SENATE.

MONDAY, *May 22, 1911.*

The Senate met at 2 o'clock p. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of the proceedings of Thursday last was read and approved.

CASS GILBERT.

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, recommending the insertion in the general deficiency appropriation bill of an item authorizing the payment of $3,434.92 for certain architectural services rendered by Mr. Cass Gilbert in connection with the furnishing of the new customhouse at New York City, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed. (S. Doc. No. 35.)

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a petition of the International Railway Fuel Association, praying for the enactment of legislation to create a national arbitration tribunal and to define the duties and powers thereof, which was referred to the Committee on Foreign Relations.

He also presented petitions of the Mount Zion Sunday School, of Luray, Va.; of the congregation of the Maple Spring Church, of Preston County, W. Va.; of the Cedar Run Sunday School of the Church of the Brethren of Virginia; of the congregation of the Church of the Brethren of Carrington, N. Dak.; and of the congregation of the Church of the Brethren of Peace Valley, Mo., praying for the enactment of legislation for the suppression of the opium evil, which were referred to the Committee on Foreign Relations.

Mr. GALLINGER presented memorials of Local Union No. 51, International Brotherhood of Stationary Firemen, of Berlin; of Leon E. Stone, of Swanzey; and of John T. Hall, of Lebanon, all in the State of New Hampshire, remonstrating against the reciprocal trade agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented a petition of the North Capitol & Eckington Citizens' Association, of the District of Columbia, praying for the establishment of an inebriate hospital in the District of Columbia, which was referred to the Committee on the District of Columbia.

He also presented a petition of the Religious Society of Friends in America, praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

Mr. CULLOM presented a petition of the General Assembly of the State of Illinois, praying for the adoption of an amendment to the Constitution of the United States to prevent and suppress monopolies, which was referred o the Committee on the Judiciary.

Mr. LODGE. I present resolutions adopted by Joint Council No. 1, Boot and Shoe Workers' Union, representing 13,000 boot and shoe workers of Brockton, Mass., remonstrating against any reduction of the duty on boots and shoes. I ask that the resolutions be printed in the RECORD and referred to the Committee on Finance.

There being no objection, the resolutions were referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

Whereas statistics emanating from the Department of Commerce and Labor bear witness to the fact that since the tariff on shoes was reduced from 25 per cent to 10 per cent a rapid increase in imports of boots and shoes has occurred; and

Whereas the bill now under consideration by the National Congress and known as House of Representatives No. 4413 proposes to remove all duty from such imports: Therefore be it

Resolved, That Joint Shoe Council No. 1 of the Boot and Shoe Workers' Union, representing 13,000 shoe workers of Brockton, Mass., expresses its opposition to the proposed legislation, believing such action would prove detrimental to their interests; and be it further

Resolved, That we believe conditions in the shoe trade of the United States where unlimited and untrammeled competition exists are such that no possible benefit could be conferred on any portion of the country by the admission of boots and shoes free of duty; therefore be it

Resolved, That we urge upon Congress the necessity of retaining not only the present tariff on boots and shoes, but to consider the advisability of an increase in the same, to the end that the home market will be conserved for the product of American workmen.

Mr. JONES presented a petition of sundry citizens of Quiniault, Wash., praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

Mr. BURNHAM presented memorials of Local Union No. 51, International Brotherhood of Stationary Firemen, of Berlin; of B. F. Williams, of Grafton Center; of E. J. Bullard, of Swanzey; and of C. E. Gunn, of Swanzey, all in the State of New Hampshire, remonstrating against the reciprocal trade agreement between the United States and Canada, which were referred to the Committee on Finance.

He also presented a memorial of Local Division No. 2, Ancient Order of Hibernians, of Rochester, N. H., remonstrating against the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

Mr. PERKINS presented a petition of the Chamber of Commerce of Stockton, Cal., praying that the sloop of war *Portsmouth* be transferred to San Francisco Harbor, which was referred to the Committee on Naval Affairs.

He also presented memorials of sundry manufacturers of San Francisco and Oakland, in the State of California, remonstrating against any reduction in the duty on alimentary pastes, which were referred to the Committee on Finance.

He also presented a petition of the Chamber of Commerce of San Francisco, Cal., praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

Mr. TOWNSEND presented petitions of sundry volunteer officers of the Civil War of Plymouth, Detroit, and Centerville, in the State of Michigan; of Kansas City, Mo.; of Auburn, Kans.; of New York City and Saratoga Springs, N. Y.; of Ocean Springs, Miss.; and of Danville, Ill., praying for the enactment of legislation to place certain volunteer officers of the Civil War on the retired list, which were referred to the Committee on Military Affairs.

Mr. SHIVELY presented a memorial of Local Division No. 2, Ancient Order of Hibernians, of Jasonville, Ind., remonstrating against the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

He also presented a petition of the Indianapolis Fancy Grocery Co., of Indianapolis, Ind., praying for a reduction of the duty on raw and refined sugar, which was referred to the Committee on Finance.

Mr. ROOT presented a memorial of the congregation of the Seventh Day Baptist Church of Adams Center, N. Y., remonstrating against the observance of Sunday as a day of rest in the District of Columbia, which was referred to the Committee on the District of Columbia.

Mr. BROWN presented a petition of the Commercial Club of Omaha, Nebr., praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

He also presented a petition of the Commercial Club of Omaha, Nebr., praying for the adoption of a certain amendment to the corporation-tax law, which was referred to the Committee on Finance.

Mr. WETMORE presented a memorial of the Retail Druggists' Association, of Providence, R. I., remonstrating against the imposition of a stamp tax on proprietary medicines, which was referred to the Committee on Finance.

He also presented a petition of the Woman's Alliance of the First Congregational Church of Providence, R. I., and a petition of the First Methodist Episcopal Church, of Newport, R. I., praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which were referred to the Committee on Foreign Relations.

Mr. BOURNE presented a petition of sundry citizens of Oregon, praying for the enactment of legislation to prohibit the interstate transportation of intoxicating liquors into prohibition districts, which was referred to the Committee on the Judiciary.

PROMOTION OF AGRICULTURAL EDUCATION.

Mr. OVERMAN. I present a letter from H. Q. Alexander, president of the North Carolina division of the Farmers' Educational Cooperative Union of America, approving the bill to promote the cause of agricultural education in States. I ask that the letter be printed in the RECORD and referred to the Committee on Agriculture and Forestry.

There being no objection, the letter was referred to the Committee on Agriculture and Forestry and ordered to be printed in the RECORD, as follows:

NORTH CAROLINA DIVISION,
Matthews, N. C., May 20, 1911.

Hon. LEE S. OVERMAN,
Washington, D. C.

DEAR SENATOR: I want to say that I most heartily approve your bill for promoting the cause of agricultural education in States that will appropriate an equal amount. This bill is progressive and constructive.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

It goes directly to the fountain head of all real and permanent wealth of the Nation—its citizenship. With an intelligent, efficient, and productive citizenship, our growth and development would have far outstripped our present achievements, great as they have been. If half of the money which has been expended since the Civil War on the Army and Navy alone had been used in educating our people in the productive sciences and arts and in building post roads, as required by the Constitution, our growth and power in wealth and population would have been 50 years in advance of present conditions. Our Government has nurtured and protected the dollar, but has ignored the man who produced the dollar primarily. Had we pursued the policy of education, efficiency, and prosperity of the great producing masses of our citizenship, we would not now be menaced with the high cost of living and have to turn our hungry faces to another country for food products.

I do hope you will succeed in pushing your bill through Congress. If we had fewer politicians and more statesmen in Congress, you would have no difficulty in passing the bill.

With kind regards, I am,

Yours, fraternally, H. Q. ALEXANDER.

REPORTS OF COMMITTEE ON THE DISTRICT OF COLUMBIA.

Mr. GALLINGER, from the Committee on the District of Columbia, to which was referred the bill (S. 307) to change the name of Fort Place, from Seventeenth to Eighteenth Streets NE., to Irving Street, reported it without amendment and submitted a report (No. 32) thereon.

He also, from the same committee, to which was referred the bill (S. 851) to change the name of Fort Place, from Seventeenth to Eighteenth Streets NE., to Irving Street, submitted an adverse report (No. 30) thereon, which was agreed to, and the bill was postponed indefinitely.

Mr. JOHNSTON of Alabama, from the Committee on the District of Columbia, to which was referred the bill (S. 237) for the proper observance of Sunday as a day of rest in the District of Columbia, reported it without amendment and submitted a report (No. 33) thereon.

Mr. DILLINGHAM, from the Committee on the District of Columbia, to which was referred the bill (S. 274) providing for the removal of snow and ice from the paved sidewalks of the District of Columbia, reported it without amendment and submitted a report (No. 34) thereon.

NATIONAL CONTROL OVER ELECTION OF SENATORS.

Mr. SUTHERLAND. I present the views of the minority of the Committee on the Judiciary upon the joint resolution (H. J. Res. 39) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States. I ask that the report be printed, and that it also be printed in the RECORD.

The VICE PRESIDENT. The views of the minority will be printed under the rule, and without objection the order to print in the RECORD will be made as requested.

The views of the minority (S. Rept. No. 35), submitted by Mr. SUTHERLAND from the Committee on the Judiciary, are as follows:

NATIONAL CONTROL OVER ELECTION OF SENATORS.

VIEWS OF THE MINORITY OF THE SENATE COMMITTEE ON THE JUDICIARY ON HOUSE JOINT RESOLUTION 39, PROPOSING AN AMENDMENT TO THE CONSTITUTION PROVIDING THAT SENATORS SHALL BE ELECTED BY THE PEOPLE OF THE SEVERAL STATES.

The undersigned members of the Senate Committee on the Judiciary dissent from the action of the committee in reporting favorably House joint resolution No. 39 on the following grounds. The resolution as reported is as follows:

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That in lieu of the first paragraph of section 3 of Article I of the Constitution of the United States, and in lieu of so much of paragraph 2 of the same section as relates to the filling of vacancies, and in lieu of all of paragraph 1 of section 4 of said Article I, in so far as the same relates to any authority in Congress to make or alter regulations as to the times or manner of holding elections for Senators, the following be proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the States:

"The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branches of the State legislature.

"The times, places, and manner of holding elections for Senators shall be as prescribed in each State by the legislature thereof.

"When vacancies happen in the representation of any State in the Senate the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election, as the legislature may direct.

"This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution."

This contains two separate and distinct amendments to the Constitution. The first is an amendment to section 3 of Article I so as to provide for the direct election of Senators by the people. The second is an amendment of section 4 of Article I so as to destroy the power which the National Government now has to regulate and direct the time and manner of electing Members of its own Senate.

The fourth section of the first article now reads as follows:

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

This provision requires the State legislatures, in the performance of a duty under the National Constitution, to regulate the times and manner of holding elections both for Senators and Representatives, and gives the National Congress power at any time by law to make or alter such regulations.

Under this provision it was clearly contemplated that the authority to prescribe the times, places, and manner of holding elections for Representatives and Senators should primarily vest in the State legislatures, but that the ultimate power to make or alter such regulations should forever remain in the hands of the Federal Government. It is manifest that the framers of the Constitution intended that this supervisory power on the part of Congress should exist independently of the way in which the Members of Congress should be elected. Representatives, under the Constitution, are now elected by the people; Senators are elected by the various legislatures, but in both instances the authority of Congress to regulate the election is preserved.

There would seem to be no doubt that if the Constitution had originally provided for the popular election of Senators as it did for the election of Representatives, provision would have been made for the supervisory control by Congress over such elections, just as it is now provided with respect to elections by the legislatures.

The resolution, as reported, leaves the duty of the State legislatures and the power of Congress the same, so far as Representatives are concerned; but, so far as Senators are concerned, it strikes out the words which empower the Congress at any time by law to make or alter the regulations, and it thus transfers from the National Congress to the State legislatures the power of control over the election of Senators, which the National Government now has and has had since the beginning of the Government, and which it has and will continue to have over the election of Representatives.

The resolution also makes another change in section 4, which will be important in determining the construction of the instrument and the nature of the powers to be exercised by the State legislatures. The present provision is a command to the State legislatures to prescribe the times, places, and manner of holding elections, subject to the ultimate authority of Congress. In performing that function the State legislatures are discharging a duty under the Constitution of the United States—acting by its authority. The proposed amendment inserts the word "as" before the word "prescribed," and makes the provision read: "The times, places, and manner of holding elections for Senators shall be *as* prescribed in each State by the legislature thereof." The command to the State legislatures is thus taken out of the Constitution, and the legislatures, in making such regulations as they see fit to make, will be performing no duty imposed upon them by the Constitution of the United States, but exercising, according to their own will and pleasure, an authority to which the Government of the United States will be subjected.

As to these proposed changes in section 4 of Article I, we consider—

First. That they are unnecessary to accomplish the purpose of securing the direct election of Senators by the people. They do not aid or contribute to the direct election of Senators in any manner or degree. There is no reason why the ultimate authority of the National Government over the times and manner of electing Senators by direct, popular vote should not continue to be exercised, just as it always has been exercised, over the direct election of Representatives by popular vote. The exercise of that national power over the popular election of Representatives meets now with no objection, and, under the proposed amendment, is to continue. The proposed change from legislative election of Senators to popular election of Senators furnishes no reason whatever for destroying the ultimate power of control over the election of Senators which the National Congress now has under the Constitution.

Second. The abandonment of national authority by the proposed changes in section 4 would be a fundamental and vital change in our system of government, and should be regarded as far more important than the change from legislative to direct election of Senators, to which it has been attached in the resolution reported as if it were merely incidental and subordinate. The present provision contained in section 4 of Article I was adopted by the framers of the Constitution after full discussion and upon great consideration. The conclusion expressed in the section as adopted was an assertion of the ultimate authority of the National Government over the steps necessary to constitute the Government and to insure its continued exercise and power to act. It was one of a series of provisions which established definitely the distinction between the old Confederation, under which the Central Government was dependent upon the States, and the new National Government, which was to contain within itself every element of power essential to its continued existence and effectiveness. The proposed change would reverse that conclusion, would change the theory and the nature of the relations between the National Government and the several States, and would leave the Nation dependent upon the several States and without authority of its own in respect of an essential part of the machinery necessary to its continued existence.

How vital is the preservation of the supervisory power conferred upon Congress by section 4 of Article I was strongly set forth by the Supreme Court of the United States through Mr. Justice Miller, delivering the opinion in the Yarbrough case (110 U. S., 651). In that case the Supreme Court was passing upon the validity of the Federal election law of 1870, an act based upon the authority conferred by the first clause of section 4 of Article I. We quote from the opinion as follows:

"That a Government whose essential character is republican, whose executive head and legislative body are both elective, whose most numerous and powerful branch of the legislature is elected by the people directly, has no power by appropriate laws to secure this election from the influence of violence, of corruption, and of fraud, is a proposition so startling as to arrest attention and demand the gravest consideration. * * *

"If this Government is anything more than a mere aggregation of delegated agents of other States and governments, each of which is superior to the General Government, it must have the power to protect the elections on which its existence depends from violence and corruption.

"If it has not this power it is left helpless before the two great natural and historical enemies of all republics—open violence and insidious corruption.

"It is as essential to the successful working of this Government that the great organisms of its executive and legislative branches should be the free choice of the people as that the original form of it should be so. In absolute governments, where the monarch is the source of all power, it is still held to be important that the exercise of that power shall be free from the influence of extraneous violence and internal corruption.

"In a republican government like ours, where political power is reposed in Representatives of the entire body of the people, chosen at short intervals by popular election, the temptations to control these elections by violence and by corruption is a constant source of danger. * * *

"If the Government of the United States has within its constitutional domain no authority to provide against these evils, if the very sources of power may be poisoned by corruption or controlled by violence and outrage, without legal restraint, then, indeed, is the country in danger, and its best powers, its highest purposes, the hopes which it inspires, and the love which enshrines it, are at the mercy of the combinations of those who respect no right but brute force on the one hand and unprincipled corruptionists on the other."

The Senate of the United States and the House of Representatives constitute one of the three great departments of the Federal Government upon whose existence and efficiency the very life of the Nation depends. To say that one branch of this department shall be in the absolutely uncontrolled power of the various State governments is to deny the supremacy of the Federal Government, and to that extent make it subordinate to the government of the several States. No matter what laws the State governments may pass regulating the time and manner of the election of Senators, no matter how profound may be the effect of such laws upon the efficiency of the Senate, the Federal Government, if this resolution shall be finally adopted, will be utterly powerless to protect itself. It would seem that the mere statement of such a contingency, however remote its happening may appear to be, should be sufficient to prevent its adoption. No harm can possibly result from a continuation of the supervisory power in the hands of Congress, while infinite harm might follow its destruction.

Third. That possession by the National Government of the power of control over the election of its own legislative bodies is a matter of practical concern is shown by the fact that it has been found necessary to exercise that control in the past regarding both branches of the National Legislature. It was found necessary to regulate the election of Representatives by a national statute passed in 1842, and by further statutes in 1872, under which those elections are still held, and it was found necessary to regulate the legislative proceeding for the election of Senators by national statute in 1866. The Federal election law of 1870 and the subsequent amendments of that law were based upon this provision of the Constitution. No one can tell when the further or renewed exercise of that power may be of the highest importance to the National Government. A moment's reflection will indicate that the greatest inconvenience and possibility of abuse might grow out of a variety of regulations in the different States fixing different times and ways of electing Senators in the absence of any power in the National Government to require a general and harmonious system throughout the States.

But it is not requisite to show how the exercise of the power will be necessary in the future. It rests upon those who wish to destroy the power, to show that there can be no need of it in the future. This has not been, and can not be, successfully attempted.

Fourth. It is not proposed to disturb the power which section 5 of Article I of the Constitution confers upon each House of Congress to "be the judge of the elections, returns, and qualifications of its own Members." That power is essential. It must rest somewhere, and under our system, which separates the judicial and legislative branches, it can rest nowhere but in the legislative bodies themselves. It has been exercised by the House of Representatives in respect of the popular election of its Members in more than 400 cases during the 122 years of the Government's existence. The continuance of the power to regulate the time and manner of holding elections, which it is proposed to strike out from section 4 of Article I, is necessary to enable the Houses of Congress to perform the duty of judging of the elections and returns of their Members. In order to perform that duty Congress must have the power to require that elections shall be held at such times and in such manner that there shall be competent and sufficient evidence available to enable the judging body to get at the truth and secure a basis for a just judgment.

Fifth. Possession of the power which it is proposed to strike out from section 4 is essential to enable the National Government to act effectively in case it should ever have occasion to enforce the provisions of the fourteenth and fifteenth amendments to the Constitution. The basis of any enforcement of those provisions must necessarily be the ascertainment and establishment of the facts in respect of the elections to which they may relate. The proposed amendment of section 4 of Article I, if adopted, would be the latest expression of the sovereign will of the people of the United States, and would take away from the National Government authority to make those regulations regarding elections which are essential to the preservation of evidence regarding what actually occurs.

There may be a difference of opinion as to whether the fourteenth and fifteenth amendments should remain in the Constitution, but it surely can not be thought consistent with the dignity and honor of the United States to leave them in the Constitution and at the same time surrender the power which would be necessary for their enforcement.

Sixth. The proposed amendment of section 4, depriving the United States of its authority over the ultimate control of the election of the Members of its Senate, has not been demanded or sought by the people of the United States. It has had no general discussion or consideration by them. It has had no general discussion or consideration in Congress. It has been proposed and reported as if it were an incident to another amendment to which it bears no necessary relation; as if it were a light and trifling matter; and no just basis exists upon which the Senate of the United States can now take the grave and serious step of proposing it to the State legislatures.

Seventh. It has been contended by some that even if the provision of the Constitution conferring upon Congress the authority to regulate the times and manner of the election of Senators shall be eliminated full power will still exist under other general provisions. We are unable to agree with this contention. Under the resolution express power is granted to the States to regulate this subject. The language is exclusive; the whole power is granted to the State, and nothing whatever upon this subject is reserved to Congress. To expressly grant exclusive power over the subject to the State governments is equivalent to a denial of the same power to the General Government, and nothing can be clearer than that such express and exclusive grant would foreclose the General Government from exercising the same power under any general language contained in the Constitution.

It has been suggested that the right to vote for a Member of Congress is a right guaranteed by the Federal Constitution, and that Congress would therefore have the implied power to pass any regulation necessary to preserve this right. It is to be observed, however, that the power to regulate the time and manner of the election of Senators is to be *specifically* granted to the State legislatures, and it is difficult to understand how an *implied* power can exist in one agent to do a thing under general language where the identical power has been specifically and in exclusive terms granted to another.

The resolution now before the Senate is an exact copy of the joint resolution reported by Representative Tucker, of Virginia, in the Fifty-second Congress. Mr. Tucker, who was an able lawyer, in the course of his report, stated:

"It is proposed to abrogate and annul the above [referring to clause 1, section 4] in so far as it gives to Congress any control, absolute or remote and contingent, over the election of United States Senators by substituting the following language for so much thereof as refers to the election of Senators: 'The times, places, and manner of holding elections for Senators shall be as prescribed in each State by the legislature thereof.'"

Here is a plain, straightforward, candid statement of one of the great lawyers of the country, who knew precisely what he desired to accomplish; that the effect of this portion of the resolution is to annul clause 1 of section 4 as far as it gives Congress any control "absolute or remote and contingent," and, in the opinion of the minority members of the committee, Mr. Tucker's view of the matter is entirely correct. If the proposed change in the language of clause 1 of section 4 does not have this result and does not have the effect to deprive Congress of its power in the premises, we are somewhat at a loss to understand what its proponents, who take this view, seek to gain.

Eighth. The two proposed amendments ought to be considered separately, and each upon its own merits. The existing tendency toward the direct election of Senators by the people ought not to be made a vehicle or pretext for getting the approval of Congress to an entirely separate and distinct proposal to destroy Federal control over elections. The people of the country ought not to be compelled to approve, through their legislatures, a change which they may not desire as the price of securing another change which they may desire. In order to prevent this unfair and injurious treatment of the subject, we recommend that the resolution be amended to read as follows:

"Joint resolution proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That in lieu of the first paragraph of section 3 of Article I of the Constitution of the United States, and in lieu of so much of paragraph 2 of the same section as relates to the filling of vacancies, the following be proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the States:

"'The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

"'When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

"'This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.'"

C. D. CLARK.
KNUTE NELSON.
WILLIAM P. DILLINGHAM.
GEO. SUTHERLAND.
FRANK B. BRANDEGEE.
ELIHU ROOT.

MAY 22, 1911.

FURTHER VIEWS OF MESSRS. DILLINGHAM, BRANDEGEE, AND ROOT.

The undersigned, who have joined in the foregoing expression of views regarding the amendment of section 4 of Article I of the Constitution, wish also to put upon record an expression of their opinion that the amendment of section 3 of Article I so as to provide for the direct election of Senators by the people instead of by State legislatures is inexpedient and unnecessary. We think that the change would be injurious rather than beneficial, and that the abuses which have led to the proposal of the amendment can be obviated by a simple act of legislation, without any amendment to the Constitution. A bill for that purpose (S. 123) is now pending in the Senate.

WILLIAM P. DILLINGHAM.
FRANK B. BRANDEGEE.
ELIHU ROOT.

MAY 22, 1911.

CATHARINE MALLOY.

Mr. BRIGGS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 38, submitted by Mr. CULLOM on the 9th instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay, from the contingent fund of the Senate, to Catharine Malloy, mother of William M. Malloy, late clerk to the Committee on Foreign Relations of the Senate, a sum equal to six months' salary at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

HEARINGS BEFORE THE COMMITTEE ON APPROPRIATIONS.

Mr. BRIGGS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 32, submitted by Mr. WARREN on the 4th instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Committee on Appropriations, or any subcommittee thereof, be authorized to send for persons and papers and to administer oaths and to employ a stenographer to report such hearings as may be had in connection with any subject which may be pending before said committee, and to have the same printed for its use, the expenses

thereof to be paid out of the contingent fund of the Senate; and that the committee or any subcommittee thereof may sit during the sessions of the Senate.

HEARINGS BEFORE THE COMMITTEE ON COMMERCE.

Mr. BRIGGS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate resolution 37, submitted by Mr. GALLINGER (for Mr. FRYE) on the 8th instant, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Committee on Commerce, or any subcommittee thereof, be, and the same is hereby, authorized to employ a stenographer from time to time, as may be necessary, to report such hearings as may be had on bills or other matters pending before said committee, and to have printed such hearings and such other papers as may be deemed necessary in connection with the subjects heretofore considered or to be considered by said committee during the Sixty-second Congress.

DRAINAGE SURVEY OF LANDS IN MINNESOTA.

Mr. SMOOT, from the Committee on Printing, to which was referred Senate resolution 26, submitted by Mr. CLAPP on the 28 ultimo, reported it without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That 500 copies of House Document No. 27, Sixty-first Congress, first session, entitled "Drainage Survey of Certain Lands in Minnesota," be printed for the use of the Senate document room.

MARSHAL FOR DISTRICT OF CONNECTICUT.

Mr. BRANDEGEE. From the Committee on the Judiciary I report back favorably, without amendment, the bill (S. 2434) providing for an increase of salary of the United States marshal for the district of Connecticut, and I ask unanimous consent for the present consideration thereof.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It provides that from and after the passage of this act the salary of the United States marshal for the district of Connecticut shall be at the rate of $3,000 a year.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ENCAMPMENTS OF GRAND ARMY OF THE REPUBLIC.

Mr. CLAPP. From the Committee on Interstate Commerce I report back favorably without amendment the joint resolution (S. J. Res. 18) authorizing free or reduced transportation to members of the Grand Army of the Republic and others whenever attending regular annual encampments, reunions, or conventions, and for other purposes, and I submit a report (No. 31) thereon.

Mr. CURTIS. I ask unanimous consent for the present consideration of the joint resolution.

The Secretary read the joint resolution; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. KERN:

A bill (S. 2446) for the relief of Aaron F. Adams (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 2447) granting an increase of pension to William Gant (with accompanying papers); to the Committee on Pensions.

By Mr. LEA:

A bill (S. 2448) to carry into effect the findings of the Court of Claims in the matter of the claim of Edmund W. Williams, executor of the estate of Joseph R. Williams, deceased;

A bill (S. 2449) to carry into effect the findings of the Court of Claims in the claim of Nathaniel F. Cheairs; and

A bill (S. 2450) for the relief of the estate of Adolph Roehl; to the Committee on Claims.

By Mr. POMERENE:

A bill (S. 2451) providing against the abandonment of destitute, infirm, or aged parents; to the Committee on the District of Columbia.

By Mr. DIXON:

A bill (S. 2452) to authorize the construction of fishways, screens, and paddle wheels at the intake of canals constructed in connection with irrigation projects (with accompanying papers); to the Committee on Irrigation and Reclamation of Arid Lands.

A bill (S. 2453) for the relief of Benjamin F. Martz; to the Committee on Public Lands.

By Mr. LODGE:

A bill (S. 2454) exempting certain yachts from the provisions of section 37 of the act of August 5, 1909, and for other purposes (with accompanying paper); to the Committee on Finance.

By Mr. JONES:

A bill (S. 2455) to provide for the government of the Canal Zone, the construction and operation of the Panama Canal, and for other purposes; to the Committee on Interoceanic Canals.

A bill (S. 2456) authorizing the State of Washington to lease the southeast quarter and the southwest quarter of section 36, township 18 north, of range 10 west, in Chehalis County, for public-park purposes; to the Committee on Public Lands.

By Mr. BROWN:

A bill (S. 2457) to correct the military record of William H. Burgess; to the Committee on Military Affairs.

A bill (S. 2458) granting an increase of pension to George W. Patterson (with accompanying paper); to the Committee on Pensions.

By Mr. BANKHEAD:

A bill (S. 2459) for the relief of heirs or estate of Jacob Keller, deceased; to the Committee on Claims.

By Mr. HITCHCOCK:

A bill (S. 2460) granting an increase of pension to Charles H. Jones; and

A bill (S. 2461) granting an increase of pension to James W. Wilson; to the Committee on Pensions.

By Mr. BACON:

A bill (S. 2462) to cede jurisdiction to the State of Georgia over certain land in Fulton County; to the Committee on Public Lands.

A bill (S. 2463) for the relief of Mrs. M. B. Patterson; to the Committee on Claims.

By Mr. POINDEXTER:

A bill (S. 2464) granting a pension to Thomas Harlan; and

A bill (S. 2465) granting a pension to Arthur F. Shepherd; to the Committee on Pensions.

By Mr. SMOOT:

A bill (S. 2466) granting an increase of pension to Charles E. Abbott (with accompanying paper); to the Committee on Pensions.

By Mr. CHILTON:

A bill (S. 2467) granting a pension to Oliver C. Morris;

A bill (S. 2468) granting a pension to Alexander W. Donaldson; and

A bill (S. 2469) granting a pension to Joseph H. Daugherty, sr.; to the Committee on Pensions.

By Mr. CRANE:

A bill (S. 2470) granting an increase of pension to Philip S. Dusenbury; to the Committee on Pensions.

RECPROCITY WITH CANADA.

Mr. FLETCHER submitted an amendment intended to be proposed by him to the bill (H. R. 4412) to promote reciprocal trade relations with the Dominion of Canada, and for other purposes, which was referred to the Committee on Finance and ordered to be printed.

STENOGRAPHER FOR COMMITTEE ON AGRICULTURE AND FORESTRY.

Mr. BURNHAM submitted the following resolution (S. Res. 45), which was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on Agriculture and Forestry, or any subcommittee thereof, be, and the same is hereby, authorized to employ a stenographer from time to time as may be necessary to report such hearings as may be had on bills or other matters pending before said committee, and to have printed such hearings and such other papers as may be deemed necessary in connection with subjects heretofore considered or to be considered by said committee during the Sixty-second Congress, and that the expense thereof be paid out of the contingent fund of the Senate, and that the said committee and all subcommittees thereof may sit during the sessions of the Senate.

SENATOR FROM ILLINOIS.

Mr. DILLINGHAM. Mr. President, after consultation with several Members of this body, and in view of the action of the upper branch of the Legislature of Illinois relating to the seat of Senator LORIMER of that State in this body, as reported in the public press, I offer the following resolution, which I ask may be read, and that it may lie on the table.

The resolution (S. Res. 46) was read as follows:

Whereas since the action by the Senate on the resolution of June 20, 1910, relating to the seat of WILLIAM LORIMER, it is represented that new testimony has been discovered; and

Whereas the Senate of the State of Illinois did on the 18th day of May, 1911, adopt the following resolutions:

"Whereas under senate resolution No. 17 a committee was appointed to investigate charges of corruption and official misconduct against members of this senate; and

"Whereas said committee has reported the result of its investigation to this senate, from which it appears that there were important and material witnesses without the State of Illinois, whose attendance it could not legally compel and which witnesses refused voluntarily to appear; and

"Whereas said committee was seriously impeded in the performance of its duties by what we believe to be the unwarranted action of a certain judge; and

"Whereas it appears from the report of said committee that despite its inability to compel the attendance of such foreign witnesses and

the adverse action of said judge sufficient evidence was procured to show that without bribery and corruption and by reason of the failure of certain senators and representatives during the different roll calls to carry out the will of the people, as expressed at the polls, in the choice for a United States Senator, which action we deem most reprehensible and should be condemned, and which we hereby condemn: Therefore be it

"*Resolved*, That it is the opinion of this senate, based upon the report and findings of the said committee, that the election of WILLIAM LORIMER to a seat in the United States Senate was brought about by bribery and corruption; and

"*Resolved*, That the gravity of the situation, involving as it does the integrity and good name of this State and the welfare of the Nation, demands a further investigation and determination of this matter by a body possessing broader jurisdiction and greater powers than does this senate; and be it further

"*Resolved*, That the secretary of this senate be, and he is hereby, authorized and directed to transmit to the Senate of the United States a copy of the evidence taken by the said committee, together with the report and findings of that committee and a copy of this resolution for such action as the Senate of the United States may deem proper.

"*Resolved*, That the findings of said committee, as set forth in the report heretofore filed, be, and the same are hereby, ratified and approved."

Therefore be it

Resolved by the Senate of the United States, That the Committee on Privileges and Elections are authorized and directed to further investigate the charges made against WILLIAM LORIMER, a Senator from the State of Illinois, and to inquire and report to the Senate whether in or about the election of the said WILLIAM LORIMER as a Senator of the United States from the State of Illinois, or in connection with his right to a seat in this body there were used or employed by any person, firm, corporation, or association any corrupt methods or practices.

That said committee be authorized to sit during the sessions of the Senate and during any recess of the Senate or of Congress; to hold its sessions at such place or places as it shall deem most convenient for the purposes of the investigation; to employ stenographers and such counsel and competent accountants as it may deem necessary; to send for persons and papers and to administer oaths; and that the expenses of the inquiry shall be paid from the contingent fund of the Senate upon vouchers to be approved by the chairman of the committee.

The VICE PRESIDENT. Without objection, the resolution will lie on the table.

CONSIDERATION OF BILLS ON THE CALENDAR.

The VICE PRESIDENT. Morning business is closed. The calendar, under Rule VIII, is in order. The Secretary will report the first business on the calendar.

The joint resolution (H. J. Res. 1) to correct errors in the enrollment of certain appropriation acts approved March 4, 1911, was announced as first in order.

Mr. HEYBURN. I ask that that joint resolution go over.

The VICE PRESIDENT. Objection is made; and the joint resolution goes over.

DESIGNATION OF LAND IN THE DISTRICT OF COLUMBIA.

The bill (S. 1095) to authorize the surveyor of the District of Columbia to adopt the system of designating land in the District of Columbia in force in the office of the assessor of said District was announced as next in order, and the Senate as in Committee of the Whole proceeded to its consideration.

Mr. SHIVELY. Mr. President, I should like to ask the Senator in charge of the bill what is the particular mischief which it is designed to obviate?

Mr. DILLINGHAM. Mr. President, this bill is similar to one which has already once passed the Senate. The report of the committee explains it better than I could, as I am not particularly familiar with the indexing and recording systems of the District. If the Secretary will read the fine print of the report, which is very short, I think it will explain to the Senator from Indiana precisely what is the object of the bill.

The VICE PRESIDENT. The Secretary will read the report as requested.

Mr. GALLINGER. Mr. President, perhaps a word from me will obviate the necessity of even reading any part of the report.

There is a system in vogue in the office of the assessor of the District of Columbia whereby parcels of land are described very accurately, while the surveyor has an entirely different system, so that a purchaser of property here finds it difficult to get a correct description of his property. This bill simply provides that the surveyor shall adopt the same system that is in vogue in the office of the other official and that there shall be a very simple method provided in the matter of designating land in this District.

Mr. SHIVELY. That is, to have the same system in the assessor's and in the surveyor's office?

Mr. GALLINGER. Precisely. The assessor's system has worked most admirably. That is all there is to the bill.

The VICE PRESIDENT. The Secretary will the state the amendment to the bill recommended by the committee.

The SECRETARY. In section 2, page 2, line 14, after the word "not," it is proposed to strike out "unless for good cause shown to him," so as to make the section read:

SEC. 2. That hereafter all instruments tendered for record in the office of the recorder of deeds of the District of Columbia in which original lots, subdivision lots, squares, or tracts are mentioned shall, in addition to any other description, contain a reference to the square or parcel shown on the plats and plans as filed for record in the office of the surveyor of the District of Columbia in which the real estate intended to be affected is contained, and the recorder of deeds shall not receive any instrument for record unless the provisions of this act are therein complied with.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

ARREARAGES OF DISTRICT TAXES.

The bill (S. 1082) to receive arrearages of taxes due to the District of Columbia to July 1, 1908, at 6 per cent interest per annum, in lieu of penalties and costs, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JEANNIE TURNBULL.

The bill (S. 19) authorizing the Secretary of War to convey the outstanding title of the United States to lots 3 and 4, square 103, in the city of Washington, D. C., was considered as in Committee of the Whole. It directs the Secretary of War to grant to the present occupant of original lots 3 and 4, square 103, in the city of Washington, a quit-claim deed of the legal title of the United States to those lots, it having appeared that the United States has no other interest therein or claim thereto than a record title resulting from a failure to comply with the requirement of the act of the Maryland Legislature of December 19, 1791, relative to the recording of deeds in the original city of Washington; but the occupant of the lots shall establish to the satisfaction of the Secretary of War his or her title to the premises, saving only the aforesaid outstanding legal title of the United States.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. HEYBURN. Mr. President, there are two bills on the calendar, practically for the same purpose, as to which there is some confusion. I should like to call attention to one of them. I think there is an omission in the bill which has just been passed. It provides for no grantee. In line 3, page 1, it says:

That the Secretary of War is hereby directed to grant to the present occupant—

It does not say who the occupant is. The words "Jeannie Turnbull" should be inserted. It would not be careful legislation to provide for the transfer of land by the United States to a person unnamed, and I ask that the votes by which the bill was ordered to be engrossed for a third reading, read the third time, and passed, may be reconsidered, and then I shall offer an amendment.

The VICE PRESIDENT. Without objection, the votes by which the bill was ordered to be engrossed for a third reading, read the third time, and passed will be reconsidered. Is there objection? The Chair hears none. The bill is now in the Senate and open to amendment.

Mr. HEYBURN. I move to strike out the words "the present," in lines 3 and 4, and to insert in lieu thereof the name "Jeannie Turnbull" and a comma.

The VICE PRESIDENT. The amendment proposed by the Senator from Idaho will be stated.

The SECRETARY. On page 1, line 4, before the word "occupant," it is proposed to strike out the words "the present" and to insert the name "Jeannie Turnbull" and a comma.

The amendment was agreed to.

Mr. HEYBURN. Now, on page 2, line 1, after the word "the," where it occurs near the end of the line, I move to insert the word "said," so as to read "the said occupant."

The VICE PRESIDENT. The amendment proposed by the Senator from Idaho will be stated.

The SECRETARY. On page 2, line 1, before the word "occupant," it is proposed to insert the word "said."

The amendment was agreed to.

Mr. HEYBURN. In line 3, on page 2, I move to strike out the words "his or," before the word "her."

The VICE PRESIDENT. The amendment proposed by the Senator from Idaho will be stated.

The SECRETARY. In line 3, before the word "her," it is proposed to strike out the words "his or," so as to read "her title to said premises."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENT OF DISTRICT LICENSE TAX.

The bill (S. 29) to amend paragraph 43 of an act entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1903, and for other purposes," approved July 1, 1902, was considered as in Committee of the Whole. It proposes to amend paragraph 43 of the act by adding the following:

Provided, That such classification shall not be applied to booksellers.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

TITLE TO CERTAIN LOTS IN THE DISTRICT.

The bill (S. 20) directing the Secretary of War to convey the outstanding legal title of the United States to sublots Nos. 31, 32, and 33 of original lot No. 3, square No. 80, in the city of Washington, D. C., was announced as next in order.

Mr. HEYBURN. I ask that that bill go over, Mr. President.

The VICE PRESIDENT. The bill goes over.

REGISTRATION OF BIRTHS IN THE DISTRICT.

The bill (S. 1087) to amend an act entitled "An act to provide for the better registration of births in the District of Columbia, and for other purposes," approved March 1, 1907, was considered as in Committee of the Whole. The bill had been reported from the Committee on the District of Columbia with an amendment, on page 2, line 3, after the word "Labor," to strike out "and such other data, if any, as the commissioners of said District deem needful," so as to make the bill read:

Be it enacted, etc., That any physician or midwife who attends at the birth of any child within the District of Columbia, and any person whomsoever, who, in the absence of a physician or midwife, performs any of the offices usually rendered by such, shall execute, or cause to be executed, and shall file with the health officer of said District within 24 hours immediately following the date of such birth a proper report thereof, written in ink, on a blank furnished by said health officer, embodying all such data as may be necessary for the purposes of the Bureau of the Census of the Department of Commerce and Labor. So far as relates to any data aforesaid not based upon the personal observation of the physician, midwife, or other person by whom report is made, every such report shall show the name and address of the informant and the relationship of said informant to the child born: *Provided, however*, That if the child born be illegitimate it shall in no case be necessary for any physician, midwife, or other person to indicate on any report required by this act any fact or facts whereby the identity of the father or of the mother or of the child born will be disclosed: *And provided further*, That no report need be made of stillbirths when the fetus delivered has apparently not passed the fifth month of utero-gestation.

Upon receipt of any report aforesaid, said health officer shall forward to the father of the child, or, if his address be unknown, to the mother, an acknowledgment of the receipt of such report; and if the infant delivered be not stillborn, and such report does not contain the given name of the child born, a blank form on which the father or mother may certify over his or her signature the name of such child, which form, if thus executed and returned to said health officer within three months next following the date of birth, shall be a part of the official record of such birth.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

EXTENSION OF KENYON STREET.

The bill (S. 30) to provide for the extension of Kenyon Street from Seventeenth Street to Mount Pleasant Street and for the extension of Seventeenth Street from Kenyon Street to Irving Street, in the District of Columbia, and for other purposes, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WIDENING OF SIXTEENTH STREET NW.

The bill (S. 1094) for the widening of Sixteenth Street NW. at Piney Branch, and for other purposes, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

COMMODORE BARNEY CIRCLE.

The bill (S. 306) to confirm the name of Commodore Barney Circle for the circle located at the eastern end of Pennsylvania Avenue SE., in the District of Columbia, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EXTENSION OF NEWTON PLACE NW.

The bill (S. 32) to amend an act entitled "An act to provide for the extension of Newton Place NW. from New Hampshire Avenue to Georgia Avenue, and to connect Newton Place in Gass's subdivision with Newton Place in Whitney Close subdivision," approved February 21, 1910, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

IDA A. CHEW.

The bill (S. 21) for the relief of Ida A. Chew, owner of lot 112, square 721, Washington, D. C., with regard to assessment and payment of damages on account of changes of grade due to construction of the Union Station, District of Columbia, was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EXTENSION OF UNDERWOOD STREET NW.

The bill (S. 23) to authorize the extension of Underwood Street NW. was announced as next in order.

Mr. GALLINGER. Let the bill go over.

The VICE PRESIDENT. The bill will go over.

GUIDES AND PEDDLERS IN THE DISTRICT.

The bill (S. 1090) providing for guides in the District of Columbia and defining their duties was considered as in Committee of the Whole.

It provides that peddlers shall pay a license tax of $25 per annum, and guides shall pay a license tax of $5 per annum.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

AID TO INDIGENTS IN ALASKA.

The bill (S. 267) providing for assisting indigent persons, other than natives, in the District of Alaska, was considered as in Committee of the Whole. The bill had been reported from the Committee on Territories with an amendment.

Mr. HEYBURN. I move to amend——

Mr. WILLIAMS. Mr. President——

The VICE PRESIDENT. There is a committee amendment first, if the Senator will permit it, to be acted upon.

Mr. WILLIAMS. Before we proceed to that, I should like to ask the Senator in charge of the bill why the Indians are omitted from this bill? Why is it that it applies only to such persons as are not Indians?

Mr. NELSON. I am unable to hear the Senator from Mississippi.

The VICE PRESIDENT. The Senator from Minnesota fails to hear the Senator from Mississippi.

Mr. WILLIAMS. I want to know why it is that this language——

Mr. HEYBURN. I am just about to move to amend by striking out the words "other than natives." I had addressed the Chair first——

The VICE PRESIDENT. Certainly; the Senator from Idaho has the floor if he desires it.

Mr. HEYBURN. I have moved to amend by striking out in line 10, page 1, the words "other than natives," so that this fund will be distributable to all the indigents of Alaska.

Mr. WILLIAMS. That is what I rose to ask about—to ask the Senator in charge of the bill why the language "other than natives" had been put in?

Mr. NELSON. Under a law passed some years ago the license and occupation taxes collected in Alaska were set aside for the indigent people of Alaska. Twenty-five per cent was to be devoted to educational purposes—the establishment of schools—5 per cent for taking care of the insane, and the balance to the construction of roads and trails. Now, the object of this bill is to take 5 per cent of that Alaska fund and devote it to the care of the indigent whites. The natives of Alaska are taken care of under another appropriation. For years and years they have been under the charge of the Bureau of Education, which has had charge of them and taken care of them both in an educational way and otherwise, and a large appropriation is made for that purpose, disbursed and managed by the Bureau of Education. That is why this distinction was made.

Mr. HEYBURN. But, Mr. President, I do not understand that the natives will come within this classification or derive any benefit from that fund. This bill provides for indigent persons——

Mr. NELSON. Other than natives.

Mr. HEYBURN. Unfortunately the application is too wide. But the Department of Commerce and Labor have no special jurisdiction over the indigent. There is, in fact, to-day, as far as I can ascertain, no department of the Government that is charged with the responsibility for the care of indigent Indians or natives, and I know of no reason why they should not participate in this fund. The class of people over which the De-

partment of Commerce and Labor have jurisdiction and for whom they administer funds does not include at all, as I understand, the indigent.

Mr. NELSON. The facts of the case are as I stated. The natives of Alaska, the Indians and the Esquimaux, have for years been under the charge of what is known as the Bureau of Education, now a part of the Department of Commerce and Labor. We make a large appropriation every year for the benefit of that bureau. They have established schools in Alaska and are taking care of the indigent natives under that appropriation, and have been for years. That is why this distinction is made, because they have a share of that fund while the whites have none at all.

Mr. HEYBURN. Is the Senator sure that that covers the Indians?

Mr. NELSON. Certainly it does. They have taken care of them.

Mr. HEYBURN. They take care of them in the way of educating them.

Mr. NELSON. Oh, no; they take care of them otherwise, providing them with hospitals and medical attendance and looking after them in every way. In fact, that is the only branch of the Government that is looking after the natives in Alaska.

Mr. HEYBURN. Unfortunately that seems to be true. I have had a number of complaints in letters that there was no specific department of the Government charged with the care of the indigent natives. They educate them; they provide for their education; they provide for them in health; but they do not provide for them when they have lost their health and are unable to take care of themselves.

Mr. NELSON. They take care of them as far as they can take care of them.

Mr. HEYBURN. There has been quite a demand that we establish——

Mr. NELSON. And the purpose of this fund, which is very limited, is to take care of those indigent white people, miners who get strapped, as it were, and are utterly helpless; and the criticism is that it is taken out of what we call the road-and-trail fund in Alaska, which is diminished to that extent. But the other fund, of which the Bureau of Education has charge, is an ample fund, and to my knowledge, derived from a visit to Alaska, the Bureau of Education is looking after that matter and using that fund for this purpose, and that is why we put in this amendment.

Mr. HEYBURN. My attention was called to this within a few days by a man who lives in Alaska and who is here now, and he seems to think that we are unjustly discriminating against the natives in this matter. He is quite familiar——

Mr. NELSON. I think he is not quite familiar with the facts or the character of our appropriations in the past.

Mr. HEYBURN. He was speaking more from familiarity with the facts as they exist in the community in which he lives. He is a man who happens to have some sympathy with the natives in Alaska, and at one time was closely connected with their direct government. He suggested that in this matter they were being unfairly discriminated against.

I desired to call attention to this matter in order that the discussion may show always the position this matter occupied at the time of the passage of the bill.

The VICE PRESIDENT. The amendment reported by the Committee on Territories will be stated.

The SECRETARY. On page 2, at the end of the bill, it is proposed to insert:

Provided, That the governor, in his annual report, shall submit an itemized statement with proper vouchers of all expenditures under this act.

So as to make the bill read:

Be it enacted, etc., That from and after the passage of this act, 5 per cent of all the moneys collected by the clerks of the district courts in Alaska for licenses and occupation taxes in the District of Alaska, now paid by the said clerks into the Alaska fund and to the treasurers of the several incorporated towns in Alaska, shall be paid into the Treasury of the United States and there held as a separate fund for the relief of the indigent persons, other than natives, in Alaska.

SEC. 2. That the said fund shall be disbursed upon the recommendation of the governor of Alaska to such persons and in such manner as he may direct: *Provided*, That the governor, in his annual report, shall submit an itemized statement with proper vouchers of all expenditures under this act.

The amendment was agreed to.

The VICE PRESIDENT. Does the Senator from Idaho offer an amendment?

Mr. HEYBURN. Under the statement of the Senator from Minnesota, I will not insist on the amendment.

Mr. NELSON. Withdraw it.

Mr. HEYBURN. I want to be sure that the Senator from Minnesota is sure that there is an adequate provision for the care of indigent natives.

Mr. NELSON. I will take pains by and by to show the Senator the appropriations that are made for the Bureau of Education.

Mr. HEYBURN. Yes; I think the difficulty is more in the application and classification of the appropriation. It covers several classes of public service in connection with the Indians.

Mr. NELSON. As I understand, the amendment is withdrawn.

Mr. HEYBURN. Yes.

The VICE PRESIDENT. The Senator from Idaho withdraws the amendment he proposed to offer.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

FISHERIES TREATY WITH GREAT BRITAIN.

The bill (S. 12) to give effect to the provisions of a treaty between the United States and Great Britain concerning the fisheries in waters contiguous to the United States and the Dominion of Canada, signed at Washington on April 1, 1908, and ratified by the United States Senate April 13, 1908, was announced as next in order.

Mr. SMITH of Michigan. The Senator from Washington [Mr. JONES] asked that the bill go over a few days ago. I think he withdraws his request to-day.

The VICE PRESIDENT. The bill is reached in regular order now.

Mr. JONES. As the Senator says, the bill went over at my request the other day. While I have not heard from my people, I have examined the bill very carefully and I do not see any objection to it, so I withdrew my objection.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Foreign Relations with an amendment, on page 2, line 7, after the word "regulations," to insert "or amendment thereto," so as to read—

And provided further, That no further or other regulations or amendments thereto under the provisions of said treaty of April 11, 1908, shall be adopted or have the force or effect of law without action by the Congress of the United States.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BRIDGE ACROSS ARKANSAS RIVER.

The bill (S. 1627) to authorize the construction, maintenance, and operation of a bridge across and over the Arkansas River, and for other purposes, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Commerce with amendments.

The first amendment was, on page 1, line 9, after the word "Oklahoma," to insert:

In accordance with and subject to the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

So as to make the section read:

That the Muskogee & Fort Gibson Bridge Co., a corporation of the State of Oklahoma, its successors and assigns, are hereby authorized to construct, maintain, and operate a bridge and approaches thereto across and over the Arkansas River, at a point suitable to the interests of navigation, at or near the city of Muskogee, Muskogee County, Okla., in accordance with and subject to the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

The amendment was agreed to.

The next amendment was, to strike out section 2, as follows:

SEC. 2. That the construction, maintenance, and operation of said bridge herein authorized shall be in all respects in accordance with and subject to the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

PARTIAL PAYMENTS ON NAVAL CONTRACTS.

The bill (S. 2003) authorizing the Secretary of the Navy to make partial payments for work already done under public contracts was announced as next in order.

Mr. HEYBURN. I shall probably have no objection to the passage of this bill, provided it is understood that it does not recognize the right of one Congress to amend the record or journals of a preceding Congress; and it will be with that

understanding in the RECORD; otherwise I shall oppose the consideration of the bill.

Mr. LODGE. This bill is a totally independent measure. It has nothing to do with the amendment of the appropriation act.

Mr. HEYBURN. The Senator makes that statement——

Mr. LODGE. It does not amend the appropriation act.

Mr. HEYBURN. Just a moment.

Mr. LODGE. I am correct.

Mr. HEYBURN. I have the floor, and I am correct, and I am going to read what is said in the report of the committee. It says:

The provision relating to such partial payments contained in the bill as passed, which is said to have been included by a clerical error, and which it is proposed to repeal by joint resolution No. 1—

Which is the joint resolution I have referred to—

now before the Senate, authorizes, as you are aware, payments up to only 90 per cent of the value of the work already done.

