passions and prejudices it would have the effect rather of cooling them, and that even if they did make one mistake—and maybe they would; I do not know—but if they did make a mistake, after making it they would know things better; they would have located Charybdis and would probably avoid it thereafter.

That is one way to teach people if they need teaching. If you want them to rise to the responsibilities of self-government let the responsibility for their government rest upon them, and if they do make a mistake are you going to condemn them for that? Did we never make mistakes? Has Congress never made any? Have the courts never made any? If not, why do they so frequently reverse themselves; and why can you find the same question decided in one way on one side of a State line and a different way on the other side of the line?

Courts make mistakes; legislatures make mistakes; Congress makes mistakes; and will you deprive the people of the exercise of a right which you admit they have inherently for fear they would some time make a mistake? If they do, they will learn from it. And so, I say, that as an experiment, if you please, it is more than worth the while. I should be glad to see it. As I selfishly said a while ago, I am quite willing that some other State than mine should make the experiment. We can watch the result of it, and if it is worthy of imitation, we can imitate it; if it is not worthy of it, just as in the case of minority representation in my State, it will not be imitated. Just as other States did not follow the State of Illinois on the matter of minority representation, because it did not seem to be the thing needed, just so, if this matter of recall in Arizona does not prove to be a good thing, then it will not be followed by other States. And, I predict, Illinois will soon abandon that feature of its constitution and abolish its minority representation, and just so Arizona, if it does not like this principle, can abandon it, and no harm will have been done to republican form of government.

Now, I would warn gentlemen in conclusion—although they do not have to heed the warning, and perhaps I do not owe it to them—that they can not deceive the people. One of the gentlemen who spoke on the other side, the gentleman from Wyoming [Mr. MONDELL], I think, clearly intimated that gentlemen on this side of the Chamber were influenced in opposing the admission of New Mexico by partisan reasons. I have not been in Congress long enough to know whether that is likely to be true or not. Some of you, perhaps, have been.

But does the gentleman from Wyoming think that he can play ostrich; that he can hide his head only and escape detection? Even if it be as he says, are the ones on this side the only ones? Does he think he can convince the people that his side of the House is not playing the partisan game? How about that? That is tender, slippery ground to tread on, and I would not think of going in on it but for the remarks of the gentleman from Wyoming. But we should rise above those party considerations. And I say now that they do not affect me in this matter. I am for fair play. I believe in what I used to call "criminal equity." I believe that if two men commit an offense against the law, the State's attorney has no right to pick out one of them and prosecute him and let the other one go when the facts of both cases are similar. And in this case I do not believe that it is right, with two candidates knocking at the door for admission on practically similar terms, to admit one and exclude the other. Such a course would not commend itself to fair-minded men. The matter of partisan advantage should be ignored. Both should come in or both should stay out. I say, further, that neither this House, this Congress, nor anyone else has a right from such motive as that to keep a State out of the Union which is qualified in every way for admission and which comes before us and offers a charter or constitution which conforms to the requirements of the Federal Constitution. Congress has no moral right to do such a thing. I stand on the ground that this resolution is perfectly fair, for in substance it means that both shall come in or neither shall. That is the ground on which I stand, and I shall vote for it, and I hope it will prevail. [Applause.]

Mr. FLOOD of Virginia. Mr. Chairman, I yield 10 minutes to the gentleman from Ohio [Mr. ALLEN].

Mr. ALLEN. Mr. Chairman and gentlemen of the committee, I rise to say that I shall give my vote for the adoption of the resolution presented by the majority of the Committee on Territories for the addition of two new States by admitting New Mexico and Arizona into our American Union. I have no doubt that a considerable majority of the Members of this House will so vote, in spite of the rather lengthy discussion to which we have listened with relation to various theories of government.

I shall support this resolution in spite of the apparent approval of the constitutions of these new States which such a vote would indicate, because I believe that the framers of these constitutions have held fast to the principles which were in the minds of our fathers when they framed our Government.

I take this opportunity to protest against the present-day tendencies to depart from those principles. I object to the growing tendencies of the executive and judicial branches of our Government, both National and State, to usurp the functions of the legislative branch.

I have made as a fundamental point that no branch of the Government should invade the legitimate province of any other branch. Our fathers declared that this was to be a Government of laws and not of men. They declared that we should have a legislature to record, from time to time, the will of the American people in the form of Federal and State statutes; they declared, too, that we should have a judiciary whose duty should be to interpret such statutes in the light of the organic law and of its principles. They declared, also, there should be an Executive whose sole duty should be to carry out, as the agent of the people, the laws that the people's representatives have put upon the books.

Political writers, not only of our own country, but of almost every civilized country in the world, have glorified the beauties of this system of checks and balances that our fathers founded.

I believe that just so long as we observe the fine adjustment of powers that was arranged by our fathers there never can be any serious disturbance of long continuance in our internal government.

