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Bard.

Speech. 1905.

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SPEECH

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HON. THOMAS R. BARD,
OF CALIFORNIA,

IN THE

SENATE OF THE UNITED STATES,

Friday, January 6, 1905.

WASHINGTON.
1905.

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S P E E C H
OF
H O N . T H O S . R . B A R D .

STATEHOOD BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 14749) to enable the people of Oklahoma and of the Indian Territory to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of New Mexico and of Arizona to form a constitution and State government and be admitted into the Union on an equal footing with the original States.

Mr. BARD. Mr. President, it seems important, in the beginning of this discussion, to call attention to the peculiar history of the pending bill.

Following the defeat of the omnibus statehood bill in the Fifty-seventh Congress, there was introduced early in the first session of the Fifty-eighth Congress, in this Chamber, by Mr. Quay, on November 16, 1903, Senate bill 878, to enable the people of *New Mexico* to form a constitution and State government, and Senate bill 879, being a similar bill providing for the admission of *Arizona* as a State.

The first bill introduced in the House of Representatives in the Fifty-eighth Congress was H. R. No. 1, a bill to enable the people of *New Mexico* to form a constitution and State government and be admitted into the Union, introduced by the Delegate from New Mexico, Mr. RODEY.

On the same day there was introduced in the House another bill (H. R. 24) intended to provide for the union of *Oklahoma* and the *Indian Territory* as one State.

On the following day (November 10) another bill (H. R. 848) intended to provide for the admission of *Arizona* alone was introduced by the Delegate from Arizona, Mr. Wilson. A week later there was introduced by the Delegate from Oklahoma, Mr. MCGUIRE, H. R. 4078, a bill intended to provide for the admission of *Oklahoma* alone. On January 14, 1904, another bill (H. R. 10010) intended to provide for the admission of *Oklahoma* and *Indian Territory* united as a State was introduced by Mr. ROBINSON of Indiana, in the beginning of the second session of the Fifty-eighth Congress, March 5, 1904. A bill (H. R. 13524) providing for the admission of *Indian Territory* alone as a State was introduced by Mr. MOON of Tennessee.

It will be observed that while two of these bills proposed the union of *Oklahoma* and *Indian Territory*, all of the rest, five

in number (S. 879, S. 878, H. R. 848, H. R. 4078, H. R. 13524), were intended to permit each of the four Territories to be admitted separately. None of the bills proposed the union of New Mexico and Arizona, and the people of these Territories have never asked for joint statehood.

The bill (H. R. 14749) now under consideration by the Senate was introduced by the chairman of the Committee on the Territories and referred to his committee on April 4, 1904. It was reported back to the House of Representatives on April 8, 1904, without amendment, having been in the hands of the committee three days. On April 19, 1904, the bill was taken up for consideration by the House as in Committee of the Whole House, under a rule reported by the Committee on Rules, limiting the debate, excluding intervening motions, and providing for a vote on the bill on its final passage at 4 o'clock of that day. No amendments were permitted under the rule, except such as had been proposed in the rule; and the bill, as thus amended, was passed by the House on April 19, 1904, after a debate lasting three and one-half hours. No bill of the kind was ever introduced in either House of Congress until this bill was brought out of the committee by the chairman of the House Committee on the Territories.

Some of the Members who participated in the debate expressed regret that the limitations for the consideration of a measure so important prevented them from presenting certain amendments which, in their opinions, would probably have been accepted, and if accepted would have removed what was regarded as serious objections to the bill.

The bill was never read before the House. (See p. 5152, CONGRESSIONAL RECORD, April 19, 1904.)

I have recited these facts as they appear on the record of the legislative history of the measure which the Senate is now considering, for the purpose of showing that the people of Arizona and New Mexico, through their representatives, or otherwise, have never applied to be joined in statehood, and no bill was ever before introduced in Congress for such purpose, but that such proposition originated in the Committee on the Territories of the House of Representatives. It does not, therefore, appear that the committee was prompted by any consideration of the wishes of the people of the Territories of Arizona and New Mexico, but its action was in direct disregard of the protests made in their behalf.

In the absence of any explanation given in their report or elsewhere, we are compelled, therefore, to presume that the measure was suggested only by what a majority of the members of the committee in the House regarded as best for the common weal of the whole people of the United States, and that in their judgment such consideration is paramount and justifies its refusal to regard the wishes and interests of the people directly interested. But, if such be the case, there is nothing in the House report indicating how such a conclusion has been reached and it remains to be explained by Senators who are supporting the measure how it has become necessary that this bill shall be passed in order that the best interests of the Republic shall be conserved or promoted.

in view of the facts concerning the history of the measure, I wish to express my gratification that the rules of the Senate accord to its members the fullest opportunity and latitude for debate, and that they secure for this or any other measure as full and deliberate consideration as its importance merits.

Senators who are opposing the passage of this bill, as a whole or unless it is amended so as to eliminate all portions of it which apply to New Mexico and Arizona, are expecting to have full latitude under these rules and successfully to dispel any idea that may be entertained that there *is* any present public necessity for safeguarding or promoting the common interests by the enactment of this bill in its entirety.

In this short session of Congress, which will be taken up principally by the consideration of the great appropriation bills, there will be presented to the Senate for its consideration no measure more important than the statehood bill. It affects the rights and political destiny of nearly 2,000,000 of our own American people and proposes to terminate the control of Congress over the only contiguous territory belonging to the United States.

The creation of new States has often marked some important epoch in the political history of the nation and too frequently has signified the accomplishment of some selfish scheme of the political party which at the time controlled the Government. There does not appear to be any circumstances by which either of the great political parties of this day can secure any sure advantage by either the enactment or defeat of this measure; and I believe that Senators can not be persuaded to let any hope for political advantage to either of the parties, whose representatives are supposed to be divided by the central aisle of this Chamber, prevent them from considering this measure only on the higher plane of duty to the Republic and to the people most directly interested in it.

I have no objections to the proposed joining of Oklahoma and Indian Territory to make a State of the Union, but I believe that it would be more consistent with the principles of our Government to permit the people of each of the Territories, separately, to vote upon the proposition, and to require a vote of the majority of the qualified electors of each Territory to ratify the proposed constitution of the new State. These Territories have made great advance in the development of their resources and are already populous.

The combined area of the two Territories is about seventy thousand square miles—about the size of Missouri. Oklahoma and Indian Territory contain 11,000 square miles less than Kansas and 17,000 square miles more than Arkansas, and their joint area is less than three-fourths of the area of Colorado—all being their neighboring States.

The aggregate population of the two Territories is probably far beyond a million.

The organic act creating the temporary government for Oklahoma provided for the addition, from time to time, of large portions of the Indian Territory. By this organic act it is apparent that it was not intended to draw a permanent line of division between Oklahoma and Indian Territory, but that Oklahoma

should be enlarged by adding other lands within the Indian Territory whenever the Indian nation or a tribe on such lands shall assent to the extension.

Indian Territory is practically without a government and has no representation in Congress. Before the proposed constitution of the new State shall be in force the lands belonging to the Five Civilized Tribes will have been allotted and disposed of and all of the Indians will have become citizens of the United States.

By the Curtis Act, and various agreements with the Five Tribes, tribal courts were abolished July 1, 1898, and all tribal relations and government of the five nations are to cease March 4, 1906.

Of the whole population of the Indian Territory the Indians of pure and mixed blood, who have intermarried whites and negroes, and adopted citizens, constitute only one-fifth of the inhabitants of the Territory. The remaining four-fifths of the inhabitants of the Territory have no connection with tribes, and are white people with a small percentage of negroes, whose citizenship in the States from which they came has qualified them for statehood.