Mr. LODGE. Mr. President——

Mr. HEYBURN. Just a moment before I am interrupted, that I may present this matter squarely. Joint resolution No. 1, before the Senate, which we have passed over under my objection, undertakes to correct the records of the last Congress of the United States, on the ground that some clerk failed to perform a duty. That, as I said on a former occasion here when joint resolution No. 1 was up, is conceding the right of one Congress to correct the journals of another, because the bills that pass, in whatever shape they appear by the record, went to a conference committee of the two Houses and the conference agreed upon those measures; they went to the separate Houses and were signed by the presiding officers; they passed the scrutiny of the Committee on Enrolled Bills; and they went to the President and were signed. Now, to say that a subsequent Congress could come in here and say "we found memorandum lying around the room in which the committee met, which indicated that the enrolling clerks did not carry out faithfully the result of the action of the conference committee"——

Mr. LODGE. Mr. President——

Mr. HEYBURN. In a moment. I want to finish this statement, because I want it to appear concisely in the RECORD. To say that because some one found some memorandum which would indicate that the enrolling clerks did not correctly or accurately carry out the conclusion of the committee of conference would open the door so wide that no legislation enacted by this body would be safe. You would not know when Congress adjourned what laws had been enacted, notwithstanding the fact that they bore the signatures of the presiding officers of the separate Houses and of the President of the United States. I am not alone in this matter. It is not my intention to allow, so long as it can be prevented, any action that will discredit the enactments of Congress at a previous session.

Now I am through with the statement, and I yield to the Senator.

Mr. LODGE. Mr. President, I agree entirely with the Senator from Idaho as to the business of correcting bills of a previous Congress. I think it is an unsound practice. I am for this bill, which is a totally independent measure. The allusion in the Secretary's letter has of course nothing to do with the bill. It is merely showing the position in which the department was put by the proposition to amend the act that the bill as passed was in error.

Mr. HEYBURN. Let me say to the Senator that I have no intention of objecting to this measure when it is understood and a matter of record that it is not a concession to the rule sought to be invoked to correct the record. It appeared in the report of the committee, although the Senator was quite sure there was nothing to justify it here. I have been very carefully through it.

Mr. LODGE. I am on the committee, and I have read the whole correspondence; I made inquiry at the Navy Department, and I know something about it. I do not know about as many subjects as the Senator from Idaho, but this particular one I do know about. It occurs in the letter of the Secretary of the Navy, which is not our legislation. Our legislation is the bill.

Mr. HEYBURN. It is in the report of the committee from which the bill comes. I think this bill is a very proper measure. It provides for something that is necessary to be done and I have not failed to give it consideration. But I do not intend nevertheless to allow the bill to go through by default.

Now, Mr. President, with that understanding and that statement in the record, I have no objection to the consideration of the bill. But if that is not the understanding, the bill will not be up for consideration.

Mr. PERKINS. That is the understanding of your committee, Mr. President.

There being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

RIGHTS OF WAY IN CALIFORNIA.

The bill (S. 940) granting to the city of Los Angeles certain rights of way in, over, and through certain public lands and national forests in the State of California was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The VICE PRESIDENT. That completes the calendar.

SENATOR FROM ILLINOIS.

Mr. BORAH. Mr. President, I move that the Senate proceed to the consideration of the joint resolution (H. J. Res. 39) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

Mr. LA FOLLETTE. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho withhold his motion for a moment?

Mr. BORAH. I do.

Mr. LA FOLLETTE. I gave notice Thursday last that at the conclusion of the morning business I should like to take up, and would take up, with the consent of the Senate, the resolution which I had introduced. With the permission of the Senator from Idaho, I will take up that resolution now and address myself to it.

Mr. BORAH. I withdraw my motion.

The VICE PRESIDENT. The Senator from Idaho withdraws his motion. The Chair will lay before the Senate the resolution now on the table.

The SECRETARY. Table Calendar 4, Senate resolution by Mr. LA FOLLETTE. A resolution to appoint a special committee to investigate certain charges relative to the election of WILLIAM LORIMER.

Mr. GALLINGER. Let the resolution be read.

The VICE PRESIDENT. The Secretary will read the resolution.

The Secretary read the resolution (S. Res. 6) submitted by Mr. LA FOLLETTE April 6, 1911, as follows:

Whereas the Senate, by resolution adopted on the 20th day of June, 1910, authorized and directed the Committee on Privileges and Elections to investigate certain charges against WILLIAM LORIMER, a Senator from the State of Illinois, and to report to the Senate whether in the election of said LORIMER as a Senator of the United States from said State of Illinois there were used and employed corrupt methods and practices; and

Whereas said committee, pursuant to said resolution, took the testimony of a large number of witnesses, reduced the testimony to printed form, and reported the same to the Senate, which was thereafter considered and acted upon by the Senate; and

Whereas the Illinois State Senate thereafter appointed a committee to investigate like charges against WILLIAM LORIMER and to report to said State senate whether in the election of said LORIMER to the United States Senate corrupt methods and practices were employed and used; and

Whereas as it appears from the published reports of the proceedings of the said Illinois State Senate committee that witnesses who were not called and sworn by the committee of this Senate appointed to investigate said charges have appeared before the said committee of the Illinois State Senate, and upon being interrogated have given important material testimony tending to prove that $100,000 was corruptly expended to secure the election of WILLIAM LORIMER to the United States Senate: Therefore be it

Resolved, That Senators JOHN D. WORKS, CHARLES E. TOWNSEND, GEORGE P. MCLEAN, JOHN W. KERN, and ATLEE POMERENE be, and they are hereby, appointed a special committee, and as such committee be, and are hereby, authorized and directed to investigate and report to the Senate whether in the election of WILLIAM LORIMER as a Senator of the United States from the State of Illinois there were used and employed corrupt methods and practices; that said committee be authorized to sit during the sessions of the Senate and during any recess of the Senate or of Congress, to hold sessions at such place or places as it shall deem most convenient for the purposes of the investigation, to employ stenographers, to send for persons and papers, to administer oaths, and to report the results of its investigation, including all testimony taken by it; and that the expenses of the inquiry shall be paid from the contingent fund of the Senate upon vouchers to be approved by the chairman of the committee.

Mr. DILLINGHAM. Mr. President——

The VICE PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Vermont?

Mr. DILLINGHAM. I do not want to take any of the time of the Senator, but I simply wish to make an announcement.

The VICE PRESIDENT. Does the Senator from Wisconsin yield for that purpose?

Mr. LA FOLLETTE. Certainly.

Mr. DILLINGHAM. I simply want to announce that at the proper time, when action is had on this resolution, I will offer as a substitute for the resolution that which I offered this afternoon and which was ordered to lie on the table.

Mr. LA FOLLETTE. Mr. President, I take up the discussion of this matter this afternoon without the expectation of being able to conclude. The suggestion came to me during the session that Members of the Senate who had hoped to be present this afternoon are not here, and that a vote upon the resolution to-day would result in disappointment to many Senators who desire to be present.

I shall review briefly the "Lorimer case," as it is known to those Members of the Senate who voted upon it near the close of the last session. I contend that it shows the following undisputed and important facts:

On the 30th of April, 1910, a Democratic member of the Illinois General Assembly, who had voted for the election of WILLIAM LORIMER, a Republican, to the United States Senate, confessed that he was bribed, and received as a consideration for his vote the sum of $1,900.

The important details of this confession were published in practically every newspaper in the United States.

Shortly thereafter the grand juries in Cook and Sangamon Counties convened to investigate the charges.

Within a week following the publication of the first confession, and during the grand jury investigation, two other Democratic members of the Illinois Legislature, who had voted to elect WILLIAM LORIMER to the United States Senate, confessed, under oath, to receiving Lorimer money under circumstances which can leave no doubt that they had been bribed to vote for LORIMER.

The confessions of those two members of the Illinois Legislature were likewise widely published in the newspapers of the country.

At the same time another Democratic member of the Illinois General Assembly, since deceased, who had voted to elect WILLIAM LORIMER to the United States Senate, was proven to have been present when the Lorimer money was distributed, and proven afterwards to have had money in the same amount as the other members who confessed to receiving the bribes by sworn testimony before two grand juries.

Mr. President and Senators, I ask you to let your minds run back over that period covered by these extraordinary events. I ask you again to remember that the first charge made against WILLIAM LORIMER, impeaching his title to his seat as a Member of this body, was made and published broadcast throughout the land on the 30th day of April. The other confessions followed within a week or 10 days, and were printed in substantially every newspaper in the country.

Think of it, Senators! A Member of this great body charged with bribery by men who claimed to have received the money, their confessions published in every newspaper of general circulation from ocean to ocean as early as the 7th or 8th of May, and that Member contents himself with a brief, flippant, undignified newspaper interview and otherwise remains silent! Is there a man on this floor, other than that Senator, against whose honor there could be raised, against whose right to a seat on this floor there could be lodged, an imputation a fraction as strong as that who would not with all possible speed have hastened here at any sacrifice in order that he should be ready to rise in his place when next the Senate assembled and demand instant and complete investigation?

Have Senators who were Members of this body at that time forgotten that, as day after day went by, Members began to talk among themselves about LORIMER's silence? The very atmosphere of this Chamber, Mr. President, became surcharged, as it were, with indignant protest—protest that the man whose title to a seat here with us was clouded, whose right to pass upon important affairs reaching into the lives of all the people of this country was questioned, still permitted the validity of his election to rest under a taint, and asked for no investigation.

May passed. Week after week went by. The 7th, the 8th, the 10th, the 15th, the 20th ran along, and no demand for a chance to meet his accusers face to face at the bar of this Senate. Yet everywhere throughout the country the press was demanding to know what it meant.

Mr. President, our forefathers gave us a system of government. They wrought out a plan by which and through which the people should have control. That plan gave to every citizen just the same part in the affairs of government as though he could go in person to the seat of government and directly participate in the making of those laws. What was it? They gave to him the opportunity to send somebody to make the law for him; to send somebody to truly represent him, to put his voice and his vote and his views upon all public questions into the legislation that was to govern the land. They called it representative government, Mr. President; it was representative government; it remained representative government just as long as the men so chosen were faithful to the trust committed to them. But, Mr. President, even a novice may see that the very moment some power comes between the citizen and his representative the whole plan, worked out in all its elaborate details by the great intellects that gave us our Government, fails utterly and completely.

This Government is representative only when each United States Senator and each Member of the other House is truly representative of the public interest. It becomes the worst subversion of the liberties of the people whenever the United States Senator or the Member of the House of Representatives, chosen as the representative of the people, betrays his trust. Can you conceive, Mr. President and Senators, of any man other than WILLIAM LORIMER holding such a trust as a Member of this great legislative body for weeks and weeks with his title impeached?

For three long weeks he made no answer here. He had more interesting, more important matters in hand than the question of his right to a seat here or the honor of the Senate. During these weeks every Member of this body, excepting the Senator whose title to a place was in question, cringed under the public criticism. During this time there was directed toward the Senate criticism from which it will take us a long time to recover.

I can not understand, sir, how any man fit to be here—in short, any man who was innocent—could permit such charges to be published and republished day after day and week after week without demanding a searching investigation by the Senate.

But LORIMER failed to demand investigation until, in the corridors and in the cloakrooms, were heard mutterings that unless the sitting Member spoke pretty soon somebody would have to speak for him.

Finally, on the 28th of May, another member of that legislature who had voted for him came to the altar of public opinion and bowed his knee in penitence, and said, "I, too, am guilty. I have sinned. I took the money." Then, and not until then, did the Senator from Illinois appear in the Senate to plead other and more important engagements and finally to proclaim his innocence. There are sitting here this afternoon men who have come to their feet quickly when the least intimation was made in some public print detrimental to their high sense of honor, and have denounced it, and purged themselves by the denunciation.

On the 28th of May, nearly four weeks after the first charges were made, while testimony against the sitting Member was accumulating week by week and day by day, WILLIAM LORIMER rose here to make his denial. I do not know who finally forced him to speak, but I can well imagine, Mr. President, that he could not wholly have escaped importunity and warning from friends here and elsewhere. It is not my province to invade the privacy of any committee room. My respect for his venerable colleague [Mr. CULLOM] warrants me in believing that he made appeal to the man who divided with him the honor of representing the great State of Illinois in this body; appealed to him no longer to remain passive under those charges, but for the honor of Illinois to speak. I do not know, but I think it is fair to that Senator, who has borne clean hands and maintained a clear record through a generation of time while a representative of the public interest, to believe that he could not, with his high ideals of public service, fail to demand that some sort of answer be made here to the awful charges that were daily published throughout the country, impugning the honor of the sitting Member from Illinois, and raising questions as to why the Senate of the United States sat by and permitted this thing to go on without some voice raised in denial or protest.

I do not mean to speak in disparagement of "senatorial courtesy," of that regard and consideration for the feelings of Members that is necessary to the best consideration of legislative measures and the best service to the public; but, Mr. President, it may be exalted into a fetich; it may be made to take the place of the ideal of service to the public. We do not owe more, nay, we do not owe so much, to our colleagues as we owe to those who have commissioned us here as the bearers of a sacred trust.

I do not think it is unfair to presume, Mr. President, that the Senator from Illinois waited until he was admonished that formal charges were to come; that they could not be averted; that they must be met; and that he had better at the eleventh hour secure whatever consideration he could by "demanding" an investigation.

And so, on the 28th day of May, the voice of the sitting Member was first heard in this Chamber in protest of innocence.

Mr. President, so long as I live I am going to cherish the belief and the conviction that he is the only Member of this body who would not, as soon as he could after any publication even intimating that he had gotten his seat through bribery, have taken the floor to defend his own honor. I do not believe

there is a man here, from any State in this Union, who would not have been in the center aisle there, and whose voice would not have rung out from this Chamber demanding that those who had made the charges be called before a committee of this Senate and required to prove them. I am going to believe that there is not a man here, other than that one man, who would not have made full and complete answer to the Senate and the country early on the morning of the 30th day of April, 1910.

On the 7th of June formal charges were filed in the Senate by the president of the Voters' League of Illinois, and on the 20th day of June, 1910, 13 days thereafter, the Senate, by resolution, authorized and directed the Committee on Privileges and Elections to investigate the charges against WILLIAM LORIMER and report to the Senate whether, in his election, there were used or employed corrupt methods and practices.

The Committee on Privileges and Elections, by subcommittee, pursuant to said resolution, took testimony in the case, reduced it to printed form, and reported it to the Senate on the 21st day of December.

Senator Beveridge, of Indiana, dissented from the report, and subsequently filed his conclusions based upon the record of testimony in the case, accompanying the same with a resolution declaring that WILLIAM LORIMER had not been duly elected a Member of the United States Senate.

Senator Frazier, of Tennessee, a member of the Committee on Privileges and Elections and a member of the subcommittee which took the testimony, withheld concurrence in the findings of the majority of the committee as set forth in its report and reserved, through the chairman of that committee, the right, if he saw fit, to subsequently file a minority report. It is my recollection that he did not file a minority report. But I think, running all through the debate up to the time when the sickness and death of his mother called him from our midst, his position upon this case was clearly defined as one of opposition to the views of the majority of the committee as completely as though he had made a formal report.

Mr. SHIVELY. Mr. President——

The VICE PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Indiana?

Mr. LA FOLLETTE. I do.

Mr. SHIVELY. I think the RECORD will disclose that Senator Frazier did file minority views.

Mr. LA FOLLETTE. Is that true? Well, I am glad to make the correction. I cherish a very warm personal feeling for the ex-Senator from Tennessee, and very great respect, and regret that I had to be corrected to put him right on the record. I made what I thought was a very diligent search for his minority report, and was unable to find it.

Mr. SHIVELY. Probably I ought to observe that his views were not submitted at great length. They were submitted subsequently to the time when the views of the Senator from Indiana were submitted, and he agreed in the main with the views submitted by Senator Beveridge.

Mr. LA FOLLETTE. I am under obligations both to the Senator from Indiana and to the Senator from Texas who have corrected me.

The VICE PRESIDENT. The Senator from Wisconsin will suspend for a moment. The hour of 4 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated.

The SECRETARY. A joint resolution (H. J. Res. 39) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States.

Mr. BORAH. I ask unanimous consent that the unfinished business be temporarily laid aside.

The VICE PRESIDENT. The Senator from Idaho asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none. The Senator from Wisconsin will proceed.

Mr. LA FOLLETTE. Mr. President, one of the secretaries of the Senate has just been kind enough to place upon my desk the Journal of the Senate which makes note of the filing of the report of the Senator from Tennessee, Mr. Frazier, and I read into the RECORD now the following:

Mr. Frazier asked and obtained leave to submit his views on the investigation by the Committee on Privileges and Elections instructed by resolution of the Senate of June 18, 1910, to conduct such investigation relating to certain charges against WILLIAM LORIMER, a Senator from Illinois, which were ordered to be printed as part 4 of Report No. 942.

I ask leave, Mr. President, at this point in my remarks to incorporate exactly what Senator Frazier filed as his views in that case.

The VICE PRESIDENT. Without objection, permission is granted. The Chair hears no objection.

The matter referred to is as follows:

[S. Rept. No. 942, pt. 4, 61st Cong., 3d sess.]

ELECTION OF SENATOR LORIMER.

Mr. Frazier, from the Committee on Privileges and Elections, submitted the following views, to accompany S. Res. 247:

It is with great reluctance that I differ with my colleagues on the subcommittee, but feeling impelled to do so, I beg leave to state briefly my views and conclusions in this case.

As I understand the precedents as established by the Senate and the other branch of Congress, and now recognized as the law governing such cases, they are:

First. If the proof establishes the fact that the Member whose seat is in question because of alleged bribery or corrupt practices resorted to in his election has himself been guilty of bribery or corrupt practices, or knew of or sanctioned such corrupt practices, he may be unseated without reference to the number of votes thus corruptly influenced.

Second. If the proof fails to show that the Member knew of or participated in or sanctioned such corrupt practices, then, in order to justify unseating him, the proof must show that enough members of the legislature voting for him were bribed or influenced by corrupt practices that deducting their votes from the total vote received by him would reduce his vote below the constitutional majority required for his election.

While there are some facts and circumstances in this case tending to show that Senator LORIMER may have heard of or known that corrupt practices were being resorted to, and while Senator LORIMER failed to avail himself of the opportunity of going on the stand as a witness and denying any such knowledge or sanction of corrupt practices, if any such were being practiced, still I am of the opinion that the testimony fails to establish the fact that Senator LORIMER was himself guilty of bribery or other corrupt practices, or that he sanctioned or was cognizant of the fact that bribery or other corrupt practices were being used by others to influence votes for him.

This being true, the question then arises, Was bribery or corrupt practices used by others in his behalf to influence votes for him; and, if so, were enough votes thus tainted with fraud and corruptly influenced when excluded to reduce his vote below the legal majority required for his election?

The Legislature of Illinois consisted of 204 members. There were present and voting on the occasion of the election of Senator LORIMER 202 members. A quorum of both houses being present, in my opinion, he must have received a majority of all those present and voting, or 102 votes, to have been elected. Senator LORIMER received 108 votes, or 6 more than necessary to elect.

The testimony taken by the committee satisfies me that four members of the legislature were paid money for voting for, or in consequence of having voted for, Senator LORIMER. One senator and three representatives admitted under oath before the committee that they were paid money, and their admissions and the facts and circumstances surrounding the transactions satisfy me that they received it as a bribe for or in consequence of their votes for Senator LORIMER.

The four self-confessed bribe takers implicate three other members of the legislature who voted for Senator LORIMER as the persons who bribed them. The testimony satisfies me that the three alleged bribe givers were guilty of that offense. To my mind the man who bribes another is as corrupt as the one who is bribed, and by his corrupt act of bribery he demonstrates the fact that he is none too honest to receive a bribe if offered him.

While the proof is not clear or conclusive that these three bribe givers were themselves bribed or corruptly influenced to vote for Senator LORIMER, when I take into consideration their corrupt conduct as bribers of others, together with all the facts and circumstances surrounding this case, I can not bring myself to agree with the majority of the subcommittee that their votes are free from taint or corruption. These three votes, added to the four confessedly bribed, would make seven tainted votes. Eliminate them, and the vote received by Senator LORIMER was less than a majority of the votes cast.

As stated above, it is with hesitancy and great reluctance that I differ with my colleagues upon the subcommittee, but I have felt impelled to do so after a most careful and, I trust, unbiased study of this record. In view of the fact that I appear to stand alone in the views herein expressed, I make no recommendation to the committee, but I do ask that members of the committee not members of the subcommittee carefully read all of the testimony before forming an opinion.

At the time the foregoing statement of my views and conclusions were filed with the full Committee on Privileges and Elections it was my purpose to file in the Senate a more elaborate statement, setting out in full the reasons which led me to the conclusions reached. It was also my purpose to offer with such statement a resolution declaring that Senator LORIMER was not legally elected Senator from the State of Illinois.

Since then, to wit, on January 9, 1911, the Senator from Indiana, Mr. Beveridge, has filed an extended statement of his views, with copious reference to the testimony, and has *offered a resolution* of the character referred to. Hence it is not necessary for me at this time to file either the more extended report contemplated or the resolution. I am gratified that the Senator from Indiana concurs in the conclusion reached by me as to the election of Mr. LORIMER. In the resolution offered by him with respect thereto I concur.

Mr. LA FOLLETTE. Mr. President, I have reviewed the facts in this case as they transpired, from the publication of the charges against WILLIAM LORIMER down to May 28, 1910. And I now invite your brief consideration of other testimony in this same connection.

It is a most extraordinary, a most remarkable fact in this case that some 30 members of the Democratic Party under some powerful influence were brought to the support of WILLIAM LORIMER for United States Senator.

Why was it that the so-called Democratic minority leader, Lee O'Neil Browne—shown by testimony in this case to have had $30,000 strapped around his body at the time that "Lorimer money" was being paid to legislators—why was it that Browne, a Democrat, at the crisis in LORIMER's candidacy was able to muster so large a number of Democrats and deliver

them in a body to elect a strongly partisan Republican United States Senator?

Mr. President, the answer to that question will disclose the evil forces combined in subverting representative government.

I have brought to the attention of the Senate the established fact that four Democratic legislators, three of them members of the lower house and one of them a member of the senate, admitted the receipt of sums of money varying from $1,000 to $2,500 in consideration for their votes for WILLIAM LORIMER.

Now, then, what does the testimony further prove? It proves:

That another Democratic member (Luke) was proven to have been present when the Lorimer money was distributed among the confessed bribe takers, and was proven afterwards to have had in his possession substantially the same amount and in bills of similar denomination;

That strong circumstantial evidence pointed to the payment of money to still another Democratic member of the legislature—members closely associated with those who confessed to having received Lorimer money;

That at least one other member of the legislature was offered money to vote for the sitting Member, and that others were approached and sounded on the subject;

That one other Democratic member of the legislature, as soon as the investigation was ordered, ran to cover and remained beyond the reach of a subpœna for many weeks;

That at least one other member of the legislature was induced to vote for LORIMER by the promise made by LORIMER in person that he—the member of the legislature—should control the appointment of postmaster at Jerseyville, Ill., where he resided, and that this promise was the only consideration for said legislator's vote for WILLIAM LORIMER;

That still another member, who refused to answer, because if he did and told the truth it would incriminate him, claimed his constitutional privilege and refused to testify before the Senate committee; and, finally,

That the Democratic leader of the general assembly who conducted the Lorimer campaign among the Democratic members swore that he did not know LORIMER "except to see him"; that he had a "mere passing acquaintance"—and I am quoting his words—"hardly a speaking acquaintance," which statement was flatly contradicted by LORIMER, who asserted on the floor of the Senate that he (LORIMER) "became very intimate with him (said Democratic leader) years ago"; that it was proven that throughout many weeks covering the period of the campaign for his election the sitting Member occupied a room either connected with or in close proximity to the room occupied by this Democratic leader, and that they were proven and admitted to have been in conference day and night throughout the whole period; that this Democratic leader was shown by the testimony to have been the custodian of the Lorimer bribe money, and to have personally paid certain sums of said money to certain members of the legislature.

Upon the testimony, Mr. President, I was convinced beyond a reasonable doubt, and this conviction I know was shared by other Members of the Senate, that WILLIAM LORIMER had personal knowledge of the bribery which was committed to elect him to the United States Senate.

And, Mr. President, I pause here to remind Senators that the committee appointed to investigate this matter, or the subcommittee selected by the Committee on Privileges and Elections, so far departed from the authority and direction given to it by the Senate as to accept the statement of the attorney of a newspaper which took part in the examination of witnesses before that committee that he acquitted Mr. LORIMER of any guilty knowledge of bribery, and upon this to dismiss all consideration of the personal knowledge of the sitting Member of the bribery which had given him his seat.

I contended in the brief statement I made when this case was last before the Senate that at least I could not, reviewing all the testimony, bring myself for one moment to believe that the sitting Member had not been cognizant all the while of everything wrong which was done to secure him a seat in the Senate. If Senators who have not gone over the former record in the case should do so, they would find, page by page, evidence of the close association and the complete confidences which existed between Shurtleff, the Republican speaker, Lee O'Neil Browne, the leader of the 30 Democrats, and WILLIAM LORIMER, living together practically in the same room day and night for weeks and months while this contest was on, this thing and that thing being done to block the election of the candidate nominated at the primary by the voters of Illinois. These three boon companions, in either the same room or connecting rooms, were nightly with their heads together, plotting to defeat anybody who could be suggested.

When you come to consider the new testimony, you will see the bearing of all this scheming to prevent anybody from being chosen excepting this man, who represented not the Republican Party, not the Democratic Party, but something else which is intruding itself into the political life of the people of this country, secretly, masked, oftentimes difficult to hunt out, to define, to uncover, but it is here, Senators. If we close our eyes to it there are some millions of people in this country who do not.

And so I say, Mr. President, that upon the testimony I was convinced beyond all doubt—and in this conviction I know that other Members of the Senate share—that WILLIAM LORIMER had personal knowledge of the bribery which was committed to elect him to the United States Senate.

But, aside from his guilty knowledge of the bribery, I believe the testimony, beyond any possibility of doubt, proved that in the election of WILLIAM LORIMER to the United States Senate corrupt methods and practices were employed, without which he would under no circumstances have been elected.

The resolution offered on the 9th day of January, 1911, by the Senator from Indiana, Mr. Beveridge, was submitted to a vote at the conclusion of the debate on March 1, 1911. The resolution was in the following form:

Resolved, That WILLIAM LORIMER was not duly and legally elected to a seat in the Senate of the United States by the Legislature of the State of Illinois.

Upon this resolution the following Senators voted yea:

Bacon, Beveridge, Borah, Bourne, Bristow, Brown, Burkett, Burton, Chamberlain, Clapp, Clarke of Arkansas, Crawford, Culberson, Cummins, Davis, Dixon, Gore, Gronna, Jones, La Follette, Lodge, Martin, Money, Nelson, Newlands, Overman, Owen, Page, Percy, Rayner, Root, Shively, Smith of Michigan, Smith of South Carolina, Stone, Sutherland, Swanson, Taylor, Warner, Young—40.

The following Senators voted nay:

Bailey, Bankhead, Bradley, Brandegee, Briggs, Bulkeley, Burnham, Burrows, Carter, Clark of Wyoming, Crane, Cullom, Curtis, Depew, Dick, Dillingham, du Pont, Fletcher, Flint, Foster, Frye, Gallinger, Gamble, Guggenheim, Hale, Heyburn, Johnston, Kean, McCumber, Nixon, Oliver, Paynter, Penrose, Perkins, Piles, Richardson, Scott, Simmons, Smith of Maryland, Smoot, Stephenson, Thornton, Tillman, Warren, Watson, Wetmore—46.

When Mr. Frazier's name was called, Mr. CULBERSON said:

The Senator from Tennessee, Mr. Frazier, is absent at his home on account of the death of his mother. If present, he would vote "yea."

When Mr. TERRELL's name was called, Mr. BACON said:

My colleague [Mr. TERRELL] is necessarily detained from the Chamber by personal illness. I desire to state for him, and upon his authority, that while he has been detained from the Chamber he has examined the record in the case and has made up his judgment, and that if he were present he would vote "yea."

Not voting:

Aldrich, Frazier, Lorimer, Taliaferro, Terrell.

Votes for the resolution, 40; against the resolution, 46; not voting, 5.

So the resolution of Mr. Beveridge was not agreed to, and WILLIAM LORIMER retained his seat.

Mr. President, the heat is so oppressive that I will ask the indulgence of the Senate to yield the floor at this time and resume again to-morrow after the morning business shall have been concluded. I have a certified copy of the testimony that has been taken by the senate committee of the Illinois Legislature. I have made an analysis of that testimony, and I want to submit to the Senate that analysis. It will take me some little time, and I could not by any possibility conclude to-night. Therefore, with the indulgence of the Senate, I will yield the floor at this time, with the request or with the notice that I will, if other business does not intervene, resume it to-morrow after the conclusion of the morning business.

EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 10 minutes spent in executive session the doors were reopened, and (at 4 o'clock and 48 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, May 23, 1911, at 2 o'clock p. m.

NOMINATIONS.

Executive nominations received by the Senate May 22, 1911.

PROMOTION IN REVENUE-CUTTER SERVICE.

Ellsworth P. Bertholf, captain, United States Revenue-Cutter Service, to be captain commandant, United States Revenue-Cutter Service, in place of Worth G. Ross, retired.

PROMOTION IN PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE.

Asst. Surg. William M. Bryan to be passed assistant surgeon in the Public Health and Marine-Hospital Service of the United States, to rank as such from May 9, 1911.

PROFESSOR OF CHEMISTRY, UNITED STATES MILITARY ACADEMY.

Lieut. Col. Wirt Robinson, Coast Artillery Corps, to be professor of chemistry, mineralogy, and geology, at the United States Military Academy, to take effect October 3, 1911, vice Prof. Samuel E. Tillman, to be retired from active service.

PROMOTIONS IN THE ARMY.

CORPS OF ENGINEERS.

Capt. Harley B. Ferguson, Corps of Engineers, to be major from February 27, 1911, vice Maj. Charles L. Potter, promoted.

Capt. Frank C. Boggs, Corps of Engineers, to be major from February 27, 1911, to fill an original vacancy.

Capt. Clarke S. Smith, Corps of Engineers, to be major from February 27, 1911, to fill an original vacancy.

Capt. William P. Wooten, Corps of Engineers, to be major from February 27, 1911, to fill an original vacancy.

Second Lieut. Gilbert E. Humphrey, Corps of Engineers, to be first lieutenant from February 27, 1911, vice First Lieut. Douglas MacArthur, promoted.

PROMOTIONS IN THE NAVY.

Lieut. Charles H. Fischer to be a lieutenant commander in the Navy from the 4th day of March, 1911, to fill a vacancy.

Lieut. (Junior Grade) Burton H. Green to be a lieutenant in the Navy from the 20th day of October, 1910, to fill a vacancy.

Lieut. (Junior Grade) Duncan I. Selfridge to be a lieutenant in the Navy from the 7th day of November, 1910, to fill a vacancy.

Lieut. (Junior Grade) John J. London to be a lieutenant in the Navy from the 14th day of November, 1910, to fill a vacancy.

Lieut. (Junior Grade) John W. Wilcox, jr., to be a lieutenant in the Navy from the 9th day of January, 1911, to fill a vacancy.

Lieut. (Junior Grade) John M. Smeallie to be a lieutenant in the Navy from the 4th day of March, 1911, to fill a vacancy.

The following-named ensigns to be lieutenants (junior grade) in the Navy from the 13th day of February, 1911, upon the completion of three years' service as ensigns:

Douglas W. Fuller,
John T. G. Stapler,
Alexander Sharp, jr., and
Wilfred E. Clarke.

CHIEF OF BUREAU OF ORDNANCE, NAVY DEPARTMENT.

Commander Nathan C. Twining to be Chief of the Bureau of Ordnance in the Department of the Navy, with the rank of rear admiral, for a period of four years from the 25th day of May, 1911, vice Rear Admiral Newton E. Mason, resigned.

POSTMASTERS.

CALIFORNIA.

Nora Buchanan to be postmaster at Pittsburg (late Black-Diamond), Cal., in place of Nora Buchanan, to change name of office.

GEORGIA.

Edward M. Hagin to be postmaster at Douglasville, Ga., in place of Robert E. James, removed.

Abbie B. Youmans to be postmaster at Adrian, Ga., in place of George E. Youmans, resigned.

KANSAS.

Nelson M. Cowan to be postmaster at Kensington, Kans., in place of Nelson M. Cowan. Incumbent's commission expired January 30, 1911.

MINNESOTA.

B. H. Holte to be postmaster at Starbuck, Minn., in place of Iver M. Kalnes, removed.

Samuel C. Johnson to be postmaster at Rush City, Minn., in place of Samuel C. Johnson. Incumbent's commission expired January 10, 1911.

NEW YORK.

Wilmer D. Sharpe to be postmaster at Loomis, N. Y. Office became presidential October 1, 1909.

SOUTH DAKOTA.

Abraham H. Dirks to be postmaster at Marion, S. Dak., in place of Henrietta R. Dahlman, resigned.

CONFIRMATIONS.

Executive nominations confirmed by the Senate May 22, 1911.

SURVEYOR OF CUSTOMS.

Frank B. Posey to be surveyor of customs for the port of Evansville, Ind.

COLLECTOR OF CUSTOMS.

Russell H. Dunn to be collector of customs for the district of Sabine, Tex.

PROMOTIONS IN THE NAVY.

Lieut. Commander William A. Moffett to be a commander.

The following-named lieutenants to be lieutenant commanders:

Lloyd S. Shapley, and
Samuel I. M. Major.

Lieut. (Junior Grade) Henry A. Orr to be a lieutenant.

Ensign Isaac C. Shute to be a lieutenant (junior grade).

Midshipman Earle W. Jukes to be an ensign.

Carpenter Brandt W. Wilson to be a chief carpenter.

POSTMASTERS.

KENTUCKY.

G. W. Patrick, Williamsburg.

OHIO.

Abraham L. Miller, Liberty Center.
George W. Rich, Loveland.
Lester A. Smith, Jamestown.

WEST VIRGINIA.

C. L. Evans, Benwood.

REJECTION.

Executive nomination rejected by the Senate May 22, 1911.

Elmer B. Colwell to be United States marshal for the district of Oregon.

HOUSE OF REPRESENTATIVES.

MONDAY, *May 22, 1911.*

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

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Infinite and eternal presence, God, our Heavenly Father, ever ready to hear and answer the prayers of Thy children, take us into Thy care and keeping and guide us through the remaining hours of this day, that we may fulfill the obligations resting upon us and thus satisfy our own conscience and merit Thine approbation, in the spirit of the Lord Jesus Christ. Amen.

The Journal of the proceedings of Saturday, May 20, 1911, was read and approved.

EXTENSION AND WIDENING OF COLORADO AVENUE AT KENNEDY STREET NW.

Mr. JOHNSON of Kentucky. Mr. Speaker, this being the day set apart by the rules for the consideration of legislation pertaining to the District of Columbia, I move that the House do now resolve itself into Committee of the Whole House for the purpose of considering House bill No. 8649.

The SPEAKER. The gentleman from Kentucky [Mr. JOHNSON] moves that the House resolve itself into Committee of the Whole House for the purpose of considering H. R. 8649, a District of Columbia bill. The question is on agreeing to that motion.

The question was taken, and the motion was agreed to.

The House accordingly resolved itself into Committee of the Whole House for the consideration of the bill H. R. 8649, with Mr. RUSSELL in the chair.

The CHAIRMAN. The House is in Committee of the Whole for the consideration of House bill 8649, which the Clerk will report.

The Clerk read the bill and report, as follows:

A bill (H. R. 8649) to authorize the extension and widening of Colorado Avenue NW. from Longfellow Street to Sixteenth Street, and of Kennedy Street NW. through lot No. 800, square No. 2718.

Be it enacted, etc., That under and in accordance with the provisions of subchapter 1, of chapter 15, of the Code of Law for the District of Columbia, within six months after the passage of this act, the Commissioners of the District of Columbia be, and they are hereby, authorized and directed to institute in the Supreme Court of the District of Columbia a proceeding in rem to condemn the land that may be necessary for the extension and widening of Colorado Avenue NW. from Longfellow

Street to Sixteenth Street with a width of 120 feet, according to the plan for the permanent system of highways for the District of Columbia, and of Kennedy Street NW. through lot No. 800, square 2718, with a width of 90 feet: *Provided, however,* That the entire amount found to be due and awarded by the jury in said proceeding as damages for, and in respect of, the land to be condemned for said extension and widening, plus the costs and expenses of the proceeding hereunder, shall be assessed by the jury as benefits.

SEC. 2. That there is hereby appropriated, out of the revenues of the District of Columbia, an amount sufficient to pay the necessary costs and expenses of the condemnation proceedings herein provided for and for the payment of the amounts awarded by the jury as damages, to be repaid to the District of Columbia from the assessments for benefits and covered into the Treasury to the credit of the revenues of the District of Columbia.

Mr. JOHNSON of Kentucky, from the Committee on the District of Columbia, submitted the following report:

The Committee on the District of Columbia, to whom was referred the bill (H. R. 8649) to authorize the extension and widening of Colorado Avenue NW. from Longfellow Street to Sixteenth Street, and of Kennedy Street NW. through lot No. 800, square No. 2718, report the same back to the House with the recommendation that it do pass.

This bill was introduced at the request of the Commissioners of the District of Columbia, who submitted the draft of the same, with the following statement of their reasons for requesting its passage:

OFFICE COMMISSIONERS DISTRICT OF COLUMBIA,
Washington, April 15, 1911.

Hon. BEN JOHNSON,
Chairman of Committee on District of Columbia,
House of Representatives.

SIR: The Commissioners of the District of Columbia have the honor to inclose herewith a draft of a bill entitled "A bill to authorize the extension and widening of Colorado Avenue NW. from Longfellow Street to Sixteenth Street, and of Kennedy Street NW. through lot No. 800, square 2,718," and to request that it be enacted.

A blue print is inclosed upon which is indicated, in red, the land proposed to be condemned under the provisions of the bill. The estimated cost of this land is $17,538, and the bill provides that the total cost, together with the expenses of the condemnation proceedings, shall be assessed by the jury on the surrounding and abutting property as benefits.

The extension and widening of Colorado Avenue, as proposed in the bill, is believed to be very desirable. This avenue is becoming an important thoroughfare between Fourteenth and Sixteenth Streets, and should be opened to the full width of 120 feet, as laid down in the highway extension plans, before the increase in the value of the land or the erection of improvements would make the cost prohibitive. The land to be taken for the widening is divided into a number of small holdings, and it is impracticable to acquire it by dedication.

The widening of Kennedy Street is also desirable. This street is now open between Fourteenth and Sixteenth Streets with the exception of a small triangular part of lot 800, square 2718, and it has been found impossible to acquire this small portion by dedication. The District appropriation act for the fiscal year 1912 contains an appropriation of $5,600 for grading and improving this street between Fourteenth and Sixteenth Streets, and unless this small piece of land is acquired the street can not be improved to its full width at Sixteenth Street.

Very respectfully,
BOARD OF COMMISSIONERS DISTRICT OF COLUMBIA,
By CUNO H. RUDOLPH, *President.*

Mr. JOHNSON of Kentucky. Mr. Chairman, this, in the opinion of the committee, is one of the most innocent of the bills which come under the policy under which so many bills have been passed. The committee has been urged by the Commissioners of the District of Columbia to take it up immediately and urge its passage, for the reason, as explained by them, that through an engineering mistake they have gotten onto private property a little bit, and the early passage of this bill will prevent a suit for damages against the District. It varies from many of the other bills, in that the District of Columbia must pay everything that is to be paid, and the general payment of it all will fall as assessments upon the neighboring property holders.

Mr. SIMS. Mr. Chairman, I wish to extend my remarks for the purpose of placing a newspaper article in the RECORD—not on this bill.

The CHAIRMAN. The gentleman from Tennessee [Mr. SIMS] asks unanimous consent to extend his remarks. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

Mr. SIMS. Mr. Chairman, at this time the question of whether the Democrats on the Ways and Means Committee or in the House will vote to put wool, both washed and unwashed, on the free list or retain a fixed duty of some amount on it, or adopt what is called the sliding scale, is of such paramount importance that we should welcome aid and assistance in our efforts to arrive at a wise solution of the problem from any source.

With this purpose in view, I read a very able and illuminating contribution to this discussion from the pen of Mr. E. W. Newman, who writes under the nom de plume of "Savoyard," which I clipped from the Nashville Banner, a newspaper published in Nashville, Tenn.:

ABOUT FREE WOOL.

[By Savoyard.]

WASHINGTON, D. C., *March 18, 1911.*

There has been a deal of backing and filling over the proposed wool schedule of this Democratic Congress. Shall it be such a revision as John G. Carlisle would have made, or shall it be such a reaction as Samuel J. Randall would have given us? Shall the work of the Democratic Party of the Sixty-second Congress be Gormanized as was the work of the Democratic majority of the Fifty-third Congress? Shall we be overwhelmed in another wave of party perfidy and party dishonor?

If there is anything firmly established as a Democratic policy, it is free wool, for Schedule K is the citadel of protection and the duty on raw wool the keystone of the tariff arch. As long as we have taxed wool we will have a protective tariff, and the day wool goes on the free list the tariff wall will tremble, and soon thereafter it will fall. Carlisle said so, and Aldrich says so. Only a few days ago Mr. Aldrich said wool is the crux of the protective policy.

Why have two parties that favor a tax on wool? If both parties are for it, what was all that election row about last year? If the country is for a tax on wool, why did the people turn out the Republicans, who believe in it, and set up the Democrats, all of whose leaders of any sort of Democratic character since and including James R. Guthrie have advocated free wool?

The issue is plain and simple and sharp. The Democratic idea is free wool—and other raw materials he is bound to use—for the woolen manufacturer, and then compel him to compete with the foreign manufacturers by placing a duty strictly for revenue on his finished product. In the first place, that would give the people cheaper clothing, cheaper blankets, cheaper carpets, which would cheapen the cost of living enormously. Second, it would force the manufacturer to make woolens for the foreign trade, and that would enlarge his plant, give employment to more labor, supply a larger market to the woolgrower, and afford investment for more capital.

That is the Democratic idea. The Republican idea is a protective duty on raw wool, dyestuff, machinery, building material, and everything else the woolen manufacturer has to buy. Then pile up the protection on his finished product so as to give him a complete monopoly of the American market for woolens, such as clothing, hats, carpets, blankets, and everything made of wool. "But," says some fellow, "I'll never consent to free wool so long as the manufacturer has protection." No more will I. We propose to give him free raw materials and then take from him every scrap of protection not found in a tariff on finished products so constructed as to invite and stimulate importations of woolen goods. That was the position of Cleveland and Carlisle, of Morrison and Mills, of William L. Wilson and Henry G. Turner, and I'll say this: It has ever been the position of William J. Bryan. In my little way I have discharged as many shafts at "the Matchless" as anybody else. I was opposed to him when many of those now abusing him were in his train, shrieking "Noel!" and striving to touch the hem of his garment; but I always saw in Bryan a genuine tariff reformer of the Cleveland not the Gorman, of the Morrison not the Randall, type.

Strange to say, the manufacturer who buys from abroad 256,606,638 pounds of manufactured wool insists on paying tariff duties upon it to the amount of $21,128,728. Why? Because he knows that as long as there is a duty on wool 90,000,000 Americans, the most prodigal consumers in the world, will be forced to buy nearly everything made of wool from him, and the American people pay five times that $21,000,000 to protect him. That is what is the matter with this wool question. It is what the late Jonathan P. Dolliver said it was, a rascally and wicked conspiracy between the weavers and the shepherds to rob the American people and make living higher in price and greater in hardship.

When we shall succeed in smashing that cruel and remorseless combination of the shepherds and the weavers, the entire rascally tariff will go to the pot, and not before. And that is what the people ordered Congress to do last November, and why all this backing and filling is the mystery of it.

"Who but must laugh, if such a man there be?
Who would not weep, if Atticus were he?"

I have been about Congress for some 30 years, and it takes a heap to shock me, but I got a jolt the other day. A "Democratic" solon from Ohio said that he was elected by 10,000 majority. But if the Democrats put wool on the free list, he would be beaten by 10,000. Serene in his egotistic asshood, this fellow actually believes that it is more important to retain him in Congress than for the Democratic Party to redeem it solemn pledges of 40 years and upward.

I recollect 1892. A few moments after the Democratic Fifty-second Congress passed a bill putting wool on the free list Ohio voted for Grover Cleveland for President of the United States, and it was the only time Ohio has gone Democratic in a presidential year since 1852. The tariff was paramount in 1892 and the Democratic assault was made on the wool and woolen schedule. It is true that Cleveland got but one electoral vote from Ohio that year, but if every voter had understood the ballot he would have received every one of them.

Now it is common report that the Ways and Means Committee will put a duty on wool in order to carry Ohio. When you eat soup with the devil you must have a long ladle. Why stop at Ohio? Put the tariff high enough on steel and the Democrats would carry Pennsylvania. Michigan can be bought with a high duty on lumber. We would get Maine with a big duty on fish. Nay, make the duty out of sight on maple sugar and we might carry Vermont, that, it is said, will go Democratic when hell goes Methodist.

Just think of it! We can make the thing unanimous. Put the duties high enough and Aldrich and CANNON, PAYNE and DALZELL will come into the Democratic Party. Why, we can carry the G. O. P. that way. If we are going to fix a tariff to carry one State, let us fix it to carry all States. If the Democratic Party is to turn fat-fryer, let it go "a-cattin'" and sweep the whole platter.

And yet there is hope that the Democratic majority of the House will be Democratic, after all, and pronounce for free wool.

Mr. JOHNSON of Kentucky. Mr. Chairman, I move that the committee do now rise and report the bill with favorable recommendation, provided there is to be no other debate.

Mr. BUCHANAN. Mr. Chairman, I would like to ask as to the locality where this street is to be opened. I understand it is a new street. I would like to know if the home owners or property owners are in accord with this proposition?

Mr. JOHNSON of Kentucky. So far as we know, there is no objection; and if the gentleman heard the report read, he will have noticed that part of the money, $5,600, has already been appropriated.

Mr. BUCHANAN. I do not know anything about it at all. I am not sufficiently informed to act intelligently, and therefore I asked the question.

Mr. JOHNSON of Kentucky. I renew my motion, Mr. Chairman.

The CHAIRMAN. The Clerk will report the bill.

The Clerk proceeded to read the bill.

Mr. BORLAND. Mr. Chairman, I ask unanimous consent that the second reading of the bill be dispensed with and that the motion of the gentleman from Kentucky [Mr. JOHNSON] be put.

Mr. MANN. This is the reading of the bill for amendments, I suppose?

Mr. BORLAND. Mr. Chairman, I ask unanimous consent that the second reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Missouri [Mr. BORLAND] asks unanimous consent that the second reading of the bill be dispensed with. Is there objection?

Mr. MANN. Mr. Chairman, as this is the second reading of the bill, I think it ought not to be dispensed with.

The Clerk proceeded with and completed the reading of the bill.

Mr. JOHNSON of Kentucky. Mr. Chairman, I move that the committee rise and report the bill back to the House with the recommendation that the same do pass.

Mr. DYER. Mr. Chairman, I desire to know if this is the bill that the committee passed on at its meeting the other day. I have come in a little late.

Mr. JOHNSON of Kentucky. This is the one.

Mr. DYER. The only one we passed on the other day at our meeting?

Mr. JOHNSON of Kentucky. Yes; and reported unanimously.

The motion of Mr. JOHNSON of Kentucky was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. RUSSELL, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 8649) to authorize the extension and widening of Colorado Avenue NW. from Longfellow Street, and of Kennedy Street NW. through lot No. 800, square No. 2718, and had directed him to report the same to the House without amendment and with the recommendation that the bill do pass.

The SPEAKER. The question is on ordering the bill to be engrossed and read a third time.

The question being taken, the bill was ordered to be engrossed and read a third time, was read the third time, and passed.

ARIZONA AND NEW MEXICO.

Mr. FLOOD of Virginia. Mr. Speaker, I move that the House resolve itself into the 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 the Committee of the Whole House on the state of the Union for the further consideration of House joint resolution 14, approving the constitutions formed by the constitutional conventions of the Territories of New Mexico and Arizona, with Mr. GARRETT in the chair.

Mr. LANGHAM. I yield to the gentleman from South Dakota [Mr. BURKE].

Mr. BURKE of South Dakota. Mr. Chairman, occasionally we read in a newspaper, or some one on the floor of this House makes the statement, that the farmers of the country are not alarmed or disturbed, fearing any serious effect by the approval of the Canadian reciprocity pact, and it is said that the real farmers are not concerned about it to any considerable extent.

I have heretofore asserted on the floor that I not only believed that this proposition would seriously affect the farmers generally throughout the country but particularly in the Northwest, and in doing so I believed that I not only represented the best interests of my constituents but that I represented their sentiments upon this question.

On the 19th instant there assembled at Aberdeen, S. Dak., several hundred actual farmers from throughout the State, who met in convention for the purpose of expressing their dissatisfaction and their disapproval of the Canadian reciprocity pact, and they formulated a communication addressed to the President and the Congress of the United States, and also adopted resolutions embodying their views on the measure. They also elected a large delegation that will reach Washington during the present week and will appear personally before the Finance Committee of the Senate to protest against the reciprocity bill. I am one of those who have entertained hopes that the measure will fail of passage in the other body, and that, in any event, when it returns here it will be materially amended, and that therefore this House will again be given an opportunity to pass upon it. For that reason and for the purpose of giving greater publicity to the attitude of the farmers of South Dakota on the question, I send to the Clerk's desk and ask to have read the following communication appearing in the Aberdeen Daily News of the 19th, being the communication adopted, as before stated:

To the President and the Congress of the United States:

This convention, held at Aberdeen, S. Dak., on May 19, 1911, representing the agricultural and stock-raising interests of the State of South Dakota, respectfully and earnestly and unanimously protests against the passage of the so-called Canadian reciprocity act.

The farmers of these Northwestern States have loyally supported a high-protective tariff for the purpose of developing the manufacturing interests of the United States, and protecting their employees against the cheap labor of other lands, and have willingly paid the increased prices for manufactured products occasioned thereby. The result has been that our manufacturing development has become the wonder of the world, and the employees in these protected industries have received far higher wages than in any other country on earth.

We also believed that the time would come when the immense development of these manufacturing interests would furnish a home market for the products of agriculture at higher prices than if sold abroad in competition with the cheap labor of Russia, India, and Argentina. That day has now practically arrived, and food consumption has nearly caught up with agricultural production, and although we still export a small portion of our agricultural products, our domestic prices of oats, barley, wheat, flax, and corn and other agricultural products (except in cases of unusually large crops) will average considerably higher than across the Canadian line with equal freights to Liverpool.

DEVELOPMENT OF CANADA.

The Canadian northwest has barely begun to develop. Its production of grain, according to the careful estimates of Canadian and English statisticians, partially corroborated by our own Department of Agriculture, can be ultimately increased to several times the present total product of the entire United States. Canadian possibilities has already taken from us thousands of American citizens, who, with their millions of capital, should have been encouraged to develop the resources of our own country rather than expatriate themselves to a foreign land. The adoption of this treaty will stimulate this exodus of our American citizens and encourage Canadian development at our expense by allowing the entire Canadian surplus free access to our markets, and thereby put our farmers into direct competition with the Canadian producer, who has virgin soil, much cheaper and more productive land, pays lower wages and lower taxes and a lower tariff upon manufactured products, and has equal, if not better, facilities for reaching the world's markets. The inevitable result will be that the prices of our grains will again fall to the world's level, and be fixed at Liverpool, as in former years, instead of in Chicago or Minneapolis, and will again come into competition not only with Canadian products but with the cheap labor of all the grain-exporting countries of the world.