I call to your mind a familiar truth when I say that of late years there has been a decided tendency on the part of other branches to usurp legislative powers.

I protest against the use of the "big stick" which was characteristic of a former Chief Executive.

I protest against Executive interference in pending legislation by sending for Representatives and threatening the withholding of Federal patronage unless the will of the Executive be made the will of the Legislature.

I protest against this perversion, and I urge upon my countrymen a speedy return to the principles of the fathers.

We have heard much in the course of this debate about that clause of the constitution of Arizona which provides for the recall of judges. What has caused the agitation for the recall of judges which has resulted in a provision for that system in the constitution of a future State?

I can not believe that distrust of the individuals who sit upon the bench has caused it nearly so much as the judicial usurpation of legislative powers. The people of the country, like the people of the States, have frequent opportunities to pass judgment upon the men who are elected as Representatives. If they do not trust us, if they do not trust our fellow Representatives in the various States, it is an easy matter for them to show their displeasure at any of the frequent elections. The nature of the legislator's work puts him in close touch with the

thoughts and the hopes of his people, and it is his aim to write laws for their benefit and protection.

We have but this week witnessed a great public protest against an almost unanimous decision of the highest court in our land. We find that court, called upon to interpret an enactment of the Congress, construing a statute in a manner to cause a division within the court. The majority of the court has made a distinction between "reasonable" and "unreasonable" restraint of trade. The statute which they had under consideration makes no reference to reasonable or unreasonable restraint. The people, through their Representatives, considered that any combination in restraint of trade was illegal, and advisedly wrote the statute without any qualifying words. We find that numerous attempts to amend the statute by including the word "unreasonable" have repeatedly failed.

I call attention to one paragraph from the special message of the President of the United States to Congress, transmitted to the Senate January 7, 1910. I read from page 16:

Many people conducting great businesses have cherished a hope and a belief that in some way or other a line may be drawn between "good trusts" and "bad trusts," and that it is possible by amendment to the antitrust law to make a distinction under which good combinations may be permitted to organize, suppress competition, control prices, and do it all legally, if only they do not abuse the power by taking too great profit out of the business. They point with force to certain notorious trusts as having grown into power through criminal methods by the use of illegal rebates and plain cheating, and by various acts utterly violative of business honesty or morality, and urge the establishment of some legal line of separation by which "criminal trusts" of this kind can be punished, and they, on the other hand, be permitted under the law to carry on their business. Now, the public, and especially the business public, ought to rid themselves of the idea that such a distinction is practicable or can be introduced into the statute. Certainly under the present antitrust law no such distinction exists. It has been proposed, however, that the word "reasonable" should be made a part of the statute, and then that it should be left to the court to say what is a reasonable restraint of trade, what is a reasonable suppression of competition, what is a reasonable monopoly. I venture to think that this is to put into the hands of the court a power impossible to exercise on any consistent principle which will insure the uniformity of decision essential to just judgment. It is to thrust upon the courts a burden that they have no precedents to enable them to carry, and to give them a power approaching the arbitrary, the abuse of which might involve our whole judicial system in disaster.

I shall not attempt to discuss the legal aspect of this situation, as my entire purpose has been merely to call attention to certain political tendencies. I rejoice, however, that we have one member of the court who stood alone and opposed to the rest of his fellows in the assertion that the judiciary should not attempt to legislate, but only to decide what the Legislature had enacted.

I quote from an article in the Philadelphia North American of May 18, 1911 (p. 13):

Justification of the decision, so strongly attempted by the court itself and supplemented by efforts of tory newspapers and great corporation interests, is made more difficult, in the opinion of the progressives in Congress, by an examination of the records of the court itself.

Effort has been made to create the impression that the court heretofore had been called upon to decide only specific violations of the law and had never before considered the law in its entirety with regard to its effect in general application to the business of the country. In other words, that the court had never before been called upon to apply the rule of reason to the operation of the law and to decide what are and what are not unreasonable restraints of trade. The records, however, show that in nearly every case which has been brought before the court the lawyers for the defense—that is, for the violators of the antitrust act—have sought to invoke the rule of reasonableness, and as Justice Harlan had declared in his great dissenting opinion, the court had heretofore invariably declined to read "reasonable" into the statute.

SUPPORT FOR JUSTICE HARLAN.

A notable instance of this is found in the trans-Missouri case, argued and decided before any of the present members of the court, except Justice Harlan and Chief Justice White, were even thought of as Supreme Court possibilities. Here it is found that the brief of Judson Harmon, then Attorney General of the United States, contains page after page of strong argument against the contention of the combined railroads that the reasonableness of their agreement must be considered. They based their contention upon the construction which had been given the common law as it relates to restraints of trade.