This large population of white people is without adequate schools, except those which have been provided by the Government for incorporated towns. It is estimated that 100,000 white children in the Territory are without free educational opportunities.

There seems to be, therefore, not only a sufficient preparedness, but a necessity for statehood.

But as to the proposition to join Arizona and New Mexico, I am not in accord with the majority of the Senate Committee on Territories, of which I have the honor to be a member; but I believe that Arizona, at least, has a right to protest against this measure, and has sufficiently indicated to Congress that her people are earnestly protesting against the proposed attempt to coerce them to accept joint statehood with New Mexico. At no time have the people of either of the Territories of Arizona or New Mexico expressed any desire to have joint statehood.

At the hearings held December 11, 15, 17, 1903, and on January 6, 1904, before the House Committee on the Territories, reference was made for the first time to the proposition of joining Arizona and New Mexico. It occurs in the statement before the House committee by Mr. RODEY, the Delegate from New Mexico. (See Hearings, Vol. II, p. 631, and on pp. 64, 66, and 70.) He introduced the subject himself by saying:

There is no use in mincing matters. It is better for the Delegates from the Territories to be plain with the committee. There is a sentiment in the East, as we know it was developed in the opposition to statehood *last winter*, in favor of making an effort to join the Territories of New Mexico and Arizona as one State when they come into the Union.

And, continuing, he said:

The people of the Territory of Arizona, as I am at present advised, would vote *as a unit* against such a bill; and 60 or more per cent of the people of New Mexico would vote this minute to defeat a constitution under it. *If they shall change their minds* it will only be by coercion after this Congress has denied their just demands.

That was the testimony of Delegate RODEY. At the same hearing Hon. E. E. Ellinwood, of Prescott, Ariz., for five years United States district attorney, said (p. 145):

If you can not benefit the Territory of Arizona, do not do her an injury. New Mexico does not want us tied to her, and we do not want to be tied to New Mexico. We want statehood, gentlemen of the committee, but we are not insane on the subject of statehood. If you can not admit Arizona with its 113,000 square miles, with its resources, with its American population, leave us out. * * *

Gentlemen of the committee, take up the New Mexico bill and pass it; take up the Oklahoma bill and pass it; and let Arizona remain as it is rather than join us together. We will be loyal. We would prefer to remain a Territory absolutely indefinitely, forever, until we work out our own salvation. We will do it. For heaven's sake do not strike us in the face if you can not help us up. This is the preference of the people. I know the conditions in the Territory, and no one will appear before you who will not tell you the same thing. Arizona is unanimous on this subject. We will not have it if we can help it.

Mr. Ellinwood was asked the following question:

By what authority do you speak, on behalf of your Territory, saying that you are united in opposition to being joined with any other Territory to form a State? Is it simply your judgment about it, or has there been a vote, or a town meeting?

His reply was:

I will state to the gentleman that since this question has been up I have been in every county in the Territory, and nearly every town in every county. I am with the people all the time; I am in the courts with the jurors and witnesses all the time; and I have never heard one man in the Territory of Arizona express himself favorably to any such joining of the two Territories.

The Delegate from Arizona, Mr. WILSON, being asked (January 15, 1904) by the chairman of the committee:

Supposing that you were confronted with the question whether you could be admitted with New Mexico or not at all, would you rather wait, or would you rather be joined?

replied:

We would rather wait until the crack of doom before we would ever consent to it, and if stronger language is necessary I will use it.

Mr. ROBINSON. Is that the sentiment of your people?

Mr. WILSON. Yes, sir; absolutely.

Mr. ROBINSON. Will that sentiment change?

Mr. WILSON. It never will. It will only grow more violent.

In each case these witnesses gave in full the reasons why the people of Arizona are not only unwilling to be joined with New Mexico in joint statehood, but strongly protest against it. This protest was early expressed by the governor of Arizona in his report to the Secretary of the Interior for the year ended June 30, 1903. He said (p. 205):

While the people of Arizona are unanimous in their desire for the admission of the Territory as a State and feel that the longer this boon is denied them the longer is a great injustice being done to a hardy, honest, straightforward, and patriotic people, still they are as unanimous in their opposition to a union with any State or part of State or Territory, even though by such a union could the desired boon be attained.

They have withstood the dangers and vicissitudes of frontier life too many years; they have worked too hard to mold a State from the desert; they have expended too much time and energy in the upbuilding of their Territorial public institutions to at this late day desire to surrender control to others. * * * Arizonans desire admission to statehood, feeling sure that, under the stimulus given by the more stable form of government, Arizona will rapidly forge to the front and soon become one of the most prosperous of all the States of our Republic. They feel without exception that a union with the Territory of New Mexico as one State, by whatever name it may be known, would make a State too unwieldy for the proper administration of public

affairs; that such a union would be disastrous to all concerned, and would be rather an obstacle than a help to progressive advancement for either.

And in his last report, for the year ended June 30, 1904, after the bill under discussion had been passed by the House, the governor of Arizona says (p. 14) :

Finding themselves confronted with a plan to unite their Territory with New Mexico, the people of Arizona *have protested* vigorously, and they will *continue* to do so until they have defeated this repugnant scheme. The injustice of it should readily appeal to all. * * *

The two Territories, as they stand, are different in many ways. They have little in common; their lands are dissimilar. It is doubtful if they could ever become reconciled to exist under one form of State government.

* * * I can not *add* to the *protest* that has already been made by the people of the Territory of Arizona against this reprehensible measure, and I have only to say that they would desire that their Commonwealth *remain a Territory indefinitely* rather than be joined with New Mexico. They desire to come into the Union as the State of Arizona, with the present Territorial boundary, and until, in the wisdom of the nation's legislators, they are permitted to do this, they are content to remain as they are, trusting in the justice of the future years to bring the boon so earnestly sought.

The people of Arizona, alarmed by the intimation that such a proposition was being entertained by the House Committee on Territories a year ago, quickly sent earnest protests to their Delegate, that he might present them to Congress; and we find these protests printed in full in the CONGRESSIONAL RECORD, pages 5111 to 5118, filling eight pages. They are the resolutions passed by the people in mass meetings in all the principal towns and cities and throughout the counties of Arizona, and by municipal bodies, county supervisors, boards of trade, chambers of commerce, etc. They are positive declarations "that the people of Arizona are unalterably opposed to New Mexico and Arizona being consolidated and made one State; that they prefer to remain as citizens of a Territory than to enter the sisterhood of States under such condition;" and they pray that "no bill be passed providing for the union of New Mexico and Arizona into a single State."

The newspapers of Arizona also have repeatedly given expression to the almost unanimous opposition by the people of that Territory to this measure. The sentiment of opposition is shared by the people and press of both political parties of Arizona. Were it necessary or advisable, many pages of the RECORD could be filled with hundreds of newspaper articles in support of this statement. Specimens of these denunciations by the press of Arizona are perpetuated in the Appendix, printed in connection with the admirable remarks of Mr. NEEDHAM, one of the Representatives from California, on pages 5130 to 5132 of volume 38 of the CONGRESSIONAL RECORD.

I am personally informed, from various reliable sources, that most of the best-known men of Arizona, among them Chief Justice Kent, of the Territory, and ex-Governor Murphy, of Arizona, strongly express their own disapproval of the proposed jointure of the two Territories, and state that the opposition of the people is almost unanimous.

Governor Otero, of New Mexico, a Republican in politics and originally an appointee of President McKinley in his first term, is of Spanish descent on the paternal side and qualified in every

way to speak of the popular sentiment in the two Territories respecting this measure.