The rapid development of the Middle West years ago was a fearful blow to the agricultural interests of New England and the Eastern States, resulting in abandoned farms, depreciated land values, and discouraged farmers. Who is bold enough to say that history will not repeat itself and that similar results may not befall the farmers of the Middle West as the ultimate result of the free admission of grains from the "future granary of the world," the great Canadian northwest.

ENGLAND'S EXAMPLE.

Free-trade England does not protect its farmers and the result is that more than 3,000,000 acres of its farming land have gone out of cultivation during the last generation as the result of the free importation of the farm products of the world. The great Bismarck declared that the prosperity of the United States was based upon its protective tariff, and Germany thereupon inaugurated and has ever since maintained the protective system, both upon its agricultural as well as its manufacturing interests, and has made marvelous progress. France also protects its farmers against injurious foreign competition. Are not the farmers of the United States as worthy of protection as those of France and Germany, or the employees and proprietors of the manufacturing interests of the East

We resent the so-called farmers' free-list bill as a sop to the outraged farmers of the Northwest, and declare our conviction that such a law will be of little, if any, benefit to us. The farmers of South Dakota do not ask for the admission free of duty of agricultural implements, supplies, or any manufactured products which can be made in the United States with American labor at a reasonable cost and sold at reasonable prices.

BELIEVE IN PROTECTION.

We not only wish protection for ourselves, but we unselfishly favor the protection of every producer of the United States in the production of goods and other products made or grown in competition with the cheap labor of other lands. If, however, the protection now enjoyed by us upon our farm products is taken away there will be little advantage to us in a home market, as the price of grain will be the same in cities upon both sides of the international line, less freight to Liverpool. And while making no threats as to our future political action, we frankly suggest to the employees and proprietors of the protected industries of the East, whom we shall hold chiefly responsible in case of the passage of the reciprocity bill, whether they expect us to favor the continuance of a high protective tariff for their exclusive benefit when they have selfishly taken away all protection upon the products of our farms?

It is only during the last few years that farm lands have materially increased in value and agriculture has been even fairly prosperous. The farmer is deprived of many of the advantages, comforts, and conveniences of city life. His entire family are at work from daylight until dark and know no eight-hour day. A large investment in horses and machinery is required. After allowance of wages for labor no greater than paid to the ordinary laboring man, and the wear and tear of farm machinery, repairs to fences and buildings, the payment of taxes, and the expense of sufficient fertilization of the ground to prevent deterioration, the average net return upon the capital invested will not amount to one-half as much as the ordinary merchant or manufacturer expects to receive upon his investment.

THE PROFITS SMALL.

Had it not been for the great increase in farm values and temporarily increased prices of farm products of recent years, a large percentage of grain farming would have been conducted at a loss instead of a profit. Even with the unusually high prices of farm products last year the average net return upon developed farms was very small.

The avowed object of the passage of this bill is to reduce "the cost of living"; but while its effect will undoubtedly be to lower the price received by the farmer, it is extremely doubtful if the consumer will receive any substantial benefit. At the time this treaty was negotiated we enjoyed an advantage over the Canadian producer of about 12 cents per bushel on northern wheat, 30 cents per bushel upon barley, and 25 cents per bushel on flax. We had no advantage upon oats on account of excessive production, making it necessary to market abroad an unusually large surplus. This advantage is so small that it does not affect the price paid by the ultimate consumer for a loaf of bread, a glass of beer, or a gallon of paint. The blow will fall upon the agricultural interests alone, and with little probable benefit to the ultimate consumer, who is seldom required to pay less than 50 per cent profit upon the price received by the producer. The real cause of the alleged high cost of living is the excessive cost of transportation and the needless waste in distribution, which often more than doubles the price between the original producer and the ultimate consumer.

The tariff upon hides was removed, to the great detriment of the stock raiser and immense loss of customs duties formerly paid upon imported hides, and the result has been an increase in the price of shoes and leather instead of a reduction, as confidently promised at the time the tariff was removed. The reciprocity act removes all protection upon farm products, and the next step proposed is the abolition of the tariff upon wool, which will complete the removal of the last vestige of protection enjoyed by the northwestern farmers. What have we done to merit such treatment by the people of the United States?

The Canadians are as loyal to the English king to-day as they were in Revolutionary days. They have given and will continue to give, even after the passage of this act, a great advantage to English manufactured products over those of the United States. They buy our goods only because of price, quality, and speedy delivery.

There is no advantage likely to result to any portion of the people of the United States that will offset in the slightest degree the disastrous effects upon agriculture which are absolutely sure to follow the passage of this bill. One-third of the entire population of the United States is engaged in agriculture. When their prosperity is menaced, every avenue of trade and commerce will be affected, and the mad rush from our farms to the congested cities will again recur. The depressed prices of farm products certain to result from the passage of this act will have a similar effect upon agriculture as a complete abolition of our protective tariff laws would have upon the manufacturing industries of the East protected thereby.

STAND IS COMMENDED.

The following resolution was also adopted:

"We heartily commend the position taken by our delegation in the House and Senate in opposing this unjust treaty, and also the papers of our States, especially the Aberdeen Daily News, and Dakota Farmer and other weekly papers which advocate a square deal for everybody."

SIXTEEN DELEGATES CHOSEN.

Following the adoption of the resolutions the convention took up the matter of choosing delegates, and decided to send the following men to Washington to represent the State of South Dakota to oppose the treaty:

J. C. Simmons, Hugh N. Allen, C. A. Russell, Aberdeen; W. H. Wenz, Bath; E. J. Mather, A. W. Krueger, J. D. Reeves, Groton; E. P. Ashford, Rondell; J. D. McKenna, Bradley; E. E. Clapp, Raymond; Otto Johnson, Redfield; W. B. Burr, Selby; J. W. Parmley, M. P. Beebe, Ipswich; A. E. Chamberlain, Brookings; W. H. Lyon, Sioux Falls.

Mr. LANGHAM. I yield 10 minutes to the gentleman from Nevada [Mr. ROBERTS].

Mr. ROBERTS of Nevada. Mr. Chairman, some of us who have come to Congress for the first time, and who by virtue of the "dice-shaking" custom which prevails in the selection of seats, have been relegated to the suburbs of the House floor, have sat here throughout this long debate listening as best we could, and hoping against hope that something might be said or done that would justify the action of those Members on both sides of the floor of this House who oppose the immediate and unconditional admission of New Mexico and Arizona into the Union under the constitutions they have adopted. [Applause.] It would appear to us that those two western Territories, great in area, peopled with an intelligent, progressive, law-abiding and liberty-loving people, rich in natural resources, and possessing all that is essential to statehood, are being made the unfortunate victims of a political "gamble" in which their "hold card" has been seen, and their opponents, Democrats and Republicans alike, are each "raising" the other while the Territories "stand pat" and lose their "ante." [Applause.] They have been knocking at the door of Congress asking admission into the Union for years, but lest one party or the other might benefit by their admission and the political complexion of the lawmaking bodies of this country be changed, their admission has been postponed on one pretext or another, until now, regardless of parties or politics, the great mass of fair-minded American people demand their admission, and their admission at once. The majority Members of this House are entitled to no great credit if this resolution is adopted (as it undoubtedly will be) because it defers action and asks the people of Arizona to vote again on the very questions they once adopted by a vote of more than three to one, or, to be specific, 12,187 for and 3,822 against. Is that Democratic? Is that in accordance with your ideas of Democracy? You ask the people of New Mexico, after they have presented a constitution republican in form and adopted it at a general election by a vote of more than two to one, or, to be more specific, by a vote of 31,742 for and 13,339 against, to vote on it again? Is that Democratic? Is that in keeping with your cherished ideas of Jeffersonian Democracy of which we hear so much? [Applause on the Republican side.]

You say to the people of Arizona: "You have adopted a constitution which contains a provision for the recall of all elective officers by a decisive vote. It is republican in form and democratic in spirit, but we, as the great censors of all that is purely democratic, do not believe that you meant what you said by your votes, and are going to make you 'toe the mark' and try it again."

You claim to believe in the people. I have heard this Chamber echo and reecho with the eloquence of great men and have seen great beads of perspiration course down the cheeks of the orators while copious gushing tears dimmed their vision in passionate appeals made in behalf of the down-trodden masses, while the sanctity of the ballot was upheld and the "majority rule" on all questions was held to be the guiding spirit in all that savors of a pure democracy. [Applause.]

Why this change of heart at a time when you can respond by bowing to the will of the majority? All on this side of the House are ready to act at once as regards the admission of New Mexico, and many of us on both sides are ready to do the same with Arizona, regardless of our individual opinions, on the various articles and sections of the two constitutions. I am speaking my individual opinion, not as a partisan, but as a plain representative of the people who has no "axes to grind," alliances to make, favors to ask, or fears to constrain him.

The Constitution of the United States has said in the following words:

> 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.

It is admitted by all that Congress has the right under the law to admit one or both if it deems best, or to deny one or both admission if it sees fit so to do. What, then, should actuate Congress in the admission of States into the Union? In my humble opinion whenever a Territory of the United States of sufficient area and resources and peopled with a class of people of such a standard of citizenship as to conduct the limited affairs of a Territorial form of government in a manner becoming an enlightened people, who are intelligent, moral, law-abiding, and liberty loving and have complied with the terms of the enabling act of Congress by the adoption of a constitution prepared by a convention duly elected, organized, and held in compliance with the terms of Congress, and subsequently ratified by a majority vote of the people of the Territory, it is not only entitled to admission into the Union on an equal footing with the original States, but should be admitted, and admitted at once. But the majority Members in their report say:

> The committee further reports that it has had said constitution under consideration and finds the same to be republican in form; that they make no distinction in civil or political rights on account of race or color and that they are not repugnant to the Constitution of the United States or the Declaration of Independence; and that they are in conformity with the provisions of the enabling act.

Then why does not the committee in the discharge of its duties and without delay adopt House joint resolution 14, as introduced April 4, 1911, by Mr. FLOOD of Virginia? Is it because the committee does not believe in giving to any people the right to insert in their constitution the right of recall of members of the judiciary? The people of Arizona said by their votes that—

> Every public officer in the State of Arizona holding an elective office, either by election or appointment, is subject to recall from such office by the qualified electors of the electoral district from which candidates are elected to such office.

The majority members in their report say:

> The committee has also in its substitute resolution suggested an amendment to the proposed constitution of Arizona providing that the judiciary of the new State shall not be subject to recall from office by popular vote.

They say, however, apologetically to the people of Arizona:

> This amendment is not made mandatory, but is merely proposed and is to be submitted to the electors for their ratification or rejection at the first general election for State and county officers.

"O Consistency, thou art a jewel."

The views of the minority, signed by WILLIAM H. DRAPER, FRANK E. GUERNSEY, J. N. LANGHAM, FRANK B. WILLIS, WIL-

LIAM H. ANDREWS, and RALPH H. CAMERON, are set forth plainly and explicitly in a joint resolution, as follows:

SEC. 2. That the Territory of Arizona be admitted into this Union as a State with the constitution which was formed by the constitutional convention of the Territory of Arizona elected in accordance with the terms of the enabling act, approved June 20, A. D. 1910, which constitution was subsequently ratified and adopted by the duly qualified voters of the Territory of Arizona at an election held according to law on the 9th day of February, A. D. 1911, upon the fundamental conditions, however, that article 8 of the said constitution of Arizona in so far as it relates to the "recall of public officers" shall be held and construed not to apply to judicial officers, and that the people of Arizona shall give their assent to such construction of article 8 of the said constitution.

The views expressed by these men are plain, and the people of Arizona need have no question as to how they stand upon the recall when applied to the judiciary. We do not agree with them in their stand as dictators to the people of that Territory as to the precautions they may take in their constitutions to safeguard the people against an incompetent, unjust, and unscrupulous judiciary any more than do I agree with the majority in compelling the people to submit the question of recall of the judiciary a second time at an election. The minority members have, however, met the question squarely, while the majority have not. The views of the gentleman from Michigan [Mr. WEDEMEYER] and the gentleman from Kansas [Mr. YOUNG] are, to my way of thinking, the most in harmony with the intention of the framers of the Constitution of the United States. Their views are as follows:

We agree to the minority views as far as they relate to New Mexico. We disagree to the minority views so far as they relate to Arizona. We are in favor of both Territories coming into the Union as States under the constitutions adopted by the people of both New Mexico and Arizona, pursuant to the enabling act, by large majorities. We are for the passage of House joint resolution 14, as introduced April 4, which joint resolution as originally introduced we favor without amendment.

Many able and convincing arguments, pro and con, have been delivered in this House on the question of the soundness of the recall proposition when applied to the judiciary, but I am unwilling to take the stand that this Congress should invade the province of the electors of Arizona or any other Territory and dictate to them the tenure of their judicial offices and the manner in which judicial officers or any other officers may be removed from office as a condition precedent to their admission into the Union. That is a right inherent in themselves.

It is a right guaranteed the people by Articles IX and X of the Constitution of the United States. Article IX reads as follows:

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

Article X reads:

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.

My reasoning leads me then to this conclusion. That the power of Congress to dictate to the people of a State the manner in which they shall elect and maintain their judiciary and the only manner in which they may be removed, is not and never was delegated to the United States, and is not and never was prohibited by it to the States themselves.

It must, then, be a power reserved to the States respectively or to the people.

Mr. Chairman, so far as I am concerned, I am ready to vote now, and vote for the immediate admission of both Arizona and New Mexico as States into this Union.

Let us add two more States to that old flag, the merest mention of which should bring to the mind of every true American the deepest thoughts of patriotism, and make us all brothers of one great patriotic Nation, whose flag is known in every land and upon every sea, and whose graceful folds unfurled to the breezes command the respect and admiration of the entire civilized world.

Hail blessed flag, three cheers to thee,
The emblem of sweet Liberty!
Long wave aloft, retain thy hue,
Those blessed colors red, white, and blue!

[Loud applause.]

Mr. FLOOD of Virginia. Does the gentleman from Pennsylvania desire to yield some more of his time now?

Mr. LANGHAM. I should like to yield to the gentleman from Indiana [Mr. CRUMPACKER] one hour.

The CHAIRMAN. The gentleman from Indiana [Mr. CRUMPACKER] is recognized for one hour.

Mr. CRUMPACKER. Mr. Chairman, the power to admit States into the Union is said to be discretionary. It is political in its nature, and is vested in the political branch of the Federal Government, and is not subject to control by any other branch or department of the Government. In that sense it is a discretionary power. The courts can not by any sort of proceeding compel the Congress to admit Territories to statehood or to perform any other of its multiform functions under the Constitution. It is discretionary, perhaps, in a broader sense, in the sense that Congress is the judge of the wisdom of admitting new States into the Union, but that discretion is not an arbitrary one, judged from the standpoint of public policy. It should not be prompted by considerations that are whimsical or capricious. It is a reasonable discretion. Congress should investigate the conditions of an applicant for statehood. It should consider the area of the Territory, its resources, its population not only as to numbers but as to character, homogeneity, and political experience, and determine, upon the whole, whether the proposed Territory is capable of assuming the responsibilities of statehood. It is not a local question altogether. Every State in the Union has a vital interest in the question as to what new States shall be admitted, because every State sends Representatives and Senators to Congress to assist in making laws for the entire country.

The question as to the fitness of the Territories of Arizona and New Mexico for statehood, it seems to me, was primarily settled in the enabling act. When Congress made that law it decided that these Territories were fit for the duties and responsibilities of statehood, and then, in accordance with precedent, it proceeded to enumerate a number of conditions that should be performed before statehood would be granted. There is a persistent disposition on the part of Congress, manifested in almost every instance when new States are admitted into the Union, to prescribe special conditions for the new State government.

The Constitution of the United States declares, in effect, that State governments shall be republican in form. This, properly construed, means that they shall be republican in spirit as well as in form. A republican government is understood to be a popular government that performs its various functions through agents, officers, and representatives selected by the people for that purpose, as distinguished from a democratic government in which the people conduct the public affairs themselves. A republican government is predicated upon the representative idea, and State governments must be republican in spirit as well as in form. The constitutions that are offered to Congress for consideration now by these Territories seem to comply in a general way with the enabling act. They do not conflict with the Federal Constitution. They are republican in form. A question has occurred to my mind in the study of this measure as to whether a State might be admitted into the Union with a constitution providing for the making of its laws by the institution of the initiative and referendum, without any provision for a representative legislative body at all. I shall address myself to that problem a little later on in the course of my remarks, but I will say here that, in my judgment, that kind of a constitution would not be republican in either form or spirit, but these constitutions are republican in form because they both provide for representative government. I do not believe in injecting into the fundamental law of a new State conditions and provisions that are not adapted to the social and political development of its people. I do not believe that Massachusetts, with her 250 years of political life and experience, should determine the conditions for Arizona altogether from her own standpoint. We should be somewhat liberal in approving a constitution for a new State, but the fundamental conditions underlying republican government should be insisted upon, as they always have been and probably always will be.

With the admission of these two Territories into the Union every foot of territory in continental United States, if I may use that term, outside of Alaska will then be under the control of State governments, excepting the District of Columbia. The problem of statehood perhaps will not arise to vex Congress for a number of years to come, although I understand Hawaii is preparing to make application for admission into the Union as a State.

Mr. MANN. It has made application recently.

Mr. CRUMPACKER. It has already made application. In connection with Hawaii's application some very interesting problems will doubtless arise. In the course of this discussion, in colloquies that have occurred on the floor, there have been banterings back and forth across the main aisle as to which party was ready and willing to grant statehood to these Territories first, as if the greatest virtue was in the party that offered to grant statehood at the earliest date. I claim for the Republican Party the virtue of first acting with discrimination. It is not the party that is first willing to do a thing, but the party that has the discriminating sense to know when the time is ripe, when conditions are ready to do the act, and will do it at the proper time.

The questions of education, political experience, social institutions, permanence of population are among the things to be

considered in determining whether Arizona and New Mexico are ready for statehood and whether, from the standpoint of the other States, statehood should be extended to them.

WHAT CONSTITUTIONS SHOULD CONTAIN.

These Territories have presented constitutions that contain many good provisions. If I were making the constitutions, I would omit some things from both of them and probably embody provisions not contained in either of them. The only criticism the Committee on the Territories makes of the constitution of New Mexico so far as its report discloses is that it is not sufficiently liberal in providing for its own amendment. I have no sympathy with that criticism of the New Mexico constitution. What is the constitution of a State or of a country? It is the organic law which defines the powers and outlines the framework of the government. It should impose limitations upon the various branches of government and safeguard the rights and liberties of the citizens. It should provide for the stability of free institutions. A constitution is a port of safety in time of storm; it is a city of refuge in the face of popular frenzy. It should not be a vehicle to carry legislation. The legislative body should make the laws for the people. The constitution should be made by the people to control and govern the government it creates.

It ought not to be amended too easily. There has been much said during the course of this debate about the rights of the people. The RECORD abounds in fulsome praise and adulation of the people, but most of it bears the earmarks of cheap lip service designed to cover the barbs in the political fishhooks. I hope we are all interested in the welfare of the people, but we should show that interest in a more substantial way than in high-sounding rhetoric. This Government, with its splendid institutions, is our common heritage, and we are part of the people, and share with them the benefits of popular government. But stability of government is one of its most beneficent features, and that can not exist when the organic law changes with every change of the moon. A constitution that can be amended as easily as an act of the legislature will soon lose its sanctity.

I believe, Mr. Chairman, there is great virtue in political sentiment. We cherish the memory of the patriots who founded this Government, and of the brave men who preserved it against destruction. Their sacrifices should inspire us to a nobler patriotism. A people that has no sentiment, that has no reverence for its historic characters and institutions, is far down in the scale of civilization. A constitution ought to embody general principles; it ought to outline the powers of the Government and impose limitations upon the exercise of those powers wherever it is for the welfare of the people to do so, and the government created thereby should work out the details of legislation and administration in accordance with the principles and limitations contained in the constitution.

LEGISLATION IN THE CONSTITUTION.

Mr. Chairman, the strongest evidence against the fitness of Arizona for statehood is that contained in the constitution itself, in the legislation it embodies. The convention that framed that constitution put much in it in the way of detail that should have been left to the legislature, in the belief, perhaps, that in their anxiety for statehood the voters would approve it. Those items of legislative detail are embalmed in the instrument and can not be changed except by amendment to the constitution. If you make the constitution an instrument of legislation, of course you must make it easy of amendment.

Mr. JACKSON. Will the gentleman yield?

The CHAIRMAN. Will the gentleman from Indiana yield to the gentleman from Kansas?

Mr. CRUMPACKER. I will yield.

Mr. JACKSON. I simply wanted to inquire whether the gentleman would favor leaving these legislative matters out of the constitution and allowing the judges to put them in afterwards, or whether he would think it was better to put more in the constitution in the way of limitation?

Mr. CRUMPACKER. I believe in putting in the constitution all that may be regarded as necessary fundamental law. I have little fear of the judges. I live in a State where they have honest, upright judges, and I have high regard for the Federal courts.

Mr. BUCHANAN rose.

The CHAIRMAN. Will the gentleman from Indiana yield to the gentleman from Illinois?

Mr. CRUMPACKER. For a question.

Mr. BUCHANAN. The gentleman says that in Indiana the judges are clean and upright, and I suppose they are. I would like to ask the gentleman if he favors the judges writing the laws of the country?

Mr. CRUMPACKER. I am not in favor of the judges writing the law.

Mr. BUCHANAN. That is what they have been doing.

Mr. CRUMPACKER. I think the gentleman has more politics than law in his head. I do not agree with that proposition at all.

Mr. BUCHANAN. I do not plead guilty to being a lawyer. The gentleman has made a charge which he can not substantiate.

Mr. CRUMPACKER. I wish to submit some observations upon the great questions pending, and I do not wish to be sidetracked in a discussion of the judiciary.

Mr. NORRIS. I want to suggest that while I think the gentleman is entirely right in not yielding, I think that in passing he ought to apologize to the gentleman from Illinois, who interrupted him, who says he has been charged with being a lawyer and seems to take offense at it. [Laughter.]

Mr. CRUMPACKER. I did not mean anything offensive to the gentleman. I will withdraw the imputation that he is a lawyer.

Were the framers of the Arizona constitution afraid of the people? They evidently were, because they took advantage of an opportunity to nail provisions into the constitution which they could with entire propriety have left to the consideration of the voters of the new State. But they were not willing to do it. They were afraid of the people. They were afraid to leave those questions to be dealt with by the legislative branch of the government.

I think the New Mexican constitution in the main is a fairly good charter of government. I believe it can be amended with sufficient facility. It may be amended with greater facility than the constitutions of more than half of the States in the Federal Union now. The State I live in may be a little old-fashioned in some respects. We believe in old-fashioned virtues adapted to new-fashioned standards of life. The Indiana constitution provides that a proposed amendment must be agreed to by two-thirds of the entire membership of two successive legislatures before it can be submitted to the people for ratification. It has been amended but few times. It was adopted in 1851, and it is a real constitution, because it defines and outlines the State government and is not full of legislative detail.

THE FEDERAL CONSTITUTION PROGRESSIVE.

The Constitution of the United States has been criticized in the course of this debate as undemocratic and nonprogressive. The gentleman from Texas [Mr. HARDY], in a speech he made two or three days ago in this Chamber, declared that its shackles were festering upon the wrists and ankles of the people at this time and seriously obstructing progress. Mr. Chairman, I have great reverence for the Federal Constitution. Among its chief virtues is its capacity for growth, its adaptability to changed and changing conditions.

If it were not for its progressive spirit it would have gone to the scrap heap of disuse generations ago. It abounds in eternal principles safeguarding the fundamental rights of the citizen rather than legislative details incapable of adjusting themselves to new conditions. It is as well adapted to the needs of this time as it was to the needs of the time that gave it birth. Its principles are as eternal as the laws of a Newton or a Kepler. I suppose if the law of gravitation had been embodied in the Constitution there would be statesmen and reformers to-day declaring that law nonprogressive and undemocratic and insisting that the people should have the right to repeal or amend it by initiative and referendum. [Applause on the Republican side.]

Talk about the Federal Constitution being despotic and nonprogressive. There never was an instrument or charter of government in the history of civilization that so admirably embodied in its provisions principles so well adapted for growth and development—principles that are so capable of meeting the wants of all conditions and stages of political, social, and economic development as does the Constitution of the United States. [Applause on the Republican side.]

I know that there are those who want to tinker it, who are seeking to destroy its representative character. I know to-day that there are many who would take from the courts the power to determine whether legislation is in conflict with the Constitution. That proposition might carry at a popular election, but I do not believe it would. If that power were taken from the courts, the Constitution would be worthless and the end would be anarchy.

Mr. BUCHANAN. Will the gentleman yield?

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

Mr. CRUMPACKER. Yes.

Mr. BUCHANAN. I would like to ask the gentleman if he would be willing to give the people an opportunity to approve this—whether they would be willing to give the judges the power of usurping the functions of legislative bodies?

Mr. CRUMPACKER. I feel justified in declining to answer such a question. The fear of courts usurping legislative power exists only in the fancy of the gentleman. I will discuss the courts somewhat when I come to the proposition for the recall of judges.

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

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

Mr. CRUMPACKER. Yes.

Mr. FOWLER. You say that if the power to decide as to the constitutionality of a law is taken away from the judges anarchy would be the result. With what class of people would the anarchy be most likely to originate, and what class of people would be most likely to advocate it?

Mr. CRUMPACKER. The demagogues, the dreamers, the doctrinaires who are now denouncing the Constitution because it stands for stability, for security of life, liberty, and property.

Mr. FOWLER. One more question, if you please.

The CHAIRMAN. Does the gentleman yield?

Mr. CRUMPACKER. I yield for a question.

Mr. FOWLER. Do you not think that the good sense of the people of the United States will always rise above the demagogue and the designing newspaper man?

Mr. CRUMPACKER. The common people of the United States have more good hard sense and more honesty than is possessed by many self-appointed political leaders. They know their own limitations. They know that the ordinary business man, the ordinary man of affairs, has not the time nor the opportunity to investigate complicated problems of government.

Mr. FOWLER. Is it not a fact that if the Constitution was absolutely destroyed the good judgment of the American people would at once reenact one for the purpose of establishing a stable form of government?

Mr. CRUMPACKER. From your standpoint what is the use of having a constitution if the people are infallible? What is the use of having limitations on government if the people are incapable of making mistakes? Absolutely none. You discredit the people and their capacity for self-government when you want a constitution. The people would discredit themselves and their ability to make wise laws, from your standpoint, if they should create another constitution, because a constitution is a limitation on the power of the government and the power of the people. I believe in a constitution myself, with authority in the courts to prevent its violation by the lawmaking branch of the Government. No legislative body should enact a law in conflict with the constitution nor should the people under the referendum be allowed to do so.

Mr. FOWLER. The gentleman does not answer my question.

THE ENGLISH CONSTITUTION.

Mr. JACKSON. I desire to suggest to the gentleman, along the line he was discussing when the gentleman on the other side of the aisle asked him a question, whether he has overlooked the proposition that the United States Government is about the only Government on earth, and was the only one, I believe, until within the last few years, in which the judges have the power to declare a law unconstitutional. I want to say to the gentleman that I agree entirely with him as to the proposition that that is a good thing, but he is hardly warranted in assuming that anarchy would result from the abolition of this power, because the judges of England do not have it, and I believe he will agree that England has at least a stable government.

Mr. CRUMPACKER. Here is one difference between this country and England. England has an unwritten constitution. She has the constitutional safeguards of liberty and justice, and they are supported by an active, a vigilant, a discriminating public opinion, which is instinctive in the subjects of the British Crown. It is the outgrowth of centuries of struggle for free institutions.

The people of the United States have a written constitution. Ever since this Government was ordained they have depended upon the courts to take care of the rights of the people by enforcing the constitutional safeguards. Public opinion in this country has been dormant upon constitutional guaranties. Probably in the course of the years and the generations public opinion would develop sufficient force and strength to make a written constitution unnecessary, but it would require upheavals that would shake the foundation of our institutions to develop it. Our people would doubtless be educated up to that point, but the cost of the education, I fear, would be terrific. Besides, England is small in area and her people are more homogeneous than ours. This country is vast in area and has, perhaps, the most cosmopolitan population of any country on the globe. There is a great diversity of ideals, social and political, in this country, and the material interests of various sections are often antagonistic in their legislative wants and needs. Without a written constitution there would be interminable conflict among interests and sections, and the result would be disintegration and chaos.

Mr. BUCHANAN. Mr. Chairman, I should like to ask if it is not a fact that the condition in England has been due to the fact that there has been a liberty of public opinion there—that public opinion has been unhampered? Is it not a fact that that power was taken away from the judges owing to the hostility of the people?

Mr. CRUMPACKER. The power to hold acts of Parliament unconstitutional never resided in the courts of England. There never was a time in English history when the highest court in the realm could hold an act of Parliament to be unconstitutional. If courts in this country could not set aside legislative acts when in conflict with the Constitution, legislatures would be omnipotent. They might pass bills of attainder, laws impairing the obligation of contracts, and ex-post facto laws at liberty, with no restraining influence except public opinion. The taxing power could be used to build up one industry at the expense of another with perfect safety if the beneficiaries of the legislation possessed a controlling influence at elections.

Sovereignty in England resides nominally in the Crown, but really it is the House of Commons, the members of which are elected by the people. Tradition and sentiment are more potent factors in English affairs than they are in this country, and conflict of local interests is very much less.

INITIATIVE AND REFERENDUM.

One of the provisions contained in the Arizona constitution that I do not agree with is that establishing the initiative and referendum. The institution of the initiative and referendum has a legitimate place in local government. There is not a State in the Union that does not have it in one aspect or another. It is a valuable and useful institution for the determination of many questions of a business nature in county and city government. For instance, when it is desired to construct a gravel road in a township in Indiana at the expense of the township a certain number of voters of the township may initiate the movement and have an election by the voters in the township to determine whether the improvement shall be made. The voters and taxpayers of the township know whether they desire the improvement and whether their financial condition is such that they can afford it. That is an illustration of a class of questions that may properly and justly be left to the various localities for the people to decide for themselves.

Mr. CAMPBELL. Will the gentleman yield for another citation on that line?

Mr. CRUMPACKER. Yes.

Mr. CAMPBELL. In the State of Kansas, and I think in most of the States, we have an initiative and referendum for the location or relocation of county seats.

Mr. CRUMPACKER. We have that also in Indiana, and I think it exists in most of the States. The issuing of bonds for local public improvements, the granting of subsidies to railroad companies, the purchase of water and lighting plants by cities, and the granting of franchises to public utility companies—all of those questions are within the legitimate field of the initiative and referendum.

Mr. FERRIS. Mr. Chairman, I understood the gentleman to say at the start that he was opposed generally to the provision of the initiative and referendum?

Mr. CRUMPACKER. Yes.

Mr. FERRIS. Although he conceded it obtained in most of the States.

Mr. CRUMPACKER. I say I am opposed to it as it is provided in this constitution.

Mr. FERRIS. I hope the gentleman will draw the line at which he would have it apply and where he would not.

Mr. CRUMPACKER. I am doing that now.

It is peculiarly adapted for the determination of simple local business questions, for the people of each locality know better than any legislature can know what their respective communities need and desire. There are some general propositions that may be submitted to the people with propriety—the issue of State bonds for the construction of canals or public buildings, for instance. Then there is the question of the prohibition of the manufacture and sale of intoxicating liquors. That question has been submitted to the people of some States, not altogether because they are more competent to decide it than the legislature is, but because it is an easy way for an ambitious statesman to escape the embarrassment of voting upon the

question himself. There is no roll call and record of yeas and nays connected with the ballot, and that is probably one reason why the referendum is so popular on the prohibition question.

Mr. CAMPBELL. Is there a constitutional inhibition upon the legislature to submit by referendum any proposition involving the enactment of a general law within a State?

Mr. CRUMPACKER. In what constitution?

Mr. CAMPBELL. In any of the constitutions of any of the States.

Mr. CRUMPACKER. Yes.

Mr. CAMPBELL. What is it?

Mr. CRUMPACKER. Almost every constitution declares that all laws shall be enacted by the legislature, and where legislative bodies have voluntarily submitted questions of general application to the people to vote upon, the courts have held the submission invalid. When the constitution reposes the duty of making laws upon the legislature, that duty can not be delegated to anyone else, not even to the voters of the State.

Mr. CAMPBELL. I think a large majority of the decisions of the courts in States, and where the question has come to the Supreme Court of the United States, of that court, are that the legislature has authority to submit by referendum to the people of the State questions enacting general law. The authority has been denied, I think, in a few States, and the authority conceded in many instances.

Mr. CRUMPACKER. I have read recently several decisions of courts on the question of the referendum, and the holding was uniform that where the constitution provides that all laws shall be made by the legislature, the legislature has no power to submit measures to voters to decide by ballot or in any other manner. The courts hold generally in this country that when the constitution reposes a power in a legislative body, that power can not be delegated to any other tribunal, person, or body of persons. That limitation, however, applies only to general legislation and not to matters pertaining to local government of counties, cities, and towns.

In Indiana the prohibition question can not be submitted to the people of the State for decision until the constitution is amended. In the States where the initiative and referendum is in use it is specially authorized by the constitution. The New Mexican constitution now before us for consideration specially authorizes the legislature to establish the initiative and referendum. The framers of that instrument evidently thought the legislature could not refer legislative questions to the people for decision unless the constitution expressly authorized it to do so.

Mr. CAMPBELL. If the gentleman will permit me, the State of Virginia has the right to submit by referendum and also the State of Vermont, not on purely sumptuary questions, but on questions of general legislation, and I have some opinions of the courts here, which, of course, I do not care to call particular attention to at this time.

Mr. CRUMPACKER. I am not prepared to discuss the decisions under the Virginia constitution nor under the Vermont constitution, because I have not had an opportunity to study the constitutional provisions upon which they were rendered.

Mr. BUCHANAN. May I ask the gentleman if they have not a county option law in the State of Indiana?

Mr. CRUMPACKER. They had a county option law until last winter, when it was repealed. County option is purely a local question, and it may be authorized by a legislature which could not provide for a plebiscite in the entire State on the prohibition question.

LIMITATIONS UPON INITIATIVE AND REFERENDUM.

Now, if I am permitted to proceed with my remarks, I desire to locate the line of demarcation between questions that may with safety and propriety be the subjects of initiative and referendum and those that may not.

Mr. FERRIS. If the gentleman will permit, I wish to say, in regard to the suggestion made by the gentleman from Kansas [Mr. CAMPBELL], even granting that what the gentleman from Kansas says is true, that would not answer the purpose of those of us who believe in the initiative and referendum at all.

Mr. CRUMPACKER. I can only repeat, without going into detail, that in my judgment the initiative and referendum is entirely proper and useful respecting local questions of a business nature, but it is not adapted to matters of general legislation. General lawmaking by the voters at the polls is subversive of representative institutions, and can not, under existing conditions, result in wise laws and policies. I make that assertion in the belief that I have in my heart as much respect for the intelligence and sturdy character of the American people as any man in this House. I am one of the people myself. I do not believe the voters have the time nor the opportunity nor the disposition to give such study to the science of government as is necessary to enable them to understand and vote intelligently upon complicated economic, social, and political legislation. They are too busy with their individual interests to inform themselves respecting grave and important matters of legislation. I know how strong the temptation is for politicians to appeal to the vanity of the people and say to them, "You ought to have a larger share in your own Government; this is your Government; you ought to make its laws; you ought to run it." It is a popular appeal ordinarily, but level-headed men in this country know their own limitations. The men on the farm, the men in the shops, the men in the offices are so fully engrossed in their own personal affairs that they do not have the time nor the opportunity to make the thoughtful investigation of general legislative questions that is necessary to vote wisely. Who are competent to make laws? Those only who have the time and the opportunity to study social conditions, to know what the laws are, and what abuses may exist that ought to be corrected; those who are able to put a practical interpretation upon proposed measures and know how they will operate, how they will affect business and social institutions. "Every man his own statesman" is a good political slogan, but you might as well say that every man should be his own lawyer or his own doctor. It is claimed that this modern movement toward a larger popular control of legislation is the logical development of democratic institutions. That position will not stand the test of analysis. The institution of initiative and referendum is ebullitional rather than evolutional.

Every man his own statesman. Government is a science. Some of us, Mr. Chairman, who have been selected by our constituents to represent them in the lawmaking bodies of the country know altogether too little about the science of government to act with the highest wisdom upon all questions that come before us. I say, without fear of offending my own constituents, that it is impracticable and unwise to refer matters of general legislation, such as criminal codes, and civil codes, and laws for taxation, and the creation of corporations, and the transmission of property, and legislation generally, to the people to be acted upon at the polls. It seems to me that it is an insult to the intelligence of the people to say to them that, while they do not have sense of discrimination enough to select honest, competent men from among their neighbors and acquaintances to represent them in a lawmaking body, they are capable, nevertheless, of understanding the problems involved in general lawmaking and can and will decide safely and intelligently at general elections what the law should be. [Applause on the Republican side.]

This is a great problem, Mr. Chairman. It means more to this country than a mere experiment in the prospective State of Arizona. I am going to vote to approve the constitution. I am willing that Arizona shall try it, but I predict its failure wherever it is generally employed. Some of us can learn some things only by experience, and a large percentage of our people are determined to experiment with this the latest fad in politics. If Arizona does not prosper under it, some William Allen White will write in burning rhetoric upon the subject: "What's the matter with Arizona?" [Applause on the Republican side.]

The diagnosis will be tribuni plebis, meaning in English "demagogitis." [Laughter.]

Mr. SLOAN. I am with you in spirit, but not on the Latin. [Laughter.]

Mr. PROUTY. There is too much Latin there. [Laughter.]

THE OREGON PLAN.

Mr. CRUMPACKER. The provision in the Arizona constitution is copied almost verbatim from the constitution of the State of Oregon. The "Oregon plan" is paraded before the country to show how wisely laws are made under the initiative and referendum and how safe and conservative the people of Oregon have been in the face of provocation. I admit that the people of that State have shown more good sense in some instances than the legislature has. [Laughter.] There were 32 legislative propositions submitted to the voters for decision at the general election in November, 1910, along with the election of Congressmen and State and county officers. Eight of the propositions carried and 24 failed. Among other propositions submitted was an amendment to the constitution, proposed by the legislature, to abrogate the provision in the constitution which requires taxes to be equal and uniform. The legislature proposed that amendment to the State constitution. It had to be submitted to the voters for ratification or rejection. The vote upon it was—for, 37,619; against, 40,172. It was beaten in a vote of almost 80,000 by a narrow margin of 2,500.

Now, what does that mean? What does it signify? Equality and uniformity of taxation are inseparable from liberty and justice. Think of a State legislature in this country that will seek to make the taxing power an instrument of convenience to favor friends and punish enemies. Most of the great struggles for English liberty were waged over the taxing power. When our Government was ordained the rule of uniformity of taxation found its way into the Constitution, and it is one of the most potent safeguards of liberty and justice in that instrument. Taxation and representation in those days were vital questions. As Edmund Burke said, the wrong was not so much the weight of the tax as the weight of the preamble, asserting the power in the Parliament to impose taxes upon the Colonies without their consent. Uniformity has been the rule of taxation throughout this country. We have been governing Territories that have had no representation in Congress for more than a century; we have been taxing them without representation; but they were protected by the uniformity principle.

The people, through the Representatives, impose the taxes, and they must be uniform in all parts of the country. We can impose only such taxes on the Territories that are not represented in Congress as we voluntarily impose upon ourselves. The vital principle that taxes must be imposed by those who pay them is carried to the Territories through the uniformity rule. The good sense of the people saved the credit of the State of Oregon by rejecting the proposition to strike out of the constitution of that State the equality and uniformity rule. The amendment may be again submitted, and the small majority against it in 1910 may be converted into a majority in its favor at the next referendum. In that event taxation may run riot. There will be no guiding principle for the distribution of the burdens of government. It has been well said that the power to tax is the power to destroy. With no uniformity or equality of taxation, it may become a most dangerous and invidious agency for destruction.

Mr. LENROOT. I will ask the gentleman if it had not been for the referendum, might not taxation have run riot now?

Mr. CRUMPACKER. I think not. It is true the referendum saved the honor of Oregon at the election in 1910 and preserved the rule of equality and uniformity in the constitution.

Mr. McCALL. Will the gentleman yield?

Mr. CRUMPACKER. I yield for a question.

Mr. McCALL. Is it not probable that the Legislature of Oregon voted to submit that amendment to the people simply because there was a referendum?

Mr. CRUMPACKER. It was a proposition to amend the constitution and had to be submitted to the voters.

Mr. McCALL. Precisely upon that theory the Massachusetts Legislature submitted to the people a prohibitory amendment, on the theory that the people should have the right to pass upon it. The members of the legislature would not say that they believed in it, and the people finally rejected it, but it was simply to throw the responsibility for it upon the people.

CORRUPT LEGISLATURES.

Mr. CRUMPACKER. Where the initiative and referendum is established it is because of a general suspicion of the integrity of members of the legislature. That is what prompts it. I do not know how comfortable a man in the Oregon Legislature may feel. He is not necessarily a criminal. He is nothing more than a suspect, to say the worst about him. An old lady received a letter from a son who many years before had gone into the far West. She had not heard from him for a number of years, until she received this particular letter. Among other things he wrote that he had been sent to the legislature. In relating it the mother said he did not say what he was sent up for, nor for how long, but she said with a sigh, "He is my boy, and I was glad to hear from him anyway." [Laughter.] It is not known whether the son lived in Oregon or not.

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

Mr. CRUMPACKER. I yield for a question.

Mr. LAFFERTY. I should like to know if the gentleman is familiar with the object of the constitutional amendment in Oregon to which he has referred, with reference to uniformity of taxes?

Mr. CRUMPACKER. I do not know what the object was. I know what the effect would have been.

Mr. LAFFERTY. I desire to state, without taking issue with the gentleman's argument at this time, that the object of that amendment was to authorize the single tax to be applied to Multnomah County as a test of it; that is, the result that would follow. I believe that the single tax as applied to Multnomah County will be a good thing. That county contains the most populous city in the State, and I believe it will be a good thing there.

Mr. CRUMPACKER. The voters did not seem to think so, because a majority voted against it. I want to say that I do not believe a local matter of that kind is of sufficient importance to justify the legislature or the people of any State in destroying the guaranty of uniformity and equality in the assessment of taxes.

Mr. LAFFERTY. We had no such object as that in Oregon in passing this constitutional amendment, and we do not think that the amendment does authorize discrimination in taxation on the same class of property.

Mr. CRUMPACKER. The gentleman stated a moment ago what the purpose was, but that is not the question. What the motive may have been is a matter of little consequence. The question is, What would have been the effect of what they seriously tried to do?

Mr. LAFFERTY. Mr. Chairman, I desire to make this plain now, if the gentleman will permit. The object was to authorize taxes to be removed from personal property in Multnomah County, by a bill to be submitted at the next election, and Multnomah County will have to raise her taxes on real estate so as to contribute her proportionate share to the revenues of the State. In that way men can not hold 20 to 40 acres in the heart of the cities in Multnomah County, where we have people in tenement houses living in cramped conditions. They will have to improve the property if we put the taxes on the land.

Mr. MANN. Was that object stated in the matter that was submitted to a vote?

Mr. LAFFERTY. That object was stated in the discussions that took place.

Mr. CRUMPACKER. Well, Mr. Chairman, the suggestions of the gentleman are hardly tenable, because it is not what the people intended, but it is what they actually proposed to do, for if they had amended the constitution as was proposed there would have been liberty to discriminate among taxpayers without hindrance. One industry could have been taxed out of existence to build up another, and so on. The purpose may have been good, but the proposition illustrates one of two things, either that the legislature was a guileless body or that there was a desire to use the taxing power for purposes contrary to principles of justice.

Mr. MANN. It illustrates the absurdity of the proposition.

Mr. NORRIS. Mr. Chairman, was the amendment defeated?

Mr. CRUMPACKER. Yes.

Mr. NORRIS. At a referendum?

Mr. CRUMPACKER. Yes.

Mr. NORRIS. Voted on by the people?

Mr. CRUMPACKER. Yes.

Mr. NORRIS. Then it does not follow, does it, that that is an illustration showing that the referendum and initiative is wrong? They seem to have come out all right with it.

Mr. CRUMPACKER. I stated a moment ago that it was beaten at the polls, and I said that the people displayed better judgment than the legislature; but it was beaten in an aggregate vote of 80,000 by only 2,500 majority. At the next election it may succeed. It illustrates the danger of submitting matters of such vital importance to the common welfare to the fate of the ballot. That is where the danger lies.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LANGHAM. Mr. Chairman, I yield 20 minutes more to the gentleman.

Mr. BURKE of South Dakota. Mr. Chairman, if I understand the gentleman, he is criticizing the Legislature of Oregon for submitting that amendment. I desire to ask the gentleman if it is his opinion that the legislature, the majority that voted to submit the amendment, really believed in the amendment?

Mr. CRUMPACKER. I presume they did or they would not have submitted it.

Mr. BURKE of South Dakota. Is it not true that constitutional amendments may be submitted by a legislature when there is a considerable demand, and that an amendment may be submitted by legislators who are not themselves in favor of the proposed amendment?

Mr. CRUMPACKER. I presume that is the case.

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

Mr. CRUMPACKER. Yes.

Mr. LENROOT. The gentleman is discussing this referendum of a constitutional amendment, and I wish to ask him whether his own State of Indiana has not now and always has had a referendum for exactly similar propositions?

Mr. CRUMPACKER. We have the referendum for constitutional amendments.

Mr. LENROOT. That was what this was.

Mr. CRUMPACKER. Certainly.

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

Mr. CRUMPACKER. I will yield for a question.

Mr. FERRIS. The thought I have is this: The gentleman indicts the people and indicts the initiative and referendum on the theory that the voters seem to have voted on an amendment that is personally objectionable to him. Now, why does not the same indictment lie more directly against the legislature that submitted it than against the people who defeated it?

Mr. CRUMPACKER. I have already said that, in my opinion, the people of Oregon showed better judgment than the legislature did in this instance.

Mr. FERRIS. Why does not that explode the gentleman's theory?

Mr. CRUMPACKER. The mere fact that a question of that nature will come so near carrying by a popular vote is a serious thing.

Mr. FERRIS. It did carry in the representative body.

Mr. CRUMPACKER. They can not amend a constitution except by referendum in many of the States, although there are some States where they make constitutions without consulting the people at all. The reason that is urged for the referendum is the alleged venality of the legislators. It is insisted that the people can not trust the men they select from among their neighbors and acquaintances to make laws, therefore they should make their own laws at popular elections.

They tell us that the people are honest and wise, that the country is full of honest, capable men, but men selected for the legislature can not be trusted. It seems strange that so many communities should select about the only rogues they have for their representatives in the legislatures. I do not believe they do. I believe most men in public office are honest and trustworthy. I think the corruption of legislative bodies is greatly exaggerated. But there is altogether too much of it. A member of a legislature or of any other body in which is reposed a discretion to be exercised on behalf of the people who corruptly violates his trust commits the most insidious, the most execrable crime that is possible to commit against society and government. [Applause.] Its effect is to destroy confidence in public men and in popular institutions. The people are not always able to discriminate between the honest and the dishonest, and the honest suffer for the sins of the dishonest. There ought to be as much candor and honesty in politics as there is in any of the business relations of life. [Applause.]

A candidate for office who will deceive and mislead the people in order to get their votes can not be trusted in public office. He ought not to be trusted in any capacity. I do not know that the law can impose more effective penalties against corrupt officeholders, but they ought to be branded with eternal infamy. Over 200 years ago Scotland outlawed one of her troublesome clans, and enacted a law making it a crime for anyone to write, print, or speak in an audible tone the name of the clan or of any of its members. If we could devise a method of emphasizing the odium of dishonest officials, it would be well to do it.

The strength of this Government is not in its Army and Navy. It is in the reverence and affection the people have for government and free institutions, and when that reverence is destroyed by official corruption our bond of unity and cohesion is a rope of sand. When the laws are wise and just and are honestly administered, there is not an able-bodied man under the folds of the flag that would not shoulder a gun and stand in the face of danger and death if necessary for the preservation of the Government. But when the public mind has become saturated with the suspicion that the Government is honeycombed with rottenness and corruption patriotism is at a low ebb. Who among us would hasten to grasp his gun and fight in defense of a "jack-pot" government? [Applause.]

I submit these observations, gentlemen, to emphasize the enormity of crimes against official honesty. But they can not be cured by the referendum. This is a Government of the people. They are the sovereigns. It is their Government, and they can never hope for the highest standard of honesty and efficiency in the public service until they devote more attention to nominations and elections and to public affairs generally. They must hold every public official to a strict accountability for the honest performance of his duties.

Mr. LAFFERTY rose.

The CHAIRMAN (Mr. BYRNS of Tennessee in the chair). Will the gentleman from Indiana yield to the gentleman from Oregon?

Mr. CRUMPACKER. I will yield for a question.

Mr. LAFFERTY. I would like to inquire what the gentleman means by a "jack-pot" government? I am not familiar with that term.

Mr. CRUMPACKER. I can not speak with precision about it.

Mr. SHACKLEFORD. Nobody can open it.

Mr. CRUMPACKER. I assume that it means the "anti-social" method of making and administering laws. It is a technical term borrowed from the same science that contributed the word "standpatism" to our political vocabulary, although I understand that "jackpotism" is worse even than "standpatism." [Laughter.]

We have spasms of virtue in this country. When public sentiment is aroused and people look after public men and public affairs, representative government is honest, clean, and efficient; there are no corruptionists in public life. When the people are indifferent, when they stay in their offices and factories and on the farms and give no attention to nominations and elections, dishonest men will occasionally get into office and perpetrate crimes. Public corruptionists flourish when the people devote their time and thought to their individual interests and give no attention to the cause of government.

If you have the referendum, it will be a failure from your own standpoint in the absence of a vigilant, persistent public opinion to back it up. That kind of a public opinion is all that is needed to make representative government efficient, honest, and clean. There can be no satisfactory administration of popular government unless the people do their part. They must see that honest and capable men are elected to office.

If dishonest and incapable men are chosen to responsible public positions, the voters are chiefly responsible for the consequences.

Mr. FERRIS. Will the gentleman yield?

The CHAIRMAN (Mr. GARRETT in the chair). Does the gentleman from Indiana yield to the gentleman from Oklahoma?

Mr. CRUMPACKER. I yield for a question.

Mr. FERRIS. The gentleman has asserted that which it seems to me is a truism and of which everybody recognizes the truth, that in the people is the fundamental right to do things. Now, does not the gentleman think that reposing in the people the power as given in the referendum and initiative would stimulate greater vigilance on their part?

Mr. CRUMPACKER. It would not have that tendency. The voters can select honest, capable men among their acquaintances without great difficulty and secure good legislators. Men who are honest and upright in all the walks of life can be trusted in public office. But the average voter is too busily employed in his personal affairs to study the science of government, to investigate economic and political questions to such an extent that he can act with wisdom in making laws. The average voter does not always know what the existing laws are nor how a proposed measure would operate in practical affairs. The result would be he would not attempt to inform himself on those questions and would be indifferent about voting upon proposed measures. I say this with no disposition to disparage the intelligence of the voters, but I state it as a truth that all level-headed citizens understand perfectly well.