Judson Harmon, for the Government, contends that there could be no reference to the common law in connection with so specific a statute as the antitrust law. He said:

"It is incredible that Congress, dealing in obedience to the popular demand for relief from a great and growing evil which affected the entire people, intended to qualify the relief it granted by leaving its enforcement to depend on the varying views of other tribunals as to public policy. No such intention is expressed, nor is there the slightest ground for implying it. On the contrary, Congress declared in no uncertain terms the public policy with respect to the trade and commerce committed to its care and control, instead of leaving it to be discovered or pieced out from the multitude of conflicting decisions, of which the briefs afford abundant examples."

The significance of this argument is due to the fact that the court sustained it absolutely; refused to go to the common law for an interpretation of the statute, and declined to consider the reasonableness of the railroad combination at the request of the railroad attorneys. The records of the court are as unvarying as those of the Congress in showing absolute refusal to consider the statute, except as it was written, until the decision of Monday.

I believe that the people of this land will not long continue to permit the practice of interference with their will, as reflected by the legislature. I do not believe that an Executive will ever again be permitted to use his great office to influence the honest judgment of men in the legislative branch of the Government.

I look upon this feature of the constitution for the recall of judges as an indication that the people are ready to protest against interference with their representatives, whether that interference may come from a declaiming Executive or a dignified judiciary. [Applause.]

Mr. FLOOD of Virginia. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. GARRETT, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration joint resolution 14, relative to the admission of New Mexico and Arizona, and had come to no resolution thereon.

WITHDRAWAL OF PAPERS.

Mr. HOUSTON, by unanimous consent, obtained leave to withdraw from the files of the House papers filed in support of H. R. 6760, Sixty-first Congress, no adverse report having been made thereon.

HOUR OF MEETING.

Mr. FLOOD of Virgina. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock Monday next.

The SPEAKER. The gentleman from Virginia asks unanimous consent that when the House adjourns to-day it adjourn to meet at 11 o'clock on Monday next. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

ADJOURNMENT.

Mr. FLOOD of Virginia. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 28 minutes p. m.) the House adjourned until 11 o'clock a. m., Monday, May 22, 1911.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 648) for the relief of the city of Quincy, the towns of Weymouth and Hingham, and the Old Colony Street Railway Co., all of Massachusetts; Committee on Claims discharged, and referred to the Committee on Interstate and Foreign Commerce.

A bill (H. R. 3776) granting an increase of pension to Mary Gorman; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. JOHNSON of Kentucky (by request of the Attorney General of the United States): A bill (H. R. 10166) to provide for an addition to the courthouse in the District of Columbia for the accommodation of the juvenile court and the municipal court of the said District; to the Committee on Public Buildings and Grounds.

By Mr. DYER: A bill (H. R. 10167) granting a pension to widows of honorably discharged volunteer soldiers of the Army of the United States; to the Committee on Invalid Pensions.

By Mr. UTTER: A bill (H. R. 10168) to establish a fish-cultural station in the State of Rhode Island; to the Committee on the Merchant Marine and Fisheries.

By Mr. CLAYTON: A bill (H. R. 10169) to provide for holding the district court of the United States for Porto Rico during the absence from the island of the United States district judge, and for the trial of cases in the event of the disqualification of or inability to act by the said judge; to the Committee on the Judiciary.

Also, a bill (H. R. 10170) to amend an act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes"; to the Committee on Ways and Means.

By Mr. J. M. C. SMITH: A bill (H. R. 10171) to provide for the erection of a public building at Charlotte, in the State of Michigan; to the Committee on Public Buildings and Grounds.

By Mr. ROTHERMEL: Resolution (H. Res. 174) to authorize the Committee on the District of Columbia to investigate the affairs of the Washington Gas Light Co.; to the Committee on Rules.

By Mr. AUSTIN: Joint resolution (H. J. Res. 103) to amend an act entitled "An act to enable any State to cooperate with any other State or States or with the United States for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers," approved March 1, 1911; to the Committee on Agriculture.

By Mr. SLOAN: Joint resolution (H. J. Res. 104) for appointment of a member of the Board of Managers of the National Home for Disabled Volunteer Soldiers; to the Committee on Military Affairs.

By Mr. LOBECK: Joint resolution (H. J. Res. 105) for appointment of a member of the Board of Managers of the National Home for Disabled Volunteer Soldiers; to the Committee on Military Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of Ohio: A bill (H R. 10172) granting an increase of pension to Joseph Roseberry; to the Committee on Invalid Pensions.

By Mr. AUSTIN: A bill (H. R. 10173) granting a pension to Nancy A. Bumgardner; to the Committee on Invalid Pensions.

By Mr. BORLAND: A bill (H. R. 10174) granting an increase of pension to Nathan Goodman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10175) granting an increase of pension to Charles A. Peironnet; to the Committee on Invalid Pensions.

By Mr. DAVIS of West Virginia: A bill (H. R. 10176) for the relief of S. C. Gist; to the Committee on Claims.