There is no doubt that the great majority of the people of New Mexico are opposed to joining New Mexico and Arizona into one Commonwealth as is proposed by pending legislation. Even the small percentage who would acquiesce in such a consolidation prefer single and separate statehood for each Territory. This is not due to any innate animosity between the two Territories, but to the inherent differences in population, in legislation, in industries, in contour, in ideals, and from an historic and ethnologic standpoint, not to mention that the consolidation of two Commonwealths like New Mexico and Arizona into one is unprecedented in American history.

And Governor Otero has said, in even a more emphatic manner, in a recent interview as reported by the newspapers, the following:

The new State would be an unnatural and an unwilling alliance. It would be the coercion of two populations, which are unlike in character, in ambition, and largely in occupation.

The union would be abhorrent to both. Because the two populations are in the Southwest the nation should not suppose that they are alike or sympathetic.

Arizona was once a county of New Mexico, but from the very beginning her people were dissatisfied and desired to become separated from New Mexico. Senator Wade, in this Chamber, in the debate on July 3, 1862, on the bill to create a temporary government for Arizona, said:

The organization of the Territory of Arizona has been a matter of constant importunity upon this Government for more than seven years, to my certain knowledge. * * * The people there, * * * ever since I have been upon the Committee on Territories, have been urging Congress to organize this Territory.

It appears that the people of New Mexico were quite reconciled to the proposed separation, for in the debates in Congress, preserved in the Congressional Globe, we find Mr. Watts, the Delegate from the Territory, earnestly supporting the bill to create the temporary government for Arizona then pending, and representing that the people of New Mexico realized that sooner or later a division of the Territory would be made by Congress, and that it were *better* to come now, *before* the people of the different sections of the Territory shall become so "attached to each other and so intertwined as one people that to disrupt the Territory will cause the most unpleasant and painful sensations."

But, Mr. President, the people of these two Territories were not permitted to become "attached to each other" or "to be intertwined" very long, for the bill which Mr. Watts was then supporting soon afterwards became the law, under which, for forty-two years, the people of Arizona have enjoyed the benefits and happiness of a separate autonomy. Mr. Watts said, in his remarks upon that occasion, in 1862:

It is a Territory large enough to make four States of the size of New York or Pennsylvania, and I know and feel that it will not be allowed to remain undivided. I know that it will be considered too large for one Territory, and division must come sooner or later.

Mr. TILLMAN. Mr. President—

The PRESIDING OFFICER (Mr. CLAY in the chair). Does the Senator from California yield to the Senator from South Carolina?

Mr. BARD. Certainly.

Mr. TILLMAN. Before the Senator from California passes from the point he is making in his almost, I will say, unanswer-

able argument in favor of the contention which he is urging I will submit, if he will permit me, some very recent and, to my mind, conclusive testimony just received in the mail this morning from the Bar Association of Arizona, signed by Jerry Millay, president, and Thomas J. Prescott, secretary—a personal letter addressed to me inclosing a resolution passed by the bar association, dated the 31st of December, 1904. I suppose it has been three or four days in transit, or something like that, but it is the most recent and authoritative statement of the opposition of those in Arizona who are supposed to know what they want. If the Senator will permit me, I will ask the Secretary to read it, so that it may go into the RECORD.

Mr. BARD. With pleasure.

Mr. BEVERIDGE. Does the Senator want both the letter and the resolution read?

Mr. TILLMAN. Yes; I want both read, because they are interlocked and one is about as strong as the other. Let the letter be first read.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

BAR ASSOCIATION OF ARIZONA, OFFICE OF SECRETARY,
Phoenix, Ariz., December 31, 1904.

Hon. BENJ. R. TILLMAN,
Senator from South Carolina.

DEAR SIR: We herewith present to you a copy of resolutions adopted by the Bar Association of this Territory regarding the proposed union of Arizona and New Mexico and their admission to the Union as a single State.

These resolutions have been forwarded to the United States Senate as a body, but in addition we desire to invite your personal consideration of this proposed legislation and to implore you to lend your assistance to avert from the people of this Territory the calamity which they feel to be impending.

It is impossible by resolutions to convey to you or to the honorable body of which you are a distinguished member the intensity of the feeling of our people upon this subject and their loathing of the proposed union. In this time of our peril we appeal to the Senate of the United States and to each individual member thereof not to put upon the people of Arizona the blight which this odious union will entail.

The people of this Territory are homogeneous, with similar tastes, ideals, and ambitions, and they have at great sacrifice established and maintained appropriate educational and charitable institutions conformable to those ideals and ambitions, and they desire the opportunity to work out their own destiny in accordance with those ideals.

There is nothing in common between the people of Arizona and those of New Mexico, and the topography of the country interdicts all intercourse and all interchange of commodities or ideas.

The combined area of the two Territories is too great for the convenient and economical administration of government.

The inhabitants of this Territory differ from those of New Mexico in race, government, ideas, political ambitions, and otherwise to such an extent as to make it impossible for the people of the two Territories to unite in harmonious conduct of a State government.

We therefore implore you not to lend your countenance or assistance to the passage of this measure, which, if it becomes a law, will practically disfranchise and enthrall as progressive, loyal, and patriotic a body of American citizens as any whom the members of your honorable body represent.

Separate, independent statehood has ever been the hope of our people, yet we willingly, gladly consent to defer the fruition of that hope indefinitely rather than incur the irremediable disaster of the submergence of our identity which the proposed union with New Mexico would entail.

Respectfully,

JERRY MILLAY, *President.*

Attest:
THOS. J. PRESCOTT, *Secretary.*

Resolution.

The Arizona Bar Association, of Arizona, at a meeting held at the capital of the Territory, on December 27, 1904, adopted the following resolution:

Resolved, That this association protest against the admission of Arizona and New Mexico as one State into the Union, and offers this protest against the passage of the bill now pending on the following grounds:

First. It violates our sense of local pride; sentimental possibly, but a sentiment underlying and necessary to loyalty, patriotism, and the higher aspirations for good government and good citizenship.

Second. It subjects us to the domination of a majority heretofore strangers to us, living under different institutions, observing different customs, having different laws and different rules of property as to its acquisition, enjoyment, and disposition, subject to different environment, having different trade relations, and the larger proportion of whom can not and do not understand, speak, or write the English language.

Third. That such union involves either a concession by that majority of their laws, customs, and habits or an abandonment by us of ours, and the consequent unsettling of our laws and jurisprudence which are the growth of nearly half a century of different, distinct, and separate government, and by experience shown to be adapted and adaptable to our institutions, customs, habits, and peculiar wishes.

Fourth. The union of these two Territories would create a State the area of which would be greater than Iowa, Michigan, New York, and all the New England States combined. This would entail extraordinary expenditure of money and time in the transaction of public business, working hardship and more or less operating to deprive us of participation in the transaction of our public affairs. It is, we submit, a cardinal principle of American institutions that the more nearly within the actual observation of the people the functions of a government are exercised, and the greater facility afforded them for actually participating therein, the safer those institutions are and the more economically, honestly, efficiently, and capably they are carried on.

These considerations principally, perhaps others, more than forty years ago induced a Congress of the United States to establish the government of the Territory of Arizona separate and apart from that of New Mexico. The lapse of time has not, we submit, rendered these reasons of less efficiency, but has, on the contrary, not only justified the act of that Congress, but emphasized and made more apparent and urgent the reasons that then prompted the separation. The proposed enabling act is violently opposed to our wishes and, as we deem it, will necessarily result in the subversion of our rights.

We therefore respectfully but most earnestly protest against the passage of the proposed law, implicitly believing that in so doing we express the sentiment of the vast and overwhelming majority of our people.

