

Congressional Record.

SIXTY-SECOND CONGRESS, FIRST SESSION.

Admission of Arizona and New Mexico.

"I prefer to trust a good people with a bad constitution rather than a bad people with a good constitution."

SPEECH

OF

HON. DICK T. MORGAN,

OF OKLAHOMA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, May 22, 1911.

The House being in Committee of the Whole House on the state of the Union and having under consideration joint resolution (H. J. Res. 14) approving the constitutions formed by the constitutional conventions of the Territories of New Mexico and Arizona—

Mr. MORGAN said:

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 situated 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 thralldom 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

96695—10026

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). 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.

96895—10028

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

96695—10026

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.]