By Mr. DYER: A bill (H. R. 10177) for the relief of John Dieter; to the Committee on War Claims.

Also, a bill (H. R. 10178) for the relief of Camille Noel Dry; to the Committee on Military Affairs.

Also, a bill (H. R. 10179) for the relief of James Clarkson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10180) for the relief of James Bartlett; to the Committee on Military Affairs.

Also, a bill (H. R. 10181) for the relief of Capt. George W. Murray; to the Committee on Claims.

Also, a bill (H. R. 10182) for the relief of Isaac W. Harding; to the Committee on Military Affairs.

Also, a bill (H. R. 10183) for the relief of Thomas S. McKee; to the Committee on Military Affairs.

Also, a bill (H. R. 10184) for the relief of John H. Rheinlander; to the Committee on Claims.

Also, a bill (H. R. 10185) granting a pension to Mary A. Laurient; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10186) granting a pension to Anna Buhrman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10187) granting a pension to Clarinda Pike; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10188) granting a pension to Emilie S. Buder; to the Committee on Pensions.

Also, a bill (H. R. 10189) granting a pension to Cordelia Sullivan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10190) granting a pension to William Tepe, jr.; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10191) granting a pension to Mary Gonter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10192) granting a pension to Caroline Watson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10193) granting a pension to Paul Heineman; to the Committee on Pensions.

Also, a bill (H. R. 10194) granting a pension to Helen Mathews; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10195) granting an increase of pension to C. L. Stevenson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10196) granting an increase of pension to Charles H. Frank; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10197) granting an increase of pension to Martin Schubert; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10198) granting an increase of pension to John Fritz; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10199) granting an increase of pension to Thomas J. Connor; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10200) granting an increase of pension to Lawrence Ring; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10201) granting an increase of pension to Margaret M. Stone; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10202) granting an increase of pension to Charles Bieger; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10203) granting an increase of pension to Louisa Jones; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10204) granting an increase of pension to Oscar Messick; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10205) granting an increase of pension to John F. Nixon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10206) granting an increase of pension to Mary A. McDonough; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10207) granting an increase of pension to James M. Patterson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10208) granting an increase of pension to James M. Thomas; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10209) granting an increase of pension to Adam Zimmerman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10210) granting an increase of pension to Oscar Messick; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10211) granting an increase of pension to Julius Bonger; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10212) granting an increase of pension to Harvey S. Page; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10213) granting an increase of pension to David F. Fox; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10214) granting an increase of pension to Andrew Houlihan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10215) granting an increase of pension to Charles H. Frank; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10216) granting an increase of pension to Mary Westerfield; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10217) to correct the military record of Patrick J. Carmody; to the Committee on Military Affairs.

Also, a bill (H. R. 10218) correcting the hospital record of Edward J. Wehrle; to the Committee on Military Affairs.

By Mr. FLOYD of Arkansas: A bill (H. R. 10219) for the relief of William H. Engles; to the Committee on War Claims.

Also, a bill (H. R. 10220) for the relief of G. A. Jenkins, L. A. Jenkins, J. T. Jenkins, Mrs. S. M. Horton, Clay Jenkins, and Floyd Jenkins, sole heirs at law of W. D. Jenkins, deceased; to the Committee on War Claims.

Also, a bill (H. R. 10221) granting an increase of pension to William H. Cleveland; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10222) granting an increase of pension to Franklin D. Milum; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10223) to correct the military record of and grant to John B. Curtis an honorable discharge; to the Committee on Military Affairs.

Also, a bill (H. R. 10224) to correct the military record of William Green Mhoon; to the Committee on Military Affairs.

Also, a bill (H. R. 10225) to carry out the findings of the Court of Claims in the case of Samuel B. Derreberry; to the Committee on War Claims.

Also, a bill (H. R. 10226) to carry into effect the findings of the Court of Claims in the matter of the claim of the Cumberland Presbyterian Church of Mount Comfort, Ark.; to the Committee on War Claims.

Also, a bill (H. R. 10227) to carry into effect the findings of the Court of Claims in the case of Isaiah L. Blair, administrator of the estate of John N. Curtis, deceased; to the Committee on War Claims.

Also, a bill (H. R. 10228) to carry into effect the findings of the Court of Claims in the case of Isaiah L. Blair, administrator of the estate of John N. Curtis, deceased; to the Committee on War Claims.

By Mr. FRENCH: A bill (H. R. 10229) granting an increase of pension to Peter Diehl; to the Committee on Invalid Pensions.

By Mr. GUDGER: A bill (H. R. 10230) for the relief of J. C. Murray; to the Committee on Claims.

Also, a bill (H. R. 10231) granting a pension to Robert E. Taber; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10232) granting a pension to Wilson Rice; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10233) granting a pension to Thomas L. Holland; to the Committee on Pensions.