And as members of this honorable profession we appeal to the Congress of the United States that, as a matter of right and justice, this distasteful union be not imposed upon an unwilling people.

I hereby certify that at a special adjourned meeting of the Bar Association of Arizona, held in the court room at the court-house in the city of Phoenix, Ariz., on the 28th day of December, 1904, at the hour of 2 o'clock p. m., due and timely notice of such meeting having first been given, the foregoing resolution was unanimously adopted; that the undersigned was at the date of said meeting and now is the duly elected, qualified, and acting secretary of said association.

THOS. J. PRESCOTT, *Secretary.*

PHOENIX, ARIZ., December 31, 1904.

Mr. TILLMAN. Mr. President—

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from South Carolina?

Mr. BARD. I do.

Mr. TILLMAN. If the Senator from California will permit me, I want to say that this cry for help appeals to me with greater force than possibly it does to many others here, for the reason, if I understand the situation, that it is a cry of a pure-

blooded white community against the domination of a mixed-breed aggregation of citizens of New Mexico, who are Spaniards, Indians, greasers, Mexicans, and everything else. It is just about the same as if we were to join Florida and Cuba, and then let the two be governed by a legislature elected by the universal suffrage of the Cubans and Floridians.

Mr. BARD. I am afraid the Senator from South Carolina—

Mr. TILLMAN. I want to say that I cast no reflections, and I do not want to cast any reflections, upon the New Mexicans. I am willing to give them statehood, but I do say that, as a white man, I appeal for white supremacy in Arizona.

Mr. BARD. I had no intention of introducing in my speech any similar testimonials of the feeling existing in Arizona in opposition to this bill, but since the Senator from South Carolina [Mr. TILLMAN] has introduced these papers, I have been handed by a messenger two communications which perhaps may as well be submitted at this time. I am informed by telegrams that there will be much more of the same kind of evidence presented to the Senate.

The PRESIDING OFFICER. Does the Senator from California desire the communications to which he has referred read by the Secretary?

Mr. BARD. If permitted, I will have them inserted in the RECORD as a part of my remarks. I will say, however, that they consist of resolutions of protest by the Arizona Baptist convention.

Mr. BEVERIDGE. Let them be read.

Mr. BARD. Very well, I will send the communications to the desk. I ask that the resolution only be read.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

Resolutions of protest by the Arizona Baptist Convention.

At a called meeting of the board of managers of the Arizona Baptist Convention held in Phoenix, Ariz., December 31, 1904, the following preamble and resolution were unanimously adopted:

Whereas a bill has been introduced in the United States Senate providing for the admission to the Union of Arizona and New Mexico as one State:

Resolved, That we respectfully and most earnestly protest against the proposed merging of the two Territories as being unjust, unwise, and impolitic, believing, as we do, that it would provoke antagonism which would be detrimental to the interests of both Territories to unite two Commonwealths so separated by natural, political, racial, and religious barriers.

LEWIS HALSEY,

President Board of Managers of the Arizona Baptist Convention.

Attest:

GEORGE H. BREWER, *Secretary.*

Mr. BEVERIDGE. Mr. President—

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Indiana?

Mr. BARD. I do.

Mr. BEVERIDGE. I had assurance from the Senator that he would yield before I rose to address the Chair.

Accepting at its face value, and more, the statement of the Senator from California, upon the authority which he cites in

support of it, that the people of Arizona are practically a unit against this bill, and the statement which he quotes from the governor of New Mexico that the people of New Mexico are practically a unit against the bill, I ask the Senator what harm can come from submitting this question to the people themselves, and letting the people themselves say at the ballot box whether they want this or whether they do not, and whether or not that would not be a more accurate expression of their desires than the statements of governors appointed over them?

Mr. BARD. Mr. President, I have anticipated a little further along in my speech the question of the Senator from Indiana—

Mr. BEVERIDGE. Very well; I am willing to let it go.

Mr. BARD. And when I come to it I will direct his attention to the remarks in reply to his question.

Mr. BEVERIDGE. If I had known that the Senator was going to take it up I would not have said anything on the subject. It merely occurred to me, I will say to the Senator from California, that there could not be any harm in hearing from the people themselves, since this bill could not possibly become effective if it is true, as the authorities he quotes say, that the people themselves are against it.

Mr. FORAKER. If it does not interfere with the Senator from California, I should like to ask the Senator from Indiana a question at this point.

Mr. BARD. I yield.

Mr. FORAKER. And that is whether or not the Senator from Indiana will contend that a majority of the people in each of those Territories, New Mexico and Arizona, are in favor of statehood by consolidation?

Mr. BEVERIDGE. Will the Senator from California permit me to answer the question of the Senator from Ohio?

Mr. BARD. Certainly.

Mr. BEVERIDGE. I will say, in answer to the question of the Senator from Ohio, that I do not contend that or the reverse. I contend for what the bill which was passed by the House and came to this body proposes—merely that the people of this country shall hear from the people of the Territories themselves as to whether they wish this bill or not, and not from those who assume to represent the people. For fifty years we have heard what politicians said the people wanted, but never have we heard the people themselves say what they wanted. That is what I contend for.

Mr. BARD. Mr. President, in the history of legislation on this subject there has never been a case where Congress has acted except upon evidence that the people were applying for admission to the Union as a State. I will proceed.

As originally constituted, the Territory of New Mexico, including Arizona, contained 235,380 square miles; larger than any other State or Territory, except Texas, nearly 50 per cent larger than California, and two and one-half times as large as the Territory of Oregon. There is good evidence to show that Congress had anticipated the necessity of dividing the Territory of New Mexico, for in the act of September 9, 1850, creating the temporary government of the Territory, it is provided that when admitted as a State the said Territory, *or any portion of the*

same, shall be received into the Union, with or without slavery, as their constitution may prescribe at the time of their admission, and also—

That sections 16 and 36 in each township in said Territory shall be reserved for the purpose of being applied to schools in said Territory and *in the State and Territories hereafter to be erected out of the same.*

One of the same reasons given then for desiring separation is given now for remaining separate Territories, namely, that the combined area of the two Territories is too great for convenient and economical governmental administration; and this is insisted upon now, though the facilities for intercourse between the sections are greatly improved by railroads and telegraph and telephone lines.

New Mexico alone has an area larger than the aggregate area of England, Scotland, Ireland, and Wales.

New Mexico and Arizona together have an area equal to the area of all the thirteen States on the Atlantic seaboard from Maine to South Carolina, or equal to the aggregate area of New York, Pennsylvania, West Virginia, Ohio, Kentucky, and Indiana.

These two Territories are a part of the territory which was ceded by Mexico under the treaties of Guadalupe Hidalgo and for the Gadsden purchase.

The great State of Texas, having an area of 265,780 square miles, was also originally Mexican Territory. Along the international boundary between Mexico and the United States, from the mouth of the Rio Grande, at the Gulf of Mexico, to the southwestern corner of California, on the Pacific Ocean, lie the State of Texas, the Territories of New Mexico and Arizona, and the State of California.

The distance between the two extreme points named, following the boundary, is about 1,500 miles. Such a line stretched from the most northeasterly corner of Maine on the Atlantic would reach to the Florida keys.

These four border States and Territories—Texas, New Mexico, Arizona, and California—have an aggregate area of about 660,000 square miles, which is 22 per cent of the whole area of continental United States—equal to the aggregate area of all of the six New England States and New York, Pennsylvania, New Jersey, Delaware, Maryland, West Virginia, Ohio, and Indiana, represented in this Chamber by twenty-eight Senators, while the same area of the Mexican border States are represented here by only four Senators.