Mr. FERRIS. If the gentleman will yield right there a moment, I would like to say that although there are few of us who believe in the initiative and referendum who advocate a pure democracy, we do advocate the safeguards which the initiative and referendum impose upon representative government.

Mr. CRUMPACKER. It is a "safeguard" that tends to weaken and destroy popular government. If the initiative and referendum shall come into general use in making laws the principle of the infallibility of the majority will follow, and constitutions will be cast aside as an incumbrance. Vox populi, vox Dei. The divine right of the majority will become the basis of government. The voice of the people is the voice of God only when it speaks the language of truth and justice and liberty and humanity. [Applause on the Republican side.]

THE DIVINE RIGHT OF THE MAJORITY.

The doctrine of the infallibility of the majority is a dangerous political heresy. It inevitably leads to the overthrow of all limitations on the powers of government. If majorities can make no mistakes, there can be no need for constitutions when laws are made directly by the people. The laws will be right simply because they will have the sanction of the majority behind them. The Declaration of Independence proclaims that all men are created equal and are endowed with certain inalienable rights, and that it is the paramount duty of government to safeguard the citizen in the enjoyment of those rights.

There is a latitude of liberty that belongs to every citizen in virtue of his manhood that no power on earth can justly take from him. This liberty is essential to his growth and development and to the fulfillment of that destiny which is appointed to him by the God who created him. Government and laws and institutions are ordained for the protection of the citizen in those fundamental rights. It is as great a wrong for the Gov-

ernment itself to invade those natural rights as it is for the assassin or the highwayman or a band of conspirators to do so. Those rights do not emanate from government, but it is the vital purpose of government to protect the citizens in their proper enjoyment. It is as great an offense against manhood and civilization for those rights to be invaded or destroyed by a majority vote in a democracy as it is to invade or destroy them by the edict of an absolute monarch.

The essential liberties of the people are secured by absolute limitations upon the power of government. It is the office of the constitution to embody those limitations and the duty of the executive officers and of the courts to enforce them. They are of especial importance to the weak and the poor, for the strong and the rich are better able to take care of themselves. There can be no liberty in the real sense unless the government is effectively denied the power to invade the inalienable rights of the citizen.

It was the boast of Lord Chatham that English liberties were so secure that the humblest subject of the King was supreme in his own dwelling place; that his house might be so poor that the winds could shake it and the rains drive through the roof, yet the King himself dare not enter it unbidden. It is more than a matter of mere sentiment that the humblest citizen of this great Republic can stand in God's sunlight in the consciousness that he is the possessor of certain rights and liberties that the Government, with all its wealth and power, can not take from him.

Liberty is not a matter of grace; it is an inherent right; and history abounds in illustrations of the truth that real liberty is secure only where the Government is powerless to invade it. There is as much, if not greater need of limitations on the power of government in pure democracies as in monarchies.

There is no despotism in history more cruel and merciless than the despotism of an unbridled majority. It carries no individual responsibility. A monarch who has unlimited power carries the responsibility for its exercise. Irresponsible power is always liable to abuse. While under normal conditions the people are conservative and their purposes and impulses are good, there are times when public feeling becomes greatly excited and a frenzy of passion will sweep over the country with the fury of a cyclone. It is under such conditions that representative constitutional government is necessary to protect free institutions.

These seem to be plain observations to make in public by one who represents the people and who, if he comes back here, will have to go to the people for approval. But I would be willing to make this speech in every county in my congressional district, and I am confident it would have the indorsement and approval of four out of five of the people without regard to party. [Applause on the Republican side.] Level-headed men know what they can do and what they can not do wisely in connection with public affairs. They know that general law-making by the people through the agency of the ballot is impracticable and must break down with its own weight. I believe in primary election laws, properly safeguarded with efficient corrupt-practices acts, and I believe in extending the civil-service method of selecting public servants to State, county, and municipal governments wherever it is practicable. I believe in taking patronage and jobs and contracts for public work altogether out of politics. That will destroy the cohesive force that cements and holds corrupt political machines together. [Applause on the Republican side.] If that be done, the power of the corrupt boss will be gone. Let the people be more vigilant and active at primaries and elections.

They must exercise care in selecting honest, capable men to represent them in the Government service. If they do that, *there will be* little reason to complain of the laws or their administration. There will be no *calling* for the self-selected champion of the cause of the "dear people," to advocate political nostrums and fakir remedies that tend to undermine social and political institutions that have the sanction of centuries of wisdom and experience.

I have faith in the sturdy, common sense of the people, and therefore I do not believe the institution of the initiative and referendum will ever come into general use in this country. If, under the influence of political reforms, it should be generally established by law, its impracticability and unwisdom would become apparent to the average man, and it would become innocuous by disuse. Every law providing for the referendum requires a majority of the votes cast, not at the election, but upon the particular measure submitted to carry it.

There is a general disposition on the part of the voter to refrain from voting upon proposed laws. The vote is significantly small on legislative matters. It is exceedingly rare that a proposition receives the support of a majority of the voters of a State, and in some instances laws have been enacted by the referendum by less than 10 per cent of the whole number of voters. Those who are specially interested in the proposed measure vote, while the great body of the voters are indifferent.

This is a perfectly natural result, because most of the voters do not have the time nor opportunity to inform themselves respecting legislative measures submitted to them for consideration, and rather than vote unintelligently they will not vote at all. The referendum, from the practical viewpoint, is not legislation by the voters, but legislation by a small minority of the voters who are interested specially in the measures submitted for action.

THE RECALL.

I do not believe in the recall for public officers, because it is fundamentally wrong. It is not based on justice or merit. I believe in a good, efficient law for the removal of corrupt or inefficient public officers by a proceeding in a court of justice or before a civil-service board, where charges can be investigated and decided upon their merits. Last week, in one of the cities in my district, a court removed the chief of police on the charge of dishonesty and inefficiency. It only required a few days to make the investigation. The law in Indiana provides for a summary proceeding in charges against public officers, and they are conducted under established rules and decided according to law and justice, rather than upon considerations of politics or by whim and caprice, which are sure to influence results under the recall plan.

The chief of police of the city mentioned would, in all probability, have won in a recall proceeding, without regard to his fitness, for he would have had the support of all of the so-called liberal element of the city.

Under the recall there would be as many good, efficient officers retired because they enforced the law as there would be dishonest and incompetent officers retired because they did not enforce the law. Suppose a petition were filed for the recall of Judge Blair, in Adams County, Ohio. He would doubtless be opposed by every voter in that county who has been indicted in his court for selling his vote, and the records show that a majority of all the voters were so indicted. The judge would stand a poor show of vindication. In a great many cities throughout the country it would be much easier to recall an officer who fearlessly performs his duty than one who acquiesces in lawbreaking. That is not the case in all the cities, and perhaps it is not in a majority of them. I was told a few days ago that the voters of the city of Tacoma, in the State of Washington, recalled their mayor because he refused to allow a prize fight to take place in the city.

Mr. LAFFERTY. Seattle.

Mr. CRUMPACKER. Is there a proposition pending for the recall of the mayor of Tacoma?

Mr. LAFFERTY. Yes.

Mr. CRUMPACKER. Because he would not allow a prize fight?

Mr. LAFFERTY. No; I do not understand that to be the ground.

Mr. CRUMPACKER. The law of the State of Washington does not permit prize fights, and an organization of the sporting element of Tacoma arranged to supply the people with that luxury regardless of the law. The mayor thought the law was made to be obeyed, and he refused to allow the prize fight to take place. Indignant citizens of Tacoma at once filed a petition for the recall of the mayor for his interference with their liberties, and the vote was had a few days ago and the mayor was removed from his office by a large majority. I suppose prize fights will be a common entertainment in Tacoma in the future. No law officer will dare interfere with them.

Elections for the recall of officers are not decided on their merits. It often happens that very efficient executive officers possess very few popular qualities, and such officers are always at a great disadvantage in a contest against a man of the "hail-fellow-well-met" type, who promises every voter everything he wants. Considerations of politics, personality, affability, and many others of an unsubstantial character often control in local elections.

The application of the recall to the judiciary is a grave menace to the integrity and independence of the courts. I have great respect for the courts and high regards for most of the judges. Occasionally a weak judge may be selected and occasionally a strong judge may make a mistake in the decision of a question of law or fact. But in the main, judges of our courts are able, honest, fearless men. The courts are the bulwark of free institutions; they are the citadel of liberty and justice; and they must always be free to administer law and justice without fear or favor. Under the elective system they should be especially protected against the baleful influence of party politics. The tendency of the recall applied to the judiciary

would be to make cowards and sycophants of judges. The equation of public sentiment would enter more or less into the decision of every question of general importance. The gentleman from Texas [Mr. HARDY] in his speech the other day said he believed the courts ought to consider the public in the administration of the law. I agree that courts ought to discharge their duties in an honest and fearless manner; but they do not make the law; they only decide what it is and apply it to concrete cases. If the law is imperfect, it should be amended by the lawmaking branch of the Government. Courts are often criticized for the faults of the legislatures. They are condemned for adhering to well-established precedents and long-settled principles, and yet there can be no uniformity or stability of law if they pursued any other policy. The tendency of the recall will be to overthrow uniformity and stability in the laws. There will doubtless be honest and fearless men on the bench in Arizona under the recall, but the tendency will be to keep men of independence and self-respect out of the judiciary. With a weak man on the bench the wealthy influential litigant will have a distinct advantage over his poor and less influential adversary.

The plain citizen who seeks nothing but what is his just and legal right is more vitally interested in the honesty and independence of the courts than is the wealthy and influential citizen who employs the courts to obtain some advantage that is not rightly and justly his. The courts, above all things, should be kept free from the influence of politicians and political bosses. They should also be deaf to popular clamor. What would be thought of a proposition authorizing an appeal from important decisions of courts to the people to be decided at popular elections? It is said that the people are fully competent to enact laws of all kinds by referendum. Why are they not competent to decide what the law is by referendum? No citizen would favor such a radical and destructive policy as that, and yet it is proposed to give the voters the power to recall judges if they do not decide the law as the voters think it ought to be decided.

The people of Arizona, judging from their constitution, desire to have their courts administer the law under the influence of the recall. I do not know what they will do if they have an opportunity to vote on that proposition separately. Arizona will soon be a sovereign State, and may establish such institutions as she pleases without consulting the other States, provided they do not conflict with the Federal Constitution.

Our system of government, Federal and State, is admirably adapted to the needs of the country, with its great area, its diversified climate and resources, and its large population. It has worked well for a century and a quarter of political life.

One of England's greatest statesmen referred to the Constitution of the United States as "the most important work that was ever struck off at a given time by the brain and purpose of man."

The course of human history is strewn with the ruins of monarchies that crumbled and fell because they gave no liberties to the people. They are alternated with the wrecks of democracies that perished from the earth because they lacked the qualities of stability and endurance. The patriot fathers who framed our Government profited by the lessons of history and combined in its groundwork ample safeguards for the liberties of the citizen, with abundant securities for the strength and permanence of its institutions. This Government is no longer an experiment. It is the best-balanced Government civilized man has ever known. It embodies the principle of growth and expansion and adapts itself to the needs and wants of a progressive people. It is fundamentally representative in character. Its laws are made by a body of responsible citizens selected by the voters because of their capacity and qualifications for that important work. That feature can not be overthrown without destroying the equilibrium of political forces underlying the system and causing destruction of the whole fabric. Our besetting danger is not from without, but from within. The corrupting influences of human greed, the insidious arts of the conscienceless demagogue, and the impracticable dreams of the doctrinaire must be guarded against by a vigilant and discriminating public opinion or our institutions will be destroyed. Republican government was established at too great a sacrifice of blood and treasure to be exposed to the whims and vagaries of political quackery or to the destructive power of selfish interests. Let the imperishable principles of the Declaration of Independence shine through our constitutions and laws and illuminate the pathway of progress, and the destiny of the Republic will be secure. [Applause.]

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

Mr. BORLAND. Mr. Chairman, by this measure provision is made to admit to statehood Arizona and New Mexico, being the last Territories in the contiguous stretch of continental United States to be admitted to the sisterhood of States.

My sympathies are in favor of their admission. I have always believed, and now believe, in the right of local self-government as a fundamental part of our political life. Whenever the people of any Territory are able and willing to bear the expense and responsibilities of statehood they should have the right to elect their own officers and to govern themselves, subject only to the common bond of the Federal Union. This includes the right to form a constitution satisfactory to themselves and suitable to their needs.

I am not at all sure that the power vested by the Federal Constitution in the Congress of the United States will permit this body, on account of the individual views of its Members on governmental questions, to infringe upon that right of local self-government.

I have no doubt that all inconsistencies or defects, if such exist, in the proposed constitutions will be cheerfully remedied by the people of the respective Territories and the admission as free and independent members of the Union happily consummated. I hope that two new stars will soon blaze forth in our national flag. [Applause.]

It is impossible for a Representative from the Commonwealth of Missouri to approach the consideration of this question without being reminded of the remarkable part which Missouri has played in the acquisition, settlement, and development of these Territories. They are the twin daughters of the old Commonwealth of Missouri; that Commonwealth which has played the part of mother to all the great States of the trans-Mississippi country. Missouri is the mother of empires. She is, and has been from the days of her earliest infancy, a land of daring, enterprise, and romance. Her history is a rich field for the future statesman, historian, and poet.

She is, to the trans-Mississippi country, the starting point of all civilization and progress; the Plymouth Rock and the Jamestown of our western history.

She contained within herself the seed of the manifest destiny which carried the American flag from ocean to ocean.

Missouri's connection with the history of New Mexico, embracing originally Arizona, was the necessary result of the position which she held with relation to all the territory west of the Mississippi. She is not the eldest child of the Louisiana Purchase, but her central position at the juncture of the great Missouri Valley with the Mississippi, made her the center of civilization, the starting point of all exploration and development. Besides dominating and developing the Louisiana Purchase she helped to add three empires to the American flag, Texas, Oregon, and California, with all of the States that have been carved from them. This year, 1911, which witnesses the coming of age of the last of her daughters, the twin Commonwealths New Mexico and Arizona, is the one hundredth anniversary of the year when Missouri herself was erected into a self-governing Territory. In 1811, just 100 years ago, the name Missouri was first applied to a definite district. [Applause.] She is celebrating her own struggles toward self-government in commemorating the triumph of her twin daughters.

The earliest settlement of white men on Missouri soil was at St. Genevieve, by the French in 1735, 40 years before Bunker Hill. In quick succession St. Charles and St. Louis were founded. These French were hunters, trappers, and small farmers of a simple, brave, and pastoral character. They dealt with the Indians without fraud and without bloodshed, and probably saved the young community from the horrors of the Indian massacres which have so stained the early progress of all of the other American States. Although Louisiana passed legally under the rule of Spain in 1763, yet her character and institutions remained French of the best provincial type.

In 1797 the wilderness hunter, Daniel Boone, who had already performed marvels of human endurance and daring in his exploration of Kentucky and Tennessee, was invited to Missouri. He agreed with the Spanish governor to bring a colony of Americans and settle them west of the Mississippi, and he kept his agreement. His settlement was in what is now Warren County, about 20 miles west of St. Louis, and was considered a remote outpost of the white man. This tiny settlement, however, was the beacon light which proclaimed to all the world that the American had crossed the Mississippi, and that there was no stopping place and no turning back for the restless tide of civilization. [Applause.]

When the infant Missouri had scarcely learned to toddle she was already rambling over the plains and exploring the lands

of the West. In 1804 Daniel Boone's two sons learned of a salt lick 150 miles to the westward, up the great Missouri Valley. Salt was then as precious as gold to the early pioneer and was worth risking life and fortune for. The same year that the American flag was raised over upper Louisiana the two brothers were manufacturing salt at Boone's lick, in what is now known as Howard County. The wilderness was being conquered step by step. In 1805 upper Louisiana, which was originally attached to Indiana Territory, was detached and given a separate governor, although without the right of self-government. Americans began to pour in by the thousands. The peaceful and pastoral French were astonished by these eager, land-hungry, speculating, boisterous Americans. Before the change of Government land had been free and could be had for the asking without survey and without fencing; now land values began to soar, surveys must be made, formal grants and deeds were demanded, and speculation was rife. The restless and insatiable passion of the Anglo-Saxon for land and for speculation was running its riot in the blood of all western pioneers.

A few days ago a great newspaper of the West published a fanciful sketch portraying what might have happened if Jefferson had been a standpatter and had refused to embrace the opportunity to acquire the Louisiana purchase. It presents an attractive field for fancy, but Jefferson was not a standpatter. He was keenly alive to the irresistible sweep of American destiny.

Those who have represented Jefferson as being reluctantly forced by circumstances into the Louisiana purchase have made a great historical mistake. His whole soul was in it, and he saw with the eyes of a statesman the uncontrollable impulse that would carry Americans beyond any artificial barriers that might be erected by law.

In May, 1804, under the active direction of President Jefferson, Lewis and Clark left St. Louis and, with a tiny band of daring white men, explored the Missouri River to its farthest source, nestling under the peaks of the Rockies, 1,900 miles away. They then advanced across the frozen passes and through barren sierras down to the valley of the Columbia, and gazed out upon the Pacific Ocean, like new Balboas, bearing not bloodshed, but peace and progress, science and civilization. [Applause.] These two heroes and their little band returned to St. Louis in the summer of 1806, and transmitted to President Jefferson a faithful and accurate report of their journey. Meriwether Lewis had been his private secretary. The whole expedition was the personal work of Jefferson. This report, which time has shown to have been singularly free from the almost universal fault of explorers—boastful lying and exaggerated misstatement—has been of incalculable value to the Nation. It told of a new world and rang like a clarion note in the ears of every enterprising American youth.

In 1805-6 another hardy spirit, Zebulon Pike, started from St. Louis, and explored, in turn, the headwaters of the Mississippi, the headwaters of the Red River, and the passes of the Rocky Mountains. In 1808 Fort Osage was established on the Missouri River, in what is now Jackson County, within 20 miles of the present site of Kansas City, and George C. Sibley was placed in charge, as agent, to trade with the Indians. In the same year the first newspaper west of the Mississippi was established at St. Louis—the Missouri Gazette, now the St. Louis Republic. By 1810 extensive settlements of Kentuckians were being made in the very heart of Missouri, in what came to be known as Boone's Lick country, now comprised in Howard and Cooper Counties. These settlers were the highest type of American pioneers—men who feared neither man nor nature, who were equal to any combat, who brought their families and their live stock, as well as their rifles and their axes; men who could build their own houses, kill their own food, raise their own crops, protect their own homes, and govern their own community. The world has probably never seen a higher development of the possibilities of the Anglo-Saxon race for native resourcefulness and self-reliance.

At this time the infant Commonwealth began to long for self-government, and chafed under a rule which was practically that of a military governor. It was not possible for men of such ideals to submit long to a government by appointment. We find that a sterling Democratic Congressman, Hon. John Rhea, of Tennessee, appeared as the champion and spokesman for the infant Commonwealth. I will quote some interesting extracts from the annals of Congress:

On November 8, 1811: On motion of Mr. Rhea, the petition of sundry inhabitants of the Territory of Louisiana, presented on the 6th day of January, 1810, was referred to a select committee.

On Thursday, November 14, 1811: Mr. Rhea, chairman of the committee appointed on the 8th instant, presented a bill for the government of the Territory of Louisiana, which was read twice and committed to the Committee of the Whole on Monday next.

On Thursday, December 5, 1811: The Speaker laid before the House sundry resolutions adopted at the meeting of a number of the inhabitants of the city of St. Louis, in the Territory of Louisiana, expressive of their wishes that the second grade of Territorial government may be extended to the said Territory; that the judges of the general court be required by law to have some permanent interest in the welfare of the inhabitants and to reside in the Territory; that additional and more equitable provisions be made in favor of the claimants to the lands in the Territory; and that the limits of the Territory may be more clearly defined, which were referred to the Committee of the Whole on the bill providing for the government of said Territory.

This has the genuine American ring, and is the sturdy demand of free men for self-government. Notice that they are tired of absentee officials and want their rulers to be compelled to reside in the Territory and have some permanent interest therein. This movement was not without opposition, however, as is shown by the following extract of December 7, 1811:

Mr. Pleasants presented a remonstrance to a petition of sundry inhabitants of St. Louis, in the Territory of Louisiana, stating the many injuries and inconveniences which would result from a change in their form of government, and praying that no alteration be made in their said form of government. Referred to the Committee of the Whole on the bill providing for the government of said Territory.

Notice that the standpatter was present even then. You have seen him in this debate all the way through; men who do not want any change in any form of government and do not want anything new tried.

However, the movement went steadily forward. On April 1, 1812—

The House resumed, as in Committee of the Whole, the consideration of the bill respecting the government of Louisiana. Mr. Rhea moved to amend the bill by striking out sixty thousand—the number of souls entitling the Territory in the future to become a State—and to insert in lieu thereof thirty-five thousand; motion negatived. The committee arose without debate and reported the bill with its amendment, in which the House concurred. The bill was then ordered to be engrossed for the third reading.

On April 9, 1812—

The House proceeded to consider the engrossed bill providing for the government of the Territory of Louisiana, when Mr. McKee moved that said bill be postponed until the first Monday in December next; negatived. The question was then taken that the said bill do pass; and resolved in the affirmative.

On May 21, 1812—

The amendments of the Senate to the bill providing for the government of the Territory of Louisiana were read and concurred in with an amendment.

And thus upper Louisiana, or a portion thereof, became a Territory of the second grade under the name of Missouri. At this time Congress recognized three grades of Territories. The lowest form of government, which had existed in Upper Louisiana previous to this time, was that of a governor and three judges, appointed by the President, who exercised supreme executive, legislative, and judicial power. The second grade of government, which was created by the act of 1812, established a separate judiciary, and provided that the lower branch of the legislative assembly be elected by the people; the upper branch, or council, remaining appointive.

The year 1811 is memorable also for another thing. In December of that year, while the people of the infant Territory were clamoring for self-government, that they might conquer the wilderness, a tremendous force was coming to their aid. The steamer New Orleans, the first steamboat ever built west of the Allegheny Mountains, made a successful trip by inland water from Pittsburg to New Orleans. The power of steam was about to invade the West. The day of the flatboat and the dugout canoe was over—savagery must roll back beaten in the unequal strife with civilization and inventive genius.

The War of 1812 with England could not disturb the far-off settlements west of the Mississippi, but the close of that struggle and the weight that it lifted from the breasts of the American people, accelerated the wave of progress and immigration. By 1815 a steady stream of American immigrants, mainly from the South, was pouring into the West. This year a road, known as the Boones Lick Road, was surveyed from St. Charles to Old Franklin.

Up that road came the advancing army of immigration—mule teams, horse teams, ox teams, handcarts—everything that could carry men, women, and children and household goods. Ahead marched the sovereign of the little family kingdom, with his rifle on his shoulder, ready to subdue the wilderness.

In 1816 Missouri was advanced to the third and highest grade of Territory. By this change she was given the right to elect both branches of her legislative assembly and to engage in general legislation necessary to self-government. The first act of her new legislature was to adopt in large measure the statutes of Virginia. In so doing she adopted also, by formal act, the common law of England as the basis of her jurisprudence. This act is memorable, for it was the first time that the common law had thus been planted by the free will of a self-governing

people upon alien soil. The original British territory in America, embraced within the Thirteen Colonies, extended, at least by a fiction of law, as far west as the Mississippi River. The eastern half of the United States may be said to have acquired the common law of England as a part of its colonial inheritance, but our Missouri immigrants carried this great body of the law across the Mississippi to a land where it had never existed and supplanted with it the Spanish law there dominant. By the statute of 1816 Missouri adopted the common law of England and all acts of Parliament of a general nature, not local to the Kingdom of Great Britain, passed prior to the fourth year of the reign of James I. As you know, the fourth year of James I was 1606, one year prior to the first permanent settlement of Englishmen within the bounds of the United States at Jamestown, Va. We took our common law direct from the pure fountain head as it existed before the Colonies were established, unpolluted by the colonial strife and discrimination which followed.

In 1817, on the 2d of August, the steamer *General Pike* arrived at St. Louis, and navigation of the Mississippi by steam was an accomplished fact. Two years later, in May 1819, the steamboat *Independence* first disturbed the age-long solitude of the Missouri River and made a successful trip from St. Louis to Franklin. This was the year of the great financial stringency, but it could not affect men who raised more than they could eat and who were living in a land of abundance, where the gratification of their physical wants was a sure reward of energy and courage. The great need of these men was transportation, and the scream of the steam whistle answered the cry of their souls for some power to take their goods out to the market and to bring in the refinements of civilization.

Statehood was the next demand. On August 10, 1821, Missouri was admitted into the Union after a bitter contest that shook American institutions to their very foundations. She continued the storm center of political life for 40 years. The political strife in which she was born and in which she grew and strengthened never for one moment, however, checked her onward advance, either in internal development or in her dominating influence over the settlement of the West. The first constitution of Missouri, framed in 1820, was a marvel of constitution making. It was drafted by a convention of 41 members, who met in St. Louis and worked for one month. The total expense of the convention was $26.25 for stationery, and it framed a constitution which took effect without submission to the people and governed the State for 45 years.

The lusty infant had now grown to maturity. Missouri was a State and could enter upon her career of empire building.

The first act of the new State legislature was to elect two brilliant men to the United States Senate, David Barton and Thomas H. Benton.

Mr. KAHN. Mr. Chairman, will the gentleman yield for a question?

Mr. BORLAND. Mr. Chairman, I am ordinarily very glad to yield, but I intend to get through within the time allotted to me, and therefore I will ask the gentleman to excuse me at this time.

The CHAIRMAN. The gentleman declines to yield.

Mr. BORLAND. Benton's power as an orator, his tireless energy, his tremendous personal force, his indomitable will, his intense democracy, and, above all, his wonderful faith in the manifest destiny of the West made him one of the remarkable characters of American history. Such qualities would balance more faults than Benton possessed. For 30 years he stood in the Senate as the champion of the great West. He was the incarnate voice of the West, with its great needs and its restless power. Daily he fought its battles in that arena of intellectual gladiators. [Applause.] To him the manifest destiny that should carry our flag from ocean to ocean was no idle fancy; it was a religion; he lived it in every fiber of his intense nature. The West owes him a debt which has never been measured, and no historian has yet done justice to the matchless services to the Union of Thomas H. Benton. [Applause.]

About the year 1821 the first successful expedition is said to have been made to New Mexico over the Santa Fe Trail by one William Becknell, from the town of Old Franklin. There may have been earlier expeditions—Becknell's claim to fame is disputed—but it is certain that by the year 1822 the Santa Fe Trail was well established. It then had its northern terminus at Independence, in Jackson County, Mo. For a quarter of a century this great international highway stretched its 900 miles across the blazing plains between the little Missouri village and the strange land to the southwest. It had a peculiar attraction for the ambitious, the resolute, and the daring. The men who operated this wonderful traffic were drawn from the pioneer life of Missouri. Their vocation made demands upon them which have rarely been equaled in human history. This was no place for the weakling, the indolent, or the vicious. When a train was ready to start from Independence on its long and perilous journey it must be manned by a crew of picked men. No superfluous men could be carried and no unnecessary mouths could be fed. The combination of qualities demanded of these men was surprising. They must be riflemen, quick, cool, and unerring, absolute strangers to fear, yet cautious and watchful as the savage; they must be teamsters, skilled in the knowledge of horseflesh, able to care for their beasts, not only with the broad sympathy of the true horseman, but with the consciousness that their very lives depended upon the safety and efficiency of the horses; they must be men of powerful muscle, able to handle tremendous loads of freight and to pack and repack the great wagons; they must be plainsmen and skilled in all knowledge of woodcraft, able to track their way across the boundless deserts and read the wilderness like an open book; they must be merchants, able to judge correctly what goods could be profitably carried and what the trade demanded, and of sufficient skill and education to balance the expenses, profits, losses, and risks of the enterprise; they must be self-reliant in every emergency and patient in every adversity, surmounting with indomitable will dangers and difficulties impossible to foresee or to estimate. Romance can find no richer field than this marvelous old trail, which has no counterpart in the history of the world, has never had, and can never have. It is one of those brilliant pictures which adorn the gallery of history, whose colors will fade unless they are caught and fixed by the gifted hand of some master genius. In this Santa Fe Trail is found the key of the subsequent exploration and development of the West. It was the cradle of daring, of enterprise, and of liberty. The men who made it were the men who won and who governed in the rapidly succeeding years great Commonwealths and who brought vast empires under the Stars and Stripes.

In 1824–25 an event occurred of tremendous importance to the young State of Missouri. A celebrated German author by the name of Gottfried Duden traveled through St. Charles, Warren, and Montgomery Counties, in Missouri, in company with Daniel M. Boone, a son of the great hunter. On his return to Germany Herr Duden wrote a very remarkable book describing the new country. This book directed the attention of all intelligent Germans to this country, with the result that an enormous German immigration set in to that part of Missouri. Germans are proverbial home makers and home builders. With their integrity and their thrift they add enormously to the stability of any community. From that day to this German immigration to Missouri has been a steady stream. The German immigrants, unlike some late comers from other countries, are home makers who become at once a part of their adopted State. They are not of the transient, shifting species, but every German family is an addition to the economic strength of the community. This visit of an intellectual German to America has had a far-reaching influence on the history of Missouri, to which but little credit has been attached.

From 1822 to 1836 the great empire of Texas was being reclaimed by Americans who were largely Missourians. Old Moses Austin undertook the first plan to take American settlers into Texas. He returned to his home in Missouri, where he died, and is buried near the beautiful city of Potosi, in Washington County. His work was taken up by his son, Stephen F. Austin, who became a leader in the subsequent fight for freedom of Texas and a hero among the race of heroes which that giant land called forth. During these years thousands of Missourians poured into Texas, until at the time that Texas achieved her independence, in 1835, it was said that there was scarcely a family in Missouri that did not have one or more of its members in Texas.

In 1836, through the efforts of Senators Benton and Linn, the Platte purchase was added to Missouri to extend her northwest corner to the Missouri River. This was done in spite of the Missouri compromise, which provided that no more slave territory should be added north of the southern boundary of Missouri. This is probably the richest section of its size in the State, or in the entire country. It contains one town, an agricultural town of 900 inhabitants, which is the richest community per capita in the world. Platte City has a wealth of $1,000 for every man, woman, child, or baby in its limits.

Mr. BUCHANAN. Is that wealth well distributed?

Mr. BORLAND. I think it is well distributed. There are no poor people in Platte City, and I doubt if there are any very rich people. I know there are no millionaires.

In 1837 Col. Gentry assembled his Missouri regiment at Columbia and marched to the Seminole war in Florida. In this year, also, a general panic swept over the United States. The

Whigs were not slow to attribute this panic to the existing Democratic administration and the fight which it had made upon the Bank of the United States five years before. On this issue they carried the election all over the country in the succeeding presidential campaign of 1840. We now know that the panic was caused by an era of overspeculation and frenzied finance such as has been the cause of every panic this country has ever suffered. As Missouri had not indulged in any overspeculation or frenzied finance, as she had not pledged her credit in wildcat schemes to irresponsible promoters, she was not severely affected by the panic. The Whigs were not successful in Missouri; she remained true to the pole star of her Democratic faith.

About this time there came upon the stage of western history a romantic character—the brilliant young explorer, John C. Frémont, whose name is inseparably linked with the great work of empire building. Frémont was a young Army officer, who won the love of as brilliant a woman as America has ever produced—Jessie Benton, the daughter of Missouri's great Senator. In 1838–39 Frémont had begun his career as an under officer in the exploration party of the country lying between the upper Mississippi and the Missouri Rivers. This expedition was successful, and its results were valuable. He returned to St. Louis and had just reached the happy climax of his courtship of Miss Benton when he received an order to explore the sources of the Des Moines River. His sweetheart bade him go, as she did on every subsequent occasion when duty and fame were beckoning to him. He made this trip in 1841. The next year—1842—he encountered in St. Louis that dauntless young Missourian, Kit Carson. Carson had been brought as a baby 1 year old from Kentucky to Howard County, Mo., and grew up in the Boones Lick country. When a mere boy he left there, drawn by the powerful fascination of the Santa Fe Trail, and for many years was the foremost explorer and the most daring plainsman of all the West. Upon his meeting with Frémont in St. Louis he became the guide of Frémont's exploration of the Rocky Mountains. In 1843 Frémont made his third expedition. He says that he started from "the little town of Kansas on the Missouri frontier" and explored the route to Oregon and California. This is probably the first mention in history of "the little town of Kansas," now the great metropolis of Kansas City, on the Missouri border.

Missouri was called upon at this time to bear the brunt of the fight for Oregon. When the Santa Fe Trail became well established from Independence one branch of it ran northwest to Oregon. For 100 miles west from Independence the Oregon Trail was identical with the Santa Fe Trail. It is said that at this point there was a stake driven into the ground, upon which was a small board bearing the simple words "Road to Oregon." This was an offhand way of mentioning the fact that 2,100 miles away were the boundless resources of an unknown country. Over this trail the restless Americans pressed on. The country vaguely known as Oregon, and which embraced the three great States of Oregon, Washington, and Idaho, was occupied under a joint claim of title by the United States and Great Britain. As long as it was unknown and presumably worthless this vague claim was sufficient, but when the pathfinder had blazed the way it was no longer unknown to the Americans. In 1842 a huge caravan of over 1,000 Americans made the journey overland from Missouri to Oregon, taking with them their wives and their children, their flocks and their herds, carrying their rifles on their shoulders and their spades in the great canvas-top wagons. In the following year 2,000 Americans crossed the trail from Missouri to Oregon. It became urgent that the American Government secure a good title and definite boundaries to the possessions of this country in Oregon. The issue was crystallized by the Democrats in the campaign of 1844 by the cry of "54 40 or fight." Apparently the Democrats have never been adverse to expansion when the territory was available for settlement of white men and could be incorporated into the Union. This corrects the historical falsehood that the Democrats as a political party were in favor of acquiring territory only for the purpose of the extension of slavery. On this issue Polk defeated the brilliant Henry Clay. All the country could see that upon the result of the election depended not only the fate of Oregon, but the fate of the new republic of Texas, which was then knocking for admission. [Applause.] Missouri followed Polk even against her dazzling idol Henry Clay. The march of events was rapid now. In 1845 Texas was admitted to the Union. In 1846 Polk asked Thomas H. Benton to father the Oregon treaty in the Senate. The result was that the title to Oregon was established and the compromise boundary fixed where it now exists. This same year marked the opening of the War with Mexico.

At this time Frémont made his third expedition to California. This was the first exploration he had made under Government authority. The earlier ones are said to have been made at private expense—his own and that of patriotic citizens of St. Louis. He owed his governmental authority to the unceasing work of his father-in-law, Senator Benton, against the combined opposition in political life in Washington, not only of Benton's enemies and Frémont's enemies, but the enemies of the settlement of the West.

It is said that Benton had a tremendous fight to get Frémont started on that expedition. Such men as Daniel Webster brought the whole force of their tremendous intellectual artillery against the exploration of California and the West. They denounced it as foolhardy and dangerous, as calculated to break up the Union, as trying to lead away the settlers of the older States, as reducing the value of agricultural land east of the Mississippi, and every possible ground.

I think that it was on this occasion that, after Frémont had made his plans and assembled his party and was on the point of leaving St. Louis, his enemies in Washington, by a temporary triumph, succeeded in having his recall issued. The recall was sent to St. Louis and fell into the hands of his heroic wife. Mrs. Frémont, with the wholly illogical, but sublime, heroism of such women, promptly decided not to communicate the recall to her husband and thus ruin the plans and blast the dreams of which she had been such an earnest sharer. She allowed her husband to go on his way with his little band, technically a traitor, in flat disobedience to his Government. He reached California in January, 1846, before the outbreak of hostilities with Mexico, but the war was at this time plainly impending. The Spanish governor ordered him to leave without delay. Instead of complying with this order, he and his little band of 60 men hoisted the flag of the United States on the soil of California March 9, 1846, where it has ever since remained. [Applause.]

War with Mexico was declared April 13, 1846. Immediately Gen. Kearny, a Missourian and an officer in the United States Army, in command at Fort Leavenworth, was given authority to raise two mounted regiments for service in Mexico. The first regiment to respond was the celebrated First Missouri Cavalry of Col. Alexander W. Doniphan, a regiment that contained more heroic men, more famous names, among its roll of privates and subaltern officers than any other similar organization known in American history.

With this regiment, gathered wholly from the western part of Missouri, and a small force of Regulars, Gen. Kearny began his march, without supplies, without reserve forces, and without lines of communication, overland down the Santa Fe Trail into the heart of the enemy's country. The 900 miles were covered by the middle of August. On August 22 Gen. Kearny formally took possession, in the name of the United States, of all of New Mexico, then including Arizona, and established a civil government in the name and under the authority of the United States. In this instance also it is probable that a Missourian exceeded his legal authority, for no territory had been acquired or demanded from Mexico except the right to the peaceful annexation of Texas. In the midst of international war, civil strife, and savage depredations this little band of Missourians erected and consecrated the sacred temple of the law. Gen. Kearny, a Missourian, promulgated the first constitution, or bill of rights, of New Mexico and with it a code of laws drafted by Col. Doniphan and a brilliant young Missouri lawyer in his regiment, Willard P. Hall. A Missourian, Charles Dent, was appointed the first civil governor; another Missourian, of budding greatness, Francis P. Blair, was made attorney general. This was the first acquisition of foreign soil as the result of the War with Mexico. It is said to have been technically unauthorized, but the flag there planted never came down, and the laws there promulgated have never ceased to exist.

The subsequent history of this expedition is well known. Gen. Kearny, with a small force, started overland for California. Col. Doniphan, with his 1,000 Missourians, marched into the heart of old Mexico. Before he left Santa Fe Col. Sterling Price had arrived with the second regiment of Missourians and held possession of the Territory, maintaining peace and order until it was formally ceded to the United States. There is a curious side light upon American ideals of government in this early settlement of New Mexico. The Navajo Indians had for many years been carrying on a destructive and savage warfare against the Mexicans. Col. Sterling Price was appealed to to protect the citizens of New Mexico against the Indians. He promptly sent a small force under Capt. John W. Reid, afterwards a Member of Congress from my district, who

pursued the Indians to their mountain fastness and subdued them in a pitched battle.

The astonishment of the Indians was great. When their chief submitted to Capt. Reid he told him, through an interpreter—

We do not understand why you Americans fight with us. You come here to fight the Mexicans and you are fighting them. We also are fighting the Mexicans, and why did you not let us fight them as much as you do? Why have you pursued us here into our villages?

Reid's answer was short, sharp, and thoroughly American. He said:

The Mexicans were our enemies, but they have been subdued and have submitted to us. We feel obliged to protect their lives and their property from any danger whatsoever, and we can not let you continue your war.

The close of the war in 1848 brought under the American flag the magnificent domain of California, comprising all of four States and parts of three others. Thus in three years from the foundation laid by Missouri exploration and enterprise three great empires, Texas, Oregon, and California came under the Stars and Stripes.

In 1849 gold was discovered in California, and the rush of settlers to the Pacific coast began. The West presented a busy scene in those days. The Mississippi and the Missouri Rivers were teeming with boats. The river towns along the Missouri, and especially those close to the great bend at the western border of the State were crowded with teams, mule, horse, and oxen, and the huge and picturesque canvas-covered schooners that were used in freighting across the plains. A ceaseless army of Americans made this hazardous trip across the plains, through the mountain passes, and over the deserts to the golden land of California. Western Missouri was the last inhabited and settled portion of the country that they saw. Here they must gather their supplies and bid farewell to all hope of civilization and safety, unless they could win in the unequal battle against the forces of nature, wild and savage, both inanimate and animate. It is needless to say that Missourians led this mass of emigrants and gave color and character to the whole. Joe Bowers and his brother Ike have become immortal types of this great exodus. For more than half a century, down to the present time, the prevailing name on the Pacific coast for all newcomers from the Central West is Pike or Pike County. They seem to assume that those who travel across the plains are "All the way from Pike."

The land-title abstract books in the western part of the State of Missouri show in the numerous families of those days there were always some of the sons, Johns, Williams, Henrys, and Stephens, and so forth, who were reported as missing, supposed to have died, single and unmarried, in California. Their record is written all through the land titles of Missouri, and their bones are supposed to be whitening on the way across the great desert.

Some gentlemen seem to be afraid of the recall of public officers. The recall in some form has been exercised by the people and always will be exercised by the people. [Applause.] The permanent political power can reside nowhere but in the people, and if they make mistakes, it may be said that the power to make mistakes and to suffer by them is of the very essence of self-government. The greatest man who ever represented Missouri in either branch of Congress was practically recalled. Thomas H. Benton closed his career by a recall. In 1849 the legislature passed the Jackson resolution, instructing Benton how to vote on the question of unionism and slavery. Benton refused, and went home to submit his case to the people. He went from one end of that State to the other, in the midst of that gathering storm of political strife, championing the cause in which he believed. He went down to defeat, but does any man say that such defeat left a stain on Benton? Can any man say that a representative of the people who does what he believes is right and sticks to it can be stained on the pages of history by subsequent events? Why, there is no more stain on the fame of Benton because he went down to defeat than there is on that of Robert E. Lee because he went down to defeat.

It is in the man, in his belief in the cause for which he fights. The tremendous political storm which accompanied Benton's recall I can liken to nothing so much as an incident that occurred about 20 years ago in the harbor of Samoa.

A phenomenal hurricane occurred in that part of the Pacific, which swept all of the small craft away and carried them out to destruction. In the harbor of Apia lay 7 war vessels, as I recollect—1 English, 3 German, and 3 American. Even the great warships, sheltered as they were in the harbor, were not able to withstand the storm. All of these war vessels were wrecked except two; the British steamer and one German vessel escaped. There was one war vessel, I have forgotten whether German or American, but I think German, which made an heroic fight against fate. Its commander had every available man, naked to the waist, shoveling in the coal and keeping the furnaces at white heat, getting up every pound of steam that the great old ship could muster, and she was headed out into the teeth of the storm. She had her anchor sunk in the mud of the bay, but the storm increased in fury, and in spite of every effort it was seen that she was dragging her anchor and was certainly going down to destruction. All the other vessels were straining every nerve to save themselves; they had neither time nor power to help. When the commander of this noble ship saw that she was doomed, that every human effort had failed, he ran his colors up to the top of his mast, he called every jackie on deck and had them man the yardarms, he brought up his marine band and stationed it on the forecastle, and then they struck up the national air. As they drifted back past the remaining vessels there blared out above the roar of the storm the notes of the national air. Every man within sight knew the ship was going down to certain destruction. The English and the American sailors rushed to the sides of their vessels, and above the shrieking and howling of the tempest was heard cheer after cheer of honest, courageous, human hearts hailing those who could face the inevitable and face it like men. [Applause.]

When old Benton saw that the maelstrom of American political strife had carried away the small vessels, was sweeping away the little men, the time servers, the trimmers, the pickers, and stealers that get into politics, and that it was a fight to the death with titanic forces, he put on every pound of steam possible, be bared his brow to the storm and worked like a hero to save himself. But when he found he could not resist the tide of public opinion, he nailed his colors to the mast and went down to defeat with band playing and his flag still flying. I would not say that only a man big enough to do that is big enough to go to the United States Senate, but I say that a man that can do that is big enough to be a Senator from Missouri.

During the decade that followed, Missouri continued her efforts in colonizing, settling, and developing the great empires which had so suddenly been brought under the protection of the American flag. It was a wild region, inhabited only by roving savages. It is not strange that for many years the older communities of the East refused to believe seriously that the vast stretches of the trans-Mississippi country could be made the home of the white man. The conviction was very general in the East that not within any reasonable period of human life could the great, barren West be reclaimed. This conviction was not without reasonable foundation, but those who held to this belief failed to take into account the abiding faith of the people of the Missouri Valley in their own tremendous powers of colonization. Missouri had been an empire builder from the beginning of her history. She had been working miracles of exploration and settlement from the very dawn of the century. After 50 years of dazzling success she could not lose faith in her own power. In 1850 the building of the Missouri Pacific Railroad was begun at St. Louis. During the next eight years the St. Louis & San Francisco, the Iron Mountain, the North Missouri, and the Hannibal & St. Joe stretched their tiny arms westward from the Mississippi River. This was at the cost to the State of Missouri of $24,000,000, being the first and only expense of this kind which the people of Missouri, as a whole, ever authorized.

When Kansas was thrown open for settlement in 1856, Missouri met her first defeat as a colonizing power. She undertook to colonize and settle Kansas, but without success. The singular result has been that from that day to this Missouri has continued to draw more from Kansas than from any other State in the Union. Very few Missourians go to Kansas, but thousands of Kansans go to Missouri every year.

Mr. MANN. That is what Missouri depends upon.

Mr. BORLAND. To a great extent. She gets the best blood and brains of Kansas, and they are good, too. Every good Kansan, when he gets rich, promptly moves to Missouri to enlarge the horizon of his business opportunity.

The people of Missouri have always cherished a profound belief in the inherent right of every State to govern itself and regulate its own institutions. On the issue of "squatter sovereignty" Missouri was the only State, except New Jersey, to give its electoral vote to Stephen A. Douglas in the presidential election of 1860. Although a slaveholding State, her attachment to the Union was strong. When the dark clouds of the Civil War gathered over our devoted country, the storm broke with pitiless fury upon the State of Missouri. A man in the extreme North or one in the extreme South had little difficulty in choosing his political ground. He was carried along in the rush of the political opinion of his section. It cost something, however, to have political opinions in Missouri, and thousands of lives and millions of property were engulfed in the frightful maelstrom of civil strife. Her military strength was taxed as was

that of no other State. Between 1861 and 1865 Missouri furnished 109,000 men to the Union Army and 50,000 to the Confederate Army. The startling nature of these figures is apparent when we understand that she sent 47 per cent of all men of military age into the Union Army and 23 per cent of all men of military age into the Confederate Army. More than 70 per cent of her fighting men were in the two armies. It is possible that large numbers entered the armies of the South of whom no record can be obtained. The ravages of the Civil War left deep scars on the fair breast of Missouri. Many years have passed since then, and each recurring springtide has spread its mantle of green over the wounds; summer has touched them with the gold of her harvest; autumn for a brief space revives the crimson glory until old winter brings the white flag of truce and spreads the snowy couch for the birth of a newer, better year. [Applause.]

Most historians for some reason or other stop at the close of the Civil War. I do not know why this should be, unless that titanic struggle so stunned the muse of history that she is unable to resume the commonplace of peaceful progress. The highest ambition of the human soul is not realized in the destruction of life and property, even in a noble cause. Greater is he who can create, develop, and build up; he who can make two blades of grass grow where only one grew before. 'Tis as the poet has said about the destruction of the sacred oak:

> Thou can'st not censure more than we
> The vandal hand that laid thee low,
> For any fool can fell a tree,
> But it takes a god to make one grow.

[Applause.]

In the half century that has followed the civil strife Missouri has not only healed her own wounds, but has sent forth her sons in ceaseless stream to all the Commonwealths of the western land. On the sun-baked plains and on the bleak mountains, where permanent human habitation was considered impossible, the divine alchemy of science has transmuted all the baser elements of stubborn nature into the gold of human progress. The desert has been taught to blossom like the rose, and the mountain fortresses have been carried by assault until they have received their invaders within their own bosoms and furnished them homes in fruitful valleys. Missouri's fair daughter, *Oklahoma*, came into the Union only four years ago, and now has a greater population and more electoral votes than half the New England States. Northern Texas, Colorado, Wyoming, and Montana are being cultivated and developed by colonies of Missourians. Missouri has given freely of her sons, and especially of her tillers of the soil.

And what of the future? Is her work closed with the admission to the Union of the last of her family, or is it just begun? She can turn now to her own development and gather up some of the scattered wealth that has been disregarded in the hurried march of progress. A scientific writer has stated that Missouri is one of the richest and, economically, the most nearly independent of any district in the known world.

Mr. McGUIRE of Oklahoma. Excepting Oklahoma.

Mr. BORLAND. Not excepting Oklahoma.

The extent and variety of resources in Missouri are remarkable. It is said that if a hostile army were to surround entirely the State and besiege it with the design of starving it into submission Missouri could subsist upon her own resources without aid from the outside world and maintain the highest degree of civilization known to man. Not only so, but the Missourians would have an enormous surplus of products to throw over the borders to their besieging foes. In the last decade, while the cities of Missouri have grown enormously, she has suffered a loss in her agricultural population. In spite of this, however, the increase in the value of her farm lands has been 102 per cent. Her mineral wealth can scarcely be estimated. One-third of her surface is underlain with inexhaustible deposits of coal. She contains the greatest zinc mines in the world, and is an enormous producer of lead. She is the first in the production of nickel and an important factor in the production of copper, silver, iron, barytes, and cement. Her climate and soil seem to have been wonderfully adapted to the growth of the best grades of hardwood lumber, especially white oak and the beautiful black walnut that is now becoming so rare. The fruit-culture possibilities of the Ozark Mountains have well repaid the scientific study which is being devoted to this pursuit. Southern Missouri has long been known as the land of the big red apple, and now she is known as the land of the big red strawberry. The crop of strawberries and other small fruit has become an enormous commercial asset. There are thousands of acres of lowlands in the southeast corner of the State, near the Mississippi River, that are being drained and cultivated. The richness of these reclaimed lands and their adaptation to the culture of cotton are rapidly increasing the wealth of that section of the State. The conservation of natural resources in Missouri has just begun. In the past only the land easiest of cultivation was occupied, but now science is unlocking many treasure houses of inexhaustible wealth. There is at least a half million acres of bottom land along the Missouri River and its tributaries which, when reclaimed, will prove to be of inexhaustible fertility. The gentle slopes of the Ozark Mountains are the abode of both beauty and health. The death rate of the State is low and the measure of human efficiency is high. Missouri is the poultry queen. The value of her poultry product is far in advance of any other State or district in the world.

In 1909 the faithful hen brought to the Missouri farmer $46,000,000. The Missouri hen could build the Panama Canal and pay the entire expense year by year without aid. She would be thoroughly willing to undertake this great public work at her own cost if it were not for the fact that the Missouri hog could dig the canal in three roots without stopping to grunt. It is unnecessary to eulogize our old friend, the Missouri mule, our country's best reliance in both peace and war. In 1909 the total natural products of Missouri, not including, of course, her wealth of manufactures, was worth the enormous sum of $530,000,000. Of this amount $342,000,000 were surplus products that were sent to market, the balance being consumed or manufactured within the State.

A short time ago the old capitol building of Missouri, at Jefferson City, which was constructed in 1837, was destroyed by fire. Missouri will erect a new capitol fully in keeping in size, value, and artistic beauty, with the greatness and wealth of the State. She can erect the most magnificent building in the world and furnish it complete with every convenience that modern science can suggest, or modern art can design, and all of it, down to the most minute detail, be the product of Missouri. Her own granite could lay the foundations; her building stone of beautiful shades could rear the lofty walls; her onyx and her marble could decorate the halls of legislation; her iron, lead, and zinc could furnish the metal work; her polished hard woods could luxuriously fit and furnish the offices and committee rooms; her native glass could add its crystal beauty; her cobalt and other minerals could paint the woodwork or emblazon upon glistening walls of Missouri plaster brilliant pictures of her romantic history, and in the sunlight above could shine the burnished dome of Missouri copper.

For a century emigration has flowed from and through Missouri to fill the apparently insatiable demands of the West. Uncle Sam had a boundless extent of free land which tempted the age-long land hunger of the white race. To-day those free lands are gone. Uncle Sam has no more farms to give away, except where the expense of irrigation must proceed cultivation. The tide of white civilization has rolled westward, and ever westward, until at length it dashed itself against the shores of Far Cathay. It can go no farther, but must plant its standard forever in the greatest natural home of white civilization—the Mississippi Valley.