Also, a bill (H. R. 10234) granting a pension to Claude E. Bennette; to the Committee on Pensions.

Also, a bill (H. R. 10235) granting a pension to Robert Garrett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10236) granting a pension to Thomas E. Carter; to the Committee on Pensions.

Also, a bill (H. R. 10237) granting an increase of pension to Wiley S. Roberts; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10238) granting an increase of pension to Michael J. Swope; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10239) granting an increase of pension to Henry Brown; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10240) granting an increase of pension to Susan M. Chandler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10241) granting an increase of pension to Josephine Wolfe; to the Committee on Pensions.

Also, a bill (H. R. 10242) to correct the military record of Levi Jones; to the Committee on Military Affairs.

Also, a bill (H. R. 10243) to complete the military record of Benjamin F. Buckner and Ninevah T. Buckner; to the Committee on Military Affairs.

By Mr. HANNA: A bill (H. R. 10244) for the relief of James W. Foley; to the Committee on Military Affairs.

Also, a bill (H. R. 10245) for the relief of Robert Kee, alias Robert Adams; to the Committee on Military Affairs.

Also, a bill (H. R. 10246) granting an increase of pension to John Egan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10247) granting an increase of pension to John C. Creighton, alias Charles Chesterwood; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10248) granting an increase of pension to Catherine Frederick; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10249) granting an increase of pension to William Fluegel; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10250) granting an increase of pension to Lars B. Foss; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10251) granting an increase of pension to Louis Freeman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10252) granting an increase of pension to Charlotte A. Hewett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10253) granting an increase of pension to John B. Holden; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10254) granting an increase of pension to Steen Hanson, jr.; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10255) granting an increase of pension to James Kenyon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10256) granting an increase of pension to John Mooney; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10257) granting an increase of pension to Martin Miller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10258) granting an increase of pension to William H. Mowder; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10259) granting an increase of pension to Thomas Parsley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10260) granting an increase of pension to Eli Prescott; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10261) granting an increase of pension to Charles Henry Palmer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10262) granting an increase of pension to John L. Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10263) granting an increase of pension to Chadbourne Salie; to the Committee on Pensions.

Also, a bill (H. R. 10264) granting an increase of pension to William Stevens; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10265) granting an increase of pension to Gordon H. Shepard; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10266) granting an increase of pension to James A. Thompson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10267) granting an increase of pension to John Torbenson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10268) granting an increase of pension to Alma J. Van Winkle; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10269) granting an increase of pension to Jasper N. Wonser; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10270) granting an increase of pension to Gilman W. Whitcomb; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10271) granting an increase of pension to Frank W. Wade; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10272) granting an increase of pension to G. M. Banfill; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10273) granting an increase of pension to John W. Bennett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10274) granting an increase of pension to William Bossingham; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10275) granting an increase of pension to Thomas G. Anderson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10276) granting an increase of pension to Douglas R. Case; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10277) granting an increase of pension to Edwin A. Pierce; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10278) granting an increase of pension to George W. Strong; to the Committee on Invalid Pensions.

By Mr. HARTMAN: A bill (H. R. 10279) granting a pension to Elizabeth Shaffer; to the Committee on Pensions.

Also, a bill (H. R. 10280) granting an increase of pension to Hiram Osman; to the Committee on Invalid Pensions.

By Mr. HELM: A bill (H. R. 10281) granting an increase of pension to Martha Gaines; to the Committee on Pensions.

By Mr. HINDS: A bill (H. R. 10282) granting an increase of pension to Alpheus L. Winchester; to the Committee on Invalid Pensions.

By Mr. KIPP: A bill (H. R. 10283) granting an increase of pension to Joseph A. Buckland; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10284) granting an increase of pension to William H. Crane; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10285) granting a pension to Susan C. Carey; to the Committee on Invalid Pensions.

By Mr. KORBLY: A bill (H. R. 10286) granting an increase of pension to Mahala E. Warmoth; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10287) granting an increase of pension to John W. Thompson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10288) granting an increase of pension to Nixon Thomas; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10289) granting an increase of pension to Samuel Tibbets; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10290) granting an increase of pension to William A. Teetor; to the Committee on Pensions.