Mr. BEVERIDGE. Mr. President—

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Indiana?

Mr. BARD. Certainly.

Mr. BEVERIDGE. Can the Senator state, if he has the figures at hand, what the respective populations of those respective areas are?

Mr. BARD. I have not the figures.

Mr. BEVERIDGE. I ask that question because I assume that the Senator does not contend that this is a Government of areas, but a Government of people.

Mr. BARD. I have not the information at hand.

Mr. TILLMAN. If the Senator from California will allow me, I would suggest to the Senator from Indiana that this

body is peculiarly a representative of entities, representing area and not population.

Mr. BEVERIDGE. Of course I do not want to interrupt the Senator from California; I thought perhaps he had the figures at hand, and that is the only reason why I do not answer the pointed observation of the Senator from South Carolina. I merely thought perhaps the Senator from California had the figures and could put them in.

I will be very glad to take up the other subject at some other time.

Mr. BARD. I am sorry I have not the information, but I will remind the Senator from Indiana that the territory with which I have contrasted these Mexican boundary-bordering States is a thoroughly American community—

Mr. BEVERIDGE. Certainly.

Mr. BARD. That it has had great advantages, varied development: and there is no comparison in some respects between the two areas.

Mr. BEVERIDGE. That is true.

Mr. BARD. The Territories of Arizona and New Mexico are *inchoate States*, entitled sooner or later to become members of the Union of States. If they are not yet prepared for statehood, Congress may justly deny their application; but Congress can not justly unite them if the proper political equilibrium of the various sections of the country is to be preserved.

The people of Arizona, particularly, are, as I have shown, earnestly protesting against the passage of this measure. Through fear of the consequences and injury which the bill would inflict upon them, they have abandoned all hope that Congress will, at this time, give Arizona separate statehood, though such has been their ambition for a whole generation. In surrendering this hope now Arizona *begs*, but begs in a manner that is *dignified*, though *intensely earnest*, that she may be spared the degradation of the loss of her separate autonomy and identity, and the humiliation of having her boundaries forever effaced, and forgetting in her distress the rights that she may claim, almost pitifully says, "rather than incur the impending disaster of a joint statehood with New Mexico, we request Congress to *allow us to remain* as a Territory of the United States."

But, Mr. President, no one can with propriety ask here in behalf of the people of Arizona that only their wishes or preferences shall guide Congress in its consideration of this measure. I realize that Congress, in considering such measures, has a duty to perform to the whole people of the Nation as well as to the people of the sections of the country whose interests are more particularly involved.

It devolves now upon the Senate to determine whether or not there is any *injustice* in the provision of this bill which attempts to unite Arizona and New Mexico in statehood; and if there be any such injustice, whether it shall nevertheless be permitted.

Congress has undoubtedly the power to do what it will in respect to the government of the Territories, and there is no power or authority on earth to question that right. There is no

court to which the question could be appealed. It is generally admitted, as Judge Cooley has said, that—

the people, *except as Congress shall provide therefor*, are not of right entitled to participate in authority until the Territory becomes a State.

And that—

while Congress will be expected to recognize the principle of self-government to such extent as may seem wise, its discretion alone can constitute the measure by which the participation of the people can be determined.

But it has been the practice of Congress, from the earliest times, since the adoption of our Constitution, to create temporary governments for the Territory; and though there have been different forms of Territorial government, in every case there is implied in the acts creating them that the governments are to be succeeded by permanent governments, and that the people shall emerge eventually from their temporary pupilage and partial dependence into the full growth of statehood.

In every treaty of cession to the United States by which additional territory has been acquired, except for the purchase of Alaska, Porto Rico, and the Philippines, the United States Government obligated itself to incorporate the inhabitants into the American Union as soon as consistent with the principles of the Constitution. The period of pupilage varies: Kansas, 4 years; California, none; Michigan, 32 years; Utah, 44 years; Nebraska, 36 years. New Mexico and Arizona have existed under Territorial government $5\frac{1}{2}$ years.

These acts creating Territorial governments are modeled upon the principles embodied in the ordinance of 1787, which the Constitution left in force. The ordinance was adopted July 13 of that year by the Congress of the Confederation, sitting in New York, when the convention that framed the Constitution of the United States, sitting at Philadelphia, was in the very middle of its great work.

There can be no doubt that the eminent members of the Congress and of the convention were constantly conversant with all that was transpiring in either body. It may be reasonably surmised that before the convention framed Article IV, section 3, of the Constitution it had regarded with great interest the proceedings in the Congress while it was engaged upon the formulation of that noble and notable instrument known as the "ordinance of 1787," providing a government for the Northwest Territory and for the three or five States which were to be formed out of that Territory.

An examination of this ordinance and particularly of the older forms of the ordinance, adopted in 1784, will show that the Congress regarded the subdivisions of the Territory as "States" and called them by that name when referring to them even before a temporary government had been formed in them. And so to this day we are in the habit of regarding and referring to our Territorial organizations as embryonic States, which are eventually, at such time and under such conditions as Congress may deem proper and necessary, to receive authority to form a permanent constitution and State government, and to be entitled to be admitted into the Union on an equal footing with the original States in all respects whatever.

It is to be remembered that Article V of the ordinance provided that "There shall be formed in said Territory not less than three nor more than five States," and then it goes on to define with minuteness the boundaries of the three States, but provides that these boundaries shall be subject so far to be altered that if Congress shall hereafter find it expedient it may form one or two States in that part of the Territory which lies north of an east and west line drawn through the southern bend of Lake Michigan.

This division of the territory was in the main adhered to when Congress created the temporary governments of the Territories of Ohio, Indiana, and Illinois; and the three States which bear those names are substantially the same in territorial dimensions as the three States described in the ordinance of 1787.

This Article V, fixing the boundaries of the States within the territory is one of the articles which the ordinance declared shall be considered as articles of *compact* between the original States and the people *and the States* in the territory, and which shall forever remain *unalterable* unless by common consent.

Alongside of the articles which assured to the settlers in the Northwest Territory, freedom of worship or religious sentiment, the right to the benefits of the writ of *habeas corpus*, the right of trial by jury, and the free navigation of the large rivers, is to be found this Article V, which, in express terms, provides that—

Whenever any of the said States in the said territory shall have 60,000 inhabitants therein, such State shall be admitted, by its delegates into the Congress of the United States on an equal footing with the original States, in all respects whatever.

The admission of the States was conditioned *only* upon that qualification of population and that the constitution and the government so to be formed shall be republican. There was no reservation to Congress of discretionary power to consolidate two of the States in the territory, and no joining of two States was ever attempted.

And remembering these facts, that the convention and the Congress were sitting at the same time, that the ordinance referred to the subdivision of the Territory as *States*, and that it reserved to Congress no discretionary power to form a new State by the junction of two or more States within the Territory, we may find some new significance in its language, while we read again Article IV, section 3, of the Constitution of the United States as follows:

New States may be admitted by Congress into the 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 legislature of the State concerned, as well as of Congress.

Mr. President, I do not argue that the constitutional injunction forbidding the formation of any State by the junction of two or more States applies as well to the formation of a new State by the junction of two Territories. Nevertheless, in view of the fact that, in the ordinance of 1787, and that in almost all of the acts of Congress creating Territorial governments since the adoption of the Constitution and down to the present day,

the Territories are referred to as *States*, there does seem to be *some* foundation for such a construction of the article of the Constitution which I have just read. But that is not my argument here. I am contending that the *principle* and the *rule* of the constitutional provision which forbids the formation of a State by the junction of two States have *already* been made to apply to the case of Arizona and New Mexico, and that by its own enactment of law Congress is enjoined from forming a new State by joining them without the consent of the people of each and both of these Territories.