Every man has his pet insanity, and I have mine. It is a profound and unshakeable belief in the greatness of the Middle West. Nowhere in the known world is there such a vast expanse of fertile region under one government, except in Russia, and Russia is a hundred years behind us in development. The Mississippi Valley contains a wealth of natural resources surpassing in sober fact the far-famed riches of the Valley of the Nile. Missouri has a luxuriance of vegetation that would make the vine-clad hills of Italy look like an arid desert. She has a variety of crops that would put to shame the fairest fields of fertile France. She has the forests and the mines, the cattle upon a thousand hills, and the mighty cities, where the smoke from countless factories rolls up like incense upon the altar of industry. With it all, she has a restless and indomitable race peopling this vast empire; a race that has planted civilization in the wilderness; that has snatched victory from the jaws of defeat; that has conquered the savage, harnessed nature, and laughs at time, distance, and difficulties. [Applause.]

With such an empire, and with such a race, what may she not hope? To her agricultural strength we will add commercial supremacy and financial independence. We will adorn her with learning, from the humble district school to the lordly university. We will crown her with art, and music, and letters, and political science, and philanthropy, and all that beautifies, sweetens, and ennobles human life. And high above the old Commonwealth we want to see wave once more the banner of Jeffersonian democracy, emblazoned with the people's motto: "Equal and exact justice to all, and special privileges to none." [Prolonged applause.]

Mr. LANGHAM. I now yield 30 minutes to the gentleman from New Mexico [Mr. ANDREWS].

The CHAIRMAN. The gentleman from New Mexico [Mr. ANDREWS] is recognized for 30 minutes.

Mr. ANDREWS. Mr. Chairman, on June 20, 1910, there was passed by the Congress of the United States the enabling act, which was an act to enable the people of New Mexico and Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States, the provisions being that the governor of said Territory shall within 30 days after the approval of the enabling act by proclamation, in which the aforesaid apportionment of delegates to the convention shall be fully specified and announced, order an election of the delegates aforesaid on a day designated by him in said proclamation, not earlier than 60 nor later than 90 days after the approval of this act. The election of delegates to this said constitutional convention for the Territory of New Mexico was held on the 6th day of September, 1910, and the constitutional convention was held in the capitol building at Santa Fe, N. Mex., on the 3d day of October, 1910, and adjourned on the 21st day of November, 1910.

Now, Mr. Chairman, this constitutional convention consisted of 71 Republicans and 29 Democrats. About 5 of the Democratic members of this said costitutional convention were sent to the said convention by Republican counties; that is to say, the Republicans placed them there by placing their names on tickets and elected them along with the Republicans. Out of the 100 members of the constitutional convention, Mr. Chairman, 71 were Republicans and 29 were Democrats, as stated above, and after the constitution of New Mexico was completed, the same was signed by all the Republican members and by 23 Democrats, 6 refusing to sign.

Now, Mr. Chairman, as stated above, this constitutional convention adjourned on the 21st day of November, 1910, and under the terms of the enabling act there were to be 60 days' lapse of time from the time of adjournment until the constitution could be voted upon for ratification or rejection by the duly qualified electors of the Territory of New Mexico, and during this lapse of time, Mr. Chairman, there was a spirited campaign carried on both for and against the ratification of the said constitution of New Mexico. Some few Democrats and Republicans, Mr. Chairman, were against the ratification of the constitution, but the greater majority of both the old parties—the Republican Party and the Democratic Party—were for the constitution and rode together, spoke on the same platform together, and worked together for the adoption of the said constitution of New Mexico, and all questions pertaining to it were thrashed over in public meetings by both parties; and on the 21st day of January, 1911, Mr. Chairman, an election was held in the Territory of New Mexico for the purpose of accepting or rejecting the constitution of New Mexico as framed by the constitutional convention at Santa Fe from October 3 to November 21, 1910, and after the result of the said election was announced it was found that there were about 31,742 votes cast for the constitution and about 13,399 against, leaving a majority of about 18,343 for the constitution. Now, Mr. Chairman, after this vote on the question of accepting or rejecting the constitution, and which said vote resulted in the acceptance of the said constitution by the people of New Mexico with a handsome majority, under the terms of the enabling act certified copies of the said constitution, with a statement of the votes cast thereon, were brought to Washington, copies of same being duly given to the President of the United States and to Congress for their approval or disapproval, as per section 4 of the enabling act, which I attach hereto, with request that it be made a part of these remarks:

SEC. 4. That when said constitution and such provisions thereof as have been separately submitted shall have been duly ratified by the people of New Mexico as aforesaid, a certified copy of the same shall be submitted to the President of the United States and to Congress for approval, together with the statement of the votes cast thereon and upon any provisions thereof which were separately submitted to and voted upon by the people. And 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 of New Mexico, 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; said election to take place not earlier than 60 days nor later than 90 days after said proclamation by the governor of New Mexico ordering the same.

Now, Mr. Chairman, copies of the certified constitution reached here on the 9th day of February, 1911, and the same was recommended for approval by the Secretary of the Interior and by the Attorney General of the United States, and on the 24th day of February, 1911, the constitution of New Mexico was approved of by the President of the United States in a message to Congress by him, a copy of which I attach hereto and request that it be made a part of these remarks:

To the Senate and House of Representatives:

The 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, etc., passed June 20, 1910, provides that when the constitution, for the adoption of which provision is made in the act, shall have been duly ratified by the people of New Mexico in the manner provided in the statute, a certified copy of the same will be submitted to the President of the United States and to Congress for approval, and that if Congress and the President approve of such constitution, or if the President approve the same and Congress fails to disapprove the same during the next regular session thereof, then that the President shall certify said facts to the governor of New Mexico, who shall proceed to issue his proclamation for the election of State and county officers, etc.

The constitution prepared in accordance with the act of Congress has been duly ratified by the people of New Merico, and a certified copy of the same has been submitted to me and also to the Congress for approval, in conformity with the provisions of the act. Inasmuch as the enabling act requires affirmative action by the President, I transmit herewith a copy of the constitution, which, I am advised, has also been separately submitted to Congress, according to the provisions of the act, by the authorities of New Mexico, and to which I have given my formal approval.

I recommend the approval of the same by the Congress.

WM. H. TAFT.

THE WHITE HOUSE, *February 24, 1911.*

On February 17, 1911, Mr. Chairman, the House Committee on the Territories of the Sixty-first Congress began hearings on the proposed constitution of the State of New Mexico, of which several were held and opportunity was given to people both for and against the constitution to be heard, and on the 28th day of February, 1911, the resolution to approve the constitution of New Mexico was favorably reported to the House by the Committee on Territories, each and every member of that committee being in favor of the approval of the said constitution. The minority members of that committee numbered six and the ranking Democratic member, Mr. Chairman, was Mr. LLOYD, who is the chairman of the Democratic congressional committee of the United States, and, I might add, Mr. Chairman, one of the ablest Members on the opposite side of this Chamber, and I might further add, one of the fairest.

As I stated above, this constitution was reported favorably to the House, and I do not think that it was five minutes until the same was passed on the floor of this House unanimously, both the majority and minority forces of the House at that time being for it. The resolution calling for the approval of the New Mexico constitution, after being passed by the House, then went to the Senate on the 28th day of February, 1911. The resolution then went to the calendar, and at a later hour, Mr. Chairman, the Senator from Texas called the resolution up again and made an able, patriotic speech in favor of the approval of the constitution by the Senate, and, Mr. Chairman, I herewith quote his remarks to this House in full:

[CONGRESSIONAL RECORD, Mar. 6, 1911, 61st Cong., 3d sess., p. 4509.]

Mr. BAILEY said:

Mr. President, I hope that the Senate will dispose of this matter without delay, and certainly it can be disposed of without being seriously delayed by what I intend to say. The only objection which I have heard urged to immediate action on the joint resolution is that it is desired to hold the State of New Mexico as a sort of hostage for the State of Arizona. I have given some little time and some little effort to secure the inestimable right of statehood for both of those Territories, and I recall that when an effort—a successful effort, too—was made to unite them into one State, in common with all of my political associates on this side, with one or two exceptions, and joined by a number of gentlemen on the other side, I resisted the union of those two Territories, and while we did not accomplish all we sought at that time, we did finally succeed in forcing into that enabling act a vote of each Territory to determine whether or not that union of them should be made. That proposition was negatived by the people of Arizona herself, and if she were not willing to be joined with New Mexico then, surely she will not ask New Mexico to wait for her now. The statehood of these two Territories is independent of each other. I remember, Mr. President, when we had those two statehood bills pending here, we also had a bill for the admission of the State of Oklahoma. When those two Territories were denied admission, I did not hear anybody contend that Oklahoma ought therefore to be made wait upon Arizona and New Mexico. The Congress of the United States has deliberately recorded its judgment that each of these Territories is suitable for admission into the Union as a State, and nowhere can it be found that any of us suggested that one should not be admitted until the other had adopted a constitution suitable to themselves or acceptable to us. I am, sir, moved now by no partisan consideration, because I know that unless something well-nigh like a miracle transpires, New Mexico will send two Republicans to this body; but, much as I think they will make a mistake in making such a choice, that does not disqualify them for statehood, and I am unwilling to deny to those people the right of local self-government upon such narrow and partisan consideration. There is, however, a question of party expediency, which my Democratic associates can afford to ignore. I feel constrained to say to my friends on this side that we might as well disorganize the Democratic Party of New Mexico as to stand in the way of statehood for that Territory. Senators who have lived in a Territory know that with their people statehood is always the paramount question.

If these people, having obeyed our command, having conformed to the enabling act which we passed almost without a dissenting voice when we reached the end of that controversy, having done all that we required of them, are now told that because some other people did not

act as promptly as they did, or perhaps have not acted as wisely as they did, they shall be made to suffer this Territorial vassalage until somebody else shall have corrected an independent mistake, they will have ample cause to bitterly complain. I believe New Mexico is entitled to become a State. I believe New Mexico is qualified to become a State. I know that the faith of the American Congress has been pledged that she may become a State by conforming to the terms of that enabling act, and I sincerely hope that this Congress will signalize its closing hours by adding another star to the flag of the Union by making another Commonwealth, next to the last, I sincerely hope, that the Union will receive into the sisterhood. When we have taken New Mexico in upon terms of equality, and Arizona shall follow, as follow she will in time, then I am ready myself to adopt a constitutional amendment that no other State shall ever be admitted into the American Union. I hear those suggestions about Mexico on the south and I have heard suggestions about Canada to the north. There was a time when I would have believed the principle of the American Government susceptible of indefinite application. If you had adhered to the old-time doctrine of local self-government I think we might have covered a continent from ocean to ocean and from north to south. But, sir, when we abandoned that and were tempted by appropriations from the Federal Treasury to yield one State power and one State function after another, we made it dangerous to extend our jurisdiction, because it is as true in politics as it is in physics that when you increase the area over which a given force must operate, you must increase that force at its center; and as we extend the limits of this Republic it will be inevitable, sir, that we must extend the power of the Federal Government until it destroys the sovereignty of the States. Believing that and compelled to believe it by the trend of events, I want to close the book. I could not be tempted by anything they might offer us at the north, neither could I be tempted by anything that they might offer us on the south. It is for that reason that I am always eager to keep peace with our neighbors to the south. Our children will not be as well and as strongly fortified against the lust of our territorial expansion as our fathers were. We ran the flag of this Republic up once over the capital of a neighboring nation, and then gave the world an enduring exhibition of generosity to a foe by taking it down and bringing it home. But, sir, I fear very much that the same spirit of conquest, which sought to free the Philippines from an alien domination and ended by subjecting them to our own domination, will not be strong enough, nor wise enough, nor just enough to ever take the American flag down from the capital of another conquered nation. If I had my way I would take a bond against the spirit of conquest against this greed of territory by writing it into the Constitution of this Union that its circle had been completed and never again should its numbers be increased, but whether we shall do that or not must be decided in the years to come. It is enough for us to-night, sir, to perform the duty that lies before us and add a new star to the flag that shall answer to the name of another great and splendid Commonwealth.

But regardless of that fact, Mr. Chairman, the resolution failed of passage in the Sixty-first Congress, and so it is now up before you, gentlemen, in this special session of Congress, called by the President of the United States on the 4th day of April, 1911; and upon the matters to be acted upon in this special session, as agreed upon in your caucus at the opening of this special session of Congress, was, Mr. Chairman, the question of statehood for New Mexico and Arizona. On April 4, 1911, the chairman of the Committee on the Territories, the gentleman from Virginia, introduced a joint resolution in this House to approve the constitutions of New Mexico and Arizona, which is known as House joint resolution 14, which is exactly the same as my joint resolution, 295, of the third session of the Sixty-first Congress, with the exception that it called for the approval of the Arizona constitution jointly with that of New Mexico, and with the exception of that it is the same as mine without the cross of a "t" or the dot of an "i." It was evident to my mind, Mr. Chairman, that it was the intent of the majority of this House to pass the said joint resolution 14 without any changes whatsoever being made. But, Mr. Chairman, at the first or second meeting of your Committee on the Territories there appeared four gentlemen from the Territory of New Mexico, who said that they desired to have the constitution of New Mexico made more easy of amendment, and after several hearings, extending over several weeks, these gentlemen, Mr. Chairman, have succeeded in making the majority side of your honorable Committee on the Territories believe that their views were in accordance with those of the people of New Mexico irrespective of party, and, Mr. Chairman, judging from letters, telegrams, and from the public press of the Territory of New Mexico, I am constrained to believe that these gentlemen represent no one but themselves, as the greater majority of the people of the Territory of New Mexico, irrespective of party, are against any amendments being made to the constitution; and, in closing, Mr. Chairman, I want to say that I believe that this constitution of New Mexico will rank with any of the constitutions of the great States of this Union, and it has so been pronounced by very able lawyers, both on this floor and elsewhere, and I want to say, Mr. Chairman, that this constitution is more easy of amendment as it stands now than that of any State in this Union, with the exception of two or three, and now, gentlemen, as this constitution was passed by a majority of over 18,000, I sincerely trust that this joint resolution which has been presented to you by the majority of your Committee on the Territories will be voted down and the minority views prevail. Gentlemen, I thank you. [Applause.]

Mr. LANGHAM. I yield 30 minutes to the gentleman from Nebraska [Mr. KINKAID].

[Mr. KINKAID of Nebraska addressed the committee. See Appendix.]

Mr. LANGHAM. Mr. Chairman, I yield 30 minutes to the gentleman from Oklahoma [Mr. MORGAN]. [Applause.]

Mr. MORGAN. Mr. Chairman, my inclination is to apologize when I consume with my remarks the time of the House or the Committee of the Whole House; but there are several reasons why it is appropriate that I should discuss this resolution now pending, which provides for the admission of New Mexico and Arizona as States into the Union. New Mexico is my neighbor. My congressional district, beginning at the very center of our State and including its chief city and commercial metropolis, Oklahoma City, with a population of 75,000, extends northwestward more than 300 miles to the eastern border of New Mexico. Oklahoma has contributed its share in the growth of the population of these two Territories. Many of our good citizens during the last four years have emigrated to these two Territories. I know many of these people personally. These Oklahomans who have sought homes in New Mexico and Arizona are good citizens and will do their part in the founding, the building, and the perfecting of the institutions of the two new States about to be created. These two Territories are situate in the great Southwest, a section of the country of which Oklahoma is a part. Naturally our people are deeply interested in bringing into the Union two additional States from the great Southwest, a section of the Union that will, in the near future, rapidly increase in wealth, in population, and in its influence in the affairs of our Nation.

More than this, it has been less than four years since the people of my State emerged from the thraldom of Territorial government. The undesirable conditions, the material disadvantages, the political restrictions, the burdens, drawbacks, and handicaps of Territorial government are still fresh in their minds. I feel, therefore, that I am voicing the unanimous sentiment of the people of Oklahoma when I urge the admission of New Mexico and Arizona as sovereign States into the Union at the earliest date possible.

GOVERNMENT WITHOUT CONSTITUTION.

Mr. Chairman, I do not agree in all things with many of the able gentlemen who have discussed this resolution. To my mind there is a disposition to place too much importance upon the various provisions that are found in these proposed constitutions. I have had a somewhat varied personal experience in testing the value of a constitution to a people.

On the 22d day of April, 1889, with the great rush into Oklahoma, I established my residence in that Territory. From that day until May, 1890, there were 60,000 to 75,000 people in that Territory without a constitution. Aye, more than that, we were without laws. We were without any government. Congress had provided that these lands, aggregating something like 2,000,000 acres, should be opened under the proclamation of the President; but Congress, through inadvertence or for some other reason, failed to provide any laws for the people. No provision was made for State, Territorial, county, or municipal governments. Seventy-five thousand people lived there for more than a year without a constitution and without any State laws; in fact, with no laws at all, except a few Federal statutes which applied where the United States had exclusive jurisdiction. But what did those people do? They gave the world a sublime object lesson of what American citizens can do without a constitution and without laws.

In this emergency our people maintained order, preserved the peace, established schools, built churches, founded cities, engaged in trade and commerce, engaged in every line of business and in every occupation, and gave adequate protection to life and property. During this year the people were happy and contented, and without a constitution, without any legal local government, had their full share of that liberty and justice which is enjoyed by every American community.

I well remember that opening day. As men settled upon lands or upon town lots one of the most common things to observe was to see them carrying in their hands American flags. When they located upon these lands or upon the town lots the first thing they did, the first act of settlement performed, the first monument of ownership erected on the claim or town lot was an American flag. And as these settlers, coming from the various States of this Union, carried in their hands the Stars and Stripes, so they carried in their hearts the constitutions and the laws of the State from which they came; and there the principles of justice, self-government, and Christian civilization embodied and exemplified in these laws and constitutions were transplanted into the fruitful soil of the new State and have guided our people in their aspirations for the attainment of the highest and best in human government.

I remember that on the afternoon of April 22, 1889, on the town site of Guthrie, where I located, there were 20,000 people. I vividly recall how the people instituted their first government. Ten thousand men gathered on a beautiful hillside for the purpose of holding the first election in the new State. What was the method adopted? It was the very method that this House of Representatives uses when we take a vote by tellers. Tellers were appointed, and those 10,000 intelligent, patriotic citizens, gathered from all the States of this Union, passed between the tellers and expressed their choice between the candidates for mayor. What occurred at Guthrie took place at Oklahoma City and at other places. All this demonstrates to my mind that it is not so much the Constitution and the laws that make good government, but that good government comes from what the people have in their hearts and in their consciences.

TERRITORIAL GOVERNMENT.

Then Congress gave us a Territorial government, and from May, 1890, up until the 16th day of November, 1907, over 17 years, we were under a Territorial form of government, without a constitution. And what magnificent progress our people made there without a constitution. When we came into the Union we had a population of 1,400,000 people. We had accumulated vast millions of property. We had established a system of public schools that was scarcely surpassed in any State of this Union. We had founded higher educational institutions, erected churches, and established social, educational, charitable, and industrial institutions, comparing favorably with the best, in the highest civilization of the world.

Mr. STEPHENS of Texas. Will the gentleman yield for a question?

Mr. MORGAN. Certainly.

Mr. STEPHENS of Texas. Is it not a fact that when you had a constitution, that you and other gentlemen who think as you do voted against it, and that you wanted to continue in the condition you were in without statehood?

Mr. MORGAN. I will come to that very soon.

Mr. STEPHENS of Texas. Is not that a fact?

Mr. MORGAN. I voted against it myself, and, according to the report, about 90,000 others, all very intelligent and patriotic men, did as I did. [Applause.]

Now, then, I want to talk a little about our constitution. I feel it is proper that I should do so, because the storm center of this discussion is around the initiative, referendum, and recall, and we have in our constitution the initiative and referendum.

Mr. TRIBBLE. May I ask the gentleman a question?

Mr. MORGAN. Certainly.

Mr. TRIBBLE. Does the Government of the United States undertake to exclude you from the Union of States because you do have the initiative and referendum in your constitution?

Mr. MORGAN. We are in the Union now, and I do not know of any effort to exclude us.

Mr. TRIBBLE. Has there been any effort to exclude you?

Mr. MORGAN. No.

Mr. TRIBBLE. Then why do you and others want to exclude this Territory?

Mr. MORGAN. I have not said I was in favor of excluding it. The constitutional convention which prepared our constitution was overwhelmingly Democratic.

The constitution was prepared and promulgated. The people voted on it. About 80,000 votes were cast against that constitution. In further answer to the question propounded to me by the gentleman from Texas [Mr. STEPHENS], I will state that I voted against the main part of that constitution. I voted for some of the special provisions upon which the people were allowed a separate vote.

Mr. STEPHENS of Texas. Did the gentleman vote against the initiative and referendum part of it?

Mr. MORGAN. I had my own peculiar reasons why I voted against that constitution. I did not vote against it because it contained the initiative and referendum or because it created a corporation commission with the most sweeping powers over the corporations of our State. The main reason that I voted against the constitution was because I thought the constitutional convention, in apportioning the members of the legislature to the various counties, had committed a political crime against the people of Oklahoma. [Applause on the Republican side.]

Mr. STEPHENS of Texas. Will the gentleman yield further?

The CHAIRMAN (Mr. WITHERSPOON in the chair). Does the gentleman from Oklahoma yield to the gentleman from Texas?

Mr. MORGAN. I do.

Mr. STEPHENS of Texas. The gentleman refers to the gerrymander in Oklahoma. Did the Democrats in Oklahoma count one county three times in making up their list of senators and representatives, as they did in New Mexico?

Mr. MORGAN. I have not examined the matter to which the gentleman refers. I will tell you what our constitutional convention did. I am sorry I am driven into this, because I did not want to discuss matters relating to political controversies in my own State. I prefer to fight these matters out at home. But here is the method used by our Democratic constitutional convention to insure a Democratic legislature: Draw a line through Oklahoma, running from the east to the west, about the center of the State. Generally the counties south of this line are largely Democratic, while the counties north of the line are slightly Republican. In the upper branch of our legislature, according to our population at that time, on an average about 30,000 people were entitled to one senator.

Near the Texas line, north of the line above referred to, were the adjoining counties of Ellis and Dewey; Republican counties, with a combined population exceeding 30,000. Placed in a senatorial district these two counties ordinarily would have elected a Republican State senator. South of the line were the counties of Roger Mills and Beckham, largely Democratic, with a combined population of about 30,000, entitling them to a senator. Under the apportionment in our constitution these four counties were placed in a senatorial district and given two senators. The double district thus created was largely Democratic. Another instance, Caddo County is a large county, with over 30,000 population, entitled to a senator. Caddo County, though close politically, was regarded as a Republican county. South of Caddo was Grady County—a county with a large Democratic majority—with a population sufficient to entitle it to one senator. These two counties were placed in one senatorial district and given two senators. Still another instance, Lincoln County, a Republican county, and Pottawatomie County, largely Democratic, each entitled to a senator, were placed in one district and given two senators. This method was followed along this line from Texas to Arkansas, and illustrates the kind of political theft that was perpetrated upon the people. [Applause on the Republican side.] The honorable gentlemen, our Democratic politicians, dominating our constitutional convention, were posing as reformers. They assumed political virtues not possessed by the ordinary citizen. They claimed to be the champions of the people's rights. They denounced corporations for robbing the people. But I could not see any difference in principle between corporations robbing the people of their money and politicians robbing people of their just and fair representation in the legislative assembly.

Now, I say I did not intend to bring these things out in this debate. However much I may criticize the acts of our Democratic politicians at home, when I talk in the House of Representatives of the United States I much prefer to speak well of all Oklahomans, for nothing is more sacred to me than the honor, reputation, and good name of Oklahoma.

Mr. FERRIS. Will the gentleman yield?

Mr. MORGAN. I can not yield to the gentleman just now. I know it is said that all political parties have been guilty of such things to a greater or less extent. Even if this be true, such things could not control me. I must be guided by my own conscience. I regarded the apportionment as unfair and unjustifiable. I deemed it a species of political robbery, and so far as I was concerned, I did not propose to give it my indorsement, and I have never been ashamed to face the people of Oklahoma upon that question. But, Mr. Chairman, what did our own Democratic politicians finally do? They were so ashamed of that apportionment that they placed in the constitution a provision that, after the census of 1910, such an outrage, such a political crime, could never again be perpetrated upon the people. I cheerfully give them credit for this.

But they took no chances in seeing that for six year at least Oklahoma should be represented in the United States Senate by Democratic Senators, and that in the meantime the legislation, institutions, and affairs of the State should be in the complete control of the Democrats.

Mr. STEPHENS of Texas. With reference to New Mexico, is the gentleman aware that that constitution prohibits the redistricting of that State, as the presiding officer of that convention said, for 99 years, and is not that the main reason for the objection of the Democrats against the New Mexico constitution?

Mr. ANDREWS. If the gentleman will yield, the gentleman from Texas is entirely wrong about the apportionment of New Mexico. The New Mexico apportionment is as fair as in any

State in this Union, although it has been proclaimed from the other side that it was not. The trouble is that they could not put in a provision that a Republican county should elect Democratic members.

Mr. STEPHENS of Texas. That was not the point I made.

Mr. ANDREWS. The point you are raising is that they can not make a reapportionment for 10 years. That is so in all the States—until the next census.

Mr. MORGAN. For myself, I am in favor of admitting New Mexico immediately upon this constitution adopted by the people. I am opposed to that part of the resolution now pending which requires the people of New Mexico to vote upon certain proposed amendments. I regard this as unfair and wholly without justification.

Mr. STEPHENS of Texas. Will the gentleman yield?

Mr. MORGAN. For a minute.

Mr. STEPHENS of Texas. The objection I made was to the fact that the constitution could not be changed. The way it is made, it is almost impossible to submit to the people a constitutional amendment that will change the basis that you now have.

Mr. ANDREWS. That is all rot; it is mere assertion.

Mr. MORGAN. Now, Mr. Chairman, I have said frankly why I voted against the constitution of Oklahoma when it was submitted to the vote of the people.

Mr. FERRIS. Will the gentleman yield right there?

Mr. MORGAN. For a question.

Mr. FERRIS. The gentleman has made a statement with reference to the districting of the State by the Democrats. I do not desire to occupy his time or to divert his attention, but the thought is this: That the President of the United States—President Roosevelt—sent special census takers down there to take the census to determine whether or not, in truth and in fact, we had gerrymandered the State. It resulted that the gerrymander which Congress gave the State was a thousand times more vicious than any single gerrymander found in the State.

Mr. MORGAN. I do not concede that at all. This controversy has been pushed upon me. I want to say this, however, that I believe the bulk of the Republicans voted against the constitution, which was a Democratic document. It contained many things that were objectionable to many people. The bulk of the Republicans voted against it, but when the voice of the people had been heard and the majority indorsed the constitution, the Republicans and Socialists said: "We will unite with the Democratic forces; we will work out our destiny and build up a great State, in spite of some bad things in the constitution."

Mr. TRIBBLE. Will the gentleman yield?

Mr. MORGAN. Certainly.

Mr. TRIBBLE. Has not the voice of the people been heard in New Mexico and Arizona again?

Mr. MORGAN. Yes; so far as I know. As to the initiative and referendum in the Oklahoma constitution, I will say that I believe that a great majority of the people—Republicans, Socialists, and Democrats alike—want to give the initiative and referendum a fair trial. That is now our situation. I believe our people are favorably disposed to both of these provisions. I have heard little complaint about them. I can say that at one time the minority, the Republican Party in my State, used the referendum with great advantage to the people.

I refer to this not for the purpose of criticizing our Democratic politicians down there; but at one time our legislature passed what the Republicans regarded as a very partisan and a very unfair and very dangerous election law. The Republicans took advantage of the referendum provision which had been given us by the Democratic constitutional convention, secured a proper petition, presented it to the secretary of state, and while there were technical objections made to it and we were compelled to go to the supreme court of the State, that court said that it was regular and ordered an election.

Then what? Our Democratic politicians, apparently being frightened, knowing that they could not go before the people and sustain that election law, promptly had a special session of the legislature called, and that objectionable election law was repealed. We took the instrument that they gave us, and in that instance I believe it worked to the advantage of the entire people, without regard to politics.

They passed another election law, not so objectionable, but still a partisan election law. Republicans, as well as many prominent Democrats, to-day are demanding that the people of Oklahoma shall have a nonpartisan election law. And to-day apparently the only prospect the people of Oklahoma have of securing a fair, impartial, nonpartisan election law is to obtain it through and by virtue of the initiative provision in our constitution.

My observation and experience is that the referendum and initiative may be valuable to a minority party, especially if the majority party is represented by a political machine and that machine happens not to be very conscientious about the methods it employs in order to perpetuate itself in power.

So far as I am concerned I have no objection to the initiative and referendum. I shall not vote against Arizona coming into the Union because these provisions are in her constitution. I do not understand that this question is a political question. I glanced through the Democratic platform of 1908 and the Republican platform of 1908, and as I understand it, neither of the great political parties have declared for or against these propositions.

Applied to political parties as we have them now, the initiative and referendum and the recall are neither Democratic nor Republican doctrines. There seems to be a wide difference of opinion upon both sides of the House as to the wisdom of these measures. Some very learned gentlemen here, whose judgment I greatly respect, say that in the recall of public officers there is great danger to our free institutions. I have tried to look at this thing fairly, and I confess that I do not so regard this provision. My judgment is that as the States constituting this Union shall go on in their history power in their Representatives will not be increased, but as years shall go by the people will more and more participate by direct vote in the affairs of the State. As our people naturally grow more intelligent, as they shall progress in their capacity of self-government, I believe the tendency of the future will be for an enlargement of the powers of the people to participate directly in the administration of affairs of state.

Of course nobody expects that by using the initiative and referendum the people can or will enact the great bulk of laws necessary for the government of the State. But nothing of that kind is expected. But when great questions are pending, when great, fundamental propositions are before the people, when perhaps the party in power shall be imposing upon the rights of the people, then the initiative and referendum will be a weapon and an instrument in the hands of the people whereby they can more speedily secure what is right and just and best for all.

As to the recall, I do not understand that that will in any way affect the form of government. My understanding is that many lawyers claim that the initiative and referendum does affect the form of the government, and that if a State has these provisions in its constitution it is not therefore republican in form—that is, not a representative government.

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

Mr. MORGAN. I yield to the gentleman.

Mr. RAKER. Do I understand that any Member of the House has contended upon the floor of the House that because a constitution should have in it an initiative and referendum it is not therefore a republican form of government?

Mr. MORGAN. I will say this, that I know good lawyers who maintain that.

Mr. RAKER. But nobody on the floor of the House on either side.

Mr. MORGAN. I can not say positively. I know that when Oklahoma was admitted there were a good many persons who claimed that those provisions made our form of government not republican in form, and that was one of the objections urged against the admission of Oklahoma, but notwithstanding these objections Oklahoma was admitted.

Mr. TRIBBLE. Is the recall more against the republican form of government than the referendum and the initiative?

Mr. MORGAN. I think not. I do not think the recall applies to the form of government. The question of the length of the term of public officers, or how they shall be elected or removed, I do not think applies to the form of government at all.

Mr. TRIBBLE. Is not this an effort, then, to centralize the government, in undertaking to exclude a State that comes up and applies for admission with a republican form of government?

Mr. MORGAN. I did not understand the gentleman's question.

Mr. TRIBBLE. If you undertake to exclude a Territory on account of its government, which is republican in form, would it not be centralizing to exclude such a State?

Mr. MORGAN. Mr. Chairman, I would not exclude it. I am not trying to do that. I do not want to exclude either one of these States.

RECALL OF PUBLIC OFFICERS.

I have not been able to see the dangers in the recall provision that others do. The public official is rightly regarded as the servant of the people. If his services are for any reason not satisfactory, the people have the right to remove him and select

another. In my judgment, the right to recall public officials will tend to secure from them greater efficiency and a higher degree of faithfulness in the discharge of their duties. It will encourage strict attention to business, secure a more successful administration of public affairs, and will lessen the amount of malfeasance, dishonesty, graft, and fraud on the part of public officers.

Whoever asks his fellow citizens for a position which carries with it distinction, honor, and emoluments should accept the same recognizing the right of those who gave him the position to take from him the position. The vast majority of public officials in the United States, high and low, are of course honest, capable, and faithful officers.

But there are many exceptions. Too many men seek and secure public offices solely with the view of gratifying their own selfish ends. Prompted by greed and avarice, they seek and obtain public office and then proceed to betray the people and rob the taxpayers. In actual practice I do not believe the right of recall would be frequently exercised. But, in my opinion, the placing of this power in the hands of the people will, on the whole, insure better service from public officials, a more honest administration of public affairs, and a higher standard of honesty and integrity among public officials generally.

RECALL OF JUDGES.

As to the recall of judges, I do not agree with many very able and distinguished gentlemen who have declared this a most dangerous provision. In my opinion, the recall provision applied to judges will not destroy the independence of the judges or interfere with the administration of justice. With the recall provision in force you will see that judges will go on in the future, as they have in the past, doing their duty, maintaining the dignity of their high positions, administering justice, construing the law, interpreting the statutes, delivering opinions, rendering decisions, entering decrees and judgments, and through it all maintaining the confidence and respect of the people and receiving their support. The high regard which the people have for the courts does not depend upon the fact that the judges are not subject to recall. The fact is that in the various States of the Union, after judges have served a term of four or six years and their terms expire and the people have an opportunity to recall them or elect another person, they usually do not do so, but reelect the old judge, thus demonstrating that the people respect the judge who does his duty and reelect him again and again. The judiciary and our courts are creatures of the people. Their security rests not upon the fact that the people can not recall the judges, but upon the fact that our people have confidence in our courts, respect the judges, and believe they are not only able, but honest in their decisions. So long as our judges continue impartial, fair, honest, and sincere in discharging their high duties the people will sustain them; but it will be a sad day for our country should the time ever come when the people shall conclude that our courts are corrupt and our judges dishonest. The people have confidence in our judges as a rule, not because they can not recall them from office, but because judges as a rule have made records that entitle them to the confidence of the people. So it will be in the future, even with the recall in force. The able, honest, upright, conscientious judge will not have and need not have any fear of being recalled.

GOOD CITIZENSHIP MEANS GOOD GOVERNMENT.

Now, Mr. Chairman, in my opinion good government is not secured so much through constitutions and statutory laws as through good citizenship. Constitutional conventions may promulgate constitutions and legislatures may enact laws, but constitutional provisions and legislative acts are enforced and administered through the power of public opinion. The character of the people, the standard of citizenship is above the constitution and the laws. Good government is the result of good citizenship. In practical administration the government of any State is a reproduction of the ideals, conceptions, and principles of government in the hearts of the people. The initiative and referendum and the recall are not essential to the safety of the government or the perpetuity of our free institutions. The Republic will be preserved, our free institutions will be perpetuated, liberty and freedom will be maintained either with or without the initiative, referendum, and the recall. The splendid institutions that the people have erected on the American Continent are secure with or without these provisions in our State constitutions. Constitutions may be good or bad. All constitutions are imperfect. Every new provision proposed for the improvement of our government necessarily is more or less an experiment. How the initiative and referendum and the recall will work out in actual practice must necessarily be to some extent a matter of conjecture. But for one I am willing to try them. In voting to admit Territories as States into the Union I look to the character of the people rather than the special provisions in the constitution. I prefer to trust a good people with a bad constitution rather than a bad people with a good constitution. [Applause.] The true greatness of a State depends upon the character of the people. I really do not regard the initiative and referendum and the recall an issue in the vote for or against the admission of these Territories. Why should we vote to exclude Arizona from statehood because we find in her proposed constitution the initiative and referendum and the recall of all public officials, when Oregon, a State within the Union, has these same provisions in her constitution? I shall vote for the admission of both of these Territories, but in so doing will not feel that I am thereby voting for or against the initiative and referendum and the recall. I am not one who believes these provisions are essential to good government or necessary to protect the people in their liberties. But I see no great danger in these provisions, and I am perfectly willing to let them be tried.

If after trial they prove ineffectual, impractical, detrimental, or unwise, the people, in the exercise of good common sense, will discard these provisions and eliminate them from our constitutions and laws. For after all we must depend upon the people for good government. For the safety of our Republic, for the stability of our free institutions, for the preservation of our rights and liberties, for the wise administration of public affairs, we must look to the good sense, the intelligence, and the patriotism of the American people.

WELCOME TO THE PEOPLE OF ARIZONA AND NEW MEXICO.

I hold in my hand a printed copy of the constitution of New Mexico. I read it through, article by article, and section by section. But I am not satisfied. I cast this constitution aside, and I take up the constitution of Arizona, and I read it through, article by article, section by section, clause by clause, phrase by phrase, and sentence by sentence. Still I hesitate. I ask for further evidence before I cast my vote on this resolution for the admission of these two Territories. And I turn from these inanimate, dead constitutions and look 2,000 miles to the southwest, beyond my own beloved State, to New Mexico and Arizona. I behold in each of these two Territories an intelligent people. They have demonstrated their ability to govern themselves. They have founded schools, erected churches, established charitable institutions, and have shown their fidelity to the Union and their loyalty to the flag. I am willing to trust these people. So I place these proposed constitutions in the background, and looking to the intelligent, loyal, and patriotic people of New Mexico and Arizona I say to them, "Welcome, thrice welcome, into this great Union—the United States of America." [Loud applause.]

The CHAIRMAN (Mr. GARRETT in the chair). The Chair will state that the gentleman from Virginia [Mr. FLOOD], who by unanimous-consent order of the House controls the time of the majority side of the House, was called from the Chamber, and he requested the Chair to recognize the gentleman from Oklahoma [Mr. FERRIS] for 30 minutes, and, without objection, the gentleman from Oklahoma will be recognized. [Applause.]

Mr. FERRIS. Mr. Chairman and gentlemen of the committee, this joint resolution provides for statehood for Arizona and New Mexico. I am in favor of their admission into the Union and full sisterhood of States, and in favor of it now.

I think before beginning a discussion of this almost entrancing subject it would be well to do as the lawyers do and file an agreed statement of facts that will govern all the way through this discussion. It is as follows:

First. That the only requirement of the Federal Constitution is that the constitutions of the incoming two States shall be republican in form.

Second. That they are republican in form and that they are not contrary to any provision of the enabling act or the Federal Constitution. Neither of the three reports attack them on either of these grounds.

Third. That the two proposed States have sufficient population, wealth, and area to entitle them to admission. No one, so far as I know, either in speech, brief, or by committee report, has attacked them on grounds other than technicalities.

Hence we have the right to assume that the agreed statement proposed is but a fair one.

With this agreed statement of facts as a premise to start with, my decided personal views are that this Congress and President Taft should not inflict on the people of Arizona and New Mexico the dotting of an "i" or the crossing of a "t" if those clerical acts be not agreeable to them. It is, however, but fair to state in this connection that if there ever was a pardonable exception to this rule it would be in the method of amendment of the New Mexico constitution, as per the majority report of the committee so far as it applies to New Mexico. For

while I do not intend to deal with the New Mexico constitution in detail, or scarcely at all, I think it is safe to predict that numerous amendments to that document will soon become necessary and within the urgent desires of most of their citizenship. So while in my judgment, personally, I think it ill advised to inflict views upon a people that they do not want, this is perhaps the most pardonable.

As I read and as I understand Arizona's constitution I can not but conclude that it is the handiwork of men of the people, for every one of its pages fairly teem with the rights and liberties of the men that are to live under it. It is an embodiment of human liberties and human rights made by men who believe in humanity and scringe for their every ache and pain. [Applause.]

I am proud to welcome into this sisterhood of States a broad-gauged, broad-shouldered, courageous, warm-hearted citizenship who will, if this constitution is any criterion to go by, make us all better by reason of them. [Applause.]

I must not longer indulge in my affection and in eulogy for these new States soon to be, but must proceed to consider somewhat in detail Arizona's constitution, which safeguards well indeed the liberties of men. They have collected together the choicest provisions of all the constitutions of their sisters who have go on before.

For those who are deeply concerned over the transgressions of the rights of their fellow men I tell you, sir, few, if any, better constitutions were ever penned by the hand of man. [Applause.]

NO VICIOUS ELECTION LAWS.

Article 7, section 1, of the Arizona constitution provides:

All elections by the people shall be by ballot, or by such other method as may be prescribed by law, provided that secrecy in voting shall be preserved.

Here we observe no disposition, now or in the future, to throttle or bind down the State with vicious oppressive election laws. This insures forever the secrecy of the ballot—a universal essential in every election. This insures to those people a safe, sane, and honest election, free from boodle and free from graft. This is the first step to the political purity, progress, and honor of any State. I rejoice that they did not juggle, falter, or attempt to seek any semblance of unfairness, though it was within the power of that Democratic majority so to do.

POPULAR VOTE OF PEOPLE INSTRUCTING LEGISLATURE ON SENATORIAL ELECTIONS.

Article 7, section 9, of the Arizona constitution provides:

For the purpose of obtaining an advisory vote of the people the legislature shall provide for the placing of the names of the candidates for United States Senator on the official ballot at the general election next preceding the election of a United States Senator.

This step surely can meet with the criticism of but few, if any, on either side of this Chamber, and surely not from the Democratic side, who have for the last 20 years, in platform and in Congress, solemnly declared for the election of United States Senators by the popular vote. This is traveling, by those constitution makers, as far toward the light as their powers under the Federal Constitution will permit them to go. It is, I submit, in this regard merely following in the wake of this present Democratic House of Representatives, who at this very session have passed a joint resolution so to amend the Federal Constitution. It is but a following in the wake of 37 States who have passed resolutions petitioning Congress to take some action in this regard. There is every reason to commend this advanced step, and so few to condemn it.

DIRECT PRIMARIES V. CROOKED, JUGGLING CONVENTIONS.

Article 7, section 10, of the Arizona constitution provides:

The legislature shall enact a direct-primary election law, which shall provide for the nomination of candidates for all elective State, county, and city offices, including candidates for United States Senator and for Representatives in Congress.

I think there are few of us who longer cling to the vanishing and antiquated system of conventions and the varied and weird pranks that usually attend them. I think the number must be small who think nominations by convention better than by a direct vote of the people; for under the latter system every man, unmolested and in secrecy, may vote for the man of his choice after this has been accorded him, whether his choice be the voice of the majority or of the minority, he will have had his day in court. He will then, and not until then, with moderation and willingness abide by the everlasting good judgment of the majorities, the hope of the Republic, and the bulwark of us all. [Applause.]

I tell you, those sturdy people living on the broad prairies of the West, in constitution making, offer to the entire civilized world a beacon light in the embodiment of American liberties and human rights. You of the crowded East may and do know more of frenzied finance and its weird panics and pranks, but we of the West have higher regard for human liberties and human rights. We believe it is right to look after humanity first and property after. You of the East have been trained in a different school, where property rights come first and human rights and liberties last, if at all. I rejoice that Arizona recognizes the right of the humblest citizen at the ballot with equal sacredness with that of every other man. This law insures that right to him and will instill responsibility and patriotism in his breast to climb higher in the roll of citizenship.

PUBLICITY OF CAMPAIGN EXPENSES BOTH BEFORE AND AFTER ELECTION.

Article 7, section 16, of the Arizona constitution provides:

The legislature at its first session shall enact a law providing for general publicity, before and after election, of all campaign contributions to and expenditures of campaign committees and candidates for public office.

The wholesomeness of this provision needs little dilation or explanation. We have before us a concrete example. There is now a sitting Member of a legislative body other than the one to which I belong, a man who secured his seat in the Senate of the United States after the expenditure of $111,385.49 in his primary campaign. It is also true that his opponents in the same campaign spent sums respectively, as follows: $42,203.29, $30,002.07, and $11,063.88.

The filing of such reports after election can not but be the locking of the stable after the horse has been stolen. May we not pause and ask, With what can the honest, upright poor boy indulge his ambitions when men hold seats in legislative bodies at such figures as the ones just quoted? It must be nauseating and sickening to America's ambitious young men, who, it is true, have no titles to overcome but do have unreasonable wealth and unreasonable expenditures of money instead, which are quite if not equally as vicious and oppressive!

All hail to Arizona for her progress and fortitude to so well, in her infancy, safeguard the liberties of men that have too long been neglected by her older and more sedate sisters!

POWER TO INITIATE LEGISLATION BY THE PEOPLE—INITIATIVE AND REFERENDUM.

Article 4 of the Arizona constitution provides:

SECTION 1. (1) The legislative authority of the State shall be vested in a legislature, consisting of a senate and a house of representatives, but the people reserve the power to propose laws and amendments to the constitution and to enact or reject such laws and amendments at the polls independently of the legislature; and they also reserve, for use at their own option, the power to approve or reject at the polls any act, or item, section, or part of any act, of the legislature.

(2) The first of these reserved powers is the initiative. Under this power 10 per cent of the qualified electors shall have the right to propose any measure, and 15 per cent shall have the right to propose any amendment to the constitution.

(3) The second of these reserved powers is the referendum. Under this power the legislature, or 5 per cent of the qualified electors, may order the submission to the people at the polls of any measure, or item, section, or part of any measure, enacted by the legislature, except laws immediately necessary for the preservation of the public peace, health, or safety, or for the support and maintenance of the departments of the State government and State institutions; but to allow opportunity for referendum petitions no act passed by the legislature shall be operative for 90 days after the close of the session of the legislature enacting such measure, except such as require earlier operation to preserve the public peace, health, or safety, or to provide appropriations for the support and maintenance of the departments of the State and of State institutions: *Provided*, That no such emergency measure shall be considered passed by the legislature unless it shall state in a separate section why it is necessary that it shall become immediately operative and shall be approved by the affirmative votes of two-thirds of the members elected to each house of the legislature, taken by roll call of ayes and nays, and also approved by the governor.

To me more beautiful and wholesome than all else is the right vested by the Arizona constitution which places in the hollow of the hand of each citizen full power to play his part in initiating legislation when recreant legislatures fail or refuse to act.

Under the Arizona constitution 10 per cent of the voters at the last regular election may propose legislation that they think desirous and have a vote thereon. If the majority approves it, it becomes a part of the statutes of the State.

If 15 per cent of the voters at the last election desire to amend the constitution, an election may be had thereon, and if a majority of the voters decree an amendment, it is by them inserted and becomes a part of the constitution.

Much has been said of late in the press and by different politicians about the fanaticism of such methods of legislation, but, as one who has for four years lived under its beneficent provisions and as one who has taken part in elections dealing with 14 items of legislation thereunder, it has no terrors for me. Such indictments to me seem faulty and untrue.

No party in our State is now seeking its repeal, and no party has sought its repeal since its enactment four years ago when we became a State. Our legislature has met once each year since our admission; our constitution is easy of amendment; the opportunity so to do has at all times been ample. The same charges were preferred against Oklahoma's constitution when it was formed, but four years' experience and the exercise of

the right has taught us that their prophesies were weird, unworthy, and untrue.

I tell you, sir, when perplexing questions arise in a State, questions that are full of sentiment and feeling, in which honest and strong men differ widely, there is no way to settle them so satisfactorily as to submit them to the will of the majority, which is to-day, was yesterday, and should ever be the just and most holy arbiter of us all.

When we depart from the will of the majority and refuse to abide its mandate, we embark on unknown seas of anarchy, disaster, and destruction. [Applause.]

I tell you, sir, the very hope of the Republic is the absolute reliance in the will of the majority honestly and fairly expressed at the ballot box, as distinguished from the secret pranks and bickerings of the few, assembled in some dingy committee room of some city council, legislature, or Congress, who operate under rules and bans of secrecy which the public can not fathom or understand.

It is altogether too often in this House asserted that the judgment of the plain people can not be trusted to act with moderation and calmness in matters of legislation and the preservation of their own rights. I share no such opinion, and extend to all such thinking persons a complete and sole monopoly on all such beliefs. I am willing to exempt that school of thought from the operation of every section of the Sherman anti-trust law, and let them go on in error, deluded and alone. [Applause and laughter.]

Let me not be tedious, but as our answer to this unholy indictment against the intelligence of our people let me call your attention to the calmness and moderation with which the people of my State have, during the last four years, exercised the right, in each case dealing with knotty problems and perplexing ones that legislatures and Congresses too often dodge or refuse to act on at all.

As you will recall, Congress in admitting Oklahoma provided that she should have prohibition for 21 years. She did this, we assume, on account of our Indian population. Those citizens of our State who for reasons of their own were displeased with this limitation have twice availed themselves of the initiative plan to remove what to them was a barrier, but each time the people of the State elected to stand by the enabling act by handsome majorities, the first time by an approximate majority of 18,000, while at the last election, held on November 8, 1910, at the general election, the vote stood 105,041 "wet" as against 126,118 "dry." So while there will be those here and there who disagree with the majority result in this case—and there are those of my State who think the result unwise—still you can not say that we did not follow in the steps of the Congress that placed the provision in our enabling act and kept the everlasting faith. This, it seems to me, is but an humble example of a question full of sentiment where feeling ran high; still the people were not without calmness or without reason, and to-day I think I am not exaggerating when I say the question is more nearly settled in our State than it ever could be under the representative government operating alone.

The people can be trusted, and the indictment that they are not competent to legislate and vote intelligently on matters that deeply concern them is both faulty and unsound.

Mr. MORGAN. Will the gentleman yield?

The CHAIRMAN. Does the gentleman from Oklahoma yield to his colleague?

Mr. FERRIS. I want to be as courteous with the gentleman as he has been with me, but I have but little time and I want to go as fast as I can.

Mr. MORGAN. The gentleman states that 14 propositions have been voted on. Does he know how many of them have been carried?

Mr. FERRIS. Two of them have been carried. Some of them have been referendum propositions. I will come to that in a moment.

In further reply to the suggestion of the gentleman from Oklahoma I want to speak of some things we actually voted on. When Congress passed the enabling act and admitted us as a State, it provided as one of the many limitations that we should retain our capital at Guthrie, Okla., until the year 1913. The people chafed under that as an unusual and unwarranted limitation. Under the initiative they put it to a vote, and it was voted out of our constitution by more than three-fourths of the 75 counties of the State by a majority of 32,014. They say you can not trust the people as you can trust the Congresses and legislatures. But it is not so. The indictment will not stand. It is but the old adage that "The king can do no wrong," and such a theory has no place among Americans. To say that all of the people will err more quickly than one of the people is illogical, uncertain, and untrue. [Applause.] To so assault the voting population of this Republic is but to utter vile slander against the people who but yesterday placed the mantle of power about you. Why indict the intelligence of to-day that you applauded but yesterday?

Again, we may call your attention to a provision of the Oklahoma constitution known as article 9, it being in substance a provision against the merger of railroads without domestication. Twice the railroads, and many good people of our State who agreed with them about it, have under their rights petitioned for an election for the repeal of this section, and the elections have been held each time, sustaining the constitution by majorities of 54,421 in the first election and 27,994 in the second election.

It is quite true that the judgment of the people may, by those who do not agree with the results, be attacked, but the will of the majority honestly expressed at the ballot box can never be successfully attacked. [Applause.]

Again, I may call your attention to a question perhaps more sentimental than all the rest—that of woman's suffrage. The good women of our State said:

We are entitled to know the true sentiment of this State with reference to equal suffrage.

They exercised their rights under the initiative law, and the vote was had on November 8, 1910, the day of the regular election, and the vote was 88,808 for equal suffrage and 128,928 against it, rendering clear and emphatic the sentiment of the State by a majority of 40,120 against woman's suffrage. Who is there here that would deny those good women, who believe they ought to have the right to vote, to put it to a test of sentiment under this beneficent law? Who is there that can not recognize at a moment's glance what a jewel such a law is to settle and settle rightly and finally such questions full of sentiment and full of dissatisfaction until settled rightly?