Also, a bill (H. R. 10291) granting an increase of pension to Stephen Sutton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10292) granting an increase of pension to Joseph B. Stimson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10293) granting an increase of pension to Andrew J. Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10294) granting an increase of pension to Jacob S. Shoeman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10295) granting an increase of pension to Henrietta H. Sheets; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10296) granting an increase of pension to Francis M. Sanford; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10297) granting an increase of pension to Noah Russell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10298) granting an increase of pension to Addison Rogers; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10299) granting an increase of pension to George W. Riggs; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10300) granting an increase of pension to Eli Reese; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10301) granting an increase of pension to Christian Redmier; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10302) granting an increase of pension to Patrick Quinlan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10303) granting an increase of pension to George H. Platt; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10304) granting an increase of pension to Sarah E. Orner; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10305) granting an increase of pension to Charles W. Nickum; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10306) granting an increase of pension to John W. Negley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10307) granting an increase of pension to Joshua M. Moore; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10308) granting an increase of pension to Richard Mitchell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10309) granting an increase of pension to Andrew V. Mitchell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10310) granting an increase of pension to John A. Miller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10311) granting an increase of pension to Adam D. Miller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10312) granting an increase of pension to James A. Mefford; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10313) granting an increase of pension to Jacob Mathias; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10314) granting an increase of pension to John Martindale; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10315) granting an increase of pension to Albert O. McNulty; to the Committee on Pensions.

Also, a bill (H. R. 10316) granting an increase of pension to Joseph B. McKee; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10317) granting an increase of pension to George S. Kendall; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10318) granting an increase of pension to John Jones; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10319) granting an increase of pension to Samuel Hicks; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10320) granting an increase of pension to Alfred Hammell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10321) granting an increase of pension to Ellison Gatewood; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10322) granting an increase of pension to Adolph Frey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10323) granting an increase of pension to William B. Elliott; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10324) granting an increase of pension to Leavitt Burr Elder; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10325) granting an increase of pension to Benjamin F. Doremus; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10326) granting an increase of pension to Solomon Cleet; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10327) granting an increase of pension to Martin Brady; to the Committee on Pensions.

Also, a bill (H. R. 10328) granting an increase of pension to David F. Boyer; to the Committee on Pensions.

Also, a bill (H. R. 10329) granting an increase of pension to John A. Blackwell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10330) granting an increase of pension to John P. Angleberger; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10331) granting an increase of pension to William Amos; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10332) granting an increase of pension to Lewis S. Barge; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10333) granting an increase of pension to Origan Snider; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10334) granting an increase of pension to Amos Williams; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10335) granting an increase of pension to Francis M. Delks; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10336) granting an increase of pension to George W. Allen; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10337) granting an increase of pension to Josiah Dom; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10338) granting an increase of pension to Jesse M. Stilwell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10339) granting an increase of pension to Benjamin F. Niceley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10340) granting an increase of pension to Horatio S. Garner; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10341) granting an increase of pension to William James; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10342) granting an increase of pension to James C. Holmes; to the Committee on Pensions.

Also, a bill (H. R. 10343) granting a pension to Elizabeth J. Prentice; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10344) granting a pension to Jennie Stubbs; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10345) granting a pension to Edward West; to the Committee on Pensions.

Also, a bill (H. R. 10346) granting a pension to Hugh L. Fitzpatrick; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10347) granting a pension to Wilson Zurmehly; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10348) granting a pension to Elizabeth Weber; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10349) granting a pension to Lydia A. Swift; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10350) granting a pension to James Runyan; to the Committee on Pensions.

Also, a bill (H. R. 10351) granting a pension to John Paul; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10352) granting a pension to Mattie M. McGee; to the Committee on Pensions.

Also, a bill (H. R. 10353) granting a pension to John McClintic; to the Committee on Pensions.

Also, a bill (H. R. 10354) granting a pension to Andrew R. Lewis; to the Committee on Pensions.

Also, a bill (H. R. 10355) granting a pension to George Law; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10356) granting a pension to Catherine Klingelsmith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10357) granting a pension to Mary S. King; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10358) granting a pension to Virginia John; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10359) granting a pension to James W. Huston; to the Committee on Pensions.

Also, a bill (H. R. 10360) granting a pension to Jacob W. Horner; to the Committee on Pensions.

Also, a bill (H. R. 10361) granting a pension to Elizabeth Holzworth; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10362) granting a pension to Clement M. Holderman; to the Committee on Pensions.

Also, a bill (H. R. 10363) granting a pension to Alice Henry; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10364) granting a pension to Aylmer E. Hendryx; to the Committee on Pensions.

Also, a bill (H. R. 10365) granting a pension to Joseph M. Heller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10366) granting a pension to Edward Hannan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10367) granting a pension to Timothy C. Faries; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10368) granting a pension to Elizabeth A. Buckler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10369) granting a pension to Thomas Bristow; to the Committee on Pensions.

Also, a bill (H. R. 10370) granting a pension to Marilla Barnes; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10371) granting a pension to Fannie G. Arnold; to the Committee on Invalid Pensions.

By Mr. MADISON: A bill (H. R. 10372) granting an increase of pension to Laban H. Johnson; to the Committee on Invalid Pensions.

By Mr. McHENRY: A bill (H. R. 10373) granting an increase of pension to Joseph D. Fulmer; to the Committee on Invalid Pensions.

By Mr. McKINNEY: A bill (H. R. 10374) granting an increase of pension to Oscar F. Prescott; to the Committee on Invalid Pensions.