And I am showing, Mr. President, that the people of Arizona, through their Delegate and otherwise, are protesting, and have right to protest, against the enactment of this measure on the ground that it would be a violation of a compact made and existing between Congress and the people of that Territory.

I will attempt to show that the *status* of the people of Arizona is different from the status of the people of any other Territory of the United States, now existing or that has been created since the beginning of the last century; that their present autonomy and their ultimate right to statehood rests not upon uncertain construction, but is expressly guaranteed by an act of Congress having the same force as the charter of compact embodied in the ordinance of 1787 in respect to the people then inhabiting the territory northwest of the Ohio. Out of the territory of the Northwest Ohio was established as a State in 1802 and there were created, from time to time, other Territories for which separate governments were established by Congress—first, Indiana Territory in 1800; Michigan Territory in 1805, and Illinois Territory in 1809.

In the separate acts creating these three Territories, it provided that there should be established within the said Territory a government in all respects similar to that provided by the ordinance of 1787; "and the inhabitants thereof shall be entitled to and enjoy, all and singular, the rights, privileges, and advantages granted and secured to the people of the territory of the United States northwest of the Ohio River" by said ordinance.

And finally, on April 20, 1836, Congress passed the act establishing the Territorial government of *Wisconsin*, which was also a part of the Northwest Territory; and this act also specifically extends to the inhabitants the rights, privileges, and advantages granted and secured to the people of the territory of the United States northwest of the Ohio by the articles of the compact contained in the ordinance of 1787.

But we find, however, that Congress, for the first time in the history of the creation of Territorial governments, provided in the act creating the Territory of *Wisconsin* that—

"Nothing in this act contained shall be construed to inhibit the Government of the United States from dividing the Territory hereby established into one or more other Territories in such manner and at such times as Congress shall, in its discretion, deem convenient and proper; or from attaching any portion of said Territory to any other State or Territory of the United States."

Such proviso was, in effect, a reservation of discretionary powers in Congress; and it forms a precedent which has been followed in all of the acts creating Territories of the United States since the act creating the Territory of *Wisconsin* in

1836 down to the present day, except in the case of the Territory of Washington, in which the proviso is omitted entirely, and in the case of the Territory of Arizona, where reservation of the power of Congress to *attach any part of its territory to any other State or Territory* is omitted.

Mr. BEVERIDGE. Mr. President—

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Indiana?

Mr. BARD. Certainly.

Mr. BEVERIDGE. Before the Senator leaves that particular branch of his very interesting argument, I beg leave of the Senator to make a statement which will complete the history of that.

Mr. BARD. I have not completed it yet.

Mr. BEVERIDGE. I will ask the Senator if it is not true that when the ordinance of 1787 was originally drawn it provided for ten States out of the Northwest Territory, giving their delimitations, and that Congress itself changed it from ten States to five States, thus beginning the policy of Congress, which has been continued since, of making the States progressively larger; and whether it is not true that the original subdivision of the Northwest Territory into ten States, which was rejected by Congress, was urged upon the ground of maintaining equilibrium upon the part of this new territory and the States east of the Alleghenies, and was rejected by Congress and made into five States instead of ten because they did not think that position was tenable?

Mr. BARD. I am unable to tell the Senator what was the reason for it.

Mr. BEVERIDGE. What was done was that originally it was proposed to make ten States out of the territory of which there are now five, and Congress, by committee, the chairman of which was an ancestor of a Member of this body, rejected that plan as originally drawn and adopted the plan of five States, upon the theory, even at that early time, that there were States in the Union which were entirely too small. In this portion of his very interesting and well-connected historical address, I thought perhaps the Senator from California would not object if I put in that statement.

Mr. BATE. Before the Senator from Indiana sits down, with the permission of the Senator from California, I should like to ask a question.

Mr. BARD. Certainly.

Mr. BATE. Is it not true that the territory embraced within Arizona and New Mexico is larger than all the five States or the ten States he speaks of—aye, nearly twice as large?

Mr. BEVERIDGE. With the permission of the Senator from California, I should be very pleased, indeed, to answer the question of the Senator from Tennessee, but I fear I should want to answer it more comprehensively than would be quite courteous to the Senator from California in his time.

With the permission of the Senator, I may state, however, in answer to the question of the Senator from Tennessee, that this new proposed State is much less in area than the State of

Texas; that the distances are not so great as at least in two other States of the Union.

Mr. BATE. They have a right to divide it up into five States, a right not given in this bill.

Mr. BEVERIDGE. Yes; and if it is desired that there shall be more Senators from that section of country, why does not Texas, well settled and well populated, avail herself of that opportunity and send ten Senators here?

Mr. BARD. I have just quoted, from the act creating the Territory of Wisconsin, what is a reservation of discretionary powers in Congress, and this forms a precedent. This proviso with reference to Wisconsin—I want to be particular—this proviso with reference to Wisconsin is found to be identical as to phraseology with that of the act of June 12, 1838, creating the Territory of *Iowa*; the act of August 14, 1848, creating the Territory of *Oregon*; the act of March 3, 1849, creating the Territory of *Minnesota*; the act of September 9, 1850, creating the Territory of *New Mexico*, and on the same date the act creating the Territory of *Utah*; the act of March 30, 1854, creating the Territory of *Nebraska*, and on the same date the act creating the Territory of *Kansas*; the act of February 28, 1861, creating the Territory of *Colorado*; the act of March 2, 1861, creating the Territory of *Nevada*, and on the same date the act creating the Territory of *Dakota*; on March 3, 1863, creating the Territory of *Idaho*; the act of May 26, 1864, creating the Territory of *Montana*; act of July 25, 1868, creating the Territory of *Wyoming*, and the act of May 2, 1890, creating the Territory of *Oklahoma*.

Congress has several times exercised its discretionary power thus expressly reserved to *divide* a Territory, as in the case of the division of the Territory of *Dakota*, of which two States were formed, and in the case of the original Territory of *New Mexico*, of which *Arizona* was at one time a part, and also in the case of *Utah*, which was originally bounded on the west by *California*, but out of which the State of *Nevada* was taken, and in the creation of the Territory of *Iowa* out of a portion of *Wisconsin*.

But Congress has rarely exercised its power of attaching a portion of a Territory to any other State or Territory. The new Territory of *Idaho*, organized in 1863, included within its boundaries a part of the Territory of *Washington*, though the right to attach a portion of *Washington* Territory to any other State or Territory was not reserved in terms in the act creating that Territory.

The fact that this proviso is found in all of the acts creating many of the Territories certainly indicates that Congress regarded it *necessary* to specifically make a reservation of the right to divide the Territory or to attach portions of it to other States, which right otherwise would appear to be waived by the act of Congress creating a Territorial government in which the autonomy of the people is recognized.

If it be admitted that it was *necessary* that such reservation of the right to attach portions of the Territory to any other State or Territory should be specifically made, then it follows that the *omission* of such a reservation in the act creating the Territory of *Arizona* implies that Congress intended to give to

the people of Arizona an assurance that no portion of their Territory will ever be attached to New Mexico or any other State or Territory.

It is true that Congress has, under the Constitution, plenary power to govern the Territories; but a Government such as ours, when dealing with dependent territory, will exercise such power only according as its wisdom shall deem politic, wise, and just, having regard for the interests of the inhabitants of the territory as well as for the common weal. Congress exercises such power *without qualification* when it governs *newly acquired* territory. It sometimes establishes for such territory military or provisional government, or a government by an executive and judges appointed by the President, who together constitute the legislature for the territory. In such a government the people do not participate.