I could go on, at the hazard of being tedious, and deal with all of the 14 questions initiated and referred in our State since statehood, but these show quite well the working and the desirability of the law.

THE REFERENDUM.

This is but the reverse of the same principle. This law merely permits the people of the State to sweep from the statute books laws that have crept in through inadvertence or corruption; laws that are offensive to the majority of its citizenship. In the Arizona constitution 5 per cent of the voters at the last election may petition for the repeal of any law particularly offensive to them and then the election ensues, and if a majority of the citizens qualified to vote and voting do not want the law to remain on the books, they simply vote it off. Nothing more and nothing less. We can all think of vicious acts of city councils, boards of county commissioners, and even legislatures that were personally obnoxious to practically all of the people and should be repealed, though too often impossible under the delegated government standing alone to eradicate or rid themselves of it. It has been said that the instances are rare when such a case would occur, but the principle of the referendum is as sound even if such a case did not occur once in an age. It would stand as a solemn sentry ever patiently guarding the people's rights, inexpensive and unpretentious when not in use, ever courageous and willing to act when encroachments and usurpation appear. [Applause.] Sometimes laws that appear honest and sound on their face are in fact faulty and unsound, still many are the times they are such questions that even a vote thereon would involve the political fortitude of the members thereof, and no action can be secured or accomplished through the old way. This statement I know is not entrancing and ennobling to refer to, but is a condition that exists and the truth of the statement is exemplified in legislatures and Congress almost every day. This will of course be answered by those who say, Send better men to the legislatures and Congress. Still that is not a reply, for the people have for more than a hundred years sent the best men they could find, still the condition is present. That admonition is and would be as good with this system as without it, and it does not answer the virtue of the principle or the necessity of correction of a condition that most of us know actually and in reality does exist. It is an evidence of intelligence and fortitude to ever repose in the people full power to protect themselves against usurpation and oppression which may or may not appear. The system is inexpensive and simple when not used; is not too powerful or unwieldy when used.

ENEMIES OF PEOPLE'S RULE CHARGE EXTRAVAGANCE TO THE SYSTEM.

This indictment of extravagance does not stand the searchlight of experience in my State, for the elections are usually held in conjunction with the general elections, and the cost of holding them is but slight. This, of course, is not true of urgent matters that must be voted on at intervals between elections, but if the grave conditions are present it is not too much

to bear the expense of an election to correct it speedily. The disaster and evil effects that follow in the wake of a vicious law are more burdensome to a community than the expense of its removal by special election. Evil laws usually press down upon but few, while the expense of their removal will be borne by all of the citizenship. Hence the removal is both equitable and wholesome, while its retention is both blighting and unwholesome.

The average cost of special elections in our State is but $3,592, and we have had but 2 special elections out of 14 items voted upon, hence the cost to the taxpayers of our State in the full four years we have been operating under it will be less than $10,000, and would aggregate but $50,288 if every one of the 14 items voted on should have been dealt with at special elections. It is, I believe, not wide of the mark to say that when great and grave problems spring up in a State or community and greatly agitate the minds of a great Commonwealth, the expense of settling them under the initiative and referendum is the cheapest, the quickest, and the best way. It is again, in the light of our experience in Oklahoma, safe and just to say that the people's judgment is usually honest, safe, and calm. The charge that the people are a mob and a rabble is but a vile slander at the hands of those who agree to represent them. Such representatives, it seems to me, fall short of the common loyalty and decency that an agent usually accords his principal. Such representatives are misrepresenting more people than they represent.

CONSTITUTIONALITY OF THE INITIATIVE AND REFERENDUM UNQUESTIONED.

No one, I think, has attacked this wholesome system of government on the ground of its unconstitutionality. Such charges would not be sustained if made. Courts have upheld laws so enacted every time they were brought in question, so far as my investigations have gone, the theory being that what a people could do by representatives they themselves could do without transgressing either the spirit or the letter of the Constitution. This being true, it resolves itself into a question of, Should the people have reinstated to them the power that through inadvertence and usurpation has crept away from them? Further, perhaps, to be more blunt, do the people know enough to be trusted with their own affairs when their agents fail to properly care for them? To me there is but one answer to each of the questions, and that is that they have absolute right in the first place and plenty of ability in the second place.

I was grieved to hear my friends on this floor exploit the theory of the people's lack of intelligence to pass intelligently on matters that concern them. I was grieved to hear them called "the rabble," "the mob," and use epithets even more severe than the ones just mentioned. I was again surprised to hear it said that the advocates of initiative and referendum were but the theories of the demagogue. In so saying they assault numerous States of this Union in their entirety. They assault some of the ablest thinkers in the land to-day. They assault Woodrow Wilson, a prominent candidate for President now. They assault Bryan, the purest and brainiest citizen in the land to-day. They assault a school of thought unworthy of such epithets.

NOT FAVORABLE TO THE ABOLISHMENT OF REPRESENTATIVE GOVERNMENT, BUT DESIRE INITIATIVE AND REFERENDUM USED IN CONJUNCTION WITH REPRESENTATIVE GOVERNMENT.

To those without actual experience in the operation of the initiative and referendum and who have not had the time to go carefully into the working of this improved plan of government, I feel it my duty, at the hazard of having my position misunderstood, to tell you that I am in no manner favorable to the abolition of representative government, for it is my belief that it is the form of government that will ever be most used. It is, however, no less my emphatic position that the ever-vigilant safeguard of the initiative and referendum ought to be ever present so that always and forever the majority of the plain, tax-paying citizens may have full power to do those righteous things which the representative government fails to afford them, and likewise to rid themselves of the obnoxious and offensive legislation that creeps in through inadvertence or caprice. It is a wholesome provision that will inspire trust, responsibility, and patriotism within us. It will rid us and free us from the dangers of anarchy, revolution, and disintegration. It will be a solution of the perplexing questions by a majority vote which will ever well defend itself.

It may be suggested that it is a case of vested power never used; but if that were true, it does not serve as an indictment to its usefulness or faithful service. It is a safety valve that will ever be a solace of protection to the private citizen and can not but stimulate and prompt the delegate of delegated government to act more wisely, more honestly, more justly, and render better service to his employer, who is none other than the private citizenship of the land.

UNIVERSAL DESIRE TO TAKE MORE PART IN THE GOVERNMENT NOT ALONE WITH ARIZONA.

The opponents of popular government need not be deluded with the thought that this desire for improved methods of legislating comes alone from fair young Arizona and Oklahoma, for such is not the case. We find this patriotic ambition well disseminated among the people in the village, in the township, in the county, in the State, and in the Nation. The answer that it is violent and inoperative and revolutionary in character will not suffice to answer this universal desire to supplant that which is good by that which is its superior. I tell you, sir, whatever action you may take regarding Arizona, the eliminations from her wholesome constitution will not down with the coming morrow. This improved method of legislation is an issue in this country, and it is here to stay.

NOT AMONG THOSE WHO THINK GOVERNMENT AND MEN ARE GROWING WORSE AND MORE CORRUPT.

Some well-meaning persons have assigned as a reason for this great clamor for popular government in connection with delegated or representative government as provided by the initiative, referendum, and recall that the Government and men are growing more corrupt daily. I do not share any part of this opinion with any one of them. I am one of those who think the world has not yet seen its fairest and best day. I would prefer to share the belief of those who think to-day is better than yesterday and to-morrow will be better than to-day. Neither am I to be found among those who believe we had better men yesterday than we have to-day, for I do not believe that genius, patriotism, and greatness ever in the past ran more rampant than now. I think the world never was more full of patriotism and patriotic, courageous men. I think the increase for good, for honor, for courage, for genius, and intelligence will be more rapid as the fleeting years speed by. [Applause.]

The correct reason to assign for this activity and patriotic desire to improve our form of government is but the wholesome desire of our people to supplant that which is already good government with that which is thrice its superior. This is but the pathway of progress that will lead to perfection as a common goal. The representative government now enjoyed, walking hand in hand with the initiative and referendum as a safety valve to insure fair treatment at the hands of representative government, is the problem well solved. Fair Arizona has her face turned toward the light, and we should not befog or bedim her vision, which, so far as her State is concerned, may be clearer than our own. [Applause.] I would, if called on to do so, offer as an additional reason the fact that our Republic has grown from a handful of half-starved settlers in the beginning to a world power, and with it greed and avarice have made unusual strides. With great aggregations of wealth in the hands of the few, it is dangerous to leave the reins of government solely, without check, in the hands of the few.

If it were still true that wealth was but fairly well distributed among our people, the grave necessity for a more thorough distribution of power among the people might not be present, but with the wealth of the country rapidly reaching the hands of the few, in dealing with the power of government it should ever be more thoroughly distributed, rather than centralized. Naught but the keenest vision and foresight will ever be adequate to even fairly well safeguard the rights of the modest and unassuming against the ever-present greed of the few.

I tell you, sir, the wealth and prosperity of a nation should not be judged by the fortunes of the few. I would much prefer to belong to that school of thought who believe that the true test to determine the prosperity and happiness of a country is to observe how nearly absent hunger and want actually are among the industrious, law-abiding citizens thereof. The riches of the modern Dives is no certificate that will palliate the gnawing stomach of the hungry modern Lazarus. I would prefer to cluster around that group of citizens who believe that the most solid foundation stone of the Republic consists of our ability to ever keep the powers and responsibilities of government as well distributed among our people as is possible to do.

It has been suggested here by the most thoughtful minds of this House that the initiative and referendum is and would be too cumbersome of operation and unwieldy to be of service. While I long hesitate to differ with men of that thought, still I can not but conclude that, while at first blush it may appear cumbersome of operation, it will be wholesome in effect. I suggest the charge of "cumbersome" strikes alone at the method of carrying on government, while concentration strikes at the very fabric of government itself. The kingdom is less unwieldy than the republic, but who is there who advocates a kingdom? Who is there here that would exchange the beneficent results of a republic for that of any kingdom or king? We, as Americans, may differ in politics and policies. We may and do have parties and factions within our parties, but we have no

such differences as these. Every thought of concentration is a step in the wrong direction. Every step toward distribution of powers is both American and ennobling.

History is replete with the downfall of great and glorious countries, due to overcentralization of powers, and never, I think, due to overdistribution of them.

Equal distribution of powers affords us a Nation made up of citizens with equal responsibilities and patriotism, and so long as we are equal in patriotism naught but victory can come to us when attacked from without. Cumbersomeness is and may well be referred to as an impediment, but it is not a deep-seated one that will amount to our undoing. It is not impossible of accomplishment, but easy of understanding instead. It leaves a contented people in its wake. Its burdens are light and equally divided.

If citizens are competent to vote on men to be their delegates to administer their governments, why not afford them the right to vote on the measure itself when it is objectionable to them? Experience teaches us they will not use the power except when grave abuses occur. The idle, incompetent agitator is as repulsive to the people as to the politician. The law can be nothing but the product of an agent of their own creation; nothing more, nothing less. Such an indictment that the people are not competent is surely demurrable in any forum of reason and logic. To conclude otherwise is but to conclude that all the people will err more readily than one of the same people. I can not be converted to such a belief. The placing of responsibility upon men is to make strong men stronger and weak men strong. The withholding of power and responsibility can be but the process of withering away of the talents of the citizen by the process of rust, disuse, and disintegration.

I think we could procure, even from our opponents of popular government, an agreed statement of fact to the effect that to allow the average citizen the right to exercise the right of franchise under the present form of government is but to make him a stronger and better citizen. Then where is the logic subject to attack which asserts that to let him have the right to vote on measures likewise makes him stronger? Strong men make strong countries and weak men weak ones. Surely there can be no exception to this self-evident rule.

The indictment filed against this plan, that people can not understand the laws, is not well taken, for some one has been cruel enough to utter the most truthful thought; that laws are sometimes more easily understood than the reason for their representatives' failure to enact them. To constantly attack the ability to do is but to revert to the adage that "The king can do no wrong," and that the people are but a "babbling rabble."

NOT ONE WHO THINKS INITIATIVE AND REFERENDUM WILL CURE ALL ILLS OR ALONE BRING THE MILLENNIUM.

I do not belong to that hopeful and indulgent class of citizens who think this improved and popular government will free us of all the ills that befall governments and men, for after all we must, for our success and progress, largely depend upon the character, the intelligence, and patriotism of our plain citizens. Still this trueism, glaringly true and self-evident as it is, does not offer any reason why we should not ever be ready to supplant the already good government by a better government. To do otherwise is but to close the door to progress and advancement.

While I again repeat I do not think it will free us of all the pitfalls common to government and men, I do, with the thousands of patriotic men who crave it and desire it, enter into full fellowship with them in their every effort to acquire it.

Loyal, patriotic citizenship being the substantive part of our curriculum of Government, coupled with honest men to act in a representative capacity, with the ever-wholesome safeguard of the initiative to cure the crimes of omission and the referendum to cure the crimes of commission, this, as I believe, is the solution of most of the perplexing problems that do and will confront us as a Republic as the years speed by.

To those of us who really believe the rights of humanity are superior to the rights of greed this Arizona constitution is beautiful to look upon and sound at the core. As we read it we can not but conclude that it was made by men of the people who are in full accord with the people's rights and liberties.

To men who would make and who have made such a constitution no eulogy to or of them is fulsome or overdrawn. Naught but the kindest words should ever be employed of or concerning them while they are here, and the tenderest memories of them should abide with those of us that remain. Let the future be all to them that we hope it will be. Let not trouble or disappointment overtake them here or there. Their work will live after them, and live to bless and recommend them to their descendants generations after the poor words now employed in their eulogy shall have died away. [Applause.]

COURTS' TENDENCY TO LEGISLATE THINGS INTO THE LAW NOT THERE IN FACT.

I guess there is but few of us who do not long hesitate to criticize the decisions of our courts. I am sure this is and has at all times been the case with me, but as we have before our very eyes so flagrant a case of legislating things into the law by judicial interpretation in the Standard Oil case just decided I think it should not go unnoticed. As an additional excuse for the feeling of criticism within me, I might suggest the severe criticism of Justice Harlan, a long and trusted member of the court. The length of his dissenting opinion prevents my presentation of it in full, but I quote a portion of it, which is to me the most severe indictment of the judiciary I have ever observed from such a high source.

I here quote from Justice Harlan's dissenting opinion:

In the now not very short life that I have passed in this Capitol 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 the institutions are concerned, is the tendency to judicial legislation, so that, when men having vast interests are concerned, and they can not get the law-making 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 of the statutes to mean what they want it to mean. That has not been our practice.

I further quote:

The court, in the opinion in 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.

I quote further from the Harlan decision:

Practically the decision—I do not mean the judgment—but parts of the opinions 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 I especially object to.

If Justice Harlan is willing to say so much in so few words of the Supreme Court of the United States, why need we stand in such holy awe of allowing Arizona the right of recall of their judges of the Arizona courts, who must of necessity be of less ripe experience and more subject to error and caprice?

The action of our highest court in doffing the rôle of a judiciary and assuming, without constitutional authority, the rôle of legislators, I think can result in naught but a stinging disappointment to the well-meaning citizens of this country.

A few such decisions can but amount to the abolition of the functions of the legislative branch of our Government altogether. In this case the court has given the Standard Oil Co. the very thing that Congress has withheld from them for 15 years. This decision is not alone vicious and nauseating to those who complain of their encroachment of power in legislating into the laws things that are not there, but it even repeals that thing which Congress positively has given.

Their decision draws the line between good trusts and bad trusts, a distinction never intended by Congress and surely never desired by the people. It can, I think, amount to nothing short of a wholesale disregard of the true function of a judiciary, from which the people must suffer much. It brings but rejoicing to the Standard Oil Co., which is the chief recipient of this unwarranted decision. The joy afforded them from any source should be unmolested so long as their joy emanates from a true construction of the law, but when it comes from a strained construction, detrimental to the people and beneficial to the trusts, criticism can not be but just and wholesome. I think it is not wide of the mark to prophesy that as soon as the people understand what this decision really is it will increase their confidence and affection for Justice Harlan and cause them to marvel at the fact that none of the other members of the court joined him in his logic. I think those who in moments of frenzied belief that the court could do no wrong must feel at least disarmed and fettered in their further efforts to propagate such belief.

I can not but believe that this majority decision of the United States Supreme Court in the Standard Oil case is perhaps the most eloquent support that the truly American and democratic doctrine of recall has ever had uttered in its defense.

Section 1 of article 8 of the Arizona constitution provides:

RECALL OF PUBLIC OFFICERS.

SECTION 1. Every public officer in the State of Arizona, holding an elective office, either by election or appointment, is subject to recall from such office by the qualified electors of the electoral district from which candidates are elected to such office. Such electoral district may include the whole State. Such number of said electors as shall equal 25 per cent of the number of votes cast at the last preceding general election for all of the candidates for the office held by such officer may by petition, which shall be known as a recall petition, demand his recall.

I can not conclude that our President will especially endear himself to the good people of Arizona in opposing them in their desire to incorporate the recall of officers in their new State constitution, for it is my belief that he has first transgressed the spirit and letter of the Federal Constitution when he med-

dles with the provisions of their State constitution so long as it is republican in form; and, second, he is denying them a wholesome law they may, and in all probability will, need while their State is new and conditions unsettled.

I tell you, sir, when a Territory is changing from a Territorial form to that of a State government, it too often happens that men are elected to office who are unknown and untried. Sometimes men so selected are honest, courageous, and square, but sometimes they are unworthy and unfair. In the fears that some of the latter class might unawares creep in, I am personally perfectly willing to give full sanction to Arizona in their incorporation of the recall of officers in their constitution. I am not personally so familiar with the practical workings of the recall, but to me it is in no manner offensive. It can not but be right in theory, and I am constrained to believe it is and will be right in fact. If we select a citizen to serve us in any representative capacity, and he serves us well, of course no majority will ever recall him, nor do I believe any small faction will even vainly seek his recall. I would prefer to believe that they will sustain him, uphold him, and confirm him instead. If we select a citizen who we think will serve us well, and he does not, where is the logic that can object to his removal by the people that intrusted him with power? He but yesterday derived his commission from them. What other tribunal would be so competent to possess the power of his removal?

Opponents of the recall cry aloud that it would wound the feelings of the officer recalled. We think this not a defense sufficient to the provisions and workings of the recall, for while it is quite true that to remove an unworthy officer is the wounding of the pride of but one citizen, it is also true that his obnoxious retention would wound the pride of the entire citizenship that placed the mantle of power about him.

It is charged that his political opponents would oust him unjustly from power. This we think untenable, for they were absent in power to defeat him at the beginning. They would be without power to oust him now. Hence, if ousted at all, it would be by reason of his unworthiness. Nothing other than this could have wrought the change.

I think it would not be stating the rule too broadly to say that the friends that intrusted him with power at the beginning would still be the friends that would retain him, confirm him, and glorify him. Unwarranted uses of the recall would but make the official stronger with his friends and weaken the determination of his adversaries. Warranted efforts to recall would in each case bring wholesome results as well.

I tell you, sir, the plain people will play few political pranks and remove few men unwarranted and without just cause. The politicians are usually the political prank players, if any there be, and not the rank and file of our citizenship. Our citizens are usually satisfied when they receive fair treatment at the hands of their officials.

As said before, I am not personally acquainted with the actual workings of the recall; I can not but firmly believe it will be the one superior agency that will pull up and eradicate the weeds of corruption and neglect now luxuriantly growing in by far too many of the fence corners of the legislatures and Congresses. I can not but sacredly believe that it will have none other than a wholesome effect upon every office and officer of a public character coming under its beneficent operation. I can not but think it will be an inexpensive and satisfactory way of cleansing any abuses of custom or corruption that may spring up in a Republic that is growing like the weed in fallow soil. I can not but think under all conditions it will exact of our every officer the best service there is within him, and surely we are entitled to the best.

I may be in error and alone in the belief, but I think I can see many wholesome effects the recall would have in this new State, and can think of but few, if any, disastrous or blighting effects that it would work on men or property.

If I mistake not, the dawn is breaking. A fairer day is at hand when representative government will be purer and better and will ever walk hand in hand with the initiative and referendum, ever submitting to the will of the majority, who may and will in the last analysis judge all things correctly and well. [Loud applause.]

Mr. Chairman, Mr. Otto Praeger, a representative of the Dallas News, has written for his paper a series of articles dealing ably and well with the initiative and referendum.

He has gone into this very interesting subject at great length. I am very anxious to afford the readers of the CONGRESSIONAL RECORD an opportunity to read his very interesting series of articles, hence I am printing them in connection with my remarks on the same subject.

INITIATIVE, REFERENDUM, AND RECALL—HISTORY OF WORKINGS OF POPULAR CHECKS ON REPRESENTATIVE GOVERNMENT—LEGISLATION BY PEOPLE—CONSTITUTION OF UNITED STATES PROVIDES FOR INITIATIVE AND REFERENDUM IN NATIONAL AFFAIRS.

WASHINGTON, *March 23.*

Every republican form of government is safeguarded by one or two or three of the popular checks on representative government known as the initiative, the referendum, and the recall.

Of these three checks, the referendum is most general in use; the initiative is more general than is popularly supposed; while the recall, which in recent years has made forward strides in this country in municipal affairs, is perhaps the oldest check employed by the American people. It was specifically reserved to the Colonies in Article V of the Articles of Confederation under which our earliest Congresses met and conducted the affairs of the United States until the formation of the Constitution, and its most notable use was in 1776, when Pennsylvania recalled her delegates to the Continental Congress because they refused to sign the Declaration of Independence, and sent in their stead others who would.

RELATION TO PURE DEMOCRACY.

A brief consideration of the subject of government will readily suggest how the initiative, referendum, and recall came into existence; how the initiative, or power of the people at large to initiate legislation, is the very essence of pure democracy; the referendum, or compulsory reference of acts of legislation by representatives to the people for approval or rejection, is a check on representative government; and how the recall, or the power to remove an official from office at the will of the people, is a check on any form of government.

A republic may be either pure democracy or purely representative in form, though in practice no representative system ever gets so far away from the people who created it but that in course of time some of the forms of pure democracy do not grow up within it as checks against abuse.

OFFICERS AS PEOPLE'S AGENTS.

Pure democracy is that form of government in which all legislation is initiated and enacted by the people at large, instead of by a body of representatives, or legislators, its officers being merely the agents, recallable at will, to administer the laws ordained by the plebiscites. Such a government, it is contended, is possible, for physical reasons, only in small areas, and successful only when the individual sovereigns are trained in civic duties and have unity of aspirations. For this reason it succeeded temporarily and auspiciously in ancient Greece, and is to-day in successful operation in most of the cantons of Switzerland. Theoretically it does not tend to the greater national efficiency that is to be expected of those forms of government where a few specialize in the work of ruling, but it does tend to the political development of the whole people, and is regarded as being a truer reflection of the average intelligence and a truer response to the will and the aspirations of the whole community or nation, so that what is lost in the higher political development of the few is compensated by the civic development of the entire people.

EVERYDAY OPERATIONS.

Pure democracy is found in everyday life in such small organizations as clubs, societies, commercial bodies, and public meetings, and its limitations are those of time and space necessary to enable every man to participate in every occasion requiring the act of government. These limitations, naturally, confine it for successful operation to small bodies and to small areas. Its essence is that every individual sovereign or participant has his hand on the rudder of government at every stage of action, from the initiation and enactment of legislation to the details of proper administration in accordance with the expressed will of the ruling whole.

The pure democracy belong to the initiative and recall. The referendum logically finds no place in a system of government in which the acts of government originate with the people and which, obviously, need not be referred by the people back to themselves for approval or rejection. It has come into vogue with that other form or republicanism, representative government, not as an essential constituent, but as a check.

ANALOGOUS TO ABSOLUTISM.

All forms of government except pure democracy assume two classes—the rulers and the ruled. In an absolute monarchy the rulers sway according to their personal will, unhampered by limitations. In a constitutional monarchy they govern thus within the limitations of an organic law, these limitations being sometimes lightly considered, as in the German Empire under Bismarck, or as effective and far-reaching as in England at the present time.

Absolute monarchy is the absolutism of the few over the many. Its antithesis, and, paradoxical as it may seem, its analogy, is pure democracy, which is the absolutism of the many over the few. The analogy of the constitutional monarchy is pure representative government. Whereas under a constitutional monarchy one or a few may rule under limitations for life and by accident of birth, in a pure representative government one or a few may rule under limitations by reason of periodical elections. Pure representative government contemplates the complete surrender of the functions of government by the people to the judgment of the periodically selected administrators and legislators. It would create a condition of contract between principal (the people) and agent (the representatives), in which the agent operates with a free hand for the period of his employment, or election, so long as he acts within the law and without binding suggestions or instructions (initiative) from his principal, without reference of any act to the principal for approval or rejection (referendum), and without being subject to removal (recall) so long as his acts do not constitute some stipulated cause for removal. Thus, pure representative government, for which some contend even to this day, has no place in its philosophy for the initiative, referendum, or recall.

EXAMPLE OF PRECEDENT.

Under such a system the procedure in the creation of a nation or a State would be as follows:

1. The election by the people of representatives to make a constitution, without further control over their actions by the people and without requiring the submission of their work to the people for approval or rejection. The constitutions of Delaware, Mississippi, and South Carolina were not submitted to the people for approval, and in the States of Delaware and South Carolina even amendments to the constitution need not be submitted for ratification by the voters.

2. The election of representatives, legislative and administrative, likewise absolutely independent of the control of the people throughout the period of their election, provided they remain within the pale of the law, which stipulates the sole causes on which they can be removed.

THE PRESENT SAFEGUARDS.

Individual integrity, the desire of the good opinion of their fellow men, and the desire of reelection or promotion to higher office are the influences depended upon in pure representative government to insure conscientious performance of duties and fidelity to the pledges made to the public while seeking election to the offices which they are to administer without control or interference from those who selected them to serve.

But pure representative government does not exist. Everywhere and in every age it has been hedged in and modified by such checks as the initiative and the referendum, or both, and sometimes in addition by the recall. The Constitution of the United States itself did not become effective until three-fourths of the States ratified it either through conventions or State legislatures. Congress can not amend it. It can by a two-thirds vote of each Chamber in effect only recommend an amendment which must be ratified by three-fourths of the States, either through their legislatures or through specially elected conventions, to become effective. In addition to this referendum, the Constitution, in effect, provides another check, the initiative, by ordaining that the people, through the initiative of the legislatures of three-fourths of the States may direct Congress to submit to the legislatures or conventions of the various States amendments to the Constitution. The legislatures of almost three-fourths of the States already have availed themselves of this initiative by requesting Congress to submit for their ratification an amendment to the Constitution providing for the direct elections of Senators.

CONSTITUTIONAL PROVISIONS.

Some denounce the checks of popular government on representative government as undemocratic and out of harmony with our republicau institutions when it is sought to make them applicable to the functions of Congress, States, and minor civil divisions in the passage of general laws; yet here, in the organic law of the land, are practically two of these checks, the initiative and the referendum, which the builders of the Constitution thought necessary to embody in that great work.

Again, it will be noted that legislators are not always opposed to giving the people the initiative and referendum. Thus the local-option laws of some States, notably Texas, provide that the county commissioners may of their own motion submit to the voters of the county, or a division thereof, the question whether it shall be unlawful to sell liquor in that county or division, and, further, that if the commissioners do not so act of their own volition, the people may invoke the initiative and referendum through a certain percentage of the voters requesting the commissioners to submit the question to a referendum vote.

Universally in vogue in this country is the compulsory referendum in the matter of certain forms of legislation, particularly in the creation of bonded indebtedness, and perhaps every State in the Union prescribes the referendum on ordinances authorizing the borrowing of money for counties, cities, or minor subdivisions.

NO RECALL PROVISION.

About the only one of the popular government checks which the American Constitution does not invoke is the recall. That institution, as it appears in the Articles of Confederation, was designed to enable constituencies to keep a constant hand on their Representatives in Congress. It read as follows:

"ART. V. For the more convenient management of the general interests of the United States, Delegates shall be annually appointed in such manner as the legislature of each State shall direct, to meet in Congress on the first Monday in November in every year, with a power reserved to each State to recall its Delegate, or any of them, at any time within the year, and to send others in their stead for the remainder of the year."

Within the last 10 years the introduction of these checks on representative government has made considerable progress in some parts of this country, particularly in the always-progressive West and Southwest, and the political bench mark to which the movement for more direct control over legislation and administration generally refers for the light of long and thorough experience, in that interesting Republic of monarchial Europe, the Swiss federation. With the operations of the various institutions of direct legislation in Switzerland and elsewhere abroad, the second paper of this series will deal.

INITIATIVE, REFERENDUM, AND RECALL—OPERATION OF SYSTEM IN SWITZERLAND AND RESULTS THAT HAVE OBTAINED—IS BORN OF NECESSITY—ESTABLISHED TO STOP CONDITIONS SIMILAR TO THOSE IN THIS COUNTRY—RECALL NOT INVOKED.

WASHINGTON, *March 31.*

In 1850 only 5 out of the 25 Cantons and half Cantons of Switzerland had any form of cantonal referendum.

In 1860 fully 34 per cent of the Swiss people had the right of a referendum vote, while 10 years later, in 1870, not less than 71 per cent of the population was entitled to the referendum in cantonal legislation.

To-day the referendum, except in minor fiscal matters and certain urgent laws and decrees, is operative in every Swiss Canton except Freiburg, and in that Canton, in conformity with the federal constitution, amendments to the cantonal constitution must be submitted to a referendum.

To-day, also, the initiative, applicable to the enactment, repeal, or amendment of cantonal laws and general decrees, exists in every Canton except Freiburg, and again in this Canton the initiative is in vogue as applying to the proposal of amendments to the cantonal constitution.

REFERENDUM ON CONSTITUTION.

In 1874 Switzerland came under its present federal constitution, which provides the compulsory referendum not only for every amendment to the federal constitution and the optional referendum on application of 30,000 voters on general laws, but stipulates that every Canton must submit its proposed constitutional changes to a referendum.

In 1891 the Federal Congress took another important step by submitting to the people a constitutional amendment extending to them the right of proposing amendments to the constitution on the initiative of 50,000 voters, which amendment was adopted by the people. The next step, the application of the initiative to the enactment, repeal, or amendment of general federal laws, was formally broached by the Canton of Zurich in 1904, was debated at length in Congress, but was finally referred to the federal council, which is the executive body of Switzerland for further investigation. The council entered into correspondence with the various cantonal councils, but the latest literature on the subject does not disclose that either the Swiss Congress or the Swiss people, through the initiative, have been able to make up their minds to take the important step of creating the statutory initiative.

RELATION TO "LANDSGEMEINDE."

Thus briefly is sketched the extension and development of direct legislation in Switzerland. This development has been steadily toward the incorporation in national affairs of the same degree of direct control by the people of those affairs as they exercise in cantonal matters. With the exception of Freiburg, which has an almost pure representative form of government, the Swiss Cantons, in varying degrees, approach pure democracy in the conduct of their political affairs. In them the germ of direct legislation survived from the primitive methods of communal legislation, when the residents of the communes, as is the practice in some New England townships to this day, met in mass meeting at stated periods, proposed laws, and debated and enacted them by the count of upraised hands. This method was gradually extended to the larger affairs of some of the cantons, and to-day the following two Cantons and four half Cantons, Uri, Obwalden, Nidwalden, Glarus, Appenzell interior, and Appenzell exterior, are still legislating in this primitive democratic fashion. This is the "landsgemeinde," or land-community system, and these meetings have been participated in by as high as 10,000 Swiss voters, who thus dispose of proposed constitutional amendments, passage of general laws, and the election of officers. In most of the Cantons, however, legislatures have taken the place of the "landsgemeinde," but as checks on these legislatures there has come into existence in every Canton, except Freiburg and the "landsgemeinde" Cantons, the initiative and referendum on all general laws of the Canton.

SWISS LEGISLATIVE BODIES.

The country in which these advances toward pure democracy have been made is a Republic, in many respects similar to, and again in some vital respects essentially different from, the form of government in the United States. Switzerland is composed of 22 Cantons, 3 of which are partitioned into half Cantons. These Cantons in modern development were first bound together by the constitution of 1848 into a confederacy in a manner like our own colonies by the Articles of Confederation, and were finally welded into a firm national entity by the constitution of 1874, as were the United States by our own Constitution of 1790.

The Swiss Federal Government has a legislative body called the Federal Assembly, which is composed of two houses—a Senate, or Council of State, constituted of two members from each Canton, and a Lower House, constituted of one representative for each 20,000 inhabitants, who is elected for three years. The Swiss Senate has no such power over treaties or appointments as has the American Senate. It is, in fact, but a second legislative chamber, coequal with the Lower House.

NO REAL PRESIDENT.

There is also a President and a Cabinet, but not in the American sense, for the Swiss, neither in their national affairs nor in their cantonal affairs, give to any single man the power that the Americans put in the hands of a President, a governor, or a mayor. The federal executive control in Switzerland is vested in a federal council of seven members, elected by the Federal Congress in joint session, with one of its members named as President of the Republic, but who in reality is only the presiding officer of the Federal Council. This executive council serves for three years. Its presiding officer, the President of Switzerland, is elected for one year and can not be his own successor. His salary is $2,605 per year, which is about $300 a year more than the other members of the council receive. The councillors may not engage in private business or practice a profession while holding office. They have a "consultative" voice in Congress, but no vote. The general decrees of the council, as well as the laws of the Federal Congress, with certain exceptions, are always subject to a referendum on the application of 30,000 voters.

THE JUDICIARY SYSTEM.

Such, in brief, are the legislative and executive branches of the Swiss Republic. The judiciary is no less interesting. A Canton usually has four sets of courts. One is an arbitration tribunal having jurisdiction principally in the matter of disputes between employers and employees. Then there is what we would call the justice of the peace court, in which the justice first sits as an arbitrator in an effort to bring the contestants together so as to avoid litigation. If he fails, then he sits as a magistrate and decides the case as such. Next, there is a higher court which has jurisdiction over a district, or division, of the Canton; and above that is what we would call a State supreme court, which has final jurisdiction in a Canton. All judges are elected for varying terms, ranging from one to eight years. In addition to the cantonal courts there is a federal court, which settles disputes between the Cantons themselves and between the Cantons and individuals. This court, however, can not pass on the constitutionality of any federal act or nullify any federal law. This can be done by congress alone, subject always to the referendum.

The inability of their highest court to reconcile conflicts between federal laws and the constitution does not appear to perturb the Swiss greatly. In fact, it is not clear where there is any need for a constitution at all when that instrument may be changed at will by a mere majority vote of the people in a majority of the Cantons, on the initiative of either the Federal Congress or 50,000 voters, while a law may be changed only on the initiative of congress and with the consent of a majority of the people, if a referendum is demanded. If congress is opposed to the change, it is easier to change the constitution than the law, because the Swiss permit the people to initiate a constitutional amendment, but not a statutory amendment.

This anomaly in government has resulted in the strange incorporation in the constitution, instead of in the law, of the ordinance against slaughtering animals by bleeding without first stunning them. Due in part to racial animosity and in part to a crusade by humane societies against the slaughtering methods of the "kosher" butchers, the Swiss sought in vain to get a federal law against this method of slaughtering, but having no statutory initiative, they fell back on all they had—the right to initiate constitutional amendments—and by a majority of 64,000 wrote into the constitution the provision that they had no means of writing in the statutes.

PEOPLE LIKE NEW SYSTEM.

This brings us to the questions: How do the Swiss feel about the initiative and referendum? How generally and how intelligently do they participate in these legislative votings?

Prof. Frank Parsons, in his study of the Swiss Government, makes this answer to one question:

"I did not find one man who wanted to go back to the old plan of final legislation by the elected delegates without a chance of appeal to the people."

As to the other question, the statistics and the records, studied in the light of the purpose of these instruments for direct legislation, bear interesting testimony which is variously interpreted by those who have delved into this fruitful subject.

It is a matter of common criticism of the Swiss system of direct legislation that except in the Canton of Zurich, where failure to vote is punishable by a fine, only a part of the people, usually about one-half, participate in the referendum. That the attitude of the Swiss is to let those who believe that they understand the proposition to be voted upon decide its fate is indicated by the fact that in Zurich, where voting is compulsory, there are always a large number of blank ballots cast on the pending proposals. It is also asserted that a large number of people out of an abundance of caution vote against the adoption of a law or an amendment which they do not understand or as to the effect of which they are not certain.

PERCENTAGE OF VOTING CITIZENS.

An instance of this state of things is found in the vote on the constitutional amendment to extend to the people the power of the initiative in proposing amendments to the constitution. Out of 641,692 registered voters only 303,628 voted—183,029 for the initiative and 120,599 against it. In Cantons where voting is compulsory from 94 to 97 per cent of the registered vote was cast, while in other Cantons only from 10 to 19 per cent of the voters participated in the referendum. Commenting on this situaton, Simon Deploige, the Belgian publicist, who is a sharp critic of direct legislation, says: "It is a little ridiculous to talk of legislation by the people where more than one-half of the citizens refuse to exercise their legislative rights."

Other *publicists*, however, point out that the Swiss have incorporated the initiative and referendum in their political machinery not to have the people do all of the legislating, but to hold over the legislators a club in the shape of the initiative to compel them to direct legislation along the desires of the people at large and to exercise as a veto against pernicious legislation the referendum. That practically all of the legislation for Switzerland is still done by the Federal Congress or the cantonal legislatures is shown by the fact that in the first 20 years of the existence of the present constitution the referendum was demanded in regard to but one-sixth of the laws passed by the Federal Congress, leaving five-sixths of the legislation of that body to become laws unchallenged. Only one-tenth of the laws passed by the Swiss Federal Assembly were rejected on referendum. In that time the Federal Assembly proposed seven constitutional amendments, of which the people rejected six and accepted one. In the first six years after the initiative on constitutional amendments became effective, which was in 1892, the people proposed six such amendments to the constitution, of which one was accepted and five rejected on referendum. When a constitutional amendment proposed by the initiative of the people is voted upon, it must obtain not only a majority of all votes cast, but a majority in a majority of the Cantons in order to become effective.

MANY MEASURES DEFEATED.

The record of the initiative in the Cantons is just as illuminating. The most frequently cited example is the record of Zurich, between 1869 and 1885, inclusive. In those 16 years there were proposed through the initiative 18 measures, of which only 4 obtained the sanction of the cantonal legislature, and of these 4 the people, on referendum, rejected 2 and accepted 2. In the fifth case the legislature offered a substitute for the initiative proposals, the substitute being adopted by the people. Of the 13 proposals which the legislature disapproved, the people, on referendum, adopted 3 and rejected 10. The 3 laws adopted against the judgment of the legislature were: Establishment of a house of correction for the reformation of tramps; the reestablishment of the death penalty, which was subsequently reabolished; the abolishing of compulsory vaccination. The experience in Zurich is cited by opponents of the Swiss system as showing that the initiative and referendum are too easily made the vehicle by which the passing storms and spasms of public opinion can be enacted into unjust or harmful laws.

Enough has been shown in this brief survey of the two principal instruments of direct legislation in the Swiss governmental machinery to indicate their defects as well as their merits. These defects appear to lie largely in the details of the working, as, for instance, in the small number of petitioners that can force the consideration by the electorate of legislation, the frequency of resulting elections, and the lack of those safeguards that would tend to give greater stability to the constitution than to change the new statutes. In some Cantons the annoyance of frequent elections has been obviated by the institution of the compulsory in place of the optional referendum, held at stated periods, sometimes once a year and sometimes twice a year, at which all general laws and decrees, except those of an urgent character and those dealing with detailed fiscal matters, as the division of the budget allowances, are voted upon at one time.

In this article no reference has been made to the institution called the recall. The student has to look hard and long in the literature on popular government in Switzerland to find a discussion of the recall or its application. The short terms for which Swiss Government officials hold office, the direct control over the acts, not only of the legislators, but of the executive council of the Federal Government as well as of the Cantons, appears to have obviated the necessity for instrument of popular will which has been found necessary and successful in some communities of our own representative form of government. The recall is a check on the personal equation of almost unrestricted representative government, whereas in Switzerland the powers of the persons elected to office have been reduced to a minimum through the direct control of the people by means of the initiative and referendum over the acts of the representatives.

"Prior to the referendum," says John Roger Commons in his essay on the Swiss Government, "Switzerland was going through an era of political villainy quite similar to that which the American people know so well. In fact, Swiss politics from 1830 to 1860 reads quite like a chapter in current America. It was no abstract philosophy or democratic instinct that brought the referendum. The people were driven to it as the only certain means of expelling corrupt wealth from politics. The Canton Vaud adopted it immediately following an especially exasperating grant of subsidy to a railroad corporation. Other Cantons followed. Switzerland was rescued from evils that now threaten other democracies. No longer could lawmakers sell out the people; they could no longer 'deliver the goods.' The people themselves must ratify the bargain."

A contrary view of the Swiss system, especially as to the possibility of its incorporation into our own political machinery, is that of Prof. Albert Bushnell Hart, who says:

"Conventions and caucuses with us take the place which the initiative is meant to fill in Switzerland. So different are the conditions in the two countries that the success of the referendum in one does not at all imply that it would work well in the other; while if the referendum has disappointed friends in Switzerland, where it harmonizes with other institutions, it is not likely to succeed in the United States. A national referendum would nullify the Senate and hence be a complete change in the American system of government and probably a national misfortune."

The common fear is expressed that the initiative and referendum would usher in an era of radicalism, but such is not the conclusion reached by Abbott Lawrence Lowell, who points out that radicals in Switzerland oppose the extension of these institutions to general legislation, because the Swiss experience shows that instead of being a means of radical advance, it has proven a powerful influence for conservatism. In discussing this phase of the subject in an article in the Atlantic Monthly, Mr. Lowell says:

"Several very marked tendencies are observerable in the treatment by the people (of Switzerland) of the various measures submitted to them. The first of these is a tendency to reject radical laws, especially those that are in any way extreme, for in both the Federal and cantonal matters the people have shown themselves more conservative than their representatives. It is clear that in Switzerland a measure can not pass unless it is so thoroughly ripe that there is a good deal of agreement of opinion about it, and it is equally clear that the people are less willing than their representatives to try experiments in legislation."

Upon the experience of the Swiss the advocates of direct legislation as checks on the system of representative government in this country have drawn for guidance and inspiration. The progress that has been made in the United States in this direction, the adaptation of the Swiss system to our conditions, its elaboration and inclusion of the recall, will be the theme of the third article of this series.

DIRECT LEGISLATION WITHIN THE STATES—INITIATIVE AND REFERENDUM IN PRACTICAL OPERATION IN FIVE COMMONWEALTHS—ACTS AS MUNICIPAL CLUB—MOVEMENT FOR PURE DEMOCRATIC CONTROL OF LAW-MAKING OR REJECTION PROCEEDS ON TWO LINES.

WASHINGTON, *April 7.*

In five States of the United States, having an aggregate population of 7,774,760, the initiative and referendum, applicable to constitutional amendments and general State laws, is in practical operation. In three States, having an aggregate population of 1,702,312, the initiative and referendum is in operation applicable only to State laws. In one State, Nevada, with a population of 81,875, the referendum, without the power to initiate legislation, is in operation as regards State laws. In addition, there is a compulsary referendum on constitutional amendments in effect in every State of the Union, except Delaware and South Carolina.

Furthermore, 9,535,133 people have the right of initiative and referendum in regard to making known public sentiment on vital public questions, which ascertained results, however, is not binding on the legislatures. This system prevails in Illinois and Texas.

FURTHER PROGRESS THAN SWITZERLAND.

Thus, it will be seen that direct legislation has progressed further in the United States than Switzerland to this extent: That, whereas in Switzerland 3,315,433 people have the right of initiative and referendum in regard to constitutional amendments, and only the referendum on general State laws, 7,774,760 people in five States of the United States have the right of initiative and referendum as to constitutional amendments and also the initiative and referendum in regard to State laws. The extent of direct legislation, binding on State legislatures in the United States, is told in the following tabular summary:

TABULATED SUMMARY.

	Population.
Initiative and referendum applicable to constitutional amendments and State laws:	
Arkansas	1,574,449
Missouri	3,293,335
North Dakota	577,056
Oklahoma	1,657,155
Oregon	672,765
Total	7,774,760
Initiative and referendum applicable to State laws and not to the constitution:	
Maine	742,371
Montana	376,053
South Dakota	583,888
Total	1,702,312
Referendum on general State laws:	
Nevada	81,875
Initiative and referendum to obtain public sentiment, not binding on legislature:	
Illinois	5,638,591
Initiative and referendum within party primaries, not binding on legislature:	
Texas	3,896,542

From this tabulation it will be seen that in the United States 9,558,547 people may exercise, in a binding way and in varying degrees, the two principal checks of popular over representative government, namely, the initiative and referendum.

GREATEST PROGRESS IN STATES.

In Switzerland direct legislation began in the communes or municipalities, and subsequently extended to the Cantons, or States, while with us direct legislation on a large scale has made its greatest progress with the States, and is rapidly being extended in general matters to the munipicalities. The result is that, while in Switzerland direct legislation is practically universal in the municipalities, in the United States it either is limited in application or, where it covers the whole subject of municipal legislation and administration, it is limited to a few States and to a small part of the aggregate population of the country.

Direct participation by the people of the United States in legislation is confined to States and their minor civil divisions. In nothing relating to the Federal Government can a direct vote be had, except in the matter of electing Members of the House of Representatives of Congress. While there exists the principle of both the initiative and the referendum in the process of amending the Federal Constitution, it is available only to the State legislatures and not to the people directly. On the other hand, everything in the way of State government, save the making of laws, is settled by a direct vote of the people, including, except in Delaware and South Carolina, compulsory referendum amendments to the State constitution.

PLAN TAKING ROOT RAPIDLY.

But rapidly there has been taking root in the States the plan of extending to the people the same right, at their option, of ratifying or rejecting general laws as they have of ratifying or rejecting State constitutional amendments, but where this movement has taken hold the people, except in Nevada, have obtained the right to initiate or propose laws as well as to ratify or reject them.

The movement for the introduction of popular checks on representative government in this country has proceeded on two distinct lines in State and municipal affairs. In State matters the greatest development has been in the application of the initiative and referendum as checks on the legislatures, with only a few instances of the recall applying to State administrative officers. In municipal affairs the greatest development has been in the introduction of the recall, with the initiative and referendum, or the referendum alone, in a secondary position. This seems to arise from the fact that in State affairs the legislature exercises a function that is closer in with the immediate concern of the people than are the administrative acts of the State officials, whereas the larger police powers of the municipal administrations brings them in closer touch with the individual citizen. Hence the initiative and referendum in State legislation gives the public control over that branch of State government that concerns them most directly, and with this power to direct and veto the acts of the legislators, the recall has not been considered of prime importance in State affairs. In fact, only Oregon has the recall, applicable to State officials, including the judiciary, but it has never invoked this agency. On the other hand, by the use of the recall, a club is held over the aldermen and the administrative officers of the cities, and therefore has been first seized upon as a controlling agency in municipalities. But in a legislative way the recall can have the effect only of a deterrent, and hence, for a more complete control over aldermanic statesmanship the development in direct legislation in municipalities has been toward the introduction of the initiative and referendum.

GROWTH OF PUBLIC SENTIMENT.

The growth of public sentiment for power to exercise the right of initiating or vetoing legislation by the people is due to a vital defect in our representative form of government which does not provide the means of making a representative, during his term of office, live up sincerely to the promises and representations on the strength of which he was elected to serve his constituents. In our form of government the voters surrender to the representatives all control over government for a period of two, four, or six years, and they can not exercise their convictions as to governmental policy except through electing such men to represent them as promise to enact those convictions into laws. Those promises usually are given in the form of party platform pledges on which the candidate for office seeks the vote of the people. There, however, the control of the voter over governmental policies in the United States ends. There is no sure way to hold the representative to account if he violates the pledges in his platform. He can not be disturbed during the entire period of his election, no matter how grossly he breaks every pledge he gave in order to win enough votes to elect him to office. In this connection it is pointed out that, while it is true that the people need not reelect him at the expiration of his term, it is also true that, if he is a plausible excuse-maker or a good political-machine builder, or can inject into the campaign a lively diverting issue, he frequently slips back into office on the strength of his plausible personality, or through the power of his machine, or by reason of his skill in directing the campaign so as to center fiercely around some diverting issue. But even if he is not reelected, there is no way to keep him from misrepresenting the people during his first term.

Thus, to enable the people to go over the heads of politicians who become no longer responsive to the public will, or who violate their platform pledges, the initiative and referendum has been devised. In a like manner the recall is designed to enable the people to remove an officer whose acts do not square with his promises, or whose policies have grown out of harmony with those of the people whom he was elected to represent.

LITTLE TROUBLE WITH LEGISLATORS.

The Swiss experience is that with the initiative and referendum in effective operation little trouble is experienced with the legislators, for they can no longer block reforms nor put through corrupt deals unless the people give their consent thereto in the event that such deals are challenged by a referendum. Therefore the recall has its main use in its application to administrative officials who may be out of harmony with the policy and sentiments of the community, generally in fiscal, law enforcement or public development matters. That is the reason given why the recall has been seized upon so eagerly by municipalities, especially in ring-ruled communities.

MODERN MOVEMENT IN 1898.

The modern movement in behalf of the initiative and referendum as checks on State legislatures bore its first fruit in 1898, when South Dakota adopted it in reference to general laws by a vote of 23,000 to 16,000. As to its results in South Dakota, former Gov. Charles N. Herriard, of that State, is quoted in Senate document No. 529, first session of the Sixtieth Congress, as testifying thus:

"Since the referendum has been a part of our constitution we have had no chartermongers nor railroad speculators, no wildcat schemes submitted to our legislatures. Formerly our time was occupied by speculative schemes of one kind or another, but since the referendum has been a part of our constitution these people do not press their schemes on the legislature, hence there is no necessity for having recourse to the referendum."

OREGON PLAN WORKED OUT.

Four years after South Dakota adopted this system Oregon came to the fore with what many considered to be the most carefully worked-out plan for initiative and referendum applicable to the State constitution and State laws that has yet been devised. It was adopted by a vote of eleven to one, the exact figures being 62,024 for and 5,668 against the plan. The Oregon plan, in brief, provides that every initiative petition must contain the full text of the proposed measure, must be signed by not less than 8 per cent of the legal voters, and must be filed at least four months before the time of the election at which it is to be voted on. A referendum petition must have the signatures of 5 per cent of the voters and be filed not more than 90 days after final adjournment of the legislative assembly. A majority vote makes any measure a law. This is the Oregon plan as embraced in the constitutional amendment of 1902. In 1907 a law was enacted designed to perfect the system. It provides the following detail for the publication and distribution of the proposed measures, with arguments for or against them, which provision is the striking characteristic of the Oregon plan:

STRIKING OREGON CHARACTERISTICS.

Before any election at which any proposed law or amendment to the constitution is to be submitted to the people, the secretary of state is required to have printed in pamphlet form the text of each measure to be submitted, together with the title as it will appear on the official ballot. Parties filing initiative petitions have the right to file any arguments advocating such measures. In the case of the referendums any person has the right to file arguments for or against the referred measures. The parties offering arguments for distribution must pay all expenses for paper and printing to supply one copy with every copy of the measure to be printed by the State. The cost of printing, binding, and distributing the measures proposed, and of binding and distributing the arguments are to be paid by the State as a part of the State printing. Within a specified time before any election at which measures are to be voted upon the secretary of state is required to transmit copies of each measure, together with the arguments submitted, to the voters within the State.