By Mr. MALBY: A bill (H. R. 10375) for the relief of Charles Snow; to the Committee on Military Affairs.

Also, a bill (H. R. 10376) for the relief of Maxim Lizette; to the Committee on Military Affairs.

Also, a bill (H. R. 10377) for the relief of Thomas Debuke; to the Committee on Military Affairs.

Also, a bill (H. R. 10378) for the relief of Russell Tripp; to the Committee on Military Affairs.

Also, a bill (H. R. 10379) for the relief of George Pray; to the Committee on Military Affairs.

Also, a bill (H. R. 10380) for the relief of Daniel O'Brien; to the Committee on Military Affairs.

Also, a bill (H. R. 10381) for the relief of Stephen Charter; to the Committee on Military Affairs.

Also, a bill (H. R. 10382) granting a pension to Zoa Boshaine; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10383) granting a pension to Andrew H. Seaver; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10384) granting a pension to Orpha A. Coonley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10385) granting a pension to George W. Flack; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10386) granting a pension to John Bresett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10387) granting a pension to Mary G. Hoffnagle; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10388) granting a pension to Martha E. Snell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10389) granting a pension to Joseph H. Mayo; to the Committee on Pensions.

Also, a bill (H. R. 10390) granting an increase of pension to William A. Nichols; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10391) granting an increase of pension to Lyman E. Bowron; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10392) granting an increase of pension to Paul Carter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10393) granting an increase of pension to Patrick O'Connor; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10394) granting an increase of pension to Levi N. Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10395) granting an increase of pension to Leonard A. Wilson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10396) granting an increase of pension to Fred H. Cramer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10397) granting an increase of pension to William Keenan; to the Committee on Invalid Pensions.

By Mr. ROTHERMEL: A bill (H. R. 10398) granting a pension to Thomas I. Miner; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10399) granting an increase of pension to Benneville Christman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10400) granting an increase of pension to James Glasser; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10401) granting an increase of pension to John A. Ott; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10402) for the relief of the Agricultural and Horticultural Association of Berks County, Pa.; to the Committee on War Claims.

By Mr. RUSSELL: A bill (H. R. 10403) granting an increase of pension to Calvin D. Weatherman; to the Committee on Invalid Pensions.

By Mr. J. M. C. SMITH: A bill (H. R. 10404) granting a pension to Jennie Millspaugh; to the Committee on Pensions.

Also, a bill (H. R. 10405) granting an increase of pension to George W. Baker; to the Committee on Invalid Pensions.

By Mr. THAYER: A bill (H. R. 10406) for the relief of Christopher Colvin; to the Committee on Claims.

Also, a bill (H. R. 10407) granting a pension to Flora E. De Coff; to the Committee on Pensions.

Also, a bill (H. R. 10408) granting an increase of pension to Charles O. Lombard; to the Committee on Invalid Pensions.

By Mr. TOWNER: A bill (H. R. 10409) granting a pension to Lavina Osborn; to the Committee on Invalid Pensions.

By Mr. UTTER: A bill (H. R. 10410) granting a pension to Caroline H. Hill; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10411) granting an increase of pension to Ellen M. Cutler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10412) granting an increase of pension to Ann J. Adams; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10413) granting an increase of pension to Ella F. Bussey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10414) granting an increase of pension to Harriet E. Erwin; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10415) granting an increase of pension to Josephine Taylor; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10416) granting an increase of pension to Ellen Albro; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10417) granting an increase of pension to Martha W. Sanborn; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10418) granting an increase of pension to Filindy Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10419) granting an increase of pension to Bethia A. Gay; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10420) granting an increase of pension to Mary M. Geer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10421) granting an increase of pension to Margaret Wiley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10422) granting an increase of pension to Mary E. Arnold; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10423) granting an increase of pension to Hannah E. Crowell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10424) granting an increase of pension to Catherine Fairbanks; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10425) granting an increase of pension to Mary A. Riley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10426) granting an increase of pension to Helen Senior; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10427) granting an increase of pension to George Easterbrooks; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10428) granting an increase of pension to Eliza J. Maine; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10429) granting an increase of pension to Charles H. Chase; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10430) granting an increase of pension to Sarah A. Nickerson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10431) granting an increase of pension to Isaac Barnum; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10432) granting an increase of pension to Mary A. Brown; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10433) granting an increase of pension to Amelia S. Smith; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10434) granting an increase of pension to Jubal Blount; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10435) granting an increase of pension to Catherine Moan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10436) granting an increase of pension to Ann L. Waterman; to the Committee on Invalid Pensions.

By Mr. WEDEMEYER: A bill (H. R. 10437) granting a pension to George Messler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10438) granting an increase of pension to Emory Randall; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10439) granting an increase of pension to Edwin S. Butts; to the Committee on Invalid Pensions.