But in a Territorial government, such as that of New Mexico or Arizona, Congress provides that the executive and the judges shall be appointed by the President, but it gives to the *people* the right to elect the legislature; and the authority conferred upon the legislature extends to all rightful subjects of legislation not inconsistent with the Constitution and the laws of the United States, and such laws stand unless disapproved by Congress.

The granting to the people by Congress of a part of its constitutional power to govern the Territory brings into play the doctrine of the consent of the governed, and creates an autonomy which never has been revoked and never ought to be revoked.

This autonomy belongs to the people "*within the Territory*" of Arizona as it is now constituted and they can not be justly deprived of it in the manner proposed by this bill. Congress has reserved the right to change the boundaries and to divide the Territory of Arizona, but it has *not* reserved the right to revoke or to discontinue its grant to the people of the limited right of local self-government without the consent of the people.

Let it be observed that Congress has never, in any act creating a Territorial government, reserved to itself the discretion to attach the *whole* of one Territory to another Territory, or to consolidate the governments of two Territories. If it be contended that the right of Congress to unite the *whole* of one Territory with another, as proposed by this bill, is unquestionable, then it is pertinent to inquire, Why was it necessary or important for Congress, in almost all of the acts creating Territories, to reserve the right to attach a *portion* of one Territory to another State or Territory?

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I have said that the precedent formed by these provisos has been followed in all of the acts creating temporary governments of the United States since 1836, except in two of them. One of these exceptions I have referred to as relating to the Territory of Washington, where the proviso is entirely omitted.

The other exception is very remarkable, and I desire especially to call attention of the Senate to the important change in the character and phraseology of this proviso in the case of the act of February 24, 1863, providing a temporary government

for the Territory of Arizona, which, as it will be remembered, had been a part of the Territory of New Mexico.

The Arizona proviso is as follows :

Provided, That nothing in the provisions of this act shall be construed to prohibit the Congress of the United States from dividing said Territory or changing its boundaries in such manner and at such times as it may deem proper.

This reserves to Congress the power to divide the Territory and follows the precedent to that extent only ; but it omits the usual reservation of the right to "*attach any portion of the Territory to any other State or Territory of the United States,*" which is contained in every one of twelve acts creating Territorial governments passed by Congress from 1836 to 1863, excepting only the act relating to the Territory of Washington.

This omission is notable, and its significance is accentuated by the fact that, in the act providing for the temporary government of the Territory of *Idaho*, passed in the same session of Congress and about one week later, the usual proviso reserving the right of Congress to *attach* portions of the Territory to any other State or Territory was retained. And the identical proviso contained in the act creating the Territory of Idaho, as well as in the twelve Territorial acts before 1863, is also contained in the later acts of 1864, 1868, and 1890, creating the Territories of Montana, Wyoming, and Oklahoma.

I contend, Mr. President, that this notable omission of the reservation to Congress of the discretion to *attach* any portion of the Territory to any other State or Territory, in the case of Arizona, supports my contention that it was the intention of Congress to give to the people of the Territory of Arizona an assurance that the Territory would never again be joined to that of New Mexico.

In view of the circumstances, it is impossible to believe that the reservations of the right "to change the boundaries" of Arizona could be construed to mean a reservation to Congress of the right to consolidate the whole of the Territory with another State or Territory.

But, Mr. President, there is something even more remarkable and important in the act providing a temporary government for the Territory of Arizona ; and I *rely* upon it, mainly, to support my contention that there exists a compact between the United States and the people of the Territory which forbids Congress to pass this measure—and I am gratified to observe that I have at this point the attention of Senators.

The act contains a second proviso, which reads as follows :

Provided further, That *said government* shall be maintained and *continued* until such time as the *people residing in said Territory* shall, with the consent of Congress, form a State government, republican in form, as prescribed in the Constitution of the United States, and apply for and obtain admission into the Union as a State on an equal footing with the original States.

You will look in vain for any similar provision if you expect to find it in any of the acts creating Territories passed since 1822. You must go back and examine the ordinance of 1787 or the acts creating the separate Territories of Ohio, Indiana, and Illinois, originally parts of the territory northwest of the Ohio, to find any legislation by Congress which in the least resembles it.

This second proviso in the act creating the Territorial government of Arizona is remarkable in that it is the only legislation since the beginning of our Government which recognizes, *in express terms*, the right of the people of any Territory, sooner or later, to form a State government and apply for and obtain admission into the Union as a State. Indeed, the *subject* of statehood is not even mentioned in any other act creating a Territorial government except in the acts creating the Territories of New Mexico, Kansas, and Nebraska; and in them the only reference to statehood is in the proviso which I have already quoted, and which for sake of emphasizing the reference I quote now once more. It reads as follows:

And provided further, That when admitted as a State the said Territory, or any portion of the same, shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission.

There is neither mention of, nor reference to the subject of admission of a State to statehood in any of the acts creating the Territories of Missouri, Alabama, Arkansas, Louisiana, Wisconsin, Iowa, Oregon, Minnesota, Utah, Washington, Colorado, Nevada, Dakota, Montana, Wyoming, or Oklahoma.

But this second proviso in the act creating the Territory of Arizona not only recognizes, by express terms, the right of the people residing in said Territory, ultimately, with the consent of Congress, to form a State government and apply for and obtain admission into the Union as a State, but it assures the people that the temporary government so formed shall be "*maintained and continued* until the people residing in the *said Territory of Arizona*" shall take the initiative to form a State government.

I have called the proviso a compact between the Congress and the people of the Territory of Arizona, similar to the Articles of Compact contained in the ordinance of 1787, which assured to the inhabitants of the territory northwest of the Ohio certain important rights, privileges, and advantages, among which was the right to maintain the boundaries of their separate States or Territorial subdivisions, and eventually to be admitted as States of the Union.

Is there any difference, in point of obligation and national faith, between an ordinance and such a proviso as is found in the act creating the Territorial government of Arizona? Will anyone contend that the difference in the forms of contract is material? Are not the ordinance and the acts of Congress of equal force? Will it not be as gross a violation of good faith for Congress to ignore its solemn agreement with the people of Arizona and compel them to submit to the conditions which this bill imposes as it would have been for Congress to ignore the ordinance of 1787 in the creation of Territories and States in the territory northwest of the Ohio?

The people of Arizona are *not* applying, and have *never* asked Congress for the privilege of again becoming united with New Mexico, or thus united, of becoming a part of a State. On the contrary, they are entering a vigorous protest against this bill.

I regret that the Committee on Territories did not preserve in writing the testimony given at its hearings on this bill in the

early part of this session of Congress; but, being a member of the committee, I am justified in stating that there appeared before the committee Governor Brodie, the present governor of the Territory of Arizona; Mr. WILSON, the Delegate in Congress from Arizona, and Mr. B. A. Fowler, a well-known resident for many years of Arizona, and who was the Republican candidate for Delegate at the last national election.

Mr. BEVERIDGE. Mr. President—

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Indiana?

Mr. BARD. Certainly.

Mr. BEVERIDGE. The Senator will do the committee of which he is a member the justice to observe in this connection that no member of the committee of either party requested that the hearing should be taken down stenographically—

Mr. BARD. That is true.

Mr. BEVERIDGE. And that the hearing followed many months of hearings in the House. Of course, if the Senator had requested it, it would have been done.

Mr. BARD. That is very true.

Mr. BEVERIDGE. Nothing was neglected.

Mr. BARD. I am to be blamed, perhaps, because I myself did not request it.

Mr. BATE. I beg in this connection, with the permission of the Senator from California, to state that all the members of the committee were not present. I ask the Senator from California if there was any opponent of the bill in the committee at the time except himself?

Mr. BEVERIDGE. And the Senator will also do the chairman the justice to say that he had notified the members both formally and by telephone and in person.

Mr. BATE. Certainly; but of the minority there were only two here, who attended when we could; the other two were absent, and they are not here yet.

Mr. BARD. I do not think it will be proper for me to speak of what occurs in my committee or the debates which occurred between members, but I think I am justified here merely in introducing into my remarks what I think every member of the committee who was present will corroborate.

Mr. BEVERIDGE. There is no objection to that.

Mr. BARD. Certain persons appeared there and gave certain testimony, but in the absence of our usual means of obtaining that knowledge and presenting it to the Senate I am justified in giving the information thus obtained to the Senate.

Mr. BEVERIDGE. There is no objection to that; and, furthermore, I will corroborate any statement the Senator from California may make as to the gentlemen who appeared at the hearing and what they said, because he will make a correct statement of it. I only rose in justice to the committee to observe, and I thought it proper that it should go in the Senator's remarks, that if the hearings were not preserved stenographically it was because no member asked for it.

Mr. BARD. That is true.

The governor and the Delegate are the official representatives of the people of the Territory; and Mr. Fowler, by

reason of his long residence and of opportunities recently afforded him, has ascertained the sentiment of the people of Arizona with reference to this matter. All joined in the statement that the people of Arizona are almost, if not entirely, unanimous in their protest against the passage of this bill.

These representatives of Arizona admit that the majority of the people of Arizona understand that it is not probable that Congress can be convinced now that the Territory has yet reached that degree of preparation which fits it for statehood. They also stated that the people of Arizona, rather than to be joined with New Mexico as a single State, will prefer to remain for an indefinite period under their present Territorial government; and they offered the assurance that, if this measure were defeated, Arizona would not again apply for admission to the Union of States, at least until after the next decennial census shall be taken.

I now call the attention of the Senator from Indiana to what follows, for I think it will be a reply to his inquiry a few minutes ago.

It is said that it is not the purpose of this bill to *compel* Arizona to unite with New Mexico into one State, but that it simply gives the people of the two Territories the privilege and opportunity of coming into the Union in that manner, if they desire to do so.

But this is disingenuous and misleading; for, in the last elections for delegates, Arizona cast only 19,667 votes and New Mexico cast 43,011 votes, while Arizona has only 31,677 registered voters, and New Mexico has 64,422 registered voters; and therefore it is plain that under the scheme of this bill the fate of Arizona depends not upon her own people, but upon the wishes and the interests of the electors of New Mexico.

The bill substantially proposes an arbitrary submission to the electors of the two Territories, jointly, the question whether Arizona (which has been assured by Congress of a separate autonomy) shall, without the consent of her people, be joined with New Mexico in a new State. Even though the vote of Arizona should be cast unanimously against the adoption of the proposed constitution, nevertheless it would be within the power of the voters of New Mexico to force upon Arizona people the acceptance of the new State government.

The measure proposes to give Arizona a representation in the constitutional convention of only 44 delegates, while New Mexico, whose separate autonomy is in no degree superior to that of Arizona, is given a representation of 66 delegates. Such ratio of 3 to 2 is based upon the aggregate population of the two Territories; but the inequality in representation in the convention of the two political *entities* would be unjust.

The constitution of the proposed new State of Arizona must provide for the adjustment of the differences in the customs, the civil procedures, and the debts of the respective Territories. Emphasis has been given in the memorials protesting against the jointure to the *differences* that exist between the two peoples in respect to their race origin, their local customs, habits, and institutions, their ideals and ambitions. Now, under such circumstances the Arizona delegates in the constitutional con-

vention would be utterly powerless to secure a fair adjustment of these differences.

The bill sets before the people of both Territories, as a consideration for their acquiescence, the seductive offers of the grant of public lands larger in area than has ever been granted before to a new State at the time of its admission and also the grant of \$5,000,000 in ready money.

When the proposed constitution shall be submitted there will be called at the same time, as is usual in such cases, an election for State, county, and township officers. Think of the candidates, estimated at 1,000 in number, who will be interested in the result, and of the conversions they will make for adoption of the constitution, in order that their candidacy shall not be without results. Qualified voters of both Territories, under such conditions, will be seduced, and, throwing their convictions to the winds, will vote for the constitution in order that their friends or the hundreds of candidates of their party may win the offices.

When in the history of our Republic has a community of American citizens so considerable in number and having their own organized government ever been treated as this bill proposes to treat the people of Arizona?

Mr. President, American communities, and especially those who have blazed the way for the advance of American civilization, enduring the hardships of frontier life, and consecrating their energies of mind and body to the development of the West and the establishment there of American laws, customs, and institutions, are naturally proud of their achievements, their history, and their traditions.

The bill proposes to give the name of Arizona to the proposed new State. It is impossible for such a proud, liberty-loving community of American citizens to be conciliated by such a proposition, or even to receive it with patience.

On the contrary, they will resent such a proposition as a mockery of their distress and an outrage upon their sensibilities as a people. The preservation of the identity of the people of a community can be accomplished only by the preservation of its territorial boundaries. Such use of the name of Arizona is no compliment to them and can not be a compensation to them for the loss of their identity as a separate people.

Some of the people of Arizona regard their Territory as, in a measure, the ward of California, and the commercial and social relations between these two peoples are very close. As my residence is in the southern part of California, which is especially thus closely connected with Arizona, I have opportunities of knowing the sentiment of the people in respect to statehood.

I am pleading for Arizona; not that she may *now* be exalted to the rank and dignity of a sovereign State of the Union, but that she may be spared the humiliation of being deprived of her separate autonomy, which has been recognized for more than forty-one years, and that she may not suffer the degradation which this bill proposes to inflict by forcing her people, against their wishes and protest, under circumstances which are beyond their power to prevent, and upon unequal terms, to be joined forever with her sister Territory of New Mexico.

And I am pleading, also, for the honor of the Congress, that there shall be no violation of good faith with which, as I firmly believe, it can justly be charged if it ignores, as this bill proposes, the compact contained in the act creating the Territory of Arizona, between Congress and the people residing in that Territory.

The repudiation by our Government of any of its obligations or promises would be a reproach to our people, and must inevitably have serious consequences.

The saddest in the train following the violation of its faith by any government will be the patriotic citizens who are shorn of their confidence in the efficiency and honesty of the administration of their government and weakened in their faith in the strength and wisdom of their institutions.

The people believe that "righteousness exalteth a nation." And, Mr. President, I submit that to the minds of the common people of this country this bill will not appear to be righteous. They will be able to put no other construction upon the provisions in the act creating the Territorial government of Arizona, to which I have referred, than that it was a solemn guaranty that for all time the people of Arizona may of right enjoy within their present territorial boundaries a continuous separate autonomy and ultimately to become a sovereign State in the Union, and that to despoil them of such right is unjust, unwise, and dishonorable.

The amendment which I shall offer proposes to strike out sections 19 to 37, inclusive, being all of the provisions of the bill relating to the Territories of Arizona and New Mexico.

If the amendment shall be accepted by the Senate, then the proposition for the admission of the new State of Oklahoma would stand alone, and it is quite evident that Senators are almost of one mind on that question.

Two years ago I opposed the admission of Arizona and New Mexico as separate States, but *now* I would support such a proposition with my vote if by so doing I could prevent their admission jointly.

And, in conclusion, I suggest that if it is wrong to expose the people of Arizona to the possible danger of being forced, against their will, into a union with New Mexico and if such wrong be consummated by the passage of this bill such wrong can never be undone.