At the general election on November 8, 1910, the people of Oregon voted on 32 initiative and referendum proposals, which, together with arguments pro and con, filled a 208-page pamphlet, thoroughly indexed. The ballot with these amendments and the names of candidates, from Congressman to constables, made a poster almost the size of one page of the average daily newspaper. It took the voters from two and a half to six minutes to mark their ballots. Commenting on the result of this particular election, Frederic C. Howe, in a recent magazine article, says:

SUBJECTED TO SEVERE TEST.

"Direct legislation was subjected to its severest test in 1910, when 32 measures, covering the greatest variety of questions, were submitted to popular verdict. It was generally believed the people could not discriminate between so many measures, some of them in conflict and a considerable number involving expert knowledge and taxation, legal procedure, educational and industrial conditions.

"Of these measures 9 were approved and 23 defeated, many of the latter by decisive majorities. Fifteen of the measures were put forward by local interests for the division of counties, for normal schools, and asylums. These were generally defeated, as was the woman's suffrage amendment and the resolution for a constitutional convention."

Among the constructive results of this election was the enactment of a law providing for a verdict in civil cases by three-fourths of a jury, instead of by the verdict of 12 men, and also the simplification of the judicial procedure, by which the supreme court is directed to enter judgment in a civil suit if, from all the testimony presented, it is evident to the superior court that the verdict in the trial court is a just one.

CRITICS POINT OUT WEAKNESS.

While in the opinion of its advocates the initiative and referendum suffers nothing by reason of the multiplicity of measures submitted to the people, this very fact, as is evidenced by the Oregon elections, is regarded by its critics, who are not necessarily its opponents, as an element of weakness in the system. Prof. Lowell, in an article in the Atlantic Monthly, points to a number of contradictory and illogical measures submitted at various times to the people of Oregon through the initiative, some of which have been adopted and some rejected, and to him it seems that the initiative will eventually result in a hodgepodge of law, full of reconcilable contradictions. In some of the Swiss Cantons this criticism has been met by provisions requiring the legislatures to submit to the people their judgment in the way of a favorable or unfavorable report on, or a substitute bill of its own for, every initiative proposal. The people, then, at the polls accept or reject the advice of their representatives.

PLAN SERVES AS MODEL.

The Oregon plan has served as the model, in whole or in part, for other States. In rapid succession the system spread to North Dakota, Missouri, and Oklahoma, the latest State to adopt the initiative and referendum being Arkansas. The California Legislature has recently passed an amendment to the constitution providing for the initiative and referendum and recall, which is yet to be voted upon by the people, and now there is knocking at the door for admission into the Union Arizona, with a full-fledged initiative, referendum, and recall, modeled after the Oregon law, and demanding that it be not denied admission because it proposes to have the same system which another State already has, and which it contends every other State can have if the people choose to so amend their constitutions.

PUBLIC LAW OF ILLINOIS.

Compared with this system the recent operation of the public-opinion law of Illinois is interesting. This law provides that not more than three questions for an expression of popular opinion may be submitted to the people on the initiative of 10 per cent of the voters of the State. This plan has been in operation since 1901. It has resulted in very decisive expressions of public opinion on public questions, but on the whole it has produced little legislation in accordance with those expressions on the more important matters, because the legislatures were not bound by the results of these elections. The latest instance is the overwhelming vote in favor of the initiative and referendum. On this proposition more than 570,000 votes were cast, and the result in favor of the initiative and referendum was nearly 4 to 1. The present legislature, in disregard of such an overwhelming expression of sentiment, has failed to enact the system into law.

HOPELESS SYSTEM IN VOGUE.

It is almost amazing what a large vote is cast, year after year, in Illinois, under such a hopeless system. In fact, the number of votes cast on referendum in the United States generally is interesting. In Oregon the total average vote cast for all candidates was 102,500, while

the highest number of votes cast on any one measure was 104,100, and the lowest, on a bill to create a new county, was 68,326, the average on the 32 measures being 85,042. The highest vote cast on any one proposal was within 6,000 of the whole vote cast for President in 1908. Such results are important when it is considered that one of the most frequent criticisms of the initiative and referendum in Switzerland is that, as a rule, except in the Cantons where voting is compulsory, less than half of the voting strength is polled on referendum elections. More than half as many votes were cast under the impotent public-opinion system of Illinois recently as were cast for President in that State in 1908. It is an indication of greater popular interest, if not greater competency, in the exercise of the right of direct legislation in the United States than in Switzerland.

In this article no mention has been made of the extension of the initiative and referendum to cities. In American municipalities it is usually associated with the recall, and the next article of this series will deal with the subject of the recall in States and cities in this country, the battle for its introduction, and some notable instances of its application.

DIRECT LEGISLATION AND ITS WORKINGS—HISTORICAL AND MODERN REVIEW OF INITIATIVE, REFERENDUM, AND RECALL—MEASURES POWERFUL—SENTIMENT OF RECALL DATES BACK TO EARLY HISTORY OF FEW STATES—WHERE USED.

WASHINGTON, *April 13.*

The recall is less of an innovation in American constitution making than are the referendum or initiative. The recall was written into the first Constitution of the United States, known as the Articles of Confederation. The fathers, to whose sagacity public men so frequently refer, wrote it into Article V of that instrument in unmistakable terms, when, in providing for the election of Delegates to the National Congress, they reserved to each State the power "to recall its Delegates or any of them, at any time within the year, and to send others in their stead for the remainder of the year." When the delegates to the Constitutional Convention undertook to write a new organic law for the Nation they created the second chamber of Congress, the Senate, and left out the recall provision of the Articles of Confederation.

But there is another constitution, older than the Constitution of the United States, into which the fathers wrote a recall sentiment—the constitution of the State of Massachusetts. The recall is in that instrument to this day and will be found in Article VIII, which reads:

"In order to prevent those who are vested with authority from becoming oppressors, the people have a right at such periods and in such manner as they shall establish in their frame of government to cause their public officers to return to private life, and to fill up vacant places by certain and regular elections and appointments."

In keeping with the spirit of this provision Massachusetts elects her State officers for but one year.

Former United States Senator Blair, of New Hampshire, calls attention to the fact that "the power of removal of the judiciary by address of the two houses of the legislature existed, and perhaps still exists, in the State of New Hampshire, while the entire judiciary has been changed frequently by the legislature, and the courts, since I can remember, about four times."

IN USE IN OREGON.

Coming down to the present day and to the power of the recall vested directly in the hands of the people, the record shows that Oregon has had the recall, applicable to all elective State officers, judicial, administrative, and legislative, for the last three years. It was written into the constitution through direct legislation, the constitutional amendment providing for it being adopted by a vote of 58,381 to 31,002. In Oregon the recall on State officers can be invoked on the application of 25 per cent of the legal voters. This agency of control, however, has not been invoked by the people of that State since its adoption. In this respect the experience of Oregon is similar to that of Switzerland, where the recall is found in about one-third of the Cantons, but is rarely invoked. As a matter of fact, the Swiss have a way of continually reelecting their public officers, so that a competent man in office is there for practically all of his life.

The recall, as affecting State officials, has not yet gone beyond Oregon, but is incorporated in the proposed constitution for Arizona, and just recently has been submitted to the people of California by the legislature of that State. The California proposal also provides for the initiative and referendum, and the situation there in regard to the application of the recall to the judiciary is particularly interesting. In an extended article in the New York Evening Post on the recent political revolution in California, written before the legislature voted to submit a constitutional amendment granting to the people the right to recall judges, appears this statement and prophecy by Chief Justice Beatty, of the California Supreme Court:

"A special committee of the legislature is to investigate the most recent decision of the supreme court in the Ruef case, granting the former boss a rehearing of his case in the supreme court. This decision has now been reversed and Ruef is at last behind the bars. Chief Justice Beatty, of that court, in a public statement says that he expects *the legislature* to pass a recall amendment, that a movement will be begun to recall the supreme court judges, and that the movement will be successful."

COL. ROOSEVELT FAVORS ADOPTION.

Commenting on the situation in California, former President Roosevelt, in an interview published by the Associated Press, said that personally he would prefer to see the legislature itself act in the matter of recalls by providing for the removal of an unfit judge by a majority vote of each house without trial, but on assignment of reasons. "That some of your judges have been placed upon the bench under the old convention system, in response to the demands of special interests, I little question," Col. Roosevelt is quoted as saying. "The legislature, however, has preferred to put the responsibility of their recall upon the people themselves, and therefore you are faced by the alternative of leaving the present system unchanged or else adopting the amendment proposed. In the immediate emergency there is no other choice, and this being the case, I feel strongly that the amendment should be adopted."

While, however, the recall is still rare in its application to State officials, whether legislative, administrative, or judicial, it has spread rapidly in various parts of the country in city governments. In almost every instance of its application to local affairs it is accompanied by the initiative and referendum. There is no complete list showing the recall, initiative, and referendum in cities to date, because the movement of extending direct legislation in cities is going on almost from day to day, but the following summary will indicate the extent to which these three instruments of direct control over municipal affairs has developed in the United States:

In Iowa, by a general statute, the recall is granted to every city having a commission form of government, and any city of 25,000 or more may adopt the commission form of government.

In South Dakota there is the same kind of a general law, except that in that State any city of the first or second class or any city having a special charter may change to the commission government, the recall in South Dakota cities being effective upon the application of 15 per cent of the legal voters.

In Oregon in 1906 the people, by a vote of 46,678 to 16,735, extended to every city in the State the initiative on the application of 15 per cent and the referendum on the application of 10 per cent of the qualified voters.

HOME RULE TO THE CITIES.

The next thing to the Oregon constitution and general law granting home rule to the cities is the constitution and statutes of the State of Washington. By an article in its constitution cities of 20,000 may create for themselves freehold charters, which need not be approved by the legislature; and by a law adopted in 1903 the local electorate, on petition of 15 per cent of the voters, may initiate amendments to the charter affecting local matters. Under this law Seattle and Everett, Wash., adopted the recall. By a further provision of the Washington general laws all cities of the second class may recall their aldermen on petition of three-fourths of the legal voters of those cities.

In California all cities of 3,500 population or more may create freeholders' charters, subject to the approval of the legislature, but it has been the custom of the legislature to approve practically all of these city charters. Amendments to such charters may be initiated by 15 per cent of the voters, which amendments, when approved by a vote of the people, must be submitted to the legislature. The amendments, like the charters, are in nearly every instance approved by the legislature. Thus all of the important California cities to-day have either the initiative and referendum or the recall, or all three of these means of direct legislation. In a sense Los Angeles was the pioneer of the recall cities of California, modeling its statutes after the recall law of the Canton Schaffhausen, in Switzerland. It provides for the recall of any elective officer by 25 per cent of the electors who are qualified for the election of a successor to the man to be recalled. Other California cities followed with modifications in the matter of percentage of voters required to force a recall election, as follows: San Diego, 25 per cent; San Bernardino, 51 per cent; Santa Monica, 40 per cent; Alameda, same as Los Angeles, except that it applies also to appointive officers; Long Beach, 40 per cent; San Francisco, 30 per cent; Riverside and Vallejo, 25 per cent. A number of California cities, including Sacramento and Eureka, have the initiative and referendum without the recall, while practically all of the above-mentioned cities which have the recall also have the initiative and referendum.

DALLAS ONE OF THE THREE.

In Texas the initiative, referendum, and recall has been granted by the legislature to three cities by special charters. The Dallas recall provision follows the general lines of the Los Angeles provision, except that in Dallas 35 per cent of the voters is required for a recall election. In Fort Worth the percentage is 20, while in Denison the recall on the application of 20 per cent of the legal voters applies only to the mayor and aldermen. By reason of Gov. Colquitt's veto the initiative, referendum, and recall charter of Texarkana failed.

This summary does not cover all of the direct legislation development in American cities, but it serves to show the extent to which these checks on representative government in municipalities have grown in the past decade. How intelligently it has been used in some communities is shown by the following instance from San Francisco, with a mixed, ring-ridden population of 416,912: On November 15 last San Francisco held a special election at which 38 proposed amendments to the city charter were voted upon. These amendments filled a 36-page pamphlet, and 45,000 voters, about 50 per cent of the electorate, participated in the election. As to the result the well-known weekly publication, the Nation, comments thus:

"Every voter had to discriminate and act separately on the 38 proposals. There were no party emblems to help him. Yet there is nothing in the result to indicate that the decision was not arrived at as carefully as it would have been had the amendments been submitted to a representative assembly. Eighteen of the amendments were carried and 20 were rejected. Practically all the so-called reform amendments were accepted. The franchise rights of the city were safeguarded by the passage of amendments forbidding a monopoly of subways and tunnels and permitting the city to recall a franchise whenever it decides to buy the property of the traction company. Business interests opposed the proposal for the initiative and the recall, and a hard campaign was made against the franchise amendments, but both were carried, although by closer votes than those on most of the other proposals. San Francisco may be boss ridden and union labeled, but apparently the voters know how to decide important public questions intelligently."

MACHINE-RULED CITIES.

How some of the larger cities obtained the recall and the initiative and referendum is an interesting chapter in the development of direct legislation in machine-ruled cities. Seattle is a typical instance. One of the first uses by Seattle of the initiative and referendum was to get a charter amendment for a recall. This was in 1906. It took 25 per cent of the legal voters to initiate a recall amendment to the city charter. The city administration, through its corporation counsel and city clerk, threw one obstacle after another in the way of the movement, and the courts had to be invoked. The supporters of the movement were compelled, through a technicality, to submit the petition for the recall amendment on two separate occasions to 25 per cent of the voters for signatures before they could get it on the ballot, and when it did get there finally the amendment was so worded that the word "recall" did not appear in it for the guidance of the voters. The amendment read as follows: "No. 8. An amendment to fix term of office." It carried by 8 to 1. Of the 17,708 men who voted at this election, which was also the mayoralty election, 10,583 voters located and voted on the amendment, and of this number 9,312 voted for and only 1,271 against it. At this same election an amendment to increase the salaries of the city officials was defeated by 1,000 votes.

POWER OF RECALL FEATURE.

In 1902 Los Angeles adopted the recall by a vote of 5 to 1, after an exciting campaign. It used this instrument of control once and threatened to use it again with interesting results. The Los Angeles official who was removed by the recall was an alderman, whose influence, it was thought, was too uniformly in favor of the corporations that were manipulating city matters through the city council. When an alder-

manic ring voted to give a printing contract to a bidder who was $25,000 higher than the competing bidder, the people of Los Angeles undertook to make an example of that particular alderman. About 40 per cent of the voters in his ward signed a petition for recall and at the special recall election he was retired to private life by a vote of 1,837 to 1,083. His successor, it is said, fought the political machine and the corporations that dominated the machine for a time, but finally gave up the fight and settled down to a passive, innocuous course in the city council that brought upon him the criticism of those who put him in office. The opponents of direct legislation cite this as an instance of the uselessness of the recall, while the advocates of the system contend that it merely demonstrates that the recall alone can not accomplish that which can be better done by a combination of the initiative, referendum, and recall. The advocates of direct legislation in this connection point to another instance in the political history of Los Angeles as showing the moral effect of the recall. The instance is this: Subsequent to the recall of the alderman in question the city council, it is said, attempted to grant a street railway franchise reputed to be worth $1,000,000, without compensation to the city. A cry was raised and a movement was started to recall several of the aldermen, whereupon the proposed franchise ordinance was withdrawn. In 1903 Los Angeles obtained also the initiative and referendum.

BEGINNING ABOUT 1892.

Such is the movement for direct legislation in cities and States in this country. The agitation for it started in an effective way about 1892. After a long campaign Iowa, in 1897, led the way with a general law applying the referendum to all franchise grants. Nebraska followed the same year with a law that was designed to enable cities to introduce both the initiative and referendum. The next year South Dakota adopted a constitutional amendment for the initiative and referendum in State affairs. In 1902 Oregon adopted the system in a form that has become the pattern for other Commonwealths, and then in rapid succession followed the other States. Colorado and Arkansas were the last two States to adopt the initiative and referendum—Colorado by a vote of 89,141 to 28,698 and Arkansas by a vote of 91,363 to 39,680. The proposal is now before the people of California in the shape of a constitutional amendment, providing not only for the initiative and referendum, but also for the recall, applicable even to the judiciary.

Heretofore the question of direct legislation has been either a municipal or a State issue, but recent events have exalted it into practically a national question. These events center around the admission of the Territory of Arizona, with its constitution containing the initiative, referendum, and recall, applicable to all elective State officers. This would make the recall applicable to the judiciary as it exists in Oregon and as it is now before the people of California. Only one State has come into the Union with a constitution containing an initiative and referendum provision. That was Oklahoma, but it did not contain a recall provision. In the United States Senate the fiercest opposition developed among Republicans and some Democrats to the Arizona constitution because of its direct legislation feature, and more particularly because of the proposed application of the recall to all elective officers, which includes the judiciary. This opposition went to the extent that most of the Republicans and one Democrat, Senator BAILEY, of Texas, voted to keep out both Arizona and New Mexico because of the provision in the Arizona constitution, the question being upon a joint resolution to admit the two Territories.

The difference between the two constitutions is interesting. New Mexico's constitutional convention was controlled by Republicans, who did not insert either the initiative or the recall, but adopted a referendum to become effective on the petition "of not less than 25 per cent of the qualified electors in each judicial district of the State," a stipulation which, it is asserted, would make the referendum unworkable under existing political conditions in that Territory. The Arizona constitution provides for the initiative and referendum, the initiative on application of 15 per cent of the voters and the recall applicable to all elective officers. Other notable features of the Arizona constitution are the direct primary system, the advisory primary for United States Senators, nonpartisan elections for the judiciary, juvenile courts with the age of responsibility fixed at 18 years, physical valuation of railroads, abrogation of the fellow-servant doctrine in lawsuits, corporation commission with wide powers.

The Democratic position is that so long as a Territory offers a republican form of government Congress should admit it to statehood, and in the present extra session of Congress they will attempt to force the admission of Arizona as a State. It is the fight that will be made against such action that will probably bring the initiative, referendum, and recall to the front as a national issue, where heretofore it has existed only as a problem in local government.

This situation has produced a widespread interest in the subject of direct legislative agencies, and an interesting variety of views are being expressed upon it. It is with these views, as well as the question as it is now before the Supreme Court of the United States, in the case from Oregon, that the next article of this series will treat.

PROMINENT VIEWS ON DIRECT LEGISLATION—ATTITUDE OF BAILEY, TAFT, AND OTHERS ON INITIATIVE, REFERENDUM, AND RECALL—OPINIONS VARY WIDELY—SOME FAVOR IDEA IN EXTREME FORM; OTHERS THINK IT SHOULD BE QUALIFIED AND LIMITED IN SCOPE.

WASHINGTON, *April 22.*

This necessarily brief survey of the initiative, referendum, and recall in the countries where it has been put to a practical test—Switzerland and certain States of the American Union—would be lacking in an interesting and enlightening detail did it not set forth what some of the leading thinkers and leading politicians have to say upon the subject.

It may be well to set down at the beginning three views that have attracted wide attention—two of them radically different, and the third occupying a middle ground. One of these expressions is by Gov. Woodrow Wilson, of New Jersey, indorsing the Oregon law, which is the most carefully devised system of initiative, referendum, and recall for State affairs in existence. The second is the contrary view of Senator JOSEPH W. BAILEY, of Texas, which denounces as "Populistic heresies" the initiative, referendum, and recall. The third is the middle-ground view of President William Howard Taft.

Immediately after his election to the governorship of New Jersey, Gov. Woodrow Wilson issued the following signed statement on this subject:

"I believe the Oregon system of popular-government laws has wrought a fundamental reform of previous corruption and has brought to the people of the State truly representative government. I believe the system which has been evolved there contains the essentials of a body of laws and constitutional amendments which the people of other States should carefully study with a view of procuring for themselves the manifest benefits which have been derived for the people of that State."

SENATOR BAILEY'S VIEWS.

In his telegram to Gov. Colquitt announcing the withdrawal of his resignation from the United States Senate Senator BAILEY says:

"You know how unalterably I am opposed to these Populistic heresies known as the initiative, referendum, and recall, and I would not be willing to remain in the service if a majority of the party friends associated with me were willing to give their approval to them. * * * I am willing to work to the limit of my strength so long as I can serve the public and at the same time obey what I understand to be the commandment of Democratic principles, but no office could tempt me for one moment to compromise with a policy which I am certain would in the end destroy the Government established by our fathers."

The views which President Taft holds as to the initiative, referendum, and recall, while known generally to his friends, have not been embodied by him in a speech or formal statement, and therefore can not be directly quoted. It is known that President Taft regards these instruments of direct legislation as largely experimental, and he finds no objection to municipalities trying them out, cautious and on a moderate scale. In larger matters he is not inclined to find fault with the referendum limited to such cases where the acts of one legislature would be binding on a succeeding legislature, as, for instance, in the granting of franchises, but he does not favor a general initiative and referendum as found in Oregon, where a great mass of voters is periodically called upon to exercise the fine discrimination that is exercised by a small body of legislators after thorough debate and study of the subjects before them for enactment into law.

President Taft is inclined to go a little further in the matter of the recall. He does not find serious objection to a recall, properly safeguarded, that is made applicable to administrative and legislative officials, but he stands unalterably opposed to the application of the recall to the judiciary.

ROOSEVELT FAVORS IDEA.

To these views may be added a fourth, that of former President Roosevelt, who gives a cautious indorsement of the initiative and referendum, coupled with an almost noncommittal observation about the recall; also a fifth view, that of Senator HENRY CABOT LODGE, of Massachusetts, which is frequently cited by the ultraconservative Republicans of the United States Senate as the last word in opposition to the clamor for more direct legislation by the people.

In his articles on Nationalism, in the Outlook, Col. Roosevelt says in regard to the initiative, referendum, and recall:

"As regards the initiative and referendum, I think that the anticipation of their adherents and the fears of their opponents are equally exaggerated. I believe that it would be a good thing to have the principle of the initiative and referendum applied in most of our States, always so safeguarded as to prevent its being used either wantonly or in a spirit of levity.

"As regards the recall, it is sometimes very useful, but it contains undoubted possibilities of mischief, and of course it is least necessary in the case of short-term elective officers."

OPPOSED BY SENATOR LODGE.

The views of Senator LODGE on the demand for more direct control over legislation are given in a speech delivered in Boston on September 15, 1907, and which, on motion of Senator Hale, of Maine, were embalmed in Senate document No. 114 of the first session of the Sixtieth Congress. Senator LODGE was discussing not a binding initiative, referendum, and recall proposal, but merely a public-opinion bill, such as they have in Illinois, which enables the people by direct vote only to record their sentiment on some submitted public question. In this speech, which is regarded as perhaps the strongest expression in opposition to the principle of direct legislation, Senator LODGE says:

"If you force the legislature to deal with certain measures under a mandate which practically compels them to vote upon these measures in only one way, you take from your representatives all responsibility and all power of action, and the representative principle in your government will atrophy and wither away, until it becomes in the body politic like some of those rudimentary organs in the natural body—quite useless and often a mere source of dangerous disease. This public-opinion bill does this very thing, for it aims directly at the destruction of representative responsibility, and I think, although it received the support of many excellent people, who did not pause to consider it carefully, that it found its origin among those small groups whose avowed purpose is to destroy our present institutions and forms of government and replace them with Socialism and anarchy."

PRESERVING REPRESENTATIVE FORM.

Another interesting view which Senator LODGE presents in that speech is as follows:

"I think the people are eminently capable of governing themselves by proper methods, and that their power should not be distorted and crippled by impossible devices. But the great fundamental objection to this bill is the destruction of the representative principle which it necessarily involves. The resort to the plebiscite is the favorite device of the usurper and savior of society. His opportunity comes when disorder, license, and wild legislation have driven the masses of men to a readiness to sacrifice liberty in the determination to have peace and order, a sad and desperate situation, familiar, unhappily, in the world's history. * * * What we want above all things is to preserve the representative bodies which have ever been the guardians of freedom and of popular liberties in this country."

Hardly less interesting than the study of the initiative, referendum, and recall, and its rapid application in recent years in State and municipal affairs in this country, is the study of the views of our leading public men on this subject. The first thing that appeals to the investigator is the meagerness of information on the part of most public men—not the thinkers, but the average leader in public affairs—as to the results, good or unsatisfactory, that have attended the practical application of these methods of legislative and administrative control. Most of these men are ready to rest their verdict on the deductions at which they arrive from a contemplation of how such a system would work out. Such a verdict is not based upon evidence or experience, and is apt to prove as faulty and defective as a system of government would be apt to prove that is worked out theoretically in great detail from a given principle, without the guidance of a practical test. Yet most public men have reached a conclusion that is either a sweeping indorsement or a sweeping denunciation of these instruments of government, based on a study of the theory, without a clear knowledge in detail as to exactly what the practical tests have developed in the way of good or bad results.

AS MEANS OF REFORM.

The next thing in the study of public opinion on this subject that strikes the investigator is that the political house cleaners seize upon the initiative, referendum and recall as the most effective means for remedying public evils and for holding politicians responsive to the public will—the initiative and referendum for State affairs and the recall for municipal matters. Three rather striking instances are found in the course assumed by former Gov. Folk in Missouri, Gov. Johnson in California, and the late Gov. John A. Johnson, of Minnesota. Each has spoken out eagerly in favor of more power to the people over their public servants as the most effective way of checking or eradicating the evils and abuses of representatives so strongly intrenched, politically speaking, that they feel safe in disregarding the public interests.

Thus Gov. Joseph W. Folk helped along the movement for more direct legislation in Missouri, which has culminated in the adoption of the initiative and referendum in State legislation by his attitude, which he stated thus:

"That the people have direct legislation reserved will do much to permanently end legislative corruption. There would be little use to bribe a legislator to defeat a measure if the people have the right to pass that measure over the head of the legislature. So it would be futile to bribe the legislature to pass a bill when the people have the power to veto it."

IN CALIFORNIA AND MINNESOTA.

Gov. Hiram Johnson, of California, seized upon the initiative, referendum, and recall as the most effective means of freeing the State from the powerful hold of the Southern Pacific Railway Co., that extended even to the courts, and one of the most far-reaching accomplishments of the recent political upheaval in California has been the incorporation in the California constitution of these three instruments of political control by the people over their representatives in office.

How the late Gov. John A. Johnson, of Minnesota, regarded the initiative and the referendum is set forth in one of his inaugural messages to the Minnesota Legislature as follows:

"There can be, I am sure, no valid reason against the submission to the people of a proposed constitutional amendment providing for a direct initiative and referendum. This would give the people an opportunity to vote on the question whether or not they want the right to instruct their representatives and also the further right to pass upon the laws enacted by their legislature. But whether you would care to go so far in this direction, I would urge your consideration of a plan for an advisory initiative and referendum."

WILSON'S RECOMMENDATION.

Whether any of these three reform governors just cited ever shared the opinions of Senator LODGE, or had reached an unfavorable opinion as to how the initiative, referendum, and recall would work out in practice is not disclosed in the range of study upon which this series of articles is based, but the investigation has developed a most interesting modification of the views of one reform governor who is now prominent in the public eye. But a few days ago Gov. Woodrow Wilson, whose indorsement of the Oregon State government plan has been quoted above, sent to the New Jersey Legislature a special message urging that New Jersey cities be given authority to establish for themselves commission form of government combined with the initiative, referendum, and recall.

"The reforms suggested for the adoption of the cities," Gov. Wilson tells the legislature, "do not consist merely in putting their government into the hands of a small commission. Back of this change and in addition to it are the initiative, referendum, and the recall, measures which enable the people to correct the mistakes of their governors, to adopt measures of their own initiative when necessary, and to recall from office unsatisfactory officials."

FORMER IDEAS CHANGED.

This is Gov. Wilson's view in facing a condition. His views, a few years back, in contemplating the subject as a theory, are given in an article recently published. In that article Dr. Wilson discussed two prime objections to the referendum: First, that it assumes a discriminating judgment and a fullness of information on the part of the people touching questions of public policy which they do not often possess; secondly, that it lowers the sense of responsibility on the part of the legislators. What Dr. Wilson thought then of the more creative initiative is perhaps found somewhere in his voluminous contributions to the thought of the day, and is probably as interesting as was his judgment on the referendum. The point in contrasting these two views is that since Gov. Wilson spoke of the referendum in such a dubious vein, the initiative, referendum, and recall have been put in operation in several States and numerous cities, and a study of the results obtained is perhaps responsible for the radical revision of his former verdict on the subject.

In view of the fact that the initiative, referendum, and recall are now occupying the attention of Congress in an incidental way, through the consideration of the constitution of the Territory of Arizona, three recent views expressed by intelligent Members of the House of Representatives are interesting. One of these is by Representative SIMS, of Tennessee, a Democrat; another is by Representative KENT, a progressive Republican of California; and the third is by Representative MCCALL, of Massachusetts, a so-called regular Republican and one of the most scholarly men in the House.

In offering an amendment providing for the application of the recall to United States Senators, Representative SIMS said:

"Revolution can nearly always be prevented if we will only yield to proper public sentiment, even in a conservative way. If you think that this kind of sentiment is going backward, you are mistaken. It is coming. Call it populistic or what you please, the doctrine of initiative, referendum, and recall is coming, and it is coming to stay. It is going to be a part of the national, State, and municipal legislation of this country; if not in the form now demanded, then in some way by which the same result will be reached."

APPLIED TO ARIZONA.

Discussing the Arizona constitution, Representative MCCALL deals only with the provision for the recall of the judges, in regard to which he says:

"I do not believe in the principle of the recall of the judges. The judge would no sooner be elected than he would be liable again to enter into a contest for his place. He would be compelled to argue his possibly complicated legal decision on an appeal to the voters. If he desired to retain his place, he could only do so by constantly deciding important cases not according to the law, but in a way that would conform to the prevailing popular passion. Believing that the recall of judges would be entirely subversive of the independence of the judiciary, and even of well-settled civil government, I am opposed to it."

Representative KENT of California takes this view:

"I am not afraid of the result of such power—the recall—being lodged in the people. I believe that our people are extremely patient and really conservative, and that the attempt to exercise the recall would at once create a sympathy for the person against whom the process is to be applied. I therefore believe that nothing but extremely unworthy conduct or a vitally antipublic attitude, and not a mere trivial difference of opinion, could be a cause for the removal of a judge."

The initiative, referendum, and recall have been tried before another tribunal than the bar of public opinion. It has been fought for and fought against most luminously in the courts of several States, and its final, constitutional test awaits it even now before the United States Supreme Court. The legal consideration of the question goes to the very fundamentals of our form of government. What light, within the understanding of the layman, the courts have been able to shed on the subject will be theme of the next of this series of articles.

GROUNDS FOR GREAT DEAL OF ARGUMENT—MANY LOOK TO SUPREME COURT'S DECISION AFFECTING DIRECT LEGISLATION—REPLETE WITH INTEREST—CONSTITUTIONAL QUESTIONS INVOLVED IN INITIATIVE, REFERENDUM, AND RECALL—RECENT CONTROVERSIES.

WASHINGTON, *April 27.*

By way of bringing to a termination this series of articles on the initiative, referendum, and recall, it may be well to consider briefly the constitutional question involved in the subject.

This question, as raised in the leading cases that have been decided by the State courts and that is raised in the case from Oregon, the first one of its kind in the United States Supreme Court, hinges upon what is meant by the constitutional requirements of a republican form of government. The contention wages over whether the Constitution by "republican form of government" meant a government with power exclusive in the men elected to represent the people, or, in other words, pure representative government, and whether, in that event, the representatives can delegate back to the people for direct legislation any of this governmental power.

Early judicial decisions generally upheld the doctrine that the legislatures have no authority to redelegate to the people the power which is constitutionally vested in the legislatures, and therefore have no authority to refer to the people for adoption or rejection proposed general laws. Judicial citations on this point usually given are Thorne *v.* Cramer (1851, 15 Barb., N. Y., 112), Barto *v.* Himrod (1853, 8 N. Y., 483), People *v.* Collins (1854, 33 Mich., 343), State *v.* Copeland (1854, 3 R. I., 33), Santo *v.* State (1855, 2 Iowa, 165), and State *v.* Hayes (1881, 61 N. H., 264). For a contrary view, State *v.* Parker (1854, 26 Vt., 357) is cited.

REQUIREMENTS OF LAW.

Yet in nearly every State the constitution expressly requires ratification or rejection by the people of legislative acts on specified subjects, as, for instance, State boundaries, location of seat of government and State institutions, public debt and taxation, etc., while, as has been shown in the preceding articles of this series, some 12 States have adopted constitutional amendments, most of them for the initiative and referendum in general legislation, some for the referendum alone, and in one State—Oregon—the initiative, referendum, and recall in State and municipal government.

Whether such sweeping constitutional provisions, particularly the right of the people to initiate legislation, are in contravention of "republican form of government" is the question which is now squarely before the United States Supreme Court for final and conclusive determination in the Oregon case, which is to be heard and decided at the next term of the Supreme Court. The style of the Oregon case is Pacific States Telegraph & Telephone Co. *v.* State of Oregon. It grows out of an action brought by the State to recover from the telephone company 2 per cent of the gross receipts of the company for the year 1906. In that year the people of Oregon by an initiative petition adopted a law to tax corporations on their gross receipts. The Pacific States Telegraph & Telephone Co. resisted this payment upon several grounds, the principal one being "that the initiative and referendum amendment to the constitution, under which the act of 1906 was proposed and adopted, is unconstitutional and void," because it is repugnant to certain cited sections of the Federal Constitution and to the Oregon enabling act. Other issues were raised by the telephone company, such as that the act fixing the tax was never approved by the governor nor submitted to him for approval; that the tax is not equal and uniform, as the company is already taxed under an act by the legislature of 1903 for its franchise to do business, etc. The trial and appellate court sustained the State in all points, and the Oregon supreme court affirmed the judgment of the lower courts. In its decision, by Justice Bean, the Oregon supreme court passes on the question of the constitutionality of the Oregon initiative and referendum as follows:

DIRECT AND INDIRECT POWER.

"Whether the initiative and referendum amendment to the constitution is invalid because repugnant to the provisions of the Constitution of the United States was thoroughly argued to and considered by this court in Kadderly *v.* Portland, and the views of the court as then entertained are indicated in the opinion filed in that case, and it is needless to restate them at this time."

In the case of Kadderly *v.* Portland (44 Oreg., 118) the Oregon supreme court, taking the view of Madison in the Federalist, 302, that by republican form of government is meant a form of government opposed to monarchy or aristocracy, and which "derives all its power directly or indirectly from the great body of the people and is administered by persons holding office during pleasure, for a limited period or during good behavior," finds as follows:

"The initiative and referendum amendment does not abolish nor destroy the republican form of government or substitute another in its place. The representative character of the government still remains. * * * Under this amendment, it is true, the people may exercise a legislative power, and may, in effect, veto bills passed and approved by the legislature and the governor, but the legislative and executive departments are not destroyed. * * * Laws proposed and enacted by the people under the initiative laws of the amendment are subject to the same constitutional limitations as other statutes and may be amended or repealed by the legislature at will."

No briefs have been filed as yet in the Pacific States Telegraph & Telephone Co. case in the United States Supreme Court, but in the presentation of its case against the initiative and referendum before the Oregon supreme court this contention was set up by the company:

"The initiative is in contravention of the guaranty of a republican form of government. (U. S. Constitution, Art. IV., sec. 4.) Govern-

ment by the people directly is the attribute of a pure democracy and is subversive of the principles upon which the Republic is founded. Direct legislation is, therefore, inconsistent with the form of State government which, upon the creation of the Union, the people of the States reserved the right to adopt and repugnant to that form of government with which alone Congress could admit a State to the Union.

"The question is submitted with confidence that the courts of the country will protect the people in the enjoyment of those constitutional checks and safeguards against their own power which, with wisdom and deliberation, they created for themselves. Injustice and misrule have characterized all unconstitutional democracies and all popular governments administered in accordance with the whims and caprices of the multitude."

It was further contended that the initiative and referendum is "contrary to and in violation of the implied provision of the Constitution of the United States, that the government of the several States shall be representative in form and that the several States shall create and maintain legislative assembles." The citations for these implied provisions are sections 2, 3, 4, and 6, Article I; sections 3 and 4, Article IV, of the United States Constitution; section 1 of the fourteenth amendment, and also the provisions of the Oregon enabling act.

It is contended that if the people can override the legislatures through the initiative and referendum the legislatures can not do those things, as, for instance, the prescribing of the time and manner of holding elections for Congressmen, concurrence in the purchase by the Federal Government of military sites, etc., which the Federal Constitution leaves to the discretion of the legislatures.

In this case, which is now before the Federal Supreme Court, the constitutionality of the initiative and referendum was defended on these grounds:

DEFINITION OF "REPUBLICAN."

That the word "republican" has a broad and general meaning, indicating self-government, or popular government, as opposed to monarchy or aristocracy.

That the right of direct legislation has been universally recognized and approved by the State governments and by all departments of the National Government in the matter of the fundamental laws of the different States, in the matter of local legislation as affecting portions of the State, and in the matter of general legislation upon particular subjects wherein the people in their State constitutions saw fit to reserve that power.

That the courts now generally hold that view.

When this case comes before the Supreme Court next term it will be followed with keenest interest by people in all of the States, but it will be of especial interest to the 12,653,645 people of Arkansas, California, Colorado, Maine, Missouri, Montana, North Dakota, Oklahoma, Oregon, and South Dakota, who have both the initiative and referendum in State legislation, and to the people of Nevada, who for some years have been applying a general State-wide referendum to their State legislation. The decision will also be awaited with interest by hundreds of cities in the United States where these agencies of direct legislation have been established.

To those who would follow up this interesting subject of their own accord, a brief statement of sources of information should prove of service. First, it may be stated that no one work has brought the development of direct legislation, with its recent rapid extension to cities, down to date; nor, so far as its extension to State governments is concerned, is there any single work or article that has brought the subject down to as recent a period as has been done in this series of articles.

GIVE SUBJECT SPECIAL STUDY.

There are two organizations in this country that are devoted to presenting arguments and literature on this subject, one in favor of and the other against direct legislation. The former is the Initiative and Referendum League of America, George H. Shibley, president, Bliss Building, Washington, D. C. The opposing organiation is the Representative Government League, W. D. McKinney, secretary, Columbus, Ohio.

Two United States Senators, JONATHAN BOURNE, Jr., of Oregon, and ROBERT L. OWEN, of Oklahoma, have made the initiative, referendum, recall, short ballot, and other agencies for political reform a special study, and have had much direct legislation literature reproduced in the form of Senate documents which they will send out on request under their congressional franks. In addition to these sources, there are several magazines given up in greater or less degree to the advancement of direct legislation, the one following the subject in greatest detail being the quarterly publication called Equity Series, published in Philadelphia. A recent important contribution that has been made on this question is an extended legal analysis by Senator CHAMBERLAIN, of Oregon, published in the CONGRESSIONAL RECORD of April 20, 1911. A complete bibliography of the initiative, referendum, and recall is in course of preparation by the Library of Congress and will shortly be available through application to Members of Congress.

[Editorial Dallas News of Apr. 31, 1911.]

THE INITIATIVE, REFERENDUM, AND RECALL.

With the article which it prints elsewhere to-day, dealing with the legal or constitutional phase of the matter, the series of articles which the News has been running from the pen of its Washington correspondent on the subject of the initiative, the referendum, and the recall is brought to an end. It was the purpose of the News, in printing these articles, to throw an uncolored light on a subject that was manifestly in need of illumination of that kind. They have excited a great deal of discussion in Texas, mostly academic, since there was no pending issue that involved the question of their adoption, and this discussion has disclosed less knowledge than lack of knowledge. The News believes that these articles have served their purpose excellently. It would not be possible, of course, to exhaust a subject of that depth and breadth in five articles, limited each to such space as a newspaper can afford to give to a single topic, but they must have supplied a working basis for such as care to make a thorough study of the subject and somewhat rectified the preconceived notions of those whose opinions as to the virtue of these devices were woven out of their predilections or prejudices only.

The News feels that in printing this series of articles it has performed something of a public service, for it must be obvious to most men, regardless of their individual dispositions, that sooner or later we in Texas shall have to deal with this issue in a definitive way. It is, then, in the highest degree important that the judgment that the people of Texas will make should be based on facts rather than fancies; that they should know what the experience of other people has shown to be virtues and the evils of these devices of government. The desire of the people for a larger control of their political affairs is a legitimate ambition, even when they are not impelled to it by the necessity of wresting control from corrupt politicians. Children grown to be men are not content with the restraints and repressions which chafed them not at all as children. Societies are subject to this same law of life, so that the swelling demand for a more direct control of political affairs must in a republic seem to be the result of a purely evolutionary process.

These articles have brought several important facts into clear view. The most important of them, it seems to us, is that whatever the present status of the initiative and referendum, both in this country and in Europe, it has been evolved of natural causes and has been attained by slow process. That is particularly true of Switzerland, where, as if by natural consequence of democratic government, these devices of government first made their appearance. There, the referendum was evolved first, and it came in a single canton as the result of a particularly obnoxious railroad grant. The initiative came afterwards, and both were adopted cautiously, first by cantons and then by the nation. They were not the patented prescription of some theorist, but rough tools forged by experience to handle situations for which there was apparently no satisfactory management with the instruments that had been in use. If, then, that which is born of the travail of necessity has a validity and vitality which is not to be credited to the thing that is spun merely by the imagination, then the initiative and referendum have a parentage that entitles them to at least a respectful consideration.

In the recital of their operation in Switzerland there was much that challenges the arguments of both the advocates and the opponents of these devices of government. For example, it appears that not more than half the people of Switzerland usually participate in initiative and referendum elections. This fact seems to refute the point urged by their advocates that the exercise of direct legislative power by the people must necessarily excite in them a livelier interest in public matters and induce a keener study of political questions. Students of the working of the initiative and referendum in Switzerland have suggested, as an explanation of this rather anomalous circumstance, that it signifies, not a lack of interest in the questions submitted to the voters, but rather a disposition on the part of the average voter to refrain from voting when either he does not understand or is in doubt as to the merits of the question to be determined. That the crowd, meaning thereby the great mass of the people, is strongly inclined by instinct to conservatism, more prone to accommodate itself to the existing order than to undergo the pains of readjustment, is asserted by psychology, proved by history, and is, indeed, verified by common observation among ourselves. The suggestion, therefore, that the rather large abstention from voting in Switzerland is due, not to lack of interest, but to doubt and uncertainty, is in perfect accord with the fact that the popular impulse is conservative.

Another fact disclosed as to the working of the initiative and referendum in Switzerland is that initiative and referendum elections are by no means common, a circumstance that rather supports the argument that the possession of this power by the people tends to make the use of it unnecessary, because of a greater readiness on the part of legislative bodies to respond to the wish of public opinion. This notion is further confirmed by the fact that during 20 years only one-sixth of the laws made in Switzerland were initiated by the people, and that only one-sixth of the laws originating in the Federal assembly have been challenged or submitted to a referendum vote. It is a very notable circumstance, too, that, having the initiative and referendum, the Swiss seem to have concluded that the recall is unnecessary.

But a frequent objection is that the initiative and referendum are exotics with us, and that the experience which the Swiss have had with them has very little didactic value for us. As to the lesson which the experience of one people has for another, that would be a sufficient theme of itself; we shall merely remark that if the initiative and referendum are exotics with us, they seem to have found an environment exceedingly favorable to their propagation. It was shown that the initiative and referendum, applicable to both constitutional amendments and State laws, are in operation in Arkansas, Missouri, North Dakota, Oklahoma, and Oregon, and are available to nearly 8,000,000 people; and that the initiative and referendum, as applicable to State laws but not to constitutional amendments, are in operation in Maine, Montana, and South Dakota, and available in those three States to more than a million and a half people. The power to initiate and pass on laws is exercised, in other words, by about 9,000,000 people in this country, so that if these devices of government are of alien birth they have pretty far undergone the process of naturalization. It ought to be said that these figures do not take account of the advisory initiative and referendum in Illinois, nor of the party initiative in Texas.

In this country the initiative and referendum were first espoused by the people of South Dakota, but it remained for the people of Oregon not only to give the most absolute application, but to devise particular features designed to make them more workable. The severest test to which these devices were ever subjected was probably last year, when the people of Oregon at one time passed judgment on 32 measures, as diverse in their subject matter as they were numerous. And it is a remarkable fact, of which the advocates of these devices can not fail to make much note, that of the 32 measures submitted to the people all but 9 were rejected.

In all discussion of the subject of direct legislation the initiative and referendum are usually linked, as if they were but two phases of the same thing, while, as a matter of fact, they are distinct entities. The referendum, as we have said, or, rather, the adoption of it, preceded the adoption of the initiative in Switzerland; and in Nevada the people have the referendum without the initiative. But in all other States in this country one has been taken with the other. Nevertheless, they are not parts of the same thing, nor even twins. One can be, and is, used independently of the other. They are not of equal merit, and an argument could be made for one which would give very little support to the other. Our Washington correspondent, in his articles, cited a very notable instance of this fact by quoting from an article recently written by Prof. Lowell for the Atlantic Monthly on the working of the initiative and referendum in Oregon. Prof. Lowell, while inclining palpably to favor the referendum, pronounced against the initiative, on the ground that with the people free to propose laws the statute books would become a hodgepodge of conflicting enactments.

This seems to be a valid and cogent criticism, although it could hardly be contended that statute books which legislatures have made are remarkable for the harmonious coordination of their several chapters. But of course the sovereign answer to all these criticisms is that, like everything that is new, the initiative and referendum will be subject to no final judgment as to their worth until they shall have under-

gone the test of experience. Our Federal Constitution was subjected to a good deal of tinkering before it became measurably satisfactory. The greater part of it as it exists to-day was added by way of amendment, suggested by experience, and it is to that test that the initiative and referendum will be subjected; and it is by that test that they will be judged. If they withstand that test, they will become fixed principles of our Government, despite all the theorizing and argument that can be brought to bear against them; and if they do not withstand that test, they will be rejected finally, despite all the theorizing and argument that can be invented in their behalf. So far the progress which these ideas have made prove them to be an evolutionary process. If they come of that legitimate and irresistible cause, it would be fatuous to oppose them. The utmost that wisdom should attempt is to demand that they shall prove themselves at every step of their progress.

Mr. NORRIS. Mr. Chairman, in the consideration of this resolution for the admission of these two Territories as States it seems to me we ought to draw a distinction between the making of a constitution, by representatives, for a people who must live under it and the approval of a constitution by Representatives who will not live under it. As I look at it, our duty here is to ascertain whether these constitutions are republican in form and whether they conflict with the Constitution of the United States. If they are republican in form, and if they do not conflict with the Constitution of the United States, we ought, as Members of this Congress, to approve those constitutions, even though we do not agree with all of the stipulations that are contained in them. If I were a member of a body that was making a constitution for Arizona and New Mexico there are things in both these constitutions that I would oppose, and there are other things, not in them, that I would include.

But it has not been seriously contended here by any man that these constitutions are not republican in form or that they conflict with the Constitution of the United States, and it seems to me that it is our duty to approve them, as long as they are in accordance with the wishes of the people who must live under them and having been made by direct representatives of those people.

Mr. Chairman, I am a believer in the initiative and the referendum, and also in the recall, and yet I have never believed that the recall ought to apply to the judiciary. From the very nature of things the judge is called upon often to protect the minority against the majority. I believe the experiment is coupled with danger, and yet after listening to several days of this debate, indulged in by eminent attorneys who are Members of this House, I have come to the conclusion that we are overcautious in regard to this particular objection and that many of the objections that have been urged to this particular kind of recall against the judiciary are not entitled to all the consideration that they were intended to have by those who made them. I believe the conditions that have been imagined here by those who have opposed this recall are exaggerated and that they will never occur, at least not in the flagrant forms in which they were presented here.

It seems to me that we can account for the feeling of attorneys who during all their lives have lived in an atmosphere of profound respect for the judiciary. I share in that belief, and I believe we are overcautious, perhaps, as attorneys, men whose profession and livelihood have led them all along one line of great admiration and respect for the judiciary and the imputation to the judiciary of almost a quality of infallibility.

It has been said by those who have opposed the initiative and referendum that if it had existed Washington would have been recalled. Mr. Chairman, I deny it. Washington was reelected after four years of service by practically a unanimous vote. He would have been elected again for a third term by a grateful and patriotic people had he consented longer to serve his country as President. It is said that Abraham Lincoln would have been recalled. I do not believe it. Mr. Chairman, Abraham Lincoln was elected again in the midst of his term of office by a majority so strong that it left no doubt but that the people approved of his action and were anxious and willing that he should continue in office. It has been said by those who have opposed the initiative and referendum that President Roosevelt would have been recalled had that particular power been in existence when he was President. And yet it is common knowledge to all men that President Roosevelt, in order to escape nomination and overwhelming reelection for a third term, had positively and unequivocally to decline. [Applause.]

Now, Mr. Chairman, it has been argued that the people are not sufficiently well posted to pass upon matters that may be submitted to them under the initiative and referendum. It has been argued that representatives in the legislature are better qualified to pass upon the law that they should give to the people than the people are themselves; and yet as a rule all the members of the legislature go back to the people for reelection, and always claim this honor upon their record. Take as an illustration Members of this Congress who go back to their people for reelection—ask for a reelection upon the record made here. That record consists of their votes for and against various measures that come before this House, and they go before their people and ask approval of their conduct. If the people can not understand the meaning of their votes for and against the various bills and propositions that come before us, then how can they intelligently pass upon the qualifications of a Member for reelection? If they understand the Member's record—and they do, and we all know it—then they must know, they must understand, the bills and the measures and the laws that have come before the legislative body for passage or rejection. And if they understand them, why can they not just as well and just as intelligently vote directly upon the measures themselves as they can vote for the reelection or defeat of the man who has made the record?

It has been contended here that they will make mistakes. There is not any doubt but that they will. We never will have a form of government or system of control but what mistakes will be made in connection with it. Everything human is occasionally wrong. Every human being lacks perfection.

But I want to contend that if the initiative and referendum is given to the people it will increase their intelligence, it will increase their understanding, and it will increase their responsibility. When you increase the responsibility of a man, honest and patriotic—and a majority of the people are both honest and patriotic—when you increase a man's responsibility, then you increase his interest, you increase the care he is going to exercise in carrying out that responsibility.

It has been assumed by those men who have opposed the recall that the people are always going to vote wrong; that they are going to go wrong on the recall. It seems to me that that is a weakness in the argument that is its own sufficient answer. If responsibility is increased by giving the people additional power, they will rise equal to the emergency, and become, if it is necessary, more intelligent, and will take a greater interest, if it is necessary, in the affairs of government. [Applause.] And, rest assured, they will meet the responsibility with no more liability to err and go wrong than the representatives themselves. This demand for the initiative and referendum and recall has come about because of the dissatisfaction with conditions that have existed in the past. Great corporations and combinations of wealth have had too much influence in legislative affairs. Political machines by the use of money and political bosses by the control of patronage have controlled legislatures and brought about the enactment of laws detrimental to the public welfare and contrary to the direct will of the people. These influences have elected United States Senators, controlled the nomination and election of Members of the House of Representatives, and in some instances have placed the judicial ermine upon unworthy shoulders. By the use of money and political pie legislatures have been corrupted, bad laws enacted, and the rights of the common citizen disregarded and nullified.

The political machine and the political boss under our present system are the greatest enemies to the progress of humanity and the welfare of the country. The initiative and referendum will put them both out of business. It will give the people the right, whenever they choose to exercise it, to rectify any of the omissions, the wrongs, or the evils of the legislature. It will permit every citizen to have a direct voice in the enactment of laws under which all of the people must live. The existence of the right will act as a check and prevent bad legislation. It will not be abused or exercised to the injury or detriment of society. It simply puts into the hands of the people the right to enact laws for their own government and control. It is foolish to think they would try to use this right to their own injury and detriment.