By Mr. YOUNG of Kansas: A bill (H. R. 10440) granting a pension to Frances A. Beard; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ANSBERRY: Resolutions of the Travelers' Protective Association, of Cincinnati, Ohio, in favor of the repeal of the bankruptcy law; to the Committee on the Judiciary.

Also, resolutions of the Travelers' Protective Association, of Cincinnati, Ohio, against parcels post; to the Committee on the Post Office and Post Roads.

By Mr. ASHBROOK: Resolutions adopted by the Travelers' Protective Association of the State of Ohio, asking for a repeal of the present bankruptcy laws; to the Committee on the Judiciary.

Also, resolutions adopted by the Travelers' Protective Association of the State of Ohio, at Cincinnati, Ohio, in opposition to the parcels post; to the Committee on the Post Office and Post Roads.

By Mr. AYRES: Petition of residents of the Bronx, New York City, in favor of a parcels post; to the Committee on the Post Office and Post Roads.

By Mr. BYRNES of South Carolina: Petition of sundry citizens of the State of South Carolina, asking for reduction in duty on raw and refined sugars; to the Committee on Ways and Means.

By Mr. CALDER: Papers to accompany House bill 7083, to remove the charge of desertion from the naval record of Herbert W. George; to the Committee on Naval Affairs.

By Mr. CANNON: Joint resolution of the General Assembly of Illinois, making application to Congress for the calling of a constitutional convention to propose an amendment to the Constitution of the United States granting the Congress of the United States the power to prevent and suppress monopolies by appropriate legislation; to the Committee on the Judiciary.

By Mr. CARY: Communication from Banner Coffee Co., of Milwaukee, Wis., protesting against the establishment of a parcels post; to the Committee on the Post Office and Post Roads.

By Mr. CRAVENS: Petitions of citizens of Fort Smith, Ark., asking for reduction of duty on raw and refined sugar; to the Committee on Ways and Means.

By Mr. FINLEY: Petitions of A. D. Dorsett and sundry other persons of the State of South Carolina, praying for a reduction in the duty on raw and refined sugars; to the Committee on Ways and Means.

By Mr. FLOYD of Arkansas: Petitions of citizens and business firms of Mountain Home, Ark., asking for a reduction of duties on raw and refined sugars; to the Committee on Ways and Means.

By Mr. FRENCH: Petitions of citizens of Laclede, Idaho, asking for removal of duty on sugar; to the Committee on Ways and Means.

By Mr. HINDS: Memorial of Novell & Libby, of Sanford, Me., praying for a reduction of the duty on raw and refined sugars; to the Committee on Ways and Means.

By Mr. McKINNEY: Resolutions adopted by the Moline (Ill.) Branch of Socialists, relating to the McNamara case; to the Committee on Rules.

By Mr. O'SHAUNESSY: Petition of Providence Retail Druggists' Association, against House bill 8887, a tax on proprietary medicines, in that said tax does not and can not fall upon either the maker or the consumer, but upon the retail druggist, who will be compelled to bear the entire burden thereof; to the Committee on Ways and Means.

By Mr. PRAY: Petition of Miners' Union No. 1, Western Federation of Miners, of Butte, Mont., in favor of appointment of joint committee of investigation under resolutions introduced by Representative BERGER, of Wisconsin; to the Committee on Labor.

By Mr. PRINCE: Petition of J. W. Ogden and 100 other citizens, asking for relief of C. W. Bowden, rural free-delivery carrier, of Herman, Knox County, Ill.; to the Committee on Claims.

By Mr. J. M. C. SMITH: Papers in re increase of pension to George W. Baker; to the Committee on Invalid Pensions.

By Mr. STEPHENS of Texas: Petition from various citizens of Bowie, Tex., relative to the tariff on sugar; to the Committee on Ways and Means.

Also, petitions of citizens of Silverton, Tex., relative to the tariff on sugar; to the Committee on Ways and Means.

By Mr. UTTER: Papers to accompany bill (H. R. 8598) granting an increase of pension to Samuel E. Reynolds; to the Committee on Invalid Pensions.

Also, paper to accompany bill granting an increase of pension to Ann L. Waterman; to the Committee on Invalid Pensions.

Also, papers to accompany bill granting an increase of pension to George Easterbrooks; to the Committee on Invalid Pensions.

Also, papers to accompany bill granting an increase of pension to Sarah A. Mickerson; to the Committee on Invalid Pensions.

Also, papers to accompany bill granting an increase of pension to Catherine Moan; to the Committee on Invalid Pensions.

By Mr. WEDEMEYER: Papers to accompany bill granting an increase of pension to Edwin S. Butts; to the Committee on Invalid Pensions.

Also, papers to accompany bill granting a pension to George Messler, son of John Messler; to the Committee on Invalid Pensions.

Also, papers to accompany bill granting an increase of pension to Emory Randall; to the Committee on Invalid Pensions.