As every man who has spoken, even those who have argued against this proposition of the initiative, the referendum, and the recall, has admitted, there have been instances of frequent occurrence throughout the country in State and National Legislatures where the expressed will of the people has failed, because of a failure of their representatives to redeem the pledges and promises they have made and to be true to the platforms on which they were elected. It is because of this failure that this demand has come about for a greater participation in the affairs of the government by the people themselves. And if it is a government by the people, as every man will admit, if the consent of the governed is necessary, as the Declaration of Independence asserts it is, then why has any man the right to say, if a demand on the part of the people comes for the right of greater participation in the affairs of the government, that it should be denied? If it is their government, if it is their consent that is necessary in order to perpetuate it, and they want to take a direct hand in the government themselves, why should

they not have the privilege? If they make mistakes, the responsibility will rest upon their own shoulders, and they will have the right, the opportunity, and the will to rectify them.

The recall, against which so much has been said, is not intended by those who favor it to be an everyday occurrence. It is not expected that this extraordinary remedy will be put into operation every day, every month, or every year. If it is in the constitution of a State, it will not be necessary, from its very presence there, to be often used. It will be like the policeman on the corner. So long as he is there there will be no danger of a robbery of the store on the corner. The very fact that the recall is placed in the constitution will of itself have a healthy, a patriotic, and a well-defined effect upon the members of the legislature and other elective officers. We can not afford, either as Members of Congress or as citizens of any of our States, it seems to me, to deny the right or privilege of any people to take into their hands as great a portion of the responsibility of government as they see fit by the exercise of the elective franchise to demand. [Applause.] The people can be trusted to do the right and patriotic thing. We have been regaled with all kinds of improbable, if not impossible, contingencies, under which, it is claimed, officials will be recalled. We have had the recall in some States for several years, and, as far as I am informed, no attempt even has been made to recall a State or even a county official. There is no danger that such an attempt would be made, except in cases of the most flagrant disregard of public duty. It is intended by its advocates for application only in such cases. If by any contingency, however, sufficient signatures could be obtained to apply the recall, without a good and sufficient reason, you can rest assured that the patriotic American voter, moved by his sense of justice and fair play, would rise up in his might and give to the upright official such an overwhelming indorsement as would be the most gratifying and satisfactory compliment that could come to an honest official who has done his patriotic duty. It has been said here that these reforms are favored by designing politicians only. I question no man's motive on either side of the question. There may be those whose motives are not pure on both sides, but the professional politician is against any reform or any change. It stands him in hand to be against this change, because it takes away his occupation and starts him out into the cold world with no visible means of support.

Mr. MARTIN of Colorado. Is the gentleman in favor of the minority report, which says that the people of Arizona must vote the recall of the judiciary out of their constitution?

Mr. NORRIS. No, sir; I am not. I expect to vote for the majority report. [Applause.] I thought I made myself plain at the beginning; that while personally I had some fear and doubt, and if it were a proposition put up to me to vote one way or the other in my own State or any other place where I or the people whom I represent was to be governed by the constitution, I should vote against that proposition, yet, as I explained awhile ago, I do not believe that to be my duty here. But in the majority report that particular proposition is submitted again to the people of Arizona. I think it is wise to submit it again, because, as it has been said, and I think with a good deal of reason, the people of these Territories have been clamoring for years for admission as States, and were, perhaps, inclined to vote for almost any provision in the constitution in order to be admitted, and it may be that there are some stipulations in this constitution that, standing alone, by a straight referendum vote on some particular proposition they might reject. This report gives them the opportunity to do that. If they vote in favor of it, I am in favor of permitting them to have it, and believe that they ought to have the right to have it if they want it, and the majority report puts it up squarely to them as to whether they want it or not. And I believe that if the experiment is tried, we will find at least that the objections are not so serious as many of us have thought they possibly were.

It seems to me, Mr. Chairman, that as to any other proposition in the constitution of either one of these States that, standing alone, as a separate proposition, there would be any doubt about, it would be wise to give the people of those Territories the opportunity to vote directly upon that proposition. But after their constitutions are adopted they will have the right to do that, and perhaps, if there be any evil in either one of those constitutions, in their own time and in their own way they will extricate themselves from the difficulty.

As far as we are concerned, we ought to give them the fullest opportunity to do it. They have expressed themselves on these two constitutions and have, by a large majority in each instance, voted to approve them; and with the safeguard in regard to the two particular provisions, one in New Mexico and one in Arizona, about which there seems to be some doubt, it seems to me we are doing exactly the right thing to give them an opportunity to express themselves again on those two particular propositions. And when they have done it, Mr. Chairman, then we ought to be perfectly satisfied with the result, whether the constitution in all particulars agrees with our ideas or whether it does not.

I believe, Mr. Chairman, that the tendency toward initiative and referendum is going to result in more good to the people of the several States that have been putting it into their constitutions, and others that I think will soon follow, than any other one particular item in any constitution or in any law. It will be placing within the hands of the people the largest possible amount of participation in Government affairs. It will give to them rights that can now only be exercised in an indirect way, and I do not fear but what they will rise to the responsibility that this new duty and this new privilege places upon them. [Applause.]

By unanimous consent, Mr. CRUMPACKER, Mr. HAMILTON, Mr. FERRIS, and Mr. ANDREWS were given leave to extend remarks in the RECORD.

Mr. MANN. Mr. Chairman, I would like to ask the gentleman from Virginia, in charge of the time on that side, if he expects to ask the House to meet at 11 o'clock to-morrow morning?

Mr. FLOOD of Virginia. I do; yes.

Mr. MANN. And may I ask how late the committee will continue in session this evening?

Mr. FLOOD of Virginia. I would like to run along until 6 o'clock.

The CHAIRMAN (Mr. GREGG of Pennsylvania in the chair). To whom does the gentleman from Virginia yield?

Mr. FLOOD of Virginia. I will yield 30 minutes to the gentleman from Illinois [Mr. FOWLER].

Mr. FOWLER. Mr. Chairman and gentlemen of the committee, while discussing the resolution before this House for the admission of Arizona and New Mexico into the Union, I shall esteem it a favor if you will not interrupt me until I have finished, as my time has been limited to 30 minutes. After I have concluded, if my time has not expired, I will be glad to entertain a question from any of you.

In the creation of man nature has surrounded his being with certain fixed and unalterable conditions, which are primary in their character and which are coextensive with his existence, among which are air, light, water, food, and space. Destroy any of these and human life at once becomes extinct. While it is impossible to conceive of matter without space, yet it is just as impossible for man to live without air, light, water, and food.

Air and light are gifts from Heaven, and come to us freely. Water is found in abundance, and in such a pure condition that it requires but little exertion on our part to supply our daily wants, but the adequate supply of wholesome food is a different proposition. In all ages it has given mankind the greatest concern, and when coupled with our demand for raiment and shelter, at the very threshold of life, we find that nature has entailed upon us a servitude to ourselves of the most urgent and responsible character. A servitude upon which life itself depends.

In obedience to the same law of nature the herbivorous animal wanders all day long in search of food and drink, each depending upon its own activity for a sufficiency, and when night comes it lies down upon the bosom of mother earth contented for repose. At the dawn of the next day it eagerly enters upon the same monotonous task—day in and day out, the year round—with no other law to obey and with no other mission to fill it labors industriously without complaint and without tiring. No superiors to command; no masters to drive. All upon the same level, following the same instinct—the preservation of animal life.

A wonderful lesson is taught in the simple and harmless habits of this animal. The lesson of perfect equality; no preemption of territory, no corner on the supply of food, however small it may become; all are given an equal chance in the race for life.

How different it is with man. His physical wants are much more complex. The limitation which is placed upon the natural supply of his food products and the crude and unwholesome state in which he receives them from the hand of nature, has forced him to open up and extend a mighty industry—the cultivation of the soil. Out of this industry, by force of necessity, sprang a new and independent business—the production of implements, tools, vehicles, and machinery—by the assistance

of which the farmer might be able to take from the lap of nature annually the fullness of her richest and most bountiful gift.

This gave birth to the workshop and created a demand for new materials, which drove the workman to the forest for lumber and to the mine for iron and steel. Coupled with our demand for structural material for shelter, these two industries have grown to such proportions that the blacksmith now manages the modern steel plant and the carpenter directs the progress of a wonderful lumber industry.

Raiment for our bodies is no less exacting upon our energy and activity. At first the bark from the tree and the grass from the marshes furnished our ancestors with materials for clothing, but they have long since been superseded by the broad acres of flax and cotton, large herds of sheep and goats, and the fruitful product of the busy silkworm. The housewife has no longer any use for the hand cards, the spinning wheel, and the family loom—the cotton and woolen mills do the work for all.

The wooden sandal has been placed in the museum as a relic by the industrious tannery and the mammoth boot and shoe factory.

The necessity for collecting the crude material in centers to be converted into the finished product, and the further necessity of the proper distribution of the finished product among the people for daily use and daily consumption, created the demand for a new and distinct business of great activity and labor. First we had the pack animal climbing mountains and crossing deserts and the galley slave tugging at the oar of rowboats; then followed the invention of steam; and now we have master ships of wonderful capacity crossing the high seas and loaded trains flying across the country at lightning speed.

While it is true that our demands for intellectual and moral culture have given us the public school and the university, charitable, penal, and reformatory institutions, the Sunday school and the church, and other kindred institutions, calling for more or less manual labor, yet the great industrial and commercial enterprises of modern civilization had their origin in the supreme law of nature, which entailed upon us the responsibility of supplying ourselves with food, raiment, and shelter, and upon this responsibility these vast institutions are founded and must depend for their future support, maintenance, and development. This by far is the greatest field for physical labor—a labor which must be performed by us and from which we can not escape, however much we may so desire—and in the performance of which we are carrying out the same instinct of nature as that of the animal on the plain in search of food—the instinct of the preservation of animal life. In my opinion, God intended that every man should bear his just share of these burdens. Is this true? Let us see.

Were the mission of man in this life fulfilled by the supply of our temporal wants, the answer to this question might be less difficult, but as man by nature is both a social and progressive being and as his greatest happiness is not found in satisfying his physical appetite, but in the culture and development of the finer qualities of his mind and soul, we find ourselves confronted with a new field of labor more extensive in its scope and claimed to be by far more important to our temporal and spiritual welfare. Upon this culture our beautiful civilization is founded, and upon its purity and the extent of its future development hangs the destiny of nations.

Thus we find two vast fields of labor spread out before us, in which all mankind are required by the decree of nature to enter and labor.

Physical labor being the most burdensome, it is the most dreaded, and from the earliest history of man we find certain men seeking to avoid it. At the beginning the physical strong—the men—reveled in idleness or amused themselves in the chase, while they forced the weak—the women and children—to cultivate the soil and make the living.

In the primitive formation of government whole communities met on the plains and elected the tallest of their number as their leader. Time and experience gave these leaders a taste for power, luxury, and ease. They picked quarrels with neighboring tribes, and by deception and false promises of reward they organized armies for conquest, and after subduing and capturing weaker and unsuspecting neighboring communities they divided the spoils among their generals, created a feudal system of land tenure, and subjugated their captives—men, women, and children—to a condition of abject physical servitude. They created titles of honors, forced labor to build castles for defense, molded crowns for the head of arbitrary power, and boldly proclaimed to the world the false and damnable doctrine that the right to rule was divine and that kings could do no wrong. They surrounded royalty with large standing armies to enforce cruel decrees for taxation and punishment.

They kept the masses in ignorance, tied them to the wheel of toil, and appropriated the fruits of their labor to create rich dynasties. For long centuries only the few, the rich, were permitted to enter schools of intellectual culture and to participate in the administration of government.

They reveled in ease and luxury, while the poor, helpless masses, driven by whips of cruel masters, were forced to assume the entire burden of physical labor, with no opportunity for mental or moral culture. This was not nature's decree.

To explode this unholy theory of government, and to relieve the people from its baneful and blighting influence, we are told that it has cost the world the lives of 1,500,000,000 soldiers and the expenditure of $40,000,000,000 of wealth. But the light of civilization, directed by the Divine hand of Providence, has led the people out from under the cruel hand of imperial power, as Moses led the children of Israel out from under the bondage of their cruel Egyptian masters. But in doing so, the people, like the children of Israel, have been compelled to wade through red seas—not of water, but of blood.

It was the plain, common people of Europe, acting under the inspiration of love and longing for religious and political liberty, who deserted their homes, kindred, and loved ones in a land of arbitrary rule and paddled their way across the stormy Atlantic in search of a peaceful home in the bosom of nature—to the shores of beautiful America they drifted. Here they established a brotherhood, based upon nature's law of equality and simplicity. They separated the church from the state and carved out a stable government, deriving its just powers from the consent of the governed. [Applause.]

Under this form of government the plain, common people have steadily marched onward from the little log hut by the seaside to populous cities, whose clustered spires and stately edifices kiss the skies. By their labor they have converted the dense forests into beautiful farms and made the deserts blossom with roses. They have connected useful water courses by canals and constructed across the continent a perfect system of railroads. They have stretched the electrical wire from sea to sea and from lake to gulf, so that the man in his distant hut at the crossroads can talk with the merchant in the large cities a thousand miles away. The strong arm of labor has reached down into the bosom of the earth and brought to the surface hidden wealth in quantities sufficient to plaster the dwelling house of every citizen of this lovely land with silver and gold. At the bidding of persistent labor last year the mines of America yielded a treasure worth $2,000,000,000, and the farm surrendered products valued at $8,926,000,000, aggregating a total of nearly $11,000,000,000 in one year.

And now, in the morning of the twentieth century, these same common people present to the world for its candid inspection the product of their labor—a country of more than 3,000,000 square miles—the richest the blessed sun ever shone upon, teeming with a population of more than 92,000,000 of the best people of the best thought; a country with a government without an equal, with a civilization without a rival. [Applause.]

Mr. Chairman, when I sit here in this beautiful historic Capitol, in the shadow of that splendid monument erected within the corporate limits of this Capital City in honor of the Father of his Country, and hear gentlemen on the floor of this Chamber, gentlemen who directly represent more than 200,000 American freemen, the common people, and who indirectly represent more than 92,000,000 of the same common people, and while discussing the merits of this interesting resolution, utter language of distrust in their constituents, the common people, and charge that limited power left in their hands to correct abusive legislation is dangerous to stable government, and that these people with such power in their hands become a dangerous mob, I become restless in my seat and grow weary of life. [Laughter and applause.] When did the common people become a howling mob, with a rope in its hands for the neck of civilization? You show me a mob of the common people and I will show you a bastile to be pulled down. [Applause.]

It was this same mob that you are here denouncing who met old King John on the banks of the Runnymede on the 15th day of June, 1215, and forced him to sign the Magna Charta which gave to the people the writ of habeas corpus and the right of trial by jury. [Applause.] For centuries in England innocent men had been arrested upon false charges, cast in dungeons to languish, starve, and die, without even a hope for a trial. It was the crystallized public opinion of the common people in 1688 which forced King James II to abdicate the throne and make room for William of Orange, a more liberal King, who

granted to the people the Bill of Rights, the substance of which has been copied in the constitutions of every State of the Union. [Applause.] While the people elected the members of the House of Commons, yet the Crown had created a large number of small boroughs, over which the "House of Tudor" had absolute control, for the purpose of giving to the King a majority in that great deliberative body, thereby depriving the people of their right to representative government.

Was the destruction of these "rotten boroughs" in order to restore to the people their rights under the English constitution the act of the criminal mob? Was the opening of the door to star-chamber courts in order to release innocent men from foul prisons the act of the criminal mob? No. It was the hand of destiny. You must not confound the criminal with the mob, for the criminal acts under cover and lies in wait for the blood of his victim and then seeks to hide from the public his hellish deed, while the mob rises up in its might, proclaims to the world its mission, and boldly marches forward without fear of danger. The man who secretly arms himself, boards the train, and holds up the helpless passenger for his money is the criminal. The force that rises up and in one night, pulls down imperial temples of force and murder, and the next day establishes instead thereof a beautiful republican form of government, deriving its just powers from the consent of the governed, is the mob. [Applause.]

Remember, a grievance always precedes the mob, and without a grievance to redress, there is no mob. The Sons of Liberty had their grievance in taxation without representation before the Boston Tea Party emptied shiploads of English tea into Boston Harbor. The signers of the Declaration of Independence were the conspirators of the mob and the Revolutionary heroes were the real mob, who rescued from the hands of the selfish few the right to govern and placed it where it justly belongs, in the hands of the intelligent many.

The foul rape of Lucrece ended in the death of the cruel Tarquin, and the burning flames lighted by the torch in the hand of profligate power to destroy life and property in the city of ancient Rome revealed to the people the hiding place of Nero the tyrant. [Applause.]

Greatness rarely comes from the mansions of the idle rich. It springs more readily from the ranks of the honest, sturdy poor. Webster was a poor country boy, and Lincoln was of such humble parentage that he had to borrow books for his early education, and worked as a deck hand on a flatboat on the Ohio River. Jesus was born in a manger and John the Baptist fed on locusts and wild honey. [Applause.]

Everything else being equal, the greater the degree of liberty given to the people in government the greater the civilization of that people. Republican Greece is the best model of ancient democracy.

At one time her people kept in their hands all the rights to make laws and administer the government. They met in common council for that purpose—anyone could propose a law; all had a right to vote upon it. They elected the generals of their armies in this way, but for one year only at a time. Under this form of government she built up a civilization of literature, architecture, and art which astonishes the world—a civilization which has found its way into all modern civilization. No work on oratory would be complete without Demosthenese's oration on the Crown; no public structure would be complete without the aid of Grecian architecture.

The people of Arizona and New Mexico have been begging for statehood for a long time. They are entitled to it, and ought to have had it many years ago. They present us their constitutions, the product of the common people, for our ratification, but because the people have reserved certain rights to themselves not usually found in the constitutions of other States—the initiative, referendum, and recall—there seems to be a disposition on the part of some to require them to eliminate these new features from their organic law before admitting them into the Union.

The sudden forging of these new elements to the front in American politics naturally lead us to inquire for the cause. I have been casting about in search of it for some time, and I have reached the conclusion that the abuse of power intrusted to the hands of our public servants is the sole and only cause. For more than a quarter of a century bribery at elections has been the favorite method of inducting corrupt and unscrupulous men into high places of trust. By the same method we are led to believe unwholesome laws have been placed upon the statute books, conveying the rights of the people to criminal combines in perpetuity.

It has been shown that, in return, large sums of money have been subscribed by these combines for campaign purposes in order to defeat the will of the people. Soon after the passage of the Dingley tariff law in 1897 a wonderful commotion and scramble for advantage took place in the business and commercial world. Like the gathering of many storms at the same time in different parts of the country, each deepening in intensity and widening in circumference until their outer circles touched each other, then uniting and bursting forth in one mighty and dreadful tornado, sweeping across the country in its mad fury and destroying everything in its grasp. When this storm was over we found in its wake the lifeless but invisible bodies of nearly 9,000 independent corporations, out of this corporate wreck 445 combines had been perfected. The day of competition was over, but the morning of exclusion and exploitation of the people had dawned.

Since that time these 445 have been pushing closer and closer together, until now they have control of all the necessaries of life and can artificially increase the price thereof at will, which is a complete explanation of the high cost of living about which we have heard so much complaint of recent years.

The baneful and corrupting influence of their ill-gotten gains has found its way into political halls and legislative bodies, with the hope of obtaining new advantages and for longer terms, until the foul stench of bribery and corruption rises up from every quarter of the country and smells to high heaven, thereby flooding political circles with putrid rottenness far outranking in stench the famous Augean stables where 3,000 oxen had been stalled for 30 years. No one but Hercules could be found with strength enough to clean these stables. Can a modern Hercules be found with strength and courage sufficient to purify our political stables? The answer comes back in one grand chorus of more than 90,000,000 voices: "We, the common people, can and will do it. You can't intimidate us by calling us the mob. Our mission on earth is the liberation of suffering humanity from oppressive power. Our motto is 'Equal and exact justice to all.'" [Applause.]

Go where you will, the rich few are always trying to find an excuse to justify themselves in usurping the powers of government and reducing the masses to a condition of servitude. Our constitutional convention bristled with advocates of this doctrine, and a strong effort was made to fasten upon us a government of the rich with life tenure in office, modeled upon the plan of the Government of Great Britain. The Federal court is the product of this doctrine, and the present method of electing United States Senators is tinged with it. When a boy in the common school I read of Alexander Hamilton and learned to love him, because of his brilliancy, but perhaps more on account of his untimely death in an unfortunate duel. In more mature life, after I became a student of political economy, I read his speeches in the constitutional convention, and to my great surprise I found him to be an advocate of a government by the rich and an enemy of the masses. I could scarcely believe my own eyes when I read the following extract from his famous speech delivered in that convention on the 18th day of June, 1787, which is found in Volume I of his works, page 382, and which reads as follows:

> All communities divide themselves into the few and many. The first are the rich and the well born, the other the mass of the people. The voice of the people has been said to be the voice of God, and however generally this maxim has been quoted and believed it is not true in fact. The people are turbulent and changing. They seldom judge or determine right. Give, therefore, to the first class a distinct permanent share in the Government, they will check the unsteadiness of the second; and as they can not receive any advantage by a change they therefore will ever maintain good government. Can a democratic assembly, who annually revolve in the mass of the people, be supposed steadily to pursue the public good? Nothing but a permanent body can check the imprudence of democracy. Their turbulent and uncontrolling disposition requires checks.

To-day, while the people of New Mexico and Arizona are knocking at the door of the Union for statehood and self-government, we find advocates of that same selfish doctrine on the floor of this House, but instead of charging the common people with being "turbulent and changing," as did Mr. Hamilton, they are now branded by these gentlemen as the howling mob, the enemy of stable government. In the constitution of these Territories the people have reserved to themselves certain corrective rights over legislation and over their public servants. New Mexico has the referendum and Arizona has the initiative, referendum, and recall. Such power left in the hands of the people, especially the recall, is denounced as the "rankest of heresy." In answer to such argument, I ask where did all the power of administrative government come from at the time of the formation of the original colonies in America? It was all lodged in the hands of the plain, common people.

They could have kept it all had they so desired, but being honest, true, progressive, and manly they ceded certain of their rights to organize the general government, and it has been shown that the wisdom of these common people has excelled the wisdom of any monarch upon the throne or that of designing politicians seeking unlawful and unrighteous advantages in govern-

ment for the purpose of extorting from the people unjust tribute and making themselves powerful and strong. [Applause.]

It is said by some that the constitution of one of these Territories gives too much power to the common people. In reply to that I say to those gentlemen that the only question to be observed by this Congress is as to whether this constitution is republican in its form, whether it will give to the people of the State of Arizona, when she becomes a member of this Union, a republican form of government. If it does, then we have done all as Representatives of this great Republic that is required at our hands in order to admit a Territory to the grand galaxy of States in this Union. [Applause.]

It is also said by others that the constitution of the Territory of New Mexico is so surrounded by restrictions that for 25 years it will be almost impossible for the people to get a constitutional convention in order to get a new constitution. It is also said that the limitations thrown around the right to amend the constitution are too great, that it is of such a character that it makes the rights of the people clumsy and awkward, and if burdens are to be borne through unguarded conditions in its constitution, the people will be powerless to amend it in a large measure. I say in reply to all of these arguments that I have examined both of these constitutions with some care, and, in my opinion, as a whole both of them, perhaps with the exception of Oklahoma, are the best that I have ever read from the *hand of any* constitutional convention in any State in this Union, not even excepting my own good State of Illinois. I desire, further, to state that the guards with reference to bribery and corruption in both of them are admirable, and every man in this beautiful Chamber ought to bow his head in reverence to the constitutional conventions for incorporating into their constitutions these wise provisions. [Applause.]

Again, Mr. Chairman, the provision giving to labor short hours and the further provision of giving labor an opportunity to recover for unjust injuries are so couched in these constitutions, and especially in that of Arizona, that they appeal to us in no unmistakable terms. [Applause.]

Four years ago, when Oklahoma presented her constitution to be ratified by Congress, it reserved to the people the initiative and referendum, and also required State banks to guarantee the payment of bank deposits. The tories in Congress then yelled themselves hoarse to prevent the admission of this Territory with these three powers left in the hands of the people. They predicted that riot, bloodshed, and bankruptcy would follow the adoption of such a constitution, but not so. It has brought to her people splendid results. [Applause.]

These same imperialists are here to-day opposing the constitution of Arizona, and run mad in their denunciation of the recall of public servants. They stand up and talk about the common people as though they were enemies of ours, as though they were enemies of organized government, as though they were enemies to civilization, as though they were not a part of this great Republic. But I can not reconcile their philosophy with the history of the American people. They are trying to show us the sun by the light of a candle. [Applause.]

The people of Arizona are not alone in their efforts to correct abusive legislation and hold public servants in check. In 1911 California adopted the initiative, referendum, and recall, but I believe she is the only State having the recall.

Mr. LAFFERTY. Mr. Chairman, will the gentleman yield for a moment?

Mr. FOWLER. Certainly.

Mr. LAFFERTY. Oregon has had the initiative and referendum since 1902, and adopted the recall in 1908.

Mr. FOWLER. I thank the gentleman. That makes three States with the initiative, referendum, and recall—California, Oregon, and Arizona. Nine have the initiative and referendum: South Dakota in 1898, Utah in 1900, Nevada and Montana in 1905, Missouri in 1906, Oklahoma in 1907, Maine in 1908, Arkansas in 1910, and New Jersey in 1911.

The following States have referendum in part on special questions or localities:

Colorado and Illinois, 1904; Iowa, 1891; Montana, 1903, New Mexico and Ohio, 1902; Rhode Island, Texas, Washington, and Wisconsin, 1903.

Massachusetts has recall in Boston for the mayor, and has used the referendum repeatedly in its history.

Mr. Chairman, this proves that there is a decided tendency in America on the part of the people to take back to themselves certain rights which they have ceded to the General Government in the organic law of the various States of the Union. Democratic Switzerland is said to be the home of these reserved powers. For centuries the people of Great Britain have elected the members of the House of Commons. The ministry formulates a policy for the Government, and if at any time Parliament fails to indorse this policy the Crown prorogues Parliament, calls a new election, and the people settle these public questions by electing the members of a new Parliament, based upon the question in dispute.

This is akin both to the referendum and recall. Who will say that this feature in the English constitution has not been a blessing to Great Britain? It is one of the strongest features of safety and security in her whole legislative system. It brings her Government in close touch with the people, and gives them the right to settle questions of government upon which Parliament fails to agree.

We are told that our good President has refused to give his sanction to the constitution of Arizona because its provision for the recall of public officers is broad enough to include judges of courts, but that he does not object to its provisions as to the recall of other public officers. While I do not desire to pass upon the wisdom of the recall, yet I do say that if it is right as to all other public offices it should with equal propriety include the judges of courts. I have great reverence and respect for our courts of justice, but I have no less respect for the other positions of public trust.

The Federal court is too far away from the people and too close to politics and predatory wealth. Who will say that the Dred Scott and income-tax decisions were not political in character? Who will say that the late decision in the Standard Oil case does not legislate a joker in the Sherman antitrust law for the benefit of the trusts?

Mr. Chairman, we elect men to office to do for us what we can not do for ourselves. If they betray our confidence and there is any way to relieve ourselves of their obnoxiousness, whether it be a constable in a little country town or a judge in ermine upon the bench, we should do it. [Applause.] It is said that the judge would be handicapped in rendering his decisions, but, in reply, I say, Mr. Chairman, that the sheriff of a county with a writ in his hand for the arrest of a criminal would be handicapped in the same way. The same would be true as to all other officers of the country. [Applause.] I am in favor of stable government and would not support a measure opposed to it, but I am just as strongly committed to the wants of the people. [Applause.] If the constitutions of older States have failed to properly guard the rights of the people, thereby entailing hardships upon the masses, all the more, then, ought we to be on our guard here and see that like mistakes find no homes in these two constitutions. [Applause.] Remember it is hard to change constitutions after their adoption.

If the people of these Territories desire to safeguard their rights more carefully than has been done in the past by other States, in order to save themselves from evils which now afflict the people of older States, I believe we will commit a great wrong, of far-reaching magnitude, if we compel them to eliminate these safeguards before admitting them into the Union. [Applause.]

I would not change the crossing of a "t" or the dotting of an "i" in either of them. They have been passed upon by the intelligent common people of these Territories, and adopted by an overwhelming majority of all voting upon them. I have much confidence in the wisdom of these intelligent people. I have seen many of them and conversed with them, and dare say their intelligence will compare favorably with that of the people of any of the States. [Applause.] They are knocking; let us open unto them.

Let the common people write their will in the constitutions of these two Territories. They wrote the Declaration of Independence. They wrote the Constitution of the United States. They have been trusted to write the constitutions of 46 States. Why not let them write the constitutions of these Territories. Strike down the common people and you destroy representative government. Uphold the common people and behold a beautiful civilization represented by the American flag. [Applause.]

Mr. Chairman, I believe that that beautiful banner has folds enough in it to cover every man, woman, and child in this broad land of ours. [Applause.] It was baptized in blood and consecrated by the lives and fortunes of the greatest men who ever led a brave army to a glorious victory. [Applause.] I believe, Mr. Chairman, that that sacred emblem, which was first unfurled to the breezes of heaven on the banks of the beautiful Brandywine and which hovered over the bloody tracks of barefoot soldiers from Valley Forge to Yorktown in order to witness the palsied hand of imperial power surrender the scepter of authority to the hand of liberty [applause]; I believe, Mr. Chairman, that that flag, which was with Jackson at New Orleans and witnessed Pakenham's legions vanish like the "children of the mist" and made us mistress of the high seas; I believe that that flag, which scaled the walls of Montezuma

and forced Mexico to acknowledge our territorial rights; I believe that that flag, which trailed through blood from Bull Run to Appomattox, tore off the mask of slavery, and proclaimed to the world the everlasting Union of these States; I believe that that flag, which extended its benign influence to oppressed Cuba a few short years ago and enabled her to transfer her devotion from the god of royalty to the Goddess of Liberty, has ample virtue in its folds to lift the heavy hand of oppression from the heads of the oppressed in every country and in every clime. [Loud applause.]

I therefore, Mr. Chairman, invite the last piece of our territory, contiguous to this great country, and its citizens, to exchange the clumsy yoke of territorial servitude for the righteous robe of self-government. [Applause.] We welcome you to our sisterhood of States. We invite you to write your names in living letters of devotion on the bosom of that beautiful ensign of liberty, and thereby add two more stars in that grand galaxy in her field of living blue, which will give to us a country of the greatest possibilities, a union of 48 sovereign States over which the flag of freedom shall forever wave. [Loud and continued applause, followed by handshaking.]

Name of State.	Area of States and Territories.	Greatest width.	Greatest length.	Date of admission.
		Miles.	*Miles.*	
Alabama	52,250	200	330	Dec. 14, 1819
Arkansas	53,850	275	240	June 15, 1836
Colorado	103,925	390	270	Aug. 1, 1876
Connecticut	4,990	90	75	Jan. 9, 1788
California	158,360	375	770	Sept. 9, 1850
Delaware	2,050	35	110	Dec. 7, 1787
Florida	58,680	400	460	Mar. 3, 1845
Georgia	59,475	250	315	Jan. 2, 1788
Idaho	84,800	305	490	July 3, 1890
Illinois	56,650	205	380	Dec. 3, 1818
Indiana	36,350	160	265	Dec. 11, 1816
Iowa	56,025	300	210	Dec. 28, 1846
Kansas	82,080	400	200	Jan. 29, 1861
Kentucky	40,400	350	175	June 1, 1792
Louisiana	48,720	280	275	Apr. 30, 1812
Maine	33,040	205	235	Mar. 15, 1820
Maryland	12,210	200	120	Apr. 28, 1788
Massachusetts	8,315	190	110	Feb. 6, 1788
Michigan	58,915	310	400	Jan. 26, 1837
Minnesota	83,365	350	400	May 11, 1858
Mississippi	46,810	180	340	Dec. 10, 1817
Missouri	69,415	300	280	Aug. 10, 1821
Montana	146,080	580	315	Nov. 8, 1889
Nebraska	77,110	415	205	Mar. 1, 1867
Nevada	110,700	315	485	Oct. 31, 1864
New Hampshire	9,305	90	185	June 21, 1788
New Jersey	7,815	70	160	Dec. 18, 1787
New York	49,170	320	310	July 26, 1788
North Carolina	52,250	520	200	Nov. 21, 1789
North Dakota	70,795	360	210	Nov. 2, 1889
Ohio	41,060	230	205	Feb. 19, 1803
Oklahoma	70,057	585	210	Nov. 16, 1907
Oregon	96,030	375	290	Feb. 14, 1859
Pennsylvania	45,215	300	180	Dec. 12, 1787
Rhode Island	1,250	35	50	May 29, 1790
South Carolina	30,570	235	215	May 23, 1788
South Dakota	77,650	380	245	Nov. 2, 1889
Tennessee	42,050	430	120	June 1, 1796
Texas	265,780	760	620	Dec. 29, 1845
Utah	84,970	275	345	Jan. 4, 1896
Vermont	9,565	90	155	Mar. 4, 1791
Virginia	42,450	425	205	June 26, 1788
Washington	69,180	340	230	Nov. 11, 1889
West Virginia	24,780	200	225	June 19, 1863
Wisconsin	56,040	290	300	May 29, 1848
Wyoming	97,890	365	275	July 11, 1890
Arizona	113,020	335	390	.....
Alaska	590,884	800	1,100	.....
District of Columbia	70	9	.....	.....
New Mexico	122,580	350	390	.....

Population of States, excluding Indians not taxed, 1910.

States.	Total population in 1910.	Indians not taxed, 1910.	Population, exclusive of Indians not taxed, 1910.
Alabama	2,138,093	.....	2,138,093
Arkansas	1,574,449	.....	1,574,449
California	2,377,549	988	2,376,561
Colorado	799,024	452	798,572
Connecticut	1,114,756	.....	1,114,756
Delaware	202,322	.....	202,322
Florida	752,619	.....	752,619
Georgia	2,609,121	.....	2,609,121
Idaho	325,594	2,154	323,440
Illinois	5,638,591	.....	5,638,591
Indiana	2,700,876	.....	2,700,876
Iowa	2,224,771	.....	2,224,771
Kansas	1,690,949	.....	1,690,949
Kentucky	2,289,905	.....	2,289,905
Louisiana	1,656,388	.....	1,656,388
Maine	742,371	.....	742,371

Population of States, excluding Indians not taxed, 1910—Continued.

States.	Total population in 1910.	Indians not taxed, 1910.	Population, exclusive of Indians not taxed, 1910.
Maryland	1,295,346	.....	1,295,346
Massachusetts	3,366,416	.....	3,366,416
Michigan	2,810,173	.....	2,810,173
Minnesota	2,075,708	1,332	2,074,376
Mississippi	1,797,114	.....	1,797,114
Missouri	3,293,335	.....	3,293,335
Montana	376,053	9,715	366,338
Nebraska	1,192,214	.....	1,192,214
Nevada	81,875	1,582	80,293
New Hampshire	430,572	.....	430,572
New Jersey	2,537,167	.....	2,537,167
New York	9,113,614	4,680	9,108,934
North Carolina	2,206,287	.....	2,206,287
North Dakota	577,056	2,653	574,403
Ohio	4,767,121	.....	4,767,121
Oklahoma	1,657,155	.....	1,657,155
Oregon	672,765	.....	672,765
Pennsylvania	7,665,111	.....	7,665,111
Rhode Island	542,610	.....	542,610
South Carolina	1,515,400	.....	1,515,400
South Dakota	583,888	8,212	575,676
Tennessee	2,184,789	.....	2,184,789
Texas	3,896,542	.....	3,896,542
Utah	373,351	1,487	371,864
Vermont	355,956	.....	355,956
Virginia	2,061,612	.....	2,061,612
Washington	1,141,990	1,856	1,140,134
West Virginia	1,221,119	.....	1,221,119
Wisconsin	2,333,860	1,007	2,332,853
Wyoming	145,965	1,307	144,658
Total for 46 States	91,109,542	37,425	91,072,117
A aska	64,356	.....	.....
Arizona	204,354	24,129	180,225
District of Columbia	331,069	.....	.....
New Mexico	327,301	10,318	316,983
Total, including Alaska, Arizona, District of Columbia, and New Mexico	92,036,622	71,872	91,569,325

Mr. FLOOD of Virginia. Mr. Chairman, I yield 30 minutes to the gentleman from California [Mr. RAKER].

[Mr. RAKER addressed the committee. See Appendix.]

Mr. FLOOD of Virginia. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee determined to rise; 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 No. 14, to approve the constitutions of New Mexico and Arizona, and had instructed him to report that they had come to no resolution thereon.

HOUR OF MEETING TO-MORROW.

Mr. FLOOD of Virginia. Mr. Speaker, I ask unanimous consent that when the House adjourns to-day, it adjourn to meet at 11 o'clock to-morrow morning.

The SPEAKER. Is there objection to the request of the gentleman from Virginia? [After a pause.] The Chair hears none, and it is so ordered.

ADJOURNMENT.

Then, on motion of Mr. FLOOD of Virginia (at 5 o'clock and 43 minutes p. m.), the House adjourned until 11 o'clock a. m. tomorrow.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of War, transmitting to Congress with his approval recommendations of the Chief of Engineers in regard to disposal of wreckage of the battleship *Maine*; also the progress made in said work (H. Doc. No. 60); to the Committee on Military Affairs and ordered to be printed.

A letter from the Secretary of the Navy, transmitting in response to H. Res. No. 151 information relative to purchase of Navy shoes during the fiscal years 1901 to 1911, inclusive (H. Doc. No. 61); to the Committee on Expenditures in Navy Department and ordered to be printed.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. BERGER: A bill (H. R. 10441) to regulate the employment of females in the District of Columbia; to the Committee on the District of Columbia.

By Mr. SCULLY: A bill (H. R. 10442) appropriating $10,000 to aid in the erection of a monument in memory of the late President James A. Garfield at Long Branch, N. J.; to the Committee on the Library.

By Mr. MARTIN of South Dakota: A bill (H. R. 10443) providing for the disposition of town sites in connection with reclamation projects, and for other purposes; to the Committee on Irrigation of Arid Lands.

By Mr. SULZER: A bill (H. R. 10444) to encourage the American merchant marine and American commerce, and for other purposes; to the Committee on Ways and Means.

By Mr. GEORGE: A bill (H. R. 10445) to assess benefits for the opening, extension, widening, and straightening of alleys and minor streets in the District of Columbia; to the Committee on the District of Columbia.

By Mr. WARBURTON: A bill (H. R. 10446) to authorize the State of Washington to lease the southeast quarter and the southwest quarter of section 36, township 18 north, of range 10 west, in Chehalis County, for public park purposes; to the Committee on the Public Lands.

By Mr. HAMMOND: A bill (H. R. 10447) to create in the War Department a roll to be known as the "Volunteers' honor roll," and to authorize placing thereon, with half pay, certain persons who served in the United States Army, Navy, or Marine Corps during the Civil War; to the Committee on Military Affairs.

By Mr. HOBSON: A bill (H. R. 10448) to provide an educational survey of the United States; to the Committee on Education.

By Mr. SABATH: Resolution (H. Res. 175) providing for the investigation of certain matters in regard to express companies; to the Committee on Rules.

By Mr. CLAYTON: Resolution (H. Res. 176) providing for the investigation of the condition of the business of the district court of the United States for Porto Rico; to the Committee on Rules.

By Mr. MARTIN of Colorado: Joint resolution (H. J. Res. 106) to request the President to take measures for delivering the control and possession of the Philippine Islands to the authorities representing the people thereof and to protect their government by a general treaty of neutrality; to the Committee on Insular Affairs.

By Mr. McCALL: Joint resolution (H. J. Res. 107) declaring the purpose of the United States to recognize the independence of the Filipino people as soon as a stable government can be established, and requesting the President to open negotiations for the neutralization of the Philippine Islands; to the Committee on Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BARNHART: A bill (H. R. 10449) granting an increase of pension to Henry H. Weirick; to the Committee on Invalid Pensions.

By Mr. BARCHFELD: A bill (H. R. 10450) granting an increase of pension to Henry Cump; to the Committee on Invalid Pensions.

By Mr. CULLOP: A bill (H. R. 10451) granting a pension to William D. Daniels; to the Committee on Pensions.

By Mr. DAUGHERTY: A bill (H. R. 10452) granting an increase of pension to Henry C. Wallace; to the Committee on Invalid Pensions.

By Mr. DENT: A bill (H. R. 10453) granting an increase of pension to George H. Austin; to the Committee on Invalid Pensions.

By Mr. DIXON of Indiana: A bill (H. R. 10454) granting a pension to Jacob Righthouse; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10455) granting an increase of pension to John A. C. Hazel; to the Committee on Pensions.

Also, a bill (H. R. 10456) granting an increase of pension to James L. Prentice; to the Committee on Pensions.

Also, a bill (H. R. 10457) granting an increase of pension to Godfrey Winkler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10458) granting an increase of pension to Thomas J. Cotton; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10459) granting an increase of pension to William F. Vance; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10460) granting an increase of pension to Ezra Keeler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10461) granting an increase of pension to Hensley H. Kirk; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10462) granting an increase of pension to William Menke; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10463) granting an increase of pension to David McClintic; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10464) granting an increase of pension to Samuel McIlroy; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10465) granting an increase of pension to William H. Sparks; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10466) granting an increase of pension to Francis R. Phelps; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10467) granting an increase of pension to George W. Watson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10468) granting an increase of pension to Henry Willman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10469) granting an increase of pension to John Wikel; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10470) granting an increase of pension to Elbridge Emerson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10471) granting an increase of pension to Edmon T. Wesley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10472) granting an increase of pension to Edgar B. Bishop; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10473) granting an increase of pension to Thomas H. Hyatt; to the Committee on Invalid Pensions.

By Mr. DONOHOE: A bill (H. R. 10474) granting an increase of pension to Michael Kelly; to the Committee on Invalid Pensions.

By Mr. HAMMOND: A bill (H. R. 10475) granting a pension to John Minch; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10476) granting a pension to Harvey W. Trumble; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10477) granting an increase of pension to William B. Norman; to the Committee on Pensions.

By Mr. KENDALL. A bill (H. R. 10478) granting an increase of pension to Martin V. Saunders; to the Committee on Invalid Pensions.

By Mr. KENNEDY: A bill (H. R. 10479) granting an increase of pension to Richard McChesney; to the Committee on Invalid Pensions.

By Mr. KNOWLAND: A bill (H. R. 10480) for the relief of Maurice J. O'Brien; to the Committee on Naval Affairs.

By Mr. MAHER: A bill (H. R. 10481) granting an increase of pension to Charles Edwards; to the Committee on Invalid Pensions.

By Mr. MALBY: A bill (H. R. 10482) granting an increase of pension to Henry Couger, alias Henry Stevens; to the Committee on Invalid Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 10483) granting an increase of pension to James Monaghan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10484) granting an increase of pension to Rachel Read; to the Committee on Invalid Pensions.

By Mr. ROTHERMEL: A bill (H. R. 10485) granting a pension to Mary I. Spangler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10486) granting a pension to Melara C. Abbott; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10487) granting an increase of pension to Moses H. Enochs; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10488) granting an increase of pension to Benjamin Zellner; to the Committee on Invalid Pensions.

By Mr. RUSSELL: A bill (H. R. 10489) granting an increase of pension to Samuel F. Crump; to the Committee on Invalid Pensions.

By Mr. SHARP: A bill (H. R. 10490) granting a pension to Oscar May; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10491) granting a pension to James H. Sharp; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10492) granting an increase of pension to Thomas Jackson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10493) to place William Welsh on the retired list with the rank of captain; to the Committee on Military Affairs.

By Mr. SPEER: A bill (H. R. 10494) granting an increase of pension to Merrick Davidson; to the Committee on Invalid Pensions.

By Mr. STEPHENS of California: A bill (H. R. 10495) granting an increase of pension to John W. Glaze; to the Committee on Invalid Pensions.

By Mr. THOMAS: A bill (H. R. 10496) for the relief of Jacob Murray; to the Committee on Military Affairs.

Also, a bill (H. R. 10497) for the relief of W. H. Denham; to the Committee on Military Affairs.

Also, a bill (H. R. 10498) granting a pension to Frances F. Moore; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10499) granting an increase of pension to James H. Lile; to the Committee on Pensions.

Also, a bill (H. R. 10500) granting an increase of pension to King A. Bowman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10501) granting an increase of pension to Marion F. Segars; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10502) granting an increase of pension to Jeremiah M. McPherson; to the Committee on Invalid Pensions.

By Mr. WOODS of Iowa: A bill (H. R. 10503) for the relief of Jacob M. Cooper; to the Committee on Claims.

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: Petition of C. J. Cornin, of Bryan, Ohio, favoring a reduction in the duty on raw and refined sugars; to the Committee on Ways and Means.

By Mr. BARCHFELD: Papers in re bill granting an increase of pension to Henry Cump, late of Company F, Forty-sixth Regiment Pennsylvania Volunteer Infantry; to the Committee on Invalid Pensions.

By Mr. BURKE of Wisconsin: Papers accompanying House bill 6156, granting an increase of pension to Matthew L. Johnson; to the Committee on Invalid Pensions.

By Mr. BYRNS of Tennessee: Resolutions of Trades Council of Nashville, Tenn., relative to the arrest, etc., of J. J. McNamara at Indianapolis; to the Committee on Labor.

Also, resolutions of International Moulders Union, of Nashville, Tenn., relative to the arrest, etc., of J. J. McNamara at Indianapolis; to the Committee on Labor.

By Mr. CARY: Communications from citizens of Milwaukee, Wis., urging the reduction of the tariff on sugar; to the Committee on Ways and Means.

Also, communication from Yahr & Lange Drug Co., Milwaukee, Wis., protesting against H. R. 8887, providing for stamp tax on proprietary medicines; to the Committee on Ways and Means.

By Mr. CLARK of Florida: Petition of L. H. Tempe and numerous other citizens of Sanford, Fla., demanding the withdrawal of American troops from the Mexican border; to the Committee on Foreign Affairs.

Also, petition of W. A. King and numerous citizens of Sanford, Fla., demanding a rigid investigation into the manner of the removal of John J. McNamara from the State of Indiana to the State of California for trial; to the Committee on the Judiciary.

By Mr. DANFORTH: Petition of 93 residents of Rochester, N. Y., favoring the enactment of a law establishing a national department of health; to the Committee on Interstate and Foreign Commerce.

By Mr. DYER: Petition of a citizen of St. Louis, Mo., asking for a reduction in the duty on raw and refined sugars; to the Committee on Ways and Means.

By Mr. FORNES: Resolutions of the Manufacturers' Association of New York City, that various schedules of tariff law should be considered and opportunity given all interests affected to be heard before final action; to the Committee on Ways and Means.

Also, petition of Shoe Manufacturers' Association of New York City, against free-list bill or placing leather on the free list; to the Committee on Ways and Means.

Also, petition of Manufacturers' Association of New York City, in relation to establishing a United States court of patent appeals; to the Committee on the Judiciary.

By Mr. FRENCH: Resolutions of citizens of Twin Falls, Idaho; to the Committee on Rules.

By Mr. FULLER: Petition of Glass Bottle Blowers' Association, Branch 3, of Streator, Ill., favoring the Berger resolution; to the Committee on the Judiciary.

By Mr. GARDNER of Massachusetts: Resolution from Central Socialist Club, of Haverhill, Mass., protesting against the method of procedure in the arrest of J. J. McNamara and J. W. McNamara, charged with conspiracy in connection with alleged dynamiting of Los Angeles Times Building; to the Committee on Labor.

By Mr. GOODWIN of Arkansas: Petition of citizens of Patmos, Ark., protesting against the kidnaping of J. J. McNamara; to the Committee on Labor.

By Mr. HAMILTON of West Virginia: Petition of C. A. Millery Grocery Co., of Martinsburg, W. Va., asking for reduction in the duty on raw and refined sugars; to the Committee on Ways and Means.

By Mr. KAHN: Papers to accompany House bill 8112, for the relief of Wilmerding-Loewe Co.; to the Committee on Claims.

By Mr. KNOWLAND: Petition signed by S. P. Dobbins and other residents of Vacaville, Cal., urging a reduction of the duty on raw and refined sugars; to the Committee on Ways and Means.

Also, resolutions adopted by the board of trustees of the Chamber of Commerce of San Francisco, Cal., favoring the judicial settlement of international disputes; to the Committee on Foreign Affairs.

Also, resolutions adopted by the board of trustees of the Chamber of Commerce of San Francisco, Cal., requesting the transfer of the sloop of war *Portsmouth* to San Francisco; to the Committee on Naval Affairs.

Also, resolutions adopted by the board of trustees of the Chamber of Commerce, San Francisco, Cal., protesting against the free admission of burlap bags into this country; to the Committee on Ways and Means.

By Mr. MALBY: Petition of W. H. Gordon and others, requesting a reduction in the tariff on raw and refined sugars; to the Committee on Ways and Means.

By Mr. O'SHAUNESSY: Petition by the Carded Woolen Association, Boston, Mass., that the rates in Schedule K should be as far as possible ad valorem, because specific rates necessarily result in great irregularities, especially when imposed on a commodity varying as wide as wool does in condition and value; to the Committee on Ways and Means.

Also, petition of Michael Eagan and sundry citizens of Providence, R. I., for a reduction in duty on raw and refined sugars in the interests of the consumers of the country; to the Committee on Ways and Means.

By Mr. WILLIS: Papers to accompany House bill 4402, granting an increase of pension to John Scott; to the Committee on Invalid Pensions.

Also, resolutions adopted by Ohio State Council, Junior Order United American Mechanics, asking for the further restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. WOOD of New Jersey: Resolutions adopted by Local No. 296, Journeymen Barbers' Association of America, of Trenton, N. J., urging immediate action on the resolution of investigation in reference to John J. McNamara, introduced by Representative BERGER, of Wisconsin; to the Committee on Labor.

SENATE.

TUESDAY, *May 23, 1911.*

The Senate met at 2 o'clock p. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Journal of yesterday's proceedings was read and approved.

RANDOLPH M. PROBSFIELD V. UNITED STATES.

The VICE PRESIDENT laid before the Senate a communication from the chief clerk of the Court of Claims, transmitting a certified copy of findings of fact filed by the court in the cause of Randolph M. Probsfield *v.* United States, which, with the accompanying paper, was referred to the Committee on Claims and ordered to be printed. (S. Doc. No. 37.)

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed a bill (H. R. 8649) to authorize the extension and widening of Colorado Avenue NW., from Longfellow Street to Sixteenth Street, and of Kennedy Street NW. through lot No. 800, square No. 2718, in which it requested the concurrence of the Senate.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a petition of the congregation of the Church of the Brethren, of Burlington, W. Va., praying for the enactment of legislation to prohibit the sale and traffic in opium, which was referred to the Committee on Foreign Relations.

He also presented a petition of sundry members of the Third Unitarian Congregational Society, of Brooklyn, N. Y., praying for the ratification of the proposed treaty of arbitration between the United States and Great Britain, which was referred to the Committee on Foreign Relations.

Mr. CULLOM. I present numerous memorials remonstrating against the ratification of the proposed arbitration treaty with Great Britain, which I ask may be referred to the Committee on Foreign Relations. I also desire to state that in my position as chairman of the Committee on Foreign Relations some 2,000 letters protesting against the ratification of the treaty have been received by